Office of the Deputy Attorney General

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FROM: Bea L. Witzleben
Counsel to the Deputy Attorney General
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TO:
1. Lee Ann S., Fax: 456 7029
2. _____, Fax: _____
3. _____, Fax: _____
4. _____, Fax: _____
5. _____, Fax: _____

SUBJECT: draft AG's Remarks for Pittsburgh tomorrow & draft fact sheets re DJ

Pls ~~Call~~ me tonight w/any concerns re AG remarks

Bea

REMARKS FOR THE ATTORNEY GENERAL
Pittsburgh Gun Violence Reduction Initiative Announcement
Pittsburgh, Pennsylvania
October 12, 1999

Prepared by: Charles Simon, 514-3465
Reviewed by: Bea Witzleben, Matt Nosanchuk

I am so pleased to be here today. Like so many other communities around the country, Western Pennsylvania is tackling gun violence head-on. And that's just the kind of effort that we need to end the culture of violence in this country. Every step we take to end gun violence assures that the young people -- and the mothers, fathers, sisters, brothers, friends and neighbors -- who are dying daily from gun shots are not dying in vain.

Just six months ago, I went to Littleton, Colorado, to attend a service in the wake of the Columbine shootings. It was one of the saddest trips I have made as Attorney General.

Unfortunately, since then, we have seen tragedy strike again and again with the shootings at a high school in Conyers, Georgia, at a workplace in Atlanta, at a Jewish Community Center in Los Angeles, at a Baptist Church in Fort Worth, Texas, and here in Pittsburgh.

And we must not forget that every day in America, 13 young people die from gun violence. While I wish with all my heart that none of these tragedies occurred, each one has strengthened our resolve to win passage of common-sense gun safety legislation – legislation that builds upon the successes of existing state and federal laws, making it more difficult for people like those who committed these horrible crimes to get their hands on guns in the first place, and easier for law

enforcement to do its important work. The Nation still waits for Congress to act, but I remain hopeful that Congress will pass reasonable gun safety laws this year.

At the Department of Justice, our United States Attorneys have continued to focus on developing gun violence reduction strategies in their districts in collaboration with state and local law enforcement. In response to a directive from the President, the Secretary of the Treasury and I have reached out to United States Attorneys and ATF Special Agents-in-Charge throughout the Nation. We asked them to develop a strategy from the ground up, by joining together with their partners in law enforcement, government officials, and community leaders. We have asked them to look at what works in their particular communities to reduce gun violence and figure out ways to build on these successes.

There are some extremely effective models – communities where federal, state, and local law enforcement, and other community leaders, have worked together to produce dramatic drops in the violent crime rate. In fact, violent crimes with firearms are down in this country more than 27% since 1992.

All over the country, U.S. Attorneys are working in partnership with other federal and local law enforcement officials and community leaders to develop local programs that tap the resources and target the gun crime particular to each community. Boston's "Operation Ceasefire" and Richmond's "Project Exile" have been great successes.

Your project, "Operation TARGET," takes a careful look at your community's gun violence problem, and tries to attack that problem by enhancing prosecution and prevention.

Both federal and state firearms prosecution efforts will be

enhanced under this strategy. Some prosecutions will be handled by the state authorities, and some by the federal authorities, all based on what makes the most sense under Pennsylvania and federal law. And you have begun to work with some distinguished crime professors to use crime data and innovative crime technologies to help you use your prosecution resources wisely. Your innovative focus on stopping straw purchasers and other illegal trafficking is very exciting. We must stop the sources of illegal guns, and we must bring all parts of our society – including the gun manufacturers and distributors – into the solution.

While vigorous prosecution is a critical component of a gun violence reduction strategy – it is only part of the answer. Your initiative recognizes that any effective approach must prevent gun violence before it occurs – by keeping guns out of the hands of criminals and children and by working to promote non-violence. Your initiative's coordination with programs that emphasize revitalizing communities, such as Weed & Seed, exemplifies the way in which law enforcement efforts and prevention programs support and reinforce each other.

Americans young and old – from across the political spectrum – view the gun violence problem as one of personal and community safety, not partisan politics. Washington needs to figure this out and move forward with gun safety legislation that, while not the answer to every gun violence problem, takes an important step in the right direction.

I am here today to applaud you on your thoughtful and comprehensive plan. And I want to offer my support in the coming months as you put the building blocks of your strategy in place.

We have an historic opportunity – here in Pittsburgh and around the Nation – to build on the dramatic drop in crime that has occurred in the past seven years. We must harness the commitment of the American people and do something to end the culture of violence in this country.

Thank you for having me here today to be a part of the announcement of your program.

COMPARISON OF SENATE, HOUSE AND CONFERENCE GUN SHOW PROPOSALS

THE SENATE BILL (S. 254)	THE HYDE-McCOLLUM-DINGELL BILL (H.R. 2122)	THE HYDE CONFERENCE "COMPROMISE"	THE CONYERS FIX TO THE HYDE CONFERENCE PROPOSAL
Defines "gun show" as an event where 50 or more guns are sold.	Defines "gun show" to apply only to events sponsored specifically for firearms purposes and requires there to be 50 or more firearms for sale by at least 10 vendors. Excludes flea markets and other large events where guns are sold from definition.	Same as Hyde-McCollum-Dingell Bill but lowers minimum number of required vendors from 10 to 5.	Revises Senate "gun show" definition to require the sale of 50 firearms by at least 5 firearms vendors. Applies to flea markets and other large events where guns are sold.
Defines "gun show vendor" to be a person who offers guns for sale at a gun show.	Limits definition of "gun show vendor" to persons selling guns at gun shows from a fixed location.	Identical to Hyde-McCollum-Dingell Bill.	Revises Hyde Conference proposal to make clear roving sellers may not sell guns at gun shows.
Consistent with Brady Law, gives law enforcement up to 3 business days to complete background checks.	Shortens time for all "gun show" background checks to 24 hours and requires gun show checks to take precedence over all other Brady background checks.	Shortens time for all "gun show" background checks to 24 hours except when there is an arrest record and more time is needed to determine the disposition of the arrest. No additional time to check records for domestic violence protection orders or any other Brady prohibitors.	Shortens time for all "gun show" background checks to 24 hours except when a NICS check reveals potentially disqualifying information regarding any of the Brady prohibitors.
Uses existing structure of licensed gun dealers to perform background checks at gun shows.	Creates new category of "instant check registrants" to perform background checks at gun shows.	Identical to Hyde-McCollum-Dingell Bill.	Allows "instant check registrants" to do background but limits who can be a "registrant" to current or qualified retired law enforcement officers as defined in Rep. Cunningham concealed carry bill.

DRAFT

THE SENATE BILL (S. 254)	THE HYDE-McCOLLUM-DINGELL BILL (H.R. 2122)	THE HYDE CONFERENCE "COMPROMISE"	THE CONYERS FIX TO THE HYDE CONFERENCE PROPOSAL
Enables guns that are sold at gun shows and are later used in crime to be traced.	Does not allow guns that are sold through "instant check registrants" or used guns sold by licensed dealers or "registrants" to be traced if they are used in a crime.	Identical to Hyde-McCollum Dingell Bill.	Allows guns sold through "instant check registrants" to be traced by requiring registrants to submit strictly limited information about the make and model of the guns sold to the manufacturer or, if the manufacturer is out of business, to the Secretary.
Requires background check for any gun that is offered for sale at a gun show, but exempts guns merely exhibited.	Requires background checks only for those guns that are offered for sale and there is a *willingness to accept the offer* at or immediately around the gun show.	Requires background checks only for those guns that are *accessible* at the gun show.	Same effect as Senate Bill.
Requires destruction of records of approved firearms transfers after 90 days and allows retention of those records solely to allow audits of the system to detect fraud and abuse.	Requires immediate destruction of records of all gun sales approved using NICS, preventing law enforcement from detecting fraud and abuse.	Identical to Hyde-McCollum-Dingell Bill.	Preserves record destruction requirement under current law, makes clear that records used for audits cannot be used to create a gun registry, and authorizes GAO to conduct annual audits to monitor FBI compliance with record destruction requirement.
Requires strict recordkeeping by licensed gun dealers who do background checks.	"Instant check registrants" not required to keep the same records that licensed dealers keep of firearms transactions and potentially weakens recordkeeping requirements for licensed dealers.	Identical to Hyde-McCollum-Dingell Bill.	Retains weaker recordkeeping requirements for "instant check registrants" but ensures that recordkeeping requirements for licensed dealers at gun shows are not weakened.
Does not disturb more than 30 years of federal law requiring licensed dealers to sell within their home States only.	Allows federal gun dealers to ship guns directly to unlicensed buyers across State lines and potentially undermines other restrictions on interstate transfers under current law.	Identical to Hyde-McCollum-Dingell Bill.	Allows interstate shipment of guns to unlicensed buyers but preserves existing restrictions on interstate sales of handguns.

DRAFT

THE SENATE BILL (S. 254)	THE HYDE-McCOLLUM-DINGELL BILL (H.R. 2122)	THE HYDE CONFERENCE "COMPROMISE"	THE CONYERS FIX TO THE HYDE CONFERENCE PROPOSAL
Allows States with instant check system to continue to operate under their existing framework.	Prevents anyone doing background checks as points of contact for the instant check system – even states with their own instant check systems – from retaining records or charging a fee.	Identical to Hyde-McCollum-Dingell Bill.	Eliminates record destruction requirement for states serving as points of contact. Identical to Hyde-McCollum-Dingell Bill with respect to the user fee prohibition.
Does not create any new immunities.	Gives gun sellers and "registrants" at gun shows potentially sweeping immunity.	Identical to Hyde-McCollum-Dingell Bill.	Identical to Senate Bill.

October 8, 1999

The Honorable Janet Reno
Attorney General
U.S. Dept. of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

The Honorable Richard Riley
Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Attorney General Reno and Secretary Riley:

We understand that in the coming weeks, the Senate and House will be developing a final version of the juvenile justice legislation. We would like to take this opportunity to bring a number of concerns to your attention.

We believe that any final juvenile justice legislation must address the following issues:

1) Provide core protections for children in the juvenile justice system.

Issue: JJDPA 'Separation' protection.

For the past 25 years, the Juvenile Justice and Delinquency Prevention Act (JJDPA) has protected children from abuse and assault by adults in adult jails. The House-passed bill would weaken this policy by allowing "incidental" contact between children and adult inmates in the state system, which in many jails will mean that children will be walked down hallways past adult cells and thereby subjected to verbal abuse. Additionally, the House-passed bill weakens protections for children in the federal system as it creates a loophole which could allow youth who are prosecuted in federal court to have unlimited exposure to adult inmates. Under the House bill, children as young as age 13 could be placed in cells with adult inmates in the federal system. This is of grave concern, since research has shown that children commit suicide in adult jails eight times as often as children held in juvenile detention facilities, and children housed in adult prisons are five times more likely to be sexually assaulted, two times more likely to be assaulted by staff, and 50% more likely to be attacked with a weapon compared to children in juvenile facilities.

Recommendation:

We are pleased that the Administration is in agreement with us in supporting the Senate provisions which essentially maintain the protection to separate juveniles from adults in adult jails in both the state and federal systems.

Issue: JJDPA 'Removal' protection.

Both the House and Senate bills significantly weaken the requirement to keep children out of adult jails by including provisions to allow parental consent to place children in adult jails. The Senate bill would allow children to be placed in adult facilities with parental consent indefinitely. The parental consent exception is a radical change from current law and will result in children being placed in adult jails for unacceptably long periods.

Recommendation:

We urged conferees to drop these provisions from the final bill, and instead, maintain current law protections for children. We urge the Administration to take a stronger position on this issue, which is more consistent with maintaining core protections for children and would not result in more children jailed with adults.

Issue: Dangerous conditions for incarcerated children. The House-passed bill contains a provision which will seriously harm children by terminating consent decrees which existed before the passage of the Prison Litigation Reform Act (PLRA). Under this language, dozens of consent decrees which have kept children out of adult jails and prohibited abusive practices, including beatings, tying children to beds, and locking them in isolation rooms for days and weeks at a time, would be abolished.

Recommendation:

We urged conferees to not include this provision in the final bill, and we hope that the Administration will weigh in with us to ensure that this provision which would have devastating consequences for children is not included in the final bill.

Issue: Prosecutorial discretion, trying children as adults, and federalizing juvenile crimes Both bills propose drastic changes in the way that children are prosecuted in the federal system, changes which are opposed by prominent federal officials including Chief Justice Rehnquist and former Attorney General Edwin Meese III. Among some of the changes we oppose are: the presumption that children will be prosecuted in the federal system contrary to current law which assumes prosecution in the state system; prosecuting and sentencing children as young as 13 as adults; giving prosecutors unfettered discretion to prosecute children as adults without judicial review; subjecting children both in the juvenile and adult system to mandatory sentencing; and removing confidentiality protections in juvenile court by opening juvenile court proceedings to the public and making juvenile records available.

Recommendation:

We urged conferees to drop these provisions from the final legislation in light of all the evidence which illustrates that these policies will most certainly lead to an increase in juvenile crime. We strongly urge the Administration to reconsider its' position which serves the convenience of federal prosecutors at the expense of children, in particular, Native American youth.

Issue: Reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDPA).

The House-passed bill includes a provision which would sunset the Juvenile Justice and Delinquency Prevention Act (JJDPA) in 2004. The JJDPA includes the core requirements that have provided the most basic protections against harm to children in correctional facilities for the last 25 years. Sunsetting JJDPA would also eliminate critical funding under the Act to states and communities for improvements to their juvenile justice systems.

Recommendation:

We urged conferees to not include this provision in the final bill, and we appreciate the Adminsitration's support of our position.

2) Support state efforts to reduce disproportionate confinement of minority youth.

Issue: Disproportionate confinement of minority youth in the juvenile justice system In virtually every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement. Current law directs states generally to "address" this issue, without requiring release of juveniles or incarceration quotas or any other specific change of policy or practice. The Senate-passed bill, however, deletes all reference to "minority" or "race" and instead refers to "segments of the juvenile population." This minimizes an important issue, is offensive to many, and hinders efforts to remedy the disparate treatment of minority youth.

Recommendation:

We urged conferees to adopt the House-passed provision which maintains a requirement to address disproportionate minority confinement under the JJDPA. We are very pleased that the Administration has taken a strong position in favor of this requirement.

3) Significantly invest in juvenile crime prevention.

Issue: Prevention funding set-aside and programs. Although both bills contain a "prevention block grant," there is no set-aside for prevention funding. Without a significant guarantee of funding, there is no assurance that any funds will ever be appropriated for prevention programs.

Recommendation:

We are pleased that the Administration supports the Senate provisions which add further prevention activities as allowable uses under the Juvenile Accountability Block Grant (JABG) and set-aside a minimum of 25% of the Juvenile Accountability Incentive Block Grant for prevention purposes and to establish a new 'Parenting as Prevention' program.

4) Take serious steps to reduce gun violence.

Issue: Availability of and access to guns to children and people who kill children.

The House-passed bill fails to take any significant action to make guns safer or less accessible to children or people who kill children. At a time when, on average, nearly 13 children and young people are killed by firearms every day, it is critically important that the final bill address gun violence in a meaningful way.

Recommendation:

We agree with the Administration that the final conference report must adopt at a minimum the Senate-passed provisions to close the gun-show loophole, require child safety locks, and ban the importation of high capacity ammunition clips.

5) Provide appropriate support services for at-risk and delinquent youth.

Issue: Graduated sanctions

Both bills allow Juvenile Accountability Incentive Block Grant (JAIBG) funds to be used to implement graduated sanctions or a system of graduated sanctions in order to assure a consequence for every delinquent act by a youth. The House bill provides states with some discretion in implementing graduated sanctions, while the Senate bill restricts states' discretion, and instead mandates this as a condition of receiving JAIBG funds.

Recommendation:

We are pleased that the Administration agrees with us in recommending the adoption of the House language which allows states the discretion to implement graduated sanctions as a condition of receipt of JAIBG funds. We also hope you will consider supporting our recommendation for defining graduated sanctions per the the House Title XIII definition.

Issue: Intervention services to children with disabilities who bring firearms to school The Senate and House bills amend current law by allowing school personnel to discipline and to cease educational services to students with disabilities who possess or carry a firearm or weapon to school. The Senate bill requires that immediate mental health intervention services be provided for children removed from school for any violent acts, including carrying or possessing a weapon.

Recommendation:

We oppose the cessation of educational services to students with disabilities and urge that this provision be removed, and we appreciate the Administration's strong position in opposition to the IDEA amendments to this legislation. Despite these concerns, should the conferees retain these provisions, we would prefer that the conferees adopt the Senate provision which provides for immediate mental health services as this would better assure that schools are safe learning environments and reduce future violence.

Issue: Mental health services to at-risk and delinquent youth. The Senate and House bills, respectively, include a number of similar provisions which focus on assessing and providing mental health services to at-risk and delinquent youth. In addition, the House bill allows Juvenile Accountability Incentive

Block Grant (JAIBG) funds to be used for mental health screening and services, and requires the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to conduct research on mental health services for juveniles, providing training and technical assistance to mental health and law enforcement personnel, and to conduct a comprehensive study on the mental health needs of juveniles in the juvenile justice system. Also, the Senate bill allows funds to be used to train justice system personnel and probation officers with these funds, authorizes a demonstration program on violence prevention, and reauthorizes the Elementary School Counseling Demonstration Act.

Recommendation:

We agree with the Administration in urging conferees to include the screening, research, training, and study provisions contained in the House bill and the training, violence prevention and counseling program provisions in the Senate bill.

6) Focus federal support, technical assistance and research on children and youth.

Issue: Reorganization of the Office of Juvenile Justice and Delinquency Prevention.

The Senate-passed bill fails to recognize the importance of juvenile justice research, training, and technical assistance. The bill transfers most of these functions currently supported by the Office of Juvenile Justice and Delinquency Prevention to the National Institute of Justice, an agency primarily responsible for research on adult crime. Juvenile justice research (e.g., on effective delinquency prevention programs), training of juvenile justice personnel, public officials and their staffs, and technical assistance to communities have proved invaluable to public officials, policymakers, and concerned citizens. There is a significant danger that these important activities will inevitably have a lower priority at NIJ, resulting in far fewer resources for communities to use in their juvenile crime control and prevention efforts. The House bill includes no similar provision.

Recommendation:

We urged conferees to not include these provisions in the final bill. We are disappointed that the Administration continues to promote this restructuring plan despite overwhelming concerns raised by numerous juvenile justice advocates. WE have no confidence that concerns we've raised will be addressed under the restructuring plan and we believe that this plan is highly inconsistent with the President's commitment to address youth violence, and therefore, we strongly urge you to reconsider the Administration's position in light of these concerns.

We appreciate your thoughtful consideration to assure that the final juvenile justice legislation protects children.

Sincerely,

Alliance for Children and Families
The American Academy of Child and Adolescent Psychiatry
American Academy of Pediatrics
American Psychiatric Association
American Psychological Association
Brain Injury Association/Violence and Brain Injury Institute
Campaign for an Effective Crime Policy
Campaign for Equity – Restorative Justice (CERJ)
Center for Women Policy Studies
Child Welfare League of America
Children's Defense Fund
Coalition on Human Needs
Covenant House
Family Watch
Federation of Families for Children's Mental Health
Friends Committee on National Legislation (Quaker)
Girl Scouts of the USA

Justice Policy Institute
Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America
Minorities in Law Enforcement
National Association of Counsels for Children
National Association of School Psychologists
National Association of Social Workers
National Association of Service and Conservation Corps
National Association of Criminal Defense Lawyers
National Council of Churches – Washington Office
National Mental Health Association
National Network for Youth
Partnerships for Creative Action
Peace and Social Witness Committee, Homewood Friends Meeting
Presbyterian Church (USA), Washington Office
Shiloh Baptist Church
Union of American Hebrew Congregations
Unitarian Universalist Association of Congregations
The United Methodist Church, The General Board of Church & Society
Washington Ethical Action Office, American Ethical Union
Women of Reform Judaism
Virginia CURE
Youth Law Center

October 1, 1999

The President
The White House
Washington, D.C. 20500

Dear President Clinton:

On behalf of the civil rights and children's advocacy communities, we are writing to bring to your attention a matter of serious concern to us and which we believe to be a most basic issue of fundamental fairness in the justice system.

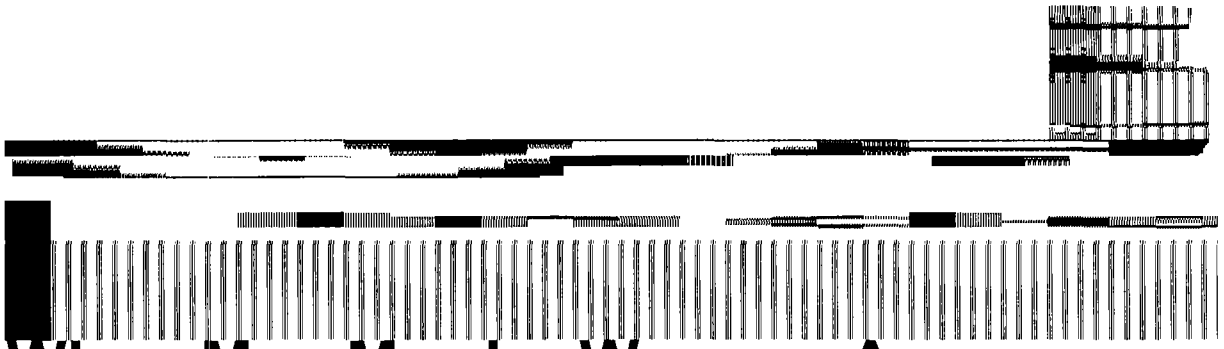
It is well documented that the racial disparities which exist in the treatment of minorities in our society are reflected in our juvenile justice system as well. We strongly believe that any final juvenile justice legislation must address the issue of the disproportionate confinement of minority youth in the juvenile justice system. While the House bill maintains this requirement, the Senate bill essentially guts the current law requirement which directs states to identify the extent to which disproportionate minority confinement (DMC) exists in their states, to assess the reason that it exists, and to develop strategies to address the disproportionate number of minority children in confinement.

We believe it is critically important to retain this core requirement in federal law. In nearly every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement. Moreover, federal and state research—ironically much of it funded through the provision which the Senate has substantially repealed—has consistently shown that minority youth are more likely than white youth to be detained for the same charges and minorities are detained at higher rates even when other factors are taken into account, such as arrest charge, prior offenses, gender and home living situation. By gutting the DMC provision, the issue of the widespread disparity in the treatment of minority youth will be minimized and current efforts underway in the states to remedy this disparate treatment of minority youth would be seriously undermined.

We applaud the Administration for taking a strong stance as shown in the Statement of Administration Policy this past August on the juvenile justice legislation, and we stand ready to work with you to ensure that this provision is not only maintained in the final juvenile justice bill, but that efforts continue to be implemented at the state and community level to ensure a fairer and more equitable juvenile justice system for all of America's children and youth.

Sincerely,

ACLU
Amnesty International
ASPIRA
Child Welfare League of America
Children's Defense Fund
Friends Committee on National Legislation (Quaker)
Human Rights Watch
Justice Policy Institute
Latino Civil Rights Center
Lawyer's Committee for Civil Rights Under Law
Leadership Conference on Civil Rights
League of United Latin American Citizens
NAACP
National Association of Counsel for Children
National Council of La Raza
National Legal Aid and Defender Association
National Network for Youth
National Urban League, Inc.
The Sentencing Project
Youth Law Center



When Men Murder Women: An Analysis of 1997 Homicide Data

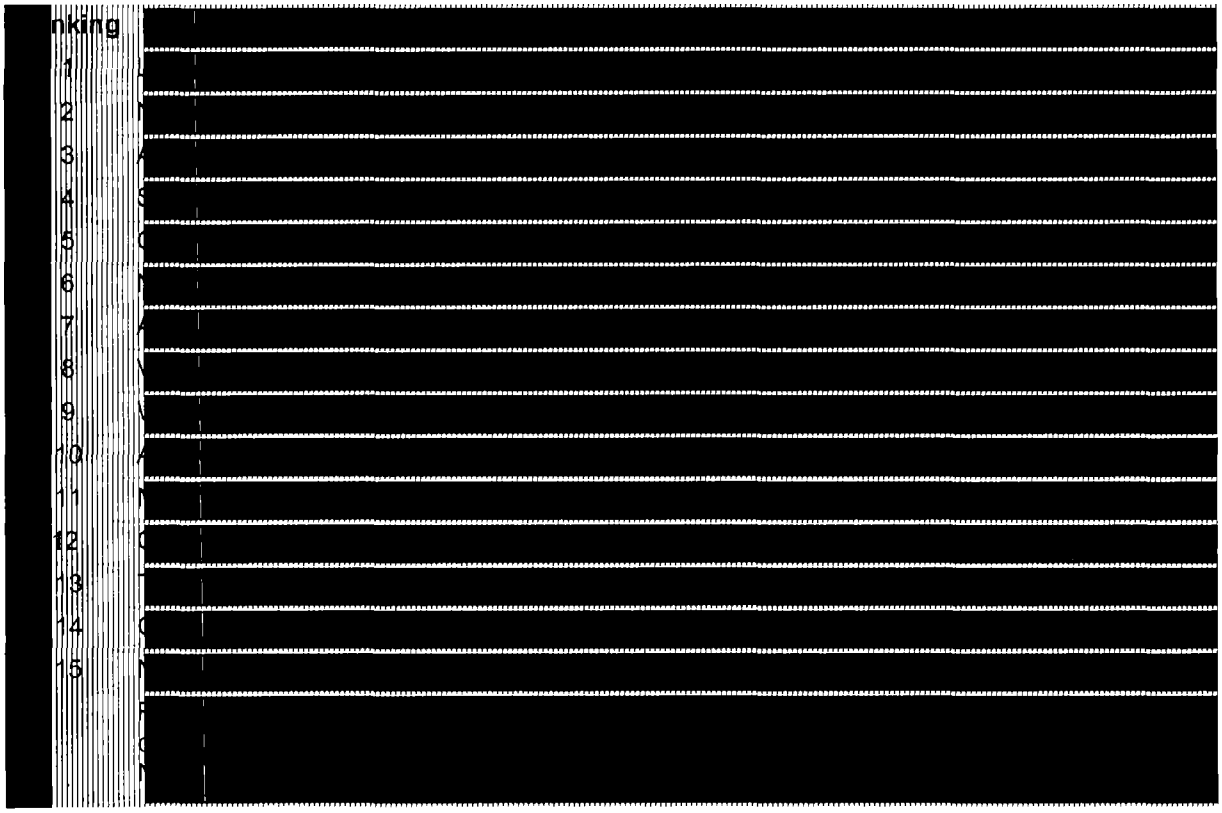
Females Murdered by Males in Single Victim/Single Offender Incidents

Key Findings: A Summary of the Report

When Men Murder Women offers both national and state-by-state statistics from FBI Supplementary Homicide Report data including charts listing the number and rate of female homicides by state and a chart ranking the states by rate. For the top 15 states, data are broken down by: age, race, and ethnicity of victim; the type of weapon used; the relationship of victim to offender; and the circumstances of the murder. General findings of the research are summarized below. More detailed data on each of the 15 states can be found in Appendix Two.

State Rankings The homicide rate among female victims murdered by males in single victim/single offender incidents in the United States was 1.40 per 100,000. Louisiana ranked first as the state with the highest homicide rate among female victims by male offenders in single victim/single offender incidents (3.94 per 100,000)—almost three times the national average. Louisiana was followed by Nevada (3.03 per 100,000) and Arkansas (2.84 per 100,000). There were no female homicides by male offenders in single victim/single offender incidents reported in New Hampshire or in Kansas for 1997. For a ranking of all states that submitted data to the FBI, please see Appendix One.

Number of Females Murdered by Males in Single Victim/Single Offender Homicides and Rates by State, 1997, Ranked by Rate

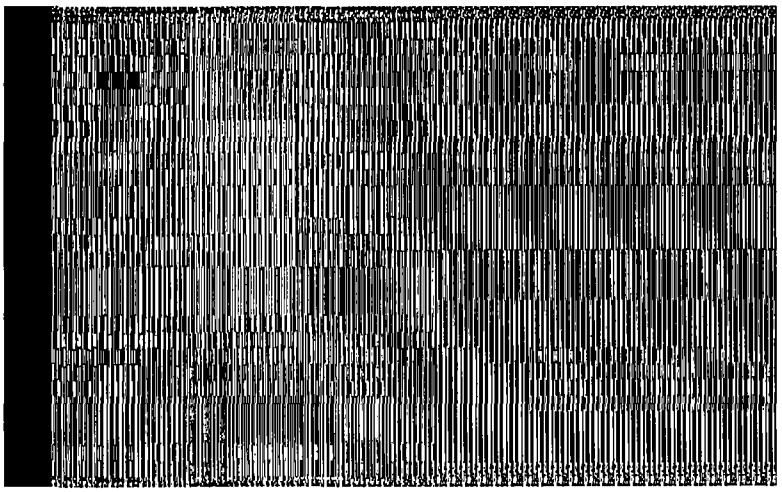


Age and Race of Female Homicide Victims

In single female victim/single male offender homicides reported for 1997, 10 percent of the victims were less than 18 years old (190 victims) and eight percent were 65 years of age or older (154 victims). Female homicides in which race was identified (1,901 victims) included: 1,140 white females (of which 140 were designated as being of Hispanic ethnicity), 693 black females, 51 Asian or Pacific Islanders, and 17 American Indian or Alaskan natives. Besides white, none of the other racial categories included women who were designated as being of Hispanic ethnicity. Overall, black women (3.88 per 100,000) were victimized at a rate nearly four times greater than that of white women (1.01 per 100,000).

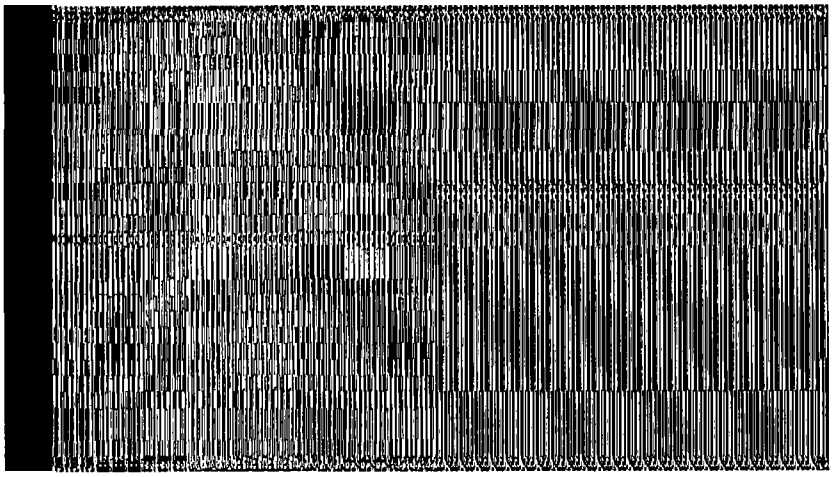
Victim to Offender Relationship

The relationship of victim to offender differs significantly between male and female victims