

The Clinton Administration's

1997

**Anti-Gang
&
Youth Violence Strategy**

Dennis K. Burke

S. 3: The Omnibus Crime Control Act of 1997

Transfer of Alien Prisoners: Requires renegotiation of treaties so consent of alien to be transferred back to country of origin is not necessary. Requires withholding of foreign aid and visas for countries that refuse to accept their nationals or sufficiently incarcerate them.

Exclusionary Rule Reform: Evidence obtained by “objectively reasonable” search or seizure shall not be excluded under the fourth amendment in federal court cases.

Violent Crime, Drugs and Terrorism

- Criminal Penalties and Procedures: Provides special protection for Olympic Games. Mandatory minimum penalties for crimes committed with explosives. Criminal forfeiture for chemical weapons violations.
- International Terrorism: Revision to State Department Rewards Program for informants on international terrorism and drug trafficking cases.
- Commission and Studies: Establishment of National Commission on Terrorism.

Community Protections

- Law Enforcement Assistance: Exemption for current and former police from state laws prohibiting carrying concealed firearms.
- Citizens’ Assistance: Authorizes states to enter into compacts to enable individuals to carry concealed weapons. Permits federal grant \$ to be used for firearms training and education to the public.

Criminal Procedure Improvements

- Equal Protection for Victims: Amends federal rules of criminal procedure and evidence on trial procedures to assist prosecutors and victims.
- Firearms: Mandatory minimum sentences for criminals possessing firearms. Mandatory death penalty for repeat violators of international drug trafficking laws.
- Federal Death Penalty: Adds aggravating factors in determination of death penalty sentence. Establishes death penalty in District of Columbia.

Increased Penalties for Trafficking and Manufacture of Methamphetamine and Precursors

Violence Against Women and Children: Makes religious organizations eligible for VAWA grants. Establishes death penalty for fatal interstate domestic violence cases. Provides for HIV testing of defendants in sexual assault cases.

Violent Crime and Terrorism: Expands coverage of antiterrorism statutes and increases penalties.

Prison Reform:

- Prison Litigation Reform: Makes more difficult to remedy prison conditions.

- Federal Prisons: Prohibits certain prisoner amenities. Requires prisoners to work.

Violent and Repeat Juvenile Offenders

- Juvenile Justice Reform: Treatment of juveniles age 14 and older as adults for violent crimes and drug crimes (prosecutor discretion) in federal court. Expands availability of juvenile records, fingerprints and photographs.
- Juvenile Gangs: Provides \$100 million for hiring of U.S. Attorneys and attorneys in Justice Department to prosecute juvenile gangs. Creates federal penalty with mandatory minimums for solicitation or recruitment of criminal gang activity. Increases sentencing guidelines for participation in crime as gang member.
- Juvenile Crime Control and Accountability: Revokes OJJDP and creates Office of Juvenile Crime Control and Accountability. Establishes state incentive block grants (\$3.25 billion/5 years) to encourage: use of graduated sanctions, hiring of prosecutors and police to control juvenile crime, curfews, and prosecution of juveniles as adults.

Miscellaneous:

- Schedule I Drugs: Requires Attorney General to promulgate rules to revoke DEA license of physicians prescribing Schedule I drugs.
- Anti-drug Use Public Service Requirement: FCC to encourage priority use of public service resources to promote youth drug abuse prevention and education.
- Child Porn: Secretary of State required to review all extradition treaties to ensure offenses involving child pornography is are extraditable offenses.
- 2,000 Boys and Girls Clubs Before 2000: Authorizes resources for 1,000 new clubs.
- Cellular Telephone Interceptions: Adds penalty of imprisonment of up to 1 year.

Key Provisions in the Clinton Administration's "Anti-Gang & Youth Violence Bill of 1997"

- \$200 million Gang Prosecutor Grant Program. Provide grants to localities to fund scores of new prosecutors and anti-gang initiatives to pursue, convict and sentence gang members for their crimes.
- \$60 million After School Programs. Funding for 1,000 new after school programs to keep kids off the streets and give them something to say "yes" to.
- 1996 Youth Crime Bill Initiatives. Among other measures, Federal authority to prosecute more juveniles as adults for drug and firearms offenses and new rights for victims of juvenile crimes.
- Require Safety Devices for Handguns. Require Federal Firearms license dealers to sell a gun lock or similar device with every handgun sold, reducing accidents and gun theft.
- Gang Witness Intimidation. New tools for prosecutors to protect witnesses willing to testify against gangs and punish gang members who intimidate witnesses.
- \$75 million Ant-Truancy, School Violence, and Crime Intervention Program. To support local juvenile crime intervention programs, such as anti-truancy, school violence, and curfew initiatives.
- Brady for Juveniles. Subject individuals with violent juvenile records to a Brady Background check.
- \$50 Million Youth Violence Courts Program. For the development of initiatives by courts and probation officers to enhance and expedite the handling of matters involving violent juveniles, including the development of juvenile drug and/or gun courts.
- Drug Testing Teens for Drivers Licenses. State demonstration program requiring minors be drug tested before receiving a driver's license.
- Reform the Justice Department's Juvenile Justice Office. Improve and streamline the Office of Juvenile Justice and Delinquency Prevention to ensure that it is responsive to the needs of state juvenile justice systems.

Bonnie
31000

HIGHLIGHTS OF YOUTH VIOLENCE BILLS IN 105TH CONGRESS

Clinton "Anti-Gang Youth Violence Bill"

- \$200 Million Gang Prosecutor Grant Program.
- \$50 Million After School Programs. Funding for 1,000 new after school programs.
- 1996 Youth Crime Bill Initiatives. Prosecute more juveniles as adults for drug and firearms offenses and grant new rights for victims of juvenile crimes.
- Require Safety Devices for Handguns.

Also:

- Gang Witness Intimidation Provisions.
- Reform Juvenile Justice Office.
- Truancy/Curfew Grants.
- Brady for Juveniles.
- Youth Violence Courts.
- Drug Testing Teens for Drivers Licenses. State demonstration program.

Leahy-Biden-Daschle "Youth Violence, Crime and Drug Abuse Bill"

- Extension of Clinton Crime Bill Programs from FY 2000 through FY 2002; e.g., add 25,000 new cops to the Clinton 100,000 cops program.
- After School "Safe Havens". Similar to Administration bill.
- Prosecutors for Juvenile Courts. \$500 million program.
- Juvenile Gun and Drug Courts. Similar to 1996 Administration bill.
- \$550 Million for Violent Juvenile Prisons.
- Stiffen Penalties for Gang and Drug-Related Crimes.

McCollum "Juvenile Crime Control Act of 1997"

- Prosecution of Juveniles as Adults. Allows in Federal court for Federal felonies at age 13. Requires at age 14 for serious violent felonies and drug crimes.
- Victims' Rights for Victims of Juvenile Crimes. Similar to Administration bill.
- Criminal Records and Fingerprints of Juveniles. Expanded availability.
- Armed Violent Youth Apprehension Directive. Establishes youth violence task forces in U.S. Attorneys' offices.
- \$1.5 Billion Juvenile Detention Facility Program.

THE WHITE HOUSE

Office of the Press Secretary

Embargoed For Release
Until 10:06 A.M. EST
Saturday, January 11, 1997

RADIO ADDRESS OF THE PRESIDENT
TO THE NATION

THE PRESIDENT: Good morning. Today I want to talk about how to build upon the progress we've made together in working against crime and violence, and especially how we can fight against youth crime.

Four years ago it seemed to many Americans as if the forces of crime and violence had gained an intractable hold over our country, and law-abiding Americans were afraid that from now on they would just have to put up with the insecurity and loss that goes with rampant crime. I was determined to turn that around, to give people the tools they need to take back their streets and schools and neighborhoods, to reestablish a sense of security and true freedom in our country, and to restore our people's faith in the power of law and order.

We had a comprehensive plan to fight crime -- to put 100,000 new community police officers on the street and tough new penalties on the books; to keep guns away from criminals by passing the Brady Bill and banning assault weapons; to steer young people away from crime, gangs and drugs in the first place. This approach is working.

This week the FBI reported that serious crime dropped another three percent last year, dropping for the fifth year in a row, the longest decline in more than 25 years. This is great news -- not because it gives us a chance to sit back and rest on our laurels, but because it does show all of us that if we work together we can make a difference.

Now that we've finally turned the crime on the run, we have to redouble our efforts. We have to drive the forces of violence further and further into retreat. And as we move forward we have to remember that we're not just fighting against crime, we're fighting for the kind of nation we want to build together for the 21st century. For an America where people feel safe when they walk around the block at night, and untroubled when they kiss their children good-bye in the morning; an America where nobody's

grandmother lives across the street from a crackhouse and nobody's child walks to school through a neighborhood overrun by gangs. We're fighting for our children and for their future.

As I begin my second term as President, the next stage in our fight must center on keeping our children safe and attacking the scourge of juvenile crime and gangs. I want every police officer, prosecutor and citizen in America working together to keep our young people safe and young criminals off the streets. This should be America's top priority in the fight for law and order over the next four years. I pledge it will be mine.

We must help parents protect their children and bring order and discipline to their lives. That's why I support school uniforms and community-based curfews. That's why we made zero tolerance for guns in schools the law of the land, and passed Megan's Law to demand that states tell a community whenever a dangerous sexual predator enters its midst.

Now we must do more to give young people something to say yes to -- after school, on weekends and in the summer. And we must finish the job of putting 100,000 police on our streets.

At the same time, young people must understand that if they break the law they will be punished; and if they commit violent crimes they will be punished severely. I am determined to break the backs of criminal gangs that have ruined too many lives and stolen too many futures by bringing the full force of the law against them.

One of the most difficult problems facing law enforcement in this fight is the power of gang members to thwart the criminal justice system by threatening and intimidating the witnesses against them. Too many people in too many communities will not testify about gang crimes because they are afraid of violent reprisal. We must not allow the voice of justice to be frightened into silence by the violent threats of gangs.

Today the Justice Department is releasing a report called, "Preventing Gang And Drug-Related Witness Intimidation." This report is a handbook for police officers, prosecutors and judges, to help them overcome the dangerous obstacle witness intimidation poses to the steady march of justice. It details the problems they face and helps to provide a blueprint for them to follow that will significantly help state and local gang investigation and prosecution. Starting today, the Justice Department will distribute this report to thousands of police departments, prosecutors and judges across America.

In the coming weeks, I will submit to Congress comprehensive legislation to combat youth violence and drug abuse. Together with all our other efforts against youth violence, this will be the top crime fighting priority of my second term. I've asked the Attorney General to closely examine the growing threat of witness intimidation by gangs and to recommend strong measures to stop it that can be included in this legislation. We must not allow the very gangs we're fighting to grind the wheels of justice to a halt.

Over the past four years we've shown that we can roll back crime and violence. Now is no time to let up. There is still too much of it. But if we continue to work together, to stand up for what is right, to work with our community police officers, to take responsibility for ourselves and our families and the other children in our communities who need a guiding hand and an encouraging word -- if we'll do all these things, we can keep the crime rate coming down and we can build the future our children deserve.

Thanks for listening.

**MATERIALS FOR THE CLINTON ADMINISTRATION'S
ANTI-GANG AND YOUTH VIOLENCE STRATEGY
ROLL-OUT FEBRUARY 19, 1997, BOSTON, MA**

Department of the Treasury
Office of the Under Secretary for Enforcement

These materials are being provided as background materials for use by the White House and Department of Justice in preparing materials for public release. Final versions of these materials should be cleared through the Office of Enforcement.

1. **Juveniles and Illegal Handgun Possession**
2. **Enlisting Gun Store Owners Against Gun Trafficking**
3. **Children and Gun Safety**
4. **Youth Crime Gun Interdiction Initiative**
5. **GREAT (Gang Resistance Education and Training)**

JUVENILES AND ILLEGAL HANDGUN POSSESSION

We must make stop juveniles and gang members from obtaining handguns illegally.

Relatively new, semi-automatic handguns preferred. Semiautomatic pistols have become the gun of choice for juvenile delinquents and gang members. Young people and juveniles are using relatively recently manufactured, semi-automatic handguns, both more than other recovered firearms, and more than adults are using them. Older gang members transfer these guns to young look-outs; traffickers sell them to juveniles and gang members; and juveniles steal them from gun dealers and others. Because semi-automatic handguns began to attract a large proportion of the consumer market only in the mid-1980's, and are generally newer than revolvers in circulation, they are more likely to have obtained from traffickers, rather than by theft from homes. Because of this, increased anti-trafficking efforts by law enforcement can disrupt the illegal supply of these guns.

Increased Penalties for Juvenile Handgun Possession. The Administration legislation gives investigators and prosecutors new tools against traffickers who supply guns to juveniles and juveniles who acquire handguns. For juveniles who possess a handgun, the legislation eliminates probation as a possible sentence.

Trafficking to Juveniles: From Misdemeanor to Felony. With this legislation, adults who traffick handguns to juveniles will no longer be guilty only of a misdemeanor. The Administration legislation makes trafficking to juveniles a felony, punishable by up to 5 years in prison. If the adult has reasonable cause to believe the gun will be used in a violent crime, the legislation sets a mandatory minimum sentence (3 years).

Obliterating Firearms Serial Numbers: Increased Penalties. Traffickers are finding out that they cannot hide from law enforcement and are trying to cover their tracks by obliterating the serial numbers on guns they supply to gangs. Serial numbers allow law enforcement to trace the gun. If law enforcement can find out who is buying the guns, they can investigate the traffickers and bring them to justice. Law enforcement is discovering that where there is an obliterated serial number, there is often a major crime, multiple firearms sales, or significant gang-related gun trafficking. The Administration legislation increases the penalty for receiving and possessing firearms with obliterated serial numbers.

Gang Gun Trafficking Cases With Multiple Purchases and Obliterated Serial Numbers. These new provisions will assist prosecutors in gaining tough sentences in cases like this one from Chicago: A trafficker traveled from Chicago, Illinois to Terra Haute, Indiana to buy 20 firearms from a federally licensed gun store, obliterating the serial numbers in preparation for selling them to gang members and narcotics traffickers on Chicago's south side. Admitting to trafficking 400 to 500 firearms with obliterated serial numbers, the defendant pled guilty and was sentenced to 27 months' incarceration followed by three years of supervised release.

Firearms Conspiracies: Tougher Penalties. The Administration legislation provides penalties that fit the crime for criminals who collaborate to violate firearms laws.

ENLISTING GUN STORES AGAINST GUN TRAFFICKING

Gun Stores: First Line of Defense. The number of federally licensed gun dealers has fallen by over 50% in the last three years due to heightened requirements for obtaining licenses to sell guns commercially. Federally licensed gun dealers must now become a major line of defense against the illegal diversion of firearms to criminals and juveniles.

Inadequate Security. Gun stores that do not have sufficient security arrangements are vulnerable to burglaries. Juveniles and gangs as well as traffickers are taking advantage of inadequate security systems to steal guns from federally licensed gun stores.

Firearms Stolen from Gun Stores. Since the passage of the President's anti-crime legislation in 1994 made reporting of guns stolen from gun stores a requirement, federal firearms licensees have reported 23,775 guns as lost, stolen, or missing. Guns stolen in interstate commerce make this number even higher.

Trafficking in Stolen Guns. These guns are being trafficked to gangs and juveniles as well as other adult criminals. For instance, after 21 burglaries from federally licensed gun dealers around Los Angeles and the theft of over 1,000 firearms, an investigation led in 1995 to three guilty pleas by Main Street Crips members and convictions of an additional three gang members in connection with the stolen firearms. Sentences ranged from 27 months to 15 years.

Secure Storage Requirements. Gun store owners can help law enforcement stop traffickers by securely storing their inventories to prevent gun thefts. The Administration legislation will permit the development of new secure storage regulations for gun store owners to reduce illegal diversion of guns by theft.

Illegal Diversion From Gun Stores. The vast majority of federally licensed gun dealers are not associated with firearms trafficking. But there is significant trafficking from gun stores to criminals and juveniles. A 1994 examination of crime gun traces showed that of the over 120,000 crime guns traced to federal firearms licensees then in business, 28% of these firearms were recovered by law enforcement in connection with a crime within two years of the original sale. This short "time-to-crime" of a gun purchased from a licensee is a strong indicator that the initial seller or purchaser may have been engaged in unlawful activity.

GUN SAFETY AND CHILDREN

We must take steps to stop children and young people from losing their lives in gun accidents and suicides, from being injured in accidental shootings, and taking guns from their homes to school for use in assaults and other crimes. No gun should be sold without an accompanying locking or safe storage device. Responsible parents and gun owners will use them.

In 1994, there were 1,356 accidental deaths from shootings in the US. 725 of these deaths, over half (53%), were of children and young people up to age 24. Young people between ages 15 and 19 are the most at risk. Since 1985, deaths from firearms accidents have increased steadily among this group, reaching 327 in 1994. 1,565 young people up to age 19 used guns to commit suicide in 1994, a nearly 25% increase over the number of youth suicides in 1985. Gun accidents also caused over 15,000 injuries in 1994, 6,000 of these to children and young people up to age 24.

Handguns are involved in a disproportionate number of accidental shooting injuries. While handguns accounted for approximately one third of total guns in circulation in 1994, they accounted for 57% of the accidental shooting injuries in that year.

Many of these handguns are unsecured. Of the 65 million handguns in circulation in 1994, 36.9 million, or 57%, were kept unlocked -- neither locked up nor secured with an attachable locking device -- and 60% of these, 22.1 million handguns, were loaded and unlocked. 13.5 million handguns were loaded while locked up. In 1994, approximately 3.6 million handguns were sold in this country.

An estimated 211,000 handguns were stolen from homes in 1994. We do not know how many of these were stolen by juveniles or ended up in the hands of juveniles. But many juveniles who obtain guns borrow or steal guns from adults, from homes, and from cars, or obtain them from others who have stolen them.

Using safety locks that attach directly to the weapon or other means of safely securing the weapon can save children's lives and prevent unauthorized use of the gun. "Personalized guns" that prevent unauthorized users are another potential safety device for purchase.

The General Accounting Office (GAO) concluded in 1991 that the accidental shooting deaths of children under 6 that the GAO examined might have been prevented had the guns been equipped with the safety locking devices looked at by the GAO.

Locking devices that attach to the weapon generally function by blocking the trigger, preventing the mechanism from being closed or loaded, and devices that interact with fire control components to prevent their function. These locks range from standard hardware padlocks, locks designed to be utilized on various different firearms, and those intended for use on specific models of firearms. The majority of attachable locks must be removed in order to operate the weapon. Certain newer designs remain attached to the weapon at all times and are activated or deactivated by means of a combination lock. Attachable locks range in price from less than \$5

(common padlocks) to approximately \$90 for semi-permanent attachments; an attachable device made specifically for locking firearms typically costs in the range of \$8 to \$30.

Locking storage cases, boxes and safes are intended to provide secure storage for one or more firearms. Many handgun manufacturers provide their products in storage/carrying cases that either incorporate a lock or have provisions for attaching a lock to deny access to the weapon. Locking cases and boxes are also available from many specialty manufacturers. They come equipped with a variety of locks, including locks similar to those found built into luggage and briefcases, provisions for attaching a standard padlock, or an electronic or mechanical keypad. The most secure locking/storage devices are gun safes designed and built to provide storage as well as protection against theft and fire. Storage boxes and cases range in price from \$20 to over \$300. Safes range in price from \$200 to over \$2,000.

The Clinton Administration believes that accidental shootings of children, police officers, and others could be reduced most effectively by the use of a "personalized gun" that can be shot only by its authorized users. The Department of Justice is supporting research and development of such firearms.

Total Pages: _____

LRM ID: REJ39

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, February 24, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference
OMB CONTACT: Ronald E. Jones *[Signature]*
PHONE: (202)395-3388 FAX: (202)395-3109

SUBJECT: JUSTICE Proposed Transmittal Letter Draft Bill on Anti-Gang and Youth Violence Control Act

DEADLINE: 3:00 PM FIRM Monday, February 24, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS:
DISTRIBUTION LIST

AGENCIES:

30-EDUCATION - Jack Kristy - (202) 401-8313
52-HHS - Sondra S. Wallace - (202) 690-7760
59-INTERIOR - Jane Lyder - (202) 208-4371
89-Office of National Drug Control Policy - John Carnevale - (202) 395-6738
118-TREASURY - Richard S. Carro - (202) 622-0650

EOP:

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BURKE_D
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*GANG BILL
Transmittal
letter*

FEB-24-1997 11:53 TO:146 - d. burke

FROM: JONES, R. E.

P. 2/5



Howard Dendurent
Richard H. Kod

**RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM**

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

*DRAFT*

U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Albert Gore, Jr.
President
United States Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed for your consideration is a draft legislative proposal entitled, the "Anti-Gang and Youth Violence Act of 1997." This draft bill, which the President announced on February 19, 1997, constitutes a vital part of the Administration's strategy to mount a full-scale assault on juvenile crime in America. We respectfully request that it be introduced, referred to the appropriate committee or committees, and enacted. We have forwarded an identical proposal to the Speaker of the House of Representatives.

By way of background, last year serious and violent crime in the United States dropped for the fifth year in a row, marking the longest period of decline in 25 years. Moreover, for the first time in seven years, the national juvenile violent crime arrest rate and the juvenile murder arrest rate went down. While these signs are certainly promising, juvenile crime rates are still unacceptably high in many cities, towns and neighborhoods. We can -- and indeed must -- do more.

The Administration's anti-gang and youth violence initiative is comprised of four essential elements that are designed to: target gangs and violent criminals; keep the Nation's children gun-free and drug-free; keep America's children on the right, law-abiding, track; and reform the juvenile justice system.

Enactment of this draft bill, which is described in detail in the enclosed section-by-section analysis, would play a key role in implementing the President's anti-gang and youth violence strategy. Among the draft bill's key proposals are provisions that would:

- ▶ Provide \$200 million for 1000 new gang-fighting initiatives in prosecutors' offices across the country;
- ▶ Establish new laws and stiffer penalties to fight gangs, disrupt their illegal gun and drug markets, and protect the witnesses who want to testify against them;

- ▶ Amend current law to streamline the federal prosecution of the most violent juveniles;
- ▶ Authorize \$50 million for a Youth Violence Courts Initiative to expedite and more effectively handle violent juveniles in the court system;
- ▶ Safeguard against misuse of guns by requiring a lock to be sold with every gun and prohibiting violent juvenile offenders from possessing guns as adults;
- ▶ Provide \$75 million for the At-Risk Children Initiative for truancy, school violence, and other, similar programs aimed at getting kids or keeping kids on the track to success; and
- ▶ Redesign and refocus the federal government's support to state and local jurisdictions for the purpose of fighting and preventing juvenile crime, violence and drug use.

In his State of the Union Address on February 4, 1997, the President called upon Congress to join him in fighting juvenile crime by enacting legislation that declares war on gangs, enables communities to take back their streets and schools, and restores the faith of the people in law and order. Enactment of the enclosed legislative proposal would be a milestone in our joint efforts to achieve these critical and essential goals.

Thank you for the opportunity to present these proposals to you. If we may be of additional assistance in connection with this or any other matter, we trust that you will not hesitate to call upon us. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this proposal and that its enactment would be in accord with the program of the President.

Sincerely,

Andrew Foia
Assistant Attorney General

Enclosures



Office of the Attorney General
Washington, D. C. 20530

January 30, 1997

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM: Kent Markus
Erik Reid *ER*

SUBJECT: Anti-Gang and Youth Violence Legislation

During the last few weeks, we have been working with components throughout the Department to identify and develop the proposals that will be included in the Administration's anti-gang and youth violence legislation. The proposals for which there is consensus support within the Department are attached at TAB A.¹ There are also about a half dozen somewhat technical gun proposals which would involve efforts to disrupt illegal gun markets. We are still working with Treasury to determine if it is wise to offer these at this time. We may need to come back to you with this small group of additional proposals within a few days.

We hope you will be able to review the attached proposals during downtime. We request that you approve the entire list of proposals as soon as possible. If you have questions or concerns about specific proposals, we ask that you flag them for later discussion and approve the remaining proposals on the list.

Recommendation: The proposals attached at TAB A should be approved for inclusion in the legislation.

APPROVE _____

DISAPPROVE _____

In addition, there are three proposals for which consensus does not exist. The proposals, along with a brief discussion of the issues involved are set out below. If you feel comfortable resolving these questions while you are traveling, through review of these proposals and discussion by phone with key personnel interested in these matters, that would be great. If, instead, you believe that any or all of these should be handled in a meeting upon your return, we will set one up for Tuesday. Here are the three remaining issues:

¹The components supporting these proposals are: DAG, ASG, CRM, EOUSA, OPD, OJP, OJJDP, OLA, OTJ, OIA, FBI, and DEA.

1. Should the federal Crime Victims Fund statute be amended to authorize states to use a portion of their victim assistance funds to protect witnesses?

Crime Victims Funds can be used to protect victims of gang- and drug-related crime from intimidation, however, the funds cannot be used to protect witnesses in such cases. This proposal would allow, but not require, states to use a portion of their funds for witness protection, thereby strengthening the prosecution of such cases.

OJP, CRM, OPD, and EOUSA (and the two of us) support this proposal. (While recognizing OVC's concerns, Eldie thinks both interests can be accommodated by focusing on protecting witnesses to improve prosecutions.) Litigation fines, which are paid into the fund, have been extraordinary in recent times, with three cases recently adding about \$1 billion to normal annual funding of about \$500 million. OVC opposes the proposal because it will likely result in less money being available for victim services. They believe the victims' groups will be opposed to the proposal as well. A more detailed pro/con memo drafted by Harri Kramer at OJP is attached at Tab B.

If you would like to discuss this proposal during downtime, the key people at the Department are: Aileen Adams (202-307-5983); Laurie Robinson (202-307-5933); Eldie Acheson (202-514-4601) and Bob Litt (202-514-2636).

Decision Item:

Approve amendment to the Crime Victims Fund _____

Disapprove amendment to the Crime Victims Fund _____

2. Should states and localities be required to make available bed space in juvenile facilities built with federal funds for use by the federal government if such bed space is currently not in use?

USM, BOP, and U.S. Attorney Karen Schreier (along with Erik and I) believe that the lack of adequate facilities for juveniles in federal custody is a serious problem. USM and BOP indicate that they have difficulty placing juveniles in appropriate facilities and/or facilities near the juveniles' families. This problem is particularly acute with respect to Native American juveniles. Karen indicates that some federal judges are hostile to the prosecution of juveniles due to the lack of adequate facilities. Also, she indicated that some U.S. Attorney Offices have declined cases, which otherwise would have been prosecuted, because of this problem.

OJP is opposed to this proposal since it places an additional condition on the use of prison grant funding. In addition, they believe that the proposal will have little impact because the construction of juvenile facilities built with federal funds is several years away. Finally, there is fair question about whether any space in juvenile facilities built with these funds will ever be "not in use".

If you would like to discuss this proposal during downtime, the key people at the Department are: Laurie Robinson (202-307-5933); Kathy Hawk (202-307-3250); Kristine Marcy at USM (703-416-8900).

Decision Item:

Approve requirement to make bed space available _____

Disapprove requirement to make bed space available _____

3. Should the head of the new youth violence office be appointed by the Attorney General or the President?

There is agreement that there should be a separate office within OJP responsible for youth violence initiatives. The head of the office will report to the AAG for OJP. In addition, the AAG for OJP will have general grant making authority, but this authority will be delegated to the head of the new office.

Shay believes that the head of the new office should be a presidential appointee. He argues that this enhances the status of the office in the field, and that the field will view any change in the appointment process as a weakening of the Administration's commitment to juvenile justice.

Laurie believes that the head of the new office should be appointed by the Attorney General, operating under the authority of the AAG for OJP. The redesign and refocusing of the grant making, research, training and technical assistance functions which will be proposed in this legislation have been motivated, in part, by the desire to enhance coordination within OJP and its bureaus. Laurie argues that an office headed by a presidential appointee does not make sense from a management perspective, and that it creates the possibility that the appointee may attempt to act independently of the AAG for OJP. John Dwyer shares Laurie's concerns and supports her recommendation.

If you would like to discuss this proposal during downtime, the key people at the Department are: Shay Bilchik (202-307-5911); Laurie Robinson (202-307-5933); and John Dwyer (202-514-4969). So do we.

Decision Item:

Approve Attorney General appointment _____

Disapprove Attorney General appointment _____

We can both be reached at 202/514-2107.

Tab A

Proposals Supported by DOJ Components

Juvenile Prosecutions:

- Give federal prosecutors, rather than judges, the discretion to transfer juvenile offenders to adult criminal court;
- Expand the list of serious felonies for which a juvenile can be prosecuted as an adult to include certain firearms and drug offenses, crimes of violence, and conspiracy;
- Permit the use of an adjudication of juvenile delinquency for a serious drug trafficking offense as a predicate offense under the Armed Career Criminal Act
- Within constitutional limits, give U.S. Magistrate Judges jurisdiction over all federal juvenile delinquency proceedings

Changes to federal criminal law to target gangs, guns, and drugs:

- Facilitate prosecution under the federal car-jacking statute by eliminating the need to prove that a defendant intended to cause death or serious bodily injury to the victim of a car jacking
- Eliminate the statute of limitations for offenses involving murder or where the maximum penalty is life imprisonment
- Increase the penalty for certain RICO violations and facilitate the prosecution of certain RICO cases by providing that prosecutors need not prove that a defendant personally agreed to commit any acts of racketeering
- Bailey fix, including provisions for a mandatory minimum 10-year penalty for discharge of a firearm or seriously bodily injury (while retaining existing mandatory minimum 5-year penalty for 924^(b) offenses generally)
- Establish gun purchase disability for certain adjudicated delinquents
- Authorize the criminal forfeiture of firearms used in the commission of any federal crime, including authorization to destroy such firearms upon forfeiture
- Amend title 18 to provide that the penalty for conspiracy to commit a firearms offense shall be punishable to the same extent as for the underlying substantive offense.
- Amend 18 U.S.C. 924(h) (making it unlawful to transfer a firearm "knowing" that it will be used to commit a crime of violence or drug trafficking crime) to authorize prosecution where the person has "reasonable cause to believe" that the gun will be so used
- Increase the penalty for knowingly receiving a firearm with an obliterated or altered serial number from five to ten years
- Establish that federal law controls the restoration of rights for purposes of the gun purchase disability
- Increase the mandatory minimum penalty under 21 U.S.C. Secs. 859-61 from one to three years for persons who sell drugs to kids or use kids to sell drugs
- Add serious juvenile drug offenses to the list of predicates under the Armed Career Criminal statute, 18 U.S.C. 924(e)
- Give the Attorney General emergency re-scheduling authority for controlled substances
- Amend the RICO statute to authorize the death penalty in cases where, if the underlying predicate were prosecuted separately, the death penalty would be available (Get example or language linking this to gangs.)

- Penalty for conspiracy to commit any violation of Federal criminal law is the same as penalty for underlying substantive offense (currently 18 U.S.C. 371 has 5-year maximum penalty, but most newer conspiracy offenses such as narcotics and money laundering have same penalty for conspiracy and substantive)
- Require FFLs to sell a gun lock or similar device each time a firearm is sold
- Increase the penalty under 18 U.S.C. 924 from a misdemeanor to a felony for gun dealers charged with aiding and abetting straw purchasers and other false statements

Witness intimidation:

- Expand the circumstances under which persons accused of gang and other violent crime may be detained pending trial
- Create a new offense of conspiracy to intimidate or retaliate against a witness or informant
- Amend federal law to provide stiff penalties against those who travel in interstate commerce with the intent to intimidate or retaliate against a witness or informant, in a federal or state criminal prosecution (either through amending the Travel Act or through a separate statute)

Victims rights:

- Expand victims rights to treat victims of juvenile offenders the same as victims of adult offenders
- Expand public access to juvenile proceedings (i.e., proceedings presumptively open, but may be closed in the interests of justice or for good cause shown)

Incarceration of juveniles in federal facilities:

- Authorize federal courts to make available fines and supervised release, which are not presently sentencing options, for juveniles adjudicated delinquent
- Authorize BOP to incarcerate juveniles prosecuted as adults in adult facilities

Redesigned and refocused youth violence office:

- Establish a new, redesigned, and refocused youth violence office within OJP. The head of the office will report to the AAG for OJP. The AAG for OJP will have general grant making authority, but this authority will be delegated to the head of the new office.
- Provide \$75 million for the "Anti-Truancy, School Violence, and Crime Intervention Program" to support local juvenile crime intervention programs, such as anti-truancy, school violence, and curfew initiatives. (Note: Of this amount, 10% shall be dedicated to research, 5% to administration, and 2% to training and implementation assistance.)
- \$80 million should be allocated for formula assistance for state and local governments. (Note: Of this amount, 10% shall be dedicated to research, 5% to administration, and 2% to training and implementation assistance.)
- States that are not in compliance with the separation, adult jail and lock-up, and DSO core requirements lose 50% of their formula funds.
- \$6 million should be allocated for formula assistance for Native American tribal governments. (Note: Of this amount, 10% shall be dedicated to research, 5% to administration, and 2% to training and implementation assistance.)

- Replace the Native American pass-through with direct federal funding to Native American tribal governments
- \$17 million should be allocated for incentives to encourage certain policies, e.g., development of graduated sanctions. (Note: Of this amount, 10% shall be dedicated to research, 5% to administration, and 2% to training and implementation assistance.)
- To be eligible for incentive funds states must do graduated sanctions, collaboration, and DMC. If this condition is met, states may use funds for any of the following purposes: graduated sanctions, collaboration, DMC, facilities programming, aftercare, information and data projects, and/or juvenile gun and drug projects.
- \$24 million should be allocated for testing promising programs and strategies (includes \$10 million for expected earmarks). (Note: Of this amount, 10% shall be dedicated to research, 5% to administration, and 2% to training and implementation assistance.)
- \$4 million should be allocated for general training and implementation assistance

Research, evaluation and data collection:

- \$6 million should be allocated for academic research, e.g., studies and reports
- \$3 million should be allocated for statistics, data collection, and analysis
- \$3 million should be allocated for evaluations of programs that are not funded by the Department
- Require grantees to participate in and collect data for rigorous evaluations when needed, and to conduct such evaluations when appropriate

Other federal support:

- Provide \$100 million for the "Prosecutorial Initiatives Targeting Gang Crime and Violent Juveniles" to prosecutorial offices for at least 1000 new initiatives, including hiring new gang prosecutors, to target gangs, gang violence, and other violent juvenile crime. (Note: Of this amount, 10% shall be dedicated to research, 5% to administration, and 2% to training and implementation assistance.)
- Provide \$50 million for the "Violent Youth Court Program" for the development of initiatives by courts or court-related entities, such as probation offices and victim/witness centers, to enhance and expedite the handling of matters involving violent juveniles, including the development of juvenile drug and/or gun courts. (Note: Of this amount, 10% shall be dedicated to research, 5% to administration, and 2% to training and implementation assistance.)
- Expand the authorized use of prison grant funds for drug testing, and for post-incarceration transition, supervision, monitoring
- Enact government-wide "gift authority" provision for crime prevention programs
- Expand the use of federal juvenile records for law enforcement purposes

Missing and exploited children/child abuse and neglect:

- \$11.5 million should be allocated for programs that focus on missing and exploited children and the prevention of child abuse and neglect (Note: Of this amount, 10% shall be dedicated to research, 5% to administration, and 2% to training and implementation assistance.)

Anti-Gang and Youth Violence Legislation Outline of Major Bill Sections

Note: Proposals contained in last year's "Anti-Gang and Youth Violence Control Act" are in italics.

I. Findings, Purposes, etc.

II. Targeting Violent Gangs, Gun Crimes, and Drugs

Subpart A -- Federal Prosecutions Targeting Violent Gangs, Gun Crimes and Illegal Gun Markets, and Drugs

Targeting Gangs:

- *Expand the use of federal juvenile records for law enforcement purposes*
- Facilitate prosecution under the federal car-jacking statute by eliminating the need to prove that a defendant intended to cause death or serious bodily injury to the victim of a car jacking
- Eliminate the statute of limitations for offenses involving murder or where the maximum penalty is life imprisonment
- Increase the penalty for certain RICO violations and facilitate the prosecution of certain RICO cases by providing that prosecutors need not prove that a defendant personally agreed to commit any acts of racketeering
- Amend the RICO statute to authorize the death penalty in cases where, if the underlying predicate were prosecuted separately, the death penalty would be available (Get example or language linking this to gangs.)
- Penalty for conspiracy to commit any violation of Federal criminal law is the same as penalty for underlying substantive offense (currently 18 U.S.C. 371 has 5-year maximum penalty, but most newer conspiracy offenses such as narcotics and money laundering have same penalty for conspiracy and substantive)
- Add murder of a state or local law enforcement officer to the list of statutory aggravating factors under the federal death penalty law

Targeting Gun Crimes and Illegal Gun Markets:

- *Bailey fix, including provisions for a mandatory minimum 10-year penalty for discharge of a firearm or seriously bodily injury (while retaining existing mandatory minimum 5-year penalty for 924© offenses generally)*
- Establish gun purchase disability for certain adjudicated delinquents (Not yet cleared)

- Authorize the criminal forfeiture of firearms used in the commission of any federal crime, including authorization to destroy such firearms upon forfeiture
- Amend title 18 to provide that the penalty for conspiracy to commit a firearms offense shall be punishable to the same extent as for the underlying substantive offense.
- Amend 18 U.S.C. 924(h) (making it unlawful to transfer a firearm "knowing" that it will be used to commit a crime of violence or drug trafficking crime) to authorize prosecution where the person has "reasonable cause to believe" that the gun will be so used
- Increase the penalty for knowingly receiving a firearm with an obliterated or altered serial number from five to ten years
- Establish that federal law controls the restoration of rights for purposes of the gun purchase disability
- Require FFLs to sell a gun lock or similar device each time a firearm is sold
- Increase the penalty under 18 U.S.C. 924 from a misdemeanor to a felony for gun dealers charged with aiding and abetting straw purchasers and other false statements
- Amend the sentencing guidelines to increase penalties for transfers of firearms to prohibited persons
- Increase penalties for unlawful transfer of a handgun to a juvenile and juvenile possession of a handgun
- Require FFLs to securely store firearms inventories to prevent theft
- Provide for the suspension of federal firearms licenses and civil penalties for willful violations of the Gun Control Act

Targeting Drugs:

- *Increase the mandatory minimum penalty under 21 U.S.C. Secs. 859-61 from one to three years for persons who sell drugs to kids or use kids to sell drugs*
- *Add serious juvenile drug offenses to the list of predicates under the Armed Career Criminal statute, 18 U.S.C. 924(e)*
- *Give the Attorney General emergency re-scheduling authority for controlled substances*
- *Expand the authorized use of prison grant funds for drug testing*

Subpart B -- Grants to Prosecutors' Offices to Target Gang Crime and Violent Juveniles

- Provide \$100 million to prosecutorial offices for at least 1000 new initiatives, including hiring new gang prosecutors, to target gangs, gang violence, and other violent juvenile crime.

III. — Protecting Witnesses to Better Prosecute Gangs and Violent Criminals

Subpart A — Federal Prosecutions to Target Witness Intimidation

- Expand the circumstances under which persons accused of gang and other violent crime may be detained pending trial
- Create a new offense of conspiracy to intimidate or retaliate against a witness or informant
- Amend federal law to provide stiff penalties against those who travel in interstate commerce with the intent to intimidate or retaliate against a witness or informant, in a federal or state criminal prosecution
- Add murder of a witness to the list of statutory aggravating factors under the federal death penalty law

Subpart B — Grants to Protect Witnesses (Not yet cleared)

- Amend the Crime Victims Fund statute to authorize states to use a portion of their victim assistance funds for witness protection, thereby strengthening prosecutions

IV. Protecting Victims' Rights

- *Expand victims rights to treat victims of juvenile offenders the same as victims of adult offenders*
- *Expand public access to juvenile proceedings (i.e., proceedings presumptively open, but may be closed in the interests of justice or for good cause shown)*

V. Federal Prosecution of Serious and Violent Juvenile Offenders

- Give U.S. Magistrate Judges jurisdiction over all federal juvenile delinquency proceedings
- *Permit the use of an adjudication of juvenile delinquency for a serious drug trafficking offense as a predicate offense under the Armed Career Criminal Act*
- *Expand the list of serious felonies for which a juvenile can be prosecuted as an adult to include certain firearms and drug offenses, crimes of violence, and conspiracy*
- *Give federal prosecutors, rather than judges, the discretion to transfer juvenile offenders to adult criminal court*

VI. Incarceration of Juveniles in the Federal System

- *Authorize federal courts to make available fines and supervised release, which are not presently sentencing options, for juveniles adjudicated delinquent*
- *Authorize BOP to incarcerate juveniles prosecuted as adults in adult facilities upon turning 18*
- *Require states and localities to make available bed space in juvenile facilities built with federal funds for use by the federal government if such bed space is currently not in use. (Not yet cleared)*

VII. New Office of Juvenile Crime Control and Prevention

- **New Resources for Juvenile Crime Control and Prevention Initiatives** -- \$75 million for anti-truancy, school violence, and other, similar programs aimed at getting kids or keeping kids on the track to success.
- **New Resources for Courts to Target Violent Juveniles** -- \$50 million for programs to expedite and more effectively handle violent juveniles in the court system.
- **Enhanced Assistance for Local Juvenile Crime Control and Prevention Initiatives** -- More funding and technical assistance to aid communities in replicating effective programs and developing new strategies to combat juvenile crime.
- **More Research on Effective Programs** -- Ten percent of grant program funds dedicated to research activities, including program evaluations, data collection efforts, and studies, to identify programs and strategies that reduce juvenile crime and violence.
- **Guaranteed High Quality Research** -- Research activities coordinated by the Office of Juvenile Crime Control and Prevention, and conducted by experts at the nationally respected Bureau of Justice Statistics and National Institute of Justice.
- **Better Coordination at the Department of Justice** -- Leadership support for the new Office of Juvenile Crime Control and Prevention enhanced and operations streamlined to better coordinate and integrate juvenile crime initiatives with other Department activities, especially activities within the Office of Justice Programs.
- **Continued Leadership to Support to Improvements in State and Local Practices** -- Fundamental protections to safeguard juveniles from abuse while in custody maintained, and assistance provided to help states and localities implement graduated sanctions initiatives and other programs to better respond to young offenders.
- **Direct Funding for Native American Tribal Governments** -- For the first time, federal funds go directly to tribal governments to support initiatives targeting juvenile crime on Native American lands.
- **Greater Support for Programs that Focus on Missing and Exploited Children and the Prevention of Child Abuse and Neglect.**

Pitkin wants
→ Gang paraphernalia
→ Sentencing enhancements
→ spell out PFC
→ 10% prison grants to set aside juvenile facilities

Tab B

Harri Kramer draft

- Approved by Laurie Robinson

Issue: Whether to include in the forthcoming "Youth Violence Legislation" a section that would:

Amend the Federal Crime Victims Fund statute, 42 U.S.C. Sec 10601, to authorize states to use a portion of their victim assistance grants to protect witnesses.

In support of the proposition:

- ◆ As NIJ's recent report documents, there is a clear need to provide assistance with victim/witness intimidation. The President is committed to addressing the problem of witness intimidation.
- ◆ This proposed provision would authorize -- not require -- states to be able to use some (not all) of their grant funds to protect witnesses, without whom there might not be a successful prosecution and thus no closure of a case for a victim.
- ◆ Specific attention must be paid to the "victim/witness," a unique class of individuals who are currently without service support. (CRM and National Assn. District Attys.)
- ◆ State and local prosecutors are desperately seeking additional relief to help with witness intimidation/protection.

[OJP AAG Robinson, while expressing considerable deference to OVC and the victims advocates community, supports the proposal because (a) the public safety need for victims is great here; (b) it is not mandatory to the states, and (c) the Fund has experienced record growth as a result of very large criminal fines. While there may not be another "Daiwa," it is likely that the current trend of large anti-trust criminal fines is likely to continue and thus keep fund levels high.]

In opposition to the proposition

- ◆ This proposal intrudes upon the original intent of VOCA. Before VOCA, many crime victim service providers were operating on a shoestring; today, only 1/3 of victim services receive support from the Fund. The proposal could be the beginning of the "slippery slope" for use of the Fund for non-victims.
- ◆ Witness protection is perceived to be very expensive and could potentially have a devastating impact on delivery of other services.
- ◆ There is some support for providing a measure of protection and support for victims who are also witnesses; however, the proposal is inconsistent with the Act's intent. OVC and the groups consider witness protection to be an inherent law enforcement/criminal justice system function that should be covered as a line item in their budgets.

[OVC joins many of the major national victims organizations contacted thus far about this proposal in their strong opposition to it.]

Factors to Consider

- ◆ There is currently no systematic way for prosecutors to access assistance for witness protection. Some states (notably Missouri) are beginning to make progress in this area.
- ◆ There is current authority under Byrne Formula (Purpose areas 10 and 14) to allow the states to fund witness protection. However, as a rule, funding for these purposes seldom happens.

Compromises/Alternatives to this Legislative Proposal:

- ◆ The provision could be written with caps or limits on this type of expenditure proportional to a state's allocation.
- ◆ This provision could be written to provide that if a state's funding were reduced to a specified level because of a decrease in the overall Fund, that funding for this purpose would not be permitted that year.
- ◆ As a first step, the provision could be written to restrict such expenditures to victim/witnesses.
- ◆ As a first step, any combination of the proposal and compromises could have a sunset provision.

[AAG Robinson, CRM representatives, and OCPA Dir. Kramer think these limits could make this a win/win proposition.]

Other Avenues

- ◆ Through legislation, make witness protection a specific Byrne purpose area. (There are now 27.) [BJA thinks this is not necessary and sets a bad precedent of adding too many specific purposes.]
- ◆ Through legislation, create a set-aside w/ the Byrne formula program to require certain spending. This would not be viewed favorably by the states-- another unfunded mandate. Also, some states may not have a need here. [BJA strongly opposes.]
- ◆ Use the bully pulpit to remind states of the authority now available; seek their support of this important purpose. [BJA strongly supports.]
- ◆ Through the discretionary side of Byrne, create a small incentive, discretionary grant program to develop models/standards. [BJA thinks this would be fine in FY 98 or beyond.]

2000

**Summary of Proposed Language Regarding Federal Procedures
for Juvenile Walvers to Adult Criminal Court**

- ▶ Retain current provision mandating adult prosecution for juveniles 16 and older who have previously been adjudicated for a crime of violence or serious drug offense and are now charged with another crime of violence or serious drug offense.
- ▶ Allow prosecutors the discretion to charge certain juvenile offenders who are accused of certain crimes (the same class as the Republican's bill designated) as adults in criminal court without a prior transfer hearing.
- ▶ Include a "safety valve" so that prosecutorial discretion would be reviewable by the court upon a motion of the juvenile for a hearing to remove action to juvenile court.
- ▶ In considering whether to remove an action, the district judge must consider: the age and social background of the juvenile; the nature of the alleged offense; any prior record of the juvenile; present intellectual development and psychological maturity; the nature of past treatment efforts; the availability of programs designed to treat the juvenile; and the effect such removal would have on public safety.
- ▶ Transfer orders would be non-final, so they would not be appealable until the end of the case, except if the government wants to appeal a juvenile's transfer to juvenile court (just as Federal prosecutors, but not defendants, may appeal adverse evidentiary suppression rulings).
- ▶ The bill would also offer another "safety valve" -- allowing judges to sentence juveniles in adult court (except those who have committed crimes of violence) as juveniles as long as such sentencing would be in the interests of justice and would not jeopardize public safety. This exempts juveniles from mandatory minimum requirements. The bill directs the Sentencing Commission to draft guidelines and/or policy statements for judges to follow in determining what sentence to impose.

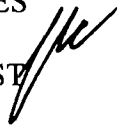


EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY

Washington, D.C. 20503

February 10, 1997

MEMORANDUM FOR JAMES JUKES

FROM: JANET L. CRIST 

SUBJECT: Justice Proposed Draft Bill: Anti-Gang and Youth Violence Control Act

Wanted to reinforce ONDCP's strong reservations about two sections in the Justice proposed draft bill.

Temporary Rescheduling of Controlled Substances

ONDCP continues to object to Section 414 "Temporary authority to reschedule controlled substances to prevent imminent danger to public safety". We believe this provision is unnecessary because no evidence is provided to demonstrate that the current scheduling mechanism requires correction. This represents a major change in drug policy that has not been fully discussed or vetted in the Administration. This proposal also runs counter to the Administration's effort to oppose medical marijuana. Director McCaffrey, Attorney General Reno, and Secretary Shalala all have taken the position that the scheduling of drugs should be based on science. The proposal, as drafted, is counter to that position.

Drugs placed on schedules II-V have accepted medical uses. An established process exists in law governing the scheduling of controlled substances addressing both medical and public safety issues. No justification is put forward in the commentary -- other than length of time -- that the current system requires repair.

The bill language also seems to suggest that the Attorney General would be able to use the emergency scheduling procedures to place a drug in Schedule I or II. The intent of Congress in the enactment of the emergency scheduling provisions in 1984 was to provide a mechanism to the Attorney General to act against uncontrolled drugs posing an imminent hazard to public safety. The temporary placing of these drugs in Schedule I accomplishes that goal. Schedule I drugs are not available for any medical use. The inclusion of Schedule II as a temporary scheduling option makes little sense, however. Schedule II drugs, although tightly controlled, have accepted medical uses. The inclusion of Schedule II would make a drug available for use and undermine the finding that a drug is causing "an imminent hazard to public safety."

Mandatory Minimums

ONDCP remains concerned with Title IV, which discusses mandatory minimum penalties. This is a subject of intense debate -- this is a subject of great interest to the Director and was raised at the last Cabinet Council meeting. We believe that the proposal of any new mandatory minimums should be put off until the Administration as a whole studies the issue.

Administration's New Crackdown on Violent Street Gangs and Serious Juvenile Offenders

Statistical and Policy Support

I. Using the powerful federal racketeering laws, which have been so successful in combatting the "mob," to target the most serious violent street gangs.

A. Statistics.

Under the Clinton Justice Department, federal prosecutors have mounted an unprecedented crackdown on violent street gangs through the use of federal racketeering laws. For example, federal prosecutions of violent gangs under the powerful Racketeering Influenced and Corrupt Organizations (RICO) statute have more than doubled:

Approved RICO Prosecutions¹

Year	Gang-related RICO prosecutions	Total RICO prosecutions
1990	21	97
1991	14	79
1992	16	96
1993	26	95
1994	25	102
1995	37	104
1996 (through 9/11/96)	33	86

B. Anecdotes

Federal prosecutors and investigative agencies have used RICO and other powerful federal racketeering laws to indict and convict the leaders of some of the largest and most deadly street gangs in the United States:

¹ Department of Justice, Organized Crime and Racketeering Section, letter to Sen. John Ashcroft, Oct 3, 1996 ("OCRS Letter").

EXTENDING THE BRADY LAW TO VIOLENT JUVENILES

- Passage of the Brady Law was a top priority for the Clinton Administration. The Brady Law was included in the 1994 Crime Bill and dealt the first major defeat to the pro-gun lobby. Since its enactment, the Brady Law has kept over 100,000 fugitives, felons and stalkers from buying a handgun.
- We should build on the proven success of Brady and extend the law^S to include violent juveniles. Under current law, a juvenile convicted of a violent crime could purchase a handgun on his 18th birthday with no restriction.
- The President's strategy would close this loophole and so convicted violent youths would never be allowed to buy a handgun. Violent juveniles should be treated as their adults for their adult crimes-- and stopped from being armed to hurt again.
- Adults who commit felonies, including thefts as low as \$100, may not possess firearms. But under existing law, a 17-year old murderer^Y can buy a gun as soon as he turns 18. The President's strategy would prohibit juveniles who commit murder, rape, robbery and other serious violent crimes-- including serious drug trafficking crimes-- from ever possessing a handgun again.

Yes

TOUGH AND FAIR PENALTIES FOR JUVENILE CRIMES

- The President's strategy combines a balanced approach of tough and fair penalties, prevention so kids keep on the right track, and intervention so kids starting to fall off the track can be caught before it is too late.
- While most young people learn from their first minor offense, some don't. The juvenile criminal justice system is based on the idea that kids will learn a lesson from their mistakes. However, some young people act like adults and commit serious violent crimes. Sometimes they do this more than once. When this happens, we need to recognize that it is time to treat the young person like an adult to show them the serious consequences of their crimes.
- Under current law, the decision to charge a juvenile as an adult for certain Federal crimes is made by the court. Only certain dangerous offenses are subject to transfer in adult court for criminal prosecution.
- The President's strategy would allow Federal prosecutors to decide if a juvenile should be tried as an adult for ~~more~~ ^{serious} crimes than currently permitted under law. Such crimes include ^{the most} violent felonies and conspiracies to commit a ^{major} drug offense. ^{ser. ov}
- Giving Federal prosecutors the discretion to charge juveniles as adults for serious crimes will give prosecutors the power to decide whether an older and more serious offender cannot be adequately punished in the juvenile system and that the adult criminal system would be more appropriate.
- Under the President's plan, access to juvenile records would be expanded where a youth offender committed the equivalent of an adult felony or gun offense. Juvenile records would be sent to the Federal Bureau of Investigation and made available in the same manner as adult defendants.
- Stiffer adult sentences and the possibility of incarceration in adult facilities sends a strong message to youths and gang members considering violent crimes: if you are thinking of committing an adult time, be prepared to serve adult time.



U.S. Department of Justice
Office of Intergovernmental Affairs

Office of the Director

Washington, D.C. 20530

FACSIMILE COVER SHEET**TO:** Dennis Burke, 456-7028**FROM:** Nicholas M. Gess, Director
Office of Intergovernmental Affairs
Phone: (202) 514-3465
Fax: (202) 514-2504**DATE:** 2/17/97**PAGES:** (including this cover sheet)**SUBJECT:** Boston**REMARKS:** Dennis -- Kent and I went over draft Boston book. Just a very few minor edits. Those pages with edits are attached. Also, Rahm called last night asking for more RICO reference and a chart. I am attaching a chart showing RICO use which you can incorporate if that's still viable. Nick



Office of the Attorney General
Washington, D. C. 20530

FACSIMILE TRANSMITTAL COVER SHEET

DATE:

TO:

Dennis

FACSIMILE NO.

456-702B

TELEPHONE NO.

FROM:

Enik

FACSIMILE NO.

(202) 514-1724

TELEPHONE NO.

(202) 514-2107

NUMBER OF PAGES INCLUDING COVER SHEET:

12

COMMENTS:

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Curley
m-5131

DEPARTMENT OF JUSTICE
OFFICE OF LEGISLATIVE AFFAIRS CONTROL DATA SHEET

From: OLA (105TH CONGRESS) (D.J.1261)
To: OAG, ODAG, ASG, IGA, CRM, OJP, EOA, OPD, JMD, DEA, ETC.
Date Received: 02-07-97 Date Due: 02-10-97 Control # : L97020700098
Subject & Date
02-07-97 (JUVENILE JUSTICE & YOUTH VIOLENCE BILL)
ATTACHED FOR YOUR REVIEW AND COMMENT IS A COPY OF A
PORTION OF THE DEPARTMENT'S JUVENILE JUSTICE AND YOUTH
VIOLENCE BILL. NEED TO SEND TO OMB ASAP FOR CLEARANCE.
(D.J.1261)

DUE BY COB 02-10-97 - FIRM

	Referred To:	Date:		Referred To:	Date:	
(1)	OLA;GMJ-RD	02-07-97	(5)			Type:
(2)			(6)			
(3)			(7)			Cat
(4)			(8)			JUS
	Interim by:			Date:		ATTY:
	Sig. For: OLA			Date Released:		GMJ

Remarks

(1) REPORTING UNIT: OLA. ADVISORY UNITS: OAG/MARKUS/REID
ODAG/SCHWARTZ, ASG/SUTIN, IGA/GESS/HUSSEY, CRM/BENTIVOGLIO,
OJP/KRAMER, EOA/INNIS-THOMPSON, OPD/BIDEN, JMD/CURTIS,
DEA/WADE FOR BOMAN, FBI/WALSH FOR WALLACE, COPS/SCHMERLER,
INS/TAYLOR FOR NICHOL, OTJ/ALEXANDER, OLC/MOSS, USMS -
COMMENTS DUE TO OLA COB 02-10-97 FIRM.
CC: OLA/TRASVINA/GRAUPENSPERGER

Other Remarks:

Remarks: OLA ATTY: GREG JONES, 514-2113
Exec Sec Ctrl #: NONE

THIS DOCUMENT MUST BE DISPOSED OF BY SHREDDING

DRAFT

SEC. ____ . LOCKING DEVICES FOR FIREARMS.

(a) DEFINITION.--Section 921(a), title 18, United States Code, is amended by adding at the end the following:

"(33) The term "locking device" means a device that when installed on a firearm and secured by means of a key or mechanically or electronically operated combination lock prevents the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically or electronically operated combination lock. The term also includes storage boxes, cases, or safes equipped with a mechanically or electronically operated lock that when activated prevents access to the firearm located within the storage box, case, or safe."

(b) SALE OF LOCKING DEVICES BY FEDERAL FIREARMS LICENSEES.--Section 922, title 18, United States Code, is amended by adding at the end the following:

"(y) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, or licensed dealer) unless the transferee is provided with a locking device that prevents the firearm from discharging or the transferee certifies that such device is presently possessed."

(c) PENALTIES--Section 924 is amended--

(1) in subsection (a)(1) by striking "or (f)" and inserting "(f), or (o)"; and

(2) by adding at the end a new subsection (o) to read as follows:

"(o) The Secretary may, after notice and opportunity for hearing, suspend or revoke any license issued under this chapter or may subject the licensee to a civil penalty of not more than \$10,000 if the holder of such license has knowingly violated section 922(y). The Secretary's actions under this subsection may be reviewed only as provided in section 923(f).

(d) EFFECTIVE DATE.--The amendments made by this section shall be effective 180 days after the date of enactment.

DRAFT

Analysis

The amendment would require Federal firearms licensees, other than licensed collectors, to provide a locking device with every firearm sold to a nonlicensee. The term "locking device" would be defined as a device that can be installed on a firearm that prevents the firearm from being discharged without removing the device. The term would include trigger-locking devices that attach to a firearm and storage boxes, cases, or safes in which a firearm can be placed and secured. The provision is intended to provide added safety to gun owners and to prevent accidental discharges that can result when children gain access to firearms.

SEC. ____ . FELONY TREATMENT FOR SERIOUS RECORDKEEPING OFFENSES

Section 924(a)(3) of title 18, United States Code, is amended by striking the period at the end and inserting ", except if the violation is in relation to an offense under subsections (a)(6), (b)(1), (b)(3), or (d) of section 922, shall be fined under this title, imprisoned not more than 10 years, or both."

Analysis

This amendment would provide that the most serious recordkeeping violations committed by Federal firearms licensees are punishable by up to 10 years imprisonment. Under current law, all recordkeeping violations by licensees are misdemeanors punishable by not more than one year in prison. Thus, licensees who knowingly dispose of firearms to juveniles, illegal gun traffickers, and violent criminals and who falsify their records are subject only to misdemeanor punishment for their recordkeeping violations. This amendment will ensure that these serious offenses carry appropriate penalties, while less serious recordkeeping offenses remain misdemeanors.

DRAFT

SEC. ____ . SECURE STORAGE OF FIREARMS INVENTORIES.

(a) STORAGE REQUIREMENTS.--Section 923 is amended by adding at the end the following:

"(m) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer (other than a dealer as defined in section 921(a)(11)(B)) to store any firearms in their business inventory in a manner not in conformity with regulations issued by the Secretary. In issuing such regulations, the Secretary shall take into consideration the type, quantity, and value of the firearms to be stored, as well as the standards of safety and security recognized in the firearms industry.

(b) PENALTIES.--Section 924 is amended--

(1) in subsection (a)(1) by striking "or (f)" and inserting "(f), or (c)"; and

(2) by adding at the end a new subsection (c) to read as follows:

"(c) The Secretary may, after notice and opportunity for hearing, suspend or revoke any license issued under this chapter or may subject the licensee to a civil penalty of not more than \$10,000 if the holder of such license has knowingly violated section 923(m). The Secretary's actions under this subsection may be reviewed only as provided in section 923(f)."

(c) CONDITION OF LICENSING.--Section 923(d)(1)(F) is amended--

(1) in subclause (II) by striking "and" the second time it appears;

(2) in clause (iii) by striking "license." and inserting "license; and"; and

(3) by adding at the end a new clause (iv) to read as follows:

DRAFT

- 2 -

"(iv) within 30 days after the application is approved the firearms inventory of the business will be stored in compliance with section 923(m) and regulations issued thereunder.

(d) EFFECTIVE DATE.--The amendments made by this section shall be effective 180 days after the date of enactment.

Analysis

This amendment would require Federal firearms licensees other than collectors and gunsmiths to store their firearms inventory in accordance with regulations issued by the Secretary. The purpose of the amendment is to provide security requirements for the firearms industry. Thefts of firearms from dealers is a growing problem and contributes to the number of firearms available to juvenile youth gangs and other criminals. In issuing the storage regulations, the Secretary would be required to consider the standards of safety and security used by the firearms industry. The industry, as well as other interested persons, could participate in the rulemaking process and have input into the regulations.

LEGISLATIVE LANGUAGE FOR
PROPOSED ACTION ITEMS

1. Expand the Authorized Uses of Prison Grant Funds

Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is amended --

(a) in section 20102(a) --

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding a new paragraph (4) as follows:

"(4) to build or expand juvenile facilities."; and

(b) in section 20105 --

(1) by striking subsection (c); and

(2) by redesignating paragraphs (d) and (e) as paragraphs (c) and (d) respectively.

2. Placing Adjudicated Delinquents in Adult Facilities

This action item can be accomplished by striking "21" and inserting "18" in the proposed revision to 18 U.S.C. § 5039 of the Administration's bill.

* 3. Gun Purchase Disability for Adjudicated Delinquents

Add in 18 U.S.C. 922(g)(1): ", or who has been adjudicated delinquent for conduct which, if committed by an adult, would be a crime punishable by imprisonment for a term exceeding one year".

SEC. ____ AUTHORITY FOR MAGISTRATE-JUDGES TO PRESIDE OVER CERTAIN JUVENILE PROCEEDINGS.

Section 3401 of title 18, United States Code, is amended by --

(1) in subsection (a) --

(i) inserting "or adjudicated for" after "convicted of";

(ii) inserting "and delinquency allegations" after "misdemeanors";

(2) in subsection (b) inserting "an allegation of delinquency or" before "a misdemeanor";

(3) in subsection (f) inserting "or juvenile delinquency" after "misdemeanor"; and

(4) in subsection (g) striking --

(i) "class B or C misdemeanor"; and

(ii) everything following the first two sentences.

ANALYSIS

Under existing law and practice, the majority of juvenile proceedings in federal court are handled by U.S. District Court judges. Magistrate judges are authorized to preside over juvenile proceedings in only a limited number of cases. Authorizing magistrate-judges to preside over juvenile proceedings would produce several benefits. For example, magistrate judges would, over time, develop substantial expertise in federal juvenile court proceedings and the federal juvenile justice system generally. Moreover, shifting the majority of juvenile court proceedings to magistrate judges would reduce the workload on U.S. District Court judges.

The proposal would authorize magistrate judges to handle all juvenile delinquency proceedings brought in federal court. Although it is anticipated that such a change will result in the vast majority of juvenile proceedings being heard by magistrate judges, the proposal allows either the juvenile or the government to request, for good cause shown, that the juvenile proceeding take place before a U.S. District Court judge.

SEC. ____ . AMENDMENT OF THE SENTENCING GUIDELINES FOR TRANSFERS OF FIREARMS TO PROHIBITED PERSONS.

Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to increase the base offense level for offenses subject to section 2K2.1 (Unlawful Receipt, Possession, or Transportation of Firearms or Ammunition; Prohibited Transactions Involving Firearms or Ammunition) to assure that a person who transferred a firearm or ammunition and who knew or had reasonable cause to believe that the transferee was a prohibited person is subject to the same base offense level as the transferee. This provision shall not require the same offense level for the transferor and transferee to the extent that the transferee's base offense level is subject to an additional increase on the basis of a past criminal conviction of either a crime of violence or a controlled substance offense.

ANALYSIS

The proposed amendment would require the United States Sentencing Commission to provide an increase in the base offense level for certain firearms violators under sentencing guideline section 2K2.1. The increase should assure that the base offense level for a person who transfers firearms or ammunition with knowledge or reasonable cause to believe that the transferee is a convicted felon or otherwise in a prohibited category is the same as that for the transferee. Under Federal law the offense of selling or disposing of a firearm or ammunition to any person knowing or having reasonable cause to believe that the person is in a prohibited category is punishable by a maximum term of imprisonment of 10 years -- the same penalty that applies to the transferee. See 18 U.S.C. §§922(d), 922(g) and 924(a)(2).

The sentencing guidelines provide that a prohibited person who engages in a firearm offense is subject at least to offense level 14. Thus, for example, a convicted felon who unlawfully acquires a firearm in violation of section 922(g) of title 18, United States Code, would face a sentencing range of 18-24 months

of imprisonment if his past conviction resulted in a sentence of imprisonment of 60 days or more. However, the transferor currently faces a guideline offense level of just 12 (10-16 months of imprisonment for a first offender, which can result in five months of imprisonment and five months of supervised release with home confinement). The transferor in this case should be subject to offense level 14, like the transferee.

Guideline section 2K2.1 also provides an offense level of 20 for a prohibited person whose offense involved a machinegun or certain other dangerous firearms. The proposed directive would require the Sentencing Commission to make this offense level applicable to the transferor of such a weapon if the transferor knows or has reasonable cause to believe that the transferee is in a prohibited category. However, the sentencing guidelines currently provide additional base offense level increases in the case of defendants who have prior felony convictions of either a crime of violence or controlled substance offense, §2K2.1(a)(1), (2), (3), and (4)(A). The directive to the Sentencing Commission specifically exempts these additional increases from its requirements.

SEC. ____ . JUVENILE HANDGUN POSSESSION.

Section 924(a)(6) of title 18, United States Code, is amended --

(1) by striking subparagraph (A) and inserting the following:

"(A) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than one year, or both, and for a second or subsequent violation shall be fined under this title, imprisoned not more than five years, or both.";

(2) in clause (i) of subparagraph (B), by striking "one year" and inserting "five years"; and

(3) in clause (ii) of subparagraph (B), by striking "not more than 10 years" and inserting "not less than three nor more than 10 years".

ANALYSIS

This proposal would increase the penalties for violations of 18 U.S.C. 922(x), which makes it unlawful for a person to transfer a handgun to a juvenile or for a juvenile to possess a handgun. Existing law provides a penalty of not more than one year for violations of Sec. 922(x) and, if the person transferring the handgun to the juvenile knew that the handgun would be used in a crime of violence, a penalty of not more than 10 years. Existing law also provides for probation by juvenile offenders, unless the juvenile has been previously convicted of certain offenses or adjudicated as a juvenile delinquent.

The proposal would eliminate probation as a possible sentence for juveniles. Thus, juveniles would be sentenced to a penalty of not more than one year or, if previously convicted or adjudicated delinquent, sentenced as an adult. The proposal also increases the penalty for adults who transfer handguns to juveniles to not less than three years and not more than 10 years.

SEC. ____ . SUSPENSION OF FEDERAL FIREARMS LICENSES AND CIVIL PENALTIES FOR WILLFUL VIOLATIONS OF THE GUN CONTROL ACT.

Sections 923(e) and (f) of title 18, United States Code, are amended to read as follows:

"(e) The Secretary may, after notice and opportunity for hearing, suspend or revoke any license issued under this section, or may subject the licensee to a civil penalty of not more than \$10,000 per violation, if the holder of such license has willfully violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter. The Secretary may, after notice and opportunity for hearing, suspend or revoke the license of, or assess a civil penalty of not more than \$10,000 on, a dealer who willfully transfers armor piercing ammunition. The Secretary may at any time compromise, mitigate, or remit the liability with respect to any willful violation of this chapter or any rule or regulation prescribed by the Secretary under this chapter. The Secretary's actions under this subsection may be reviewed only as provided in subsection (f) of this section.

"(f)(1) Any person whose application for a license is denied and any holder of a license which is suspended or revoked or who is assessed a civil penalty shall receive a written notice from the Secretary stating specifically the grounds upon which the application was denied or upon which the license was suspended or revoked or the civil penalty assessed. Any notice of a suspension or revocation of a license shall be given to the holder of such license before the effective date of the suspension or revocation.

"(2) If the Secretary denies an application for a license, or suspends or revokes a license, or assesses a civil penalty, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial, suspension, revocation, or assessment. In the case of a suspension or revocation of a license, the Secretary shall, upon the request of the holder of the license, stay the effective date of the suspension or revocation. A hearing under this paragraph shall be held at a location convenient to the aggrieved party.

"(3) If after a hearing held under paragraph (2) the Secretary decides not to reverse his decision to deny an application or suspend or revoke a license or assess a civil

penalty, the Secretary shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a de novo judicial review of such denial, suspension, revocation, or assessment. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding whether or not such evidence was considered at the hearing held under paragraph (2). If the court decides that the Secretary was not authorized to deny the application or to suspend or revoke the license or to assess the civil penalty, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court."

Analysis

Under current law, the only available administrative remedies to deal with licensees' violations are the extreme measures of denying license renewal applications and license revocation. There may be certain minor violations of the Gun Control Act, e.g., failure to timely record information in required records, that may not warrant license revocation or license denial. This amendment provides new administrative sanctions, less severe than current administrative remedies, including license suspension, civil money penalties, and authority to accept monetary offers in compromise of violations of the law and regulations.

2/18/97 3:30pm

PRESIDENT WILLIAM J. CLINTON
ANTI-GANG AND YOUTH VIOLENCE STRATEGY ANNOUNCEMENT
BOSTON, MASSACHUSETTS
FEBRUARY 19, 1997

Acknowledgments: Mayor Menino, Police Commissioner Paul Evans, Probation Officer Tanya Brooks. Thank you all for your leadership. And thank you especially, to the people of Boston: the success of your work against youth violence proves beyond a shadow of a doubt that when we work together, we can solve any problem. And it shows this too: new approaches to the fight against crime are important, but it is even more important that we all work together -- police and probation officers, community leaders and elected officials, teachers and principals, and especially, parents and children.

When I delivered the State of the Union Address two weeks ago, I said that in order to prepare our people for the 21st century, we must work together to build stronger communities -- starting with safer streets. I said we must mount a full-scale assault on juvenile crime. Today, I am announcing my Anti-Gang and Youth Violence Strategy ~~comprehensive legislation~~ that will give every community in America the power to crack down on juvenile violence and raise up all our children with the chance for a brighter future.

Four years ago, it seemed to many as if crime and violence had gained an intractable hold over our lives. I was determined to turn that around, and we had a comprehensive plan to do it: 100,000 new community police officers on the street, tough new penalties on the books; the Brady Bill and the assault weapons ban to keep guns away from criminals; and new efforts to steer young people away from crime, gangs and drugs in the first place.

Our approach is working. Serious crime has dropped five years in a row -- the longest decline in decades. That is very good news -- not because it means we can sit back and rest on our laurels, but because it proves to America what you have shown so powerfully here in Boston: we can make a difference. We are beating back the forces of crime; now we must redouble our efforts, and drive those forces further and further into retreat.

Nothing is more important than fighting the scourge of juvenile crime. The violent juvenile crime arrest rate rose for seven straight years before it finally declined last year -- but juvenile crime remains far too, frighteningly too, high. 95 percent of our largest cities and 88 percent of smaller cities are plagued by gang crime. Experts predict that the number of young people arrested for violent crimes will double by 2010. Fighting juvenile crime must be America's top priority in the fight for law and order.

And Boston shows America that when a city comes together, it can win this fight. You launched Operation Night Light; police and probation officers make nightly visits to the homes of young people on probation to make sure they don't break it. You launched Operation Cease

Fire, vigorously enforcing graffiti, truancy, and noise statutes to reclaim neighborhoods overrun by gangs and make it clear that Boston has zero tolerance for gang activity. You launched the Boston Gun Project, to shut down illegal gun dealers who sell to young people by tracing serial numbers and severely punishing any gun dealer who breaks the law.

It's working. 70% -- up from 15% -- of the young people on probation are sticking to it. Youth murders dropped 80% from 1990 to 1995. And in 1996, not a single child was murdered with a gun.

Boston is winning the fight against juvenile crime, and you should be very proud. Now we must spread your success, and my strategy is designed to give all our communities the tools to do what you are doing here. It is based on four elements.

First, we must break the backs of criminal gangs and punish every juvenile who commits a violent crime with real severity. We must finish putting 100,000 police officers on the street, to bring young criminals to justice. And now our strategy will take the next step, to make sure communities have the resources to prosecute them. It will help communities hire new prosecutors to directly target violent juveniles, and launch anti-gang units to pursue, prosecute, and punish gang members for their crimes. It gives judges more power to crack down on gang members who intimidate witnesses. And for the first time, we will give federal prosecutors the authority to prosecute serious violent juveniles as adults. I don't care how old you are -- if you commit a serious violent crime, you deserve to face nothing less than the full brunt of the law.

Second, we must keep guns and drugs away from our children. The Brady Bill has already blocked more than 60,000 felons, fugitives, and stalkers from buying a handgun, but it does not prevent someone who commits a violent crime as a juvenile from buying a handgun once he or she turns 18. My strategy will close this loophole and extend the Brady Bill so a minor who commits a violent crime will never be given the right to buy a handgun. My plan requires safety locks for handguns to prevent unauthorized use -- and tragic accidents. And we have begun an effort, modeled on the Boston Gun Project, in 17 cities, to crack down on those who sell guns to young people.

My balanced budget includes the largest anti-drug effort ever: to stop drugs at their source, punish those who push them, and steer young people away from them. We will launch an unprecedented national advertizing campaign to teach young people just how dangerous drugs are. And I believe every state should require that young people take a drug test before they get a drivers' license.

Third, we must reform the juvenile justice system so it can handle today's juvenile offenders. Most local systems were designed to deal with juvenile truants and other minor problems -- not violent, even hardened, criminals. Our strategy will provide grants to help communities start Youth Violence Courts, with greater flexibility to handle violent juveniles and tougher penalties to punish them.

Finally, we must help our young people stay on the right track. My strategy will help to fund 1,000 new after-school initiatives in communities across the country. We must keep schools open late, on weekends, and in the summer, so young people have someplace to go and something to say yes to. And we must continue to find ways to help parents bring order and discipline to their children's lives. My strategy will help communities that want to require school uniforms, institutes community-based curfews, and enforce strong anti-truancy laws.

This Anti-Gang and Youth Violence Strategy is ~~based~~ ^{comprehensive legislation} on what we know works -- arming communities with the tools they need. I am submitting it to Congress next week, and I call on them to pass it without delay. We must say to young people: If you need help to stay away from trouble, we will help you find it. If you need someone to turn to for support, someone will be there. But if you break the law, you will be punished, and if you commit a violent crime, you will be punished severely.

The key to our success in crime-fighting over the last four years has been community policing: citizens working with police officers, getting involved, reporting suspicious activity, joining a Neighborhood Watch. Now we must all join in this fight for our children's future. Nothing we do in Washington will succeed unless police officers, probation officers, and teachers do their part in our communities. And nothing community leaders do will succeed unless parents do their part in the home, and young people do their part in their own lives.

Parents must teach their children the difference between right and wrong -- and punish them when they cross the line. They have a responsibility to be involved in their children's lives: to help them with their homework, meet their teacher, and get to know their friends. To teach them that drugs are not tolerated in your home, because they are illegal, they are wrong, and they can kill you. And parents must set a good example for their children.

But in the end, it all comes down to our children themselves, and I want to say something to them: As we work to build a strong future for you, you have to take responsibility for that future. Nothing your parents do, nothing anyone can do, will keep drugs out of your hands if you set out to find them. Nothing will keep you out of a gang, if you're determined to join one. And nothing will keep either one from destroying your life if you let them into it. So don't. The future can be anything you imagine if you work hard and stay out of trouble. And there is nothing that any of us wants for you more than that.

Over the past four years, we have shown that we can prevail against crime and violence. Now we must press ahead for our children. If we continue to work together, if we stand up for what is right, if we take responsibility for ourselves and our neighborhoods, we can keep crime coming down, and we can build the future our children deserve.

Thank you, God bless you, and God bless America.

2/18/97 1:50pm

**PRESIDENT WILLIAM J. CLINTON
ANTI-GANG AND YOUTH VIOLENCE STRATEGY ANNOUNCEMENT
BOSTON, MASSACHUSETTS
FEBRUARY 19, 1997**

Tanya
Tanya Brooks.

Acknowledgments: Mayor Menino, Police Commissioner Paul Evans, Probation Officer

Tanya Brooks.

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When I delivered the State of the Union Address two weeks ago, I said that in order to prepare our people for the 21st century, we must work together to build stronger communities -- starting with safer streets. I said we must mount a full-scale assault on juvenile crime. Here in Boston, you are showing us how, and I came here to talk about how we can build on your success all across America.

Four years ago, it seemed to many as if crime and violence had gained an intractable hold over our lives. I was determined to turn that around, and we had a comprehensive plan to do it: 100,000 new community police officers on the street, tough new penalties on the books; the Brady Bill and the assault weapons ban to keep guns away from criminals; and new efforts to steer young people away from crime, gangs and drugs in the first place.

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[Nothing is more important than fighting the scourge of juvenile crime. The violent juvenile crime arrests rate rose for seven straight years before it finally declined last year -- juvenile crime remains far too, frighteningly too, high. 95 percent of our largest cities and 88 percent of smaller cities are plagued by gang crime. And experts predict that the number of young people arrested for violent crimes will double by 2010.]

Fighting juvenile crime must be America's top priority in the fight for law and order. Today, I am announcing my Anti-Gang and Youth Violence Strategy: comprehensive legislation that will give every community in America the power to crack down on juvenile violence and raise up all our children with the chance for a brighter future.

We are fighting for our children's future -- and we must fight for it together. Nothing

we do in Washington will succeed unless police officers, probation officers, and teachers do their part in our communities. And nothing community leaders do will succeed unless parents do their part in the home, and young people do their part in their own lives.

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drivers' license.

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Finally, we must reform the juvenile justice system so it can handle today's juvenile offenders. Most local systems were designed to deal with juvenile truants and other minor problems -- not violent, even hardened, criminals. Our strategy will provide grants to help communities start Youth Violence Courts, with greater flexibility to handle violent juveniles and tougher penalties to punish them.

This Anti-Gang and Youth Violence Strategy is based on what we know works -- arming communities with the tools they need. I am submitting it to Congress [today], and I call on them to pass it without delay. But our success will ultimately depend upon each and every one of us.

Parents must teach their children the difference between right and wrong -- and punish them when they cross the line. They have a responsibility to be involved in their children's lives: to help them with their homework, meet their teacher, and get to know their friends. To teach them that drugs are not tolerated in your home, because they are illegal, they are wrong, and they can kill you. And parents must set a good example for their children.

But in the end, it all comes down to our children themselves, and I want to say something to them: As we work to build a strong future for you, you have to take responsibility for that future. Nothing your parents do, nothing anyone can do, will keep drugs out of your hands if you set out to find them. Nothing will keep you out of a gang, if you're determined to join one. And nothing will keep either one from destroying your life if you let them into it. So don't. The future can be anything you imagine if you work hard and stay out of trouble. And there is nothing that any of us wants for you more than that.

Over the past four years, we have shown that we can prevail against crime and violence. Now we must press ahead for our children. If we continue to work together, if we stand up for what is right, if we take responsibility for ourselves and our neighborhoods, we can keep crime coming down, and we can build the future our children deserve.

Thank you, God bless you, and God bless America.

U. S. Department of Justice

Washington, D.C. 20530

FAX NOTE

TO: Rahm Emanuel

FROM: Nicholas M. Gess, Director
Office of Intergovernmental Affairs
Department of Justice
(202) 514-3465 (office)
(202) 514-2504 (facsimile)

SUBJECT: Lautenberg

PAGES: 2 (including this page)

MESSAGE: Rahm - We are on circulation for some of the womens' groups. They are trying to get attached to go to Hill. This means they are favoring Barr over Stupak, i.e., no official use exemption. Nick

cc: Dennis Burke

February 19, 1997

Dear Member of Congress:

As you know, with the passage of the Domestic Violence Offender Gun Ban in 1996, people convicted of misdemeanor domestic violence offenses are prohibited from purchasing or possessing guns. Several bills to dilute this law have been introduced thus far in the 105th Congress.

We are writing to you on behalf of the millions of women and children who are battered each year in this country to ask you to stand by the effort to ensure that convicted abusers do not have access to guns. As advocates who work to prevent and reduce family violence, we believe that:

- * Because weapons are used in 30 percent of domestic violence incidents, laws which prohibit convicted batterers from possessing guns are absolutely essential to protect the lives and preserve the health of battered women and their children.
- * Police officers and military personnel who are convicted of domestic violence offenses should be subject to the same laws that govern other individuals.
- * The lives of the many women whose abusers have been convicted of domestic violence misdemeanor offenses over the last decade may be endangered if the law is only applied prospectively.

Therefore, the prohibition on gun ownership for those convicted of domestic violence misdemeanors should be maintained. In addition, the official use exemptions for individuals convicted of felony domestic violence offenses and individuals under restraining orders for domestic violence should be eliminated.

We applaud the law enforcement agencies all across America for their efforts on behalf of battered women and hope they will work with us to ensure that their colleagues are held to the same standards as other citizens in our efforts to reduce gun violence and deaths.

The lives and safety of millions of women and their children depend on preserving current law and strengthening it by deleting the official use exemptions. We urge your support on these issues to reaffirm the Congress's strong commitment to preventing violence against women.

Sincerely,

Ayuda
Family Violence Prevention Fund
National Coalition Against Domestic Violence
National Network to End Domestic Violence
National Organization for Women
NOW Legal Defense and Education Fund
(list in formation)

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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II

104TH CONGRESS
2D SESSION

S. 1952

To amend the Juvenile Justice and Delinquency Prevention Act of 1974,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 12, 1996

Mr. THOMPSON (for himself and Mr. BIDEN) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Juvenile Justice and Delinquency Prevention
Act of 1974, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Juvenile Justice and Delinquency Prevention Act of
6 1996”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—AMENDMENTS TO THE JUVENILE JUSTICE AND
DELINQUENCY PREVENTION ACT OF 1974**

12

1 (V) by striking "1992" and in-
2 serting "1996"; and

3 (iii) in paragraph (3)—

4 (I) by striking "1992" each place
5 that term appears and inserting
6 "1996"; and

7 (II) by striking "allot" and in-
8 serting "allocate"; and

9 (B) by striking subsection (d);

10 (7) by striking section 223 and inserting the

11 following:

12 **"SEC. 223. STATE PLANS.**

13 (a) IN GENERAL.—In order to be eligible to receive
14 formula grants under this part, each State shall—

15 "(1) ensure that not less than 75 percent of the
16 funds made available to the State under section 222,
17 whether expended directly by the State, by the unit
18 of general local government, or by a combination
19 thereof, or through grants and contracts with public
20 or private nonprofit agencies, shall be used—

21 "(A) for prevention and nonincarcerative
22 intervention, including drug and alcohol treat-
23 ment activities, and programs that encourage
24 courts to develop and implement a continuum
25 of post-adjudication restraints that bridge the

1 gap between probation and confinement in a
2 correctional facility, including graduated sanc-
3 tions for youth offenders; and

4 "(B) for implementing a system whereby
5 every offender receives some sanction for every
6 crime, except that such funds shall not be used
7 on initiatives that the organization created by
8 section 241 determines do not prevent or reduce
9 youth violence;

10 "(2) provide for records to be kept by recipients
11 of funds made available to the State under section
12 222 sufficient for the organization created by section
13 241 to monitor whether the use of said funds has
14 prevented or reduced youth violence;

15 "(3) ensure that juveniles who are charged with
16 or who have committed offenses that would not be
17 criminal if committed by an adult (other than an of-
18 fense that constitutes a violation of a valid court
19 order or a violation of section 922(x) of title 18,
20 United States Code, or a similar State law), or alien
21 juveniles in custody, or such nonoffenders as de-
22 pendent or neglected children, shall not be placed in
23 secure detention facilities or secure correctional fa-
24 cilities, except that the juvenile or family court may
25 detain, after a hearing, in a secure detention facility

14

1 for a limited period of time, ~~not to exceed 72 hours,~~
2 a runaway, truant, or incorrigible youth, if the
3 youth—

(Domestic
staff)

4 “(A) received a previous official court
5 warning that an additional instance of such be-
6 havior would result in the secure detention of
7 that youth; or

8 “(B) the chronic behavior of the youth
9 constitutes a clear and present danger to the
10 physical or emotional well-being of the youth or
11 the physical safety of the community, if the ju-
12 venile's detention is for not more than the
13 amount of time necessary to eliminate such
14 danger through detention or through other
15 treatment, and secure detention is the least re-
16 strictive means available for guarding the safety
17 of the youth or the community;

18 “(4) submit an annual report to the Adminis-
19 trator describing the status of compliance with this
20 section and containing a review of the progress made
21 by the State to achieve the deinstitutionalization of
22 juveniles described in paragraph (3) and a review of
23 the progress made by the State to provide that such
24 juveniles, if placed in facilities, are placed in facili-
25 ties that—

1 “(A) are the least restrictive alternatives
2 appropriate to the needs of the child and the
3 community;

4 “(B) are in reasonable proximity to the
5 family and the home communities of such juve-
6 niles; and

7 “(C) provide the services described in sec-
8 tion 103(1);

9 “(5) provide that juveniles alleged to be or
10 found to be delinquent and youths under paragraph
11 (3) shall not be detained or confined in any institu-
12 tion in which they have regular contact with adult
13 persons incarcerated because they have been con-
14 victed of a crime or are awaiting trial on criminal
15 charges or with the part-time or full-time security
16 staff (including management) or direct-care staff of
17 a jail or lockup for adults, unless that staff has been
18 properly trained and certified by the State to deal
19 with juvenile offenders, and staff is not dealing di-
20 rectly with both adult and juvenile prisoners in the
21 same shift;

22 “(6) provide that no juvenile shall be detained
23 or confined in any jail or lockup for adults, except
24 that the State may permit the detention or confine-
25 ment of juveniles in a State-approved portion of a

1 county jail or secure detention facility for up to 72
2 hours if such exceptions are limited to areas that are
3 in compliance with paragraph (5), and—

4 “(A) are outside a metropolitan statistical
5 area; and

6 “(B) have no existing acceptable alter-
7 native placement that is easily accessible;

8 “(7) provide for such fiscal control and fund ac-
9 counting procedures necessary to assure prudent
10 use, proper disbursement, and accurate accounting
11 of funds received under this title;

12 “(8) provide reasonable assurances that Federal
13 funds made available under this part for any pe-
14 riod—

15 “(A) would be used to supplement and in-
16 crease (but not supplant) the level of the State,
17 local, and other non-Federal funds that would
18 in the absence of such Federal funds be made
19 available for the programs described in this
20 part; and

21 “(B) would not replace such State, local,
22 and other non-Federal funds; and

23 “(9) address prevention efforts to reduce the
24 proportion of juveniles detained or confined in se-
25 cure detention facilities, jails, and lockups who are

1 members of minority groups, if such proportion ex-
2 ceeds the proportion that such groups represent in
3 the general population, and comply with the sub-
4 stantive requirements of section 804 of the Omnibus
5 Crime Control and Safe Streets Act of 1968.

6 "(b) PENALTIES.—If a State fails to comply with—

7 "(1) any one of paragraph (3), (5), (6), or (9)
8 of subsection (a), in any fiscal year, the amount allo-
9 cated under section 299 to that State for that fiscal
10 year shall be reduced by 25 percent; and

11 "(2) any combination of paragraphs (3), (5),
12 (6), or (9) of subsection (a), in any fiscal year, the
13 amount allocated under section 299 to that State for
14 that fiscal year shall be reduced by 50 percent.

15 "(c) EFFECT OF STATE LAW.—Notwithstanding sub-
16 section (b), no penalty shall be imposed on any State for
17 failure to comply with the requirements of this section if
18 the State has enacted legislation conforming to such re-
19 quirements and containing enforcement mechanisms suffi-
20 cient to ensure that such legislation is enforced effec-
21 tively.";

22 (8) in section 241—

23 (A) in subsection (a), by striking "Juvenile
24 Justice and Delinquency Prevention Office"
25 and inserting "Office of Justice Programs";

ORRIN G. HATCH, UTAH, CHAIRMAN

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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expenditures which are necessary for efficient administration, including monitoring, evaluation, and one full-time staff position. Not more than 10 percent of the total annual allocation of such State shall be available for such purposes, except that any amount expended or obligated by such State, or by units of general local government or any combination thereof, from amounts made available under this subsection shall be matched (in an amount equal to any such amount so expended or obligated) by such State, or by such units or combinations, from State or local funds, as the case may be. The State shall make available needed funds for planning and administration to units of general local government or combinations thereof within the State on an equitable basis.

(d) MINIMUM ANNUAL ALLOCATION FOR ASSISTANCE OF ADVISORY GROUP

In accordance with regulations promulgated under this part, 5 percent of the minimum annual allocation to any State under this part shall be available to assist the advisory group established under section 223(a)(3) of this Act.

42 U.S.C. 5633

Sec. 223. State Plans

(a) REQUIREMENTS

In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. Such plan shall be amended annually to include new programs and challenge activities subsequent to State participation in part E. The State shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall--

(1) designate the State agency described in section 299(c)(1) as the sole agency for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) has or will have authority, by

REQUIREMENT
#19 IS
KEY TO
UNIONS.

such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraph (12)(A) and paragraph (13), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

(16) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;

(17) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of grandparents or other extended family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

(18) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(19) provide that fair and equitable arrangements shall be made to protect the interests of employees affected by assistance under this Act and shall provide for the terms and conditions of such protective arrangements established pursuant to this section, and such protective arrangements shall, to the maximum extent feasible, include, without being limited to, such provisions as may be necessary for--

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements or otherwise;

(B) the continuation of collective-bargaining rights;

(C) the protection of individual employees against a worsening of their positions with respect to their employment;

(D) assurances of employment to any employees of any State or political subdivision thereof who will be affected by any program funded in whole or in part under provisions of this Act; and

(E) training or retraining programs;

(20) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

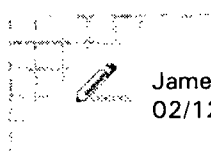
(21) provide reasonable assurance that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, local, and other non-Federal funds;

(22) provide that the State agency designated under paragraph (1) will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary;

(23) address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population;

(24) contain such other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of the programs assisted under this title; and

(25) provide an assurance that if the State receives under section 222 for any fiscal year an amount that exceeds 105 percent of the amount the State received under such section for fiscal year 1992, all of such excess shall be expended through or for programs that are part of a comprehensive and coordinated community system of services.



James Boden
02/12/97 01:49:39 PM

Record Type: Record

To: Dennis K. Burke/OPD/EOP

cc:

Subject: Extending the VCRTF

At this morning's meeting Rahm had a question about extending the VCRTF here is a q&a that we prepared for Raines on this subject:

VIOLENT CRIME REDUCTION TRUST FUND (VCRTF)

Question: What is the Administration's position on extending the VCRTF "Firewall" beyond 1998 when the discretionary caps established in the Budget Enforcement Act (BEA) expire?

Answer: From a budgetary standpoint, any firewall within the discretionary caps restricts the President's ability to allocate resources and on principle we would prefer flexibility and no firewalls. However, anti-crime spending from the VCRTF has broad bi-partisan support. Given the Administration's strong support for spending to reduce crime, opposing an extension to the VCRTF may be viewed as weak on crime.

Additional: The President's budget includes less in 1999 and 2000 for VCRTF than is authorized and continued spending in 2001 and 2002 for the VCRTF programs, despite no authorization. If a separate cap were extended for crime, we would prefer to use the levels included in the budget and shown in the table below rather than the amounts authorized in the 1994 Crime Act:

Funding Profile (in billions of dollars)	1997 Estimate	1998	1999	2000	2001
Amount Authorized in the Crime Act	5	5.5	6.5	6.5	XXX
Included in the 1998 Budget					
COPS	1.4	1.4	1.4	0.3	0
All Other VCRTF Spending	3.3	4.1	4.4	4.2	4.4
Total	4.7	5.5	5.8	4.5	4.4

Leanne A. Shimabukuro

02/13/97 10:46:06 AM

Record Type: Record

To: Dennis K. Burke/OPD/EOP

cc:

Subject: Senate Youth Crime bill

1. Prosecution as Adults: A state must be able to prosecute juveniles age 14+ as adults for certain crimes, through either prosecutorial discretion or as a matter of law by July 2000 to receive grants from new OJJDP.
2. Death Penalty: In capital cases, if a juvenile (age 16+) is tried and sentenced as an adult, they shall be sentenced to death on the same terms/procedures as an adult.

Dennis -

Here's Saturday's
version. It's
longer than
the 1 1/2 pgs we
got Friday.

That's my
total comment -
it's longer.

LS



U. S. Department of Justice

Washington, D.C. 20530

FAX NOTE

TO: Dennis Burke, 456-7028

FROM: Nicholas M. Gess, Director
Office of Intergovernmental Affairs
Department of Justice
(202) 514-3465 (office)
(202) 514-2504 (facsimile)

SUBJECT: Boston Rollout Book

PAGES: (including this page)

MESSAGE: Attached is where we are on the rollout book for Boston. Can you please make sure that anything you fax to me is also faxed to Erik Reid on 514-1724. Thanks. Nick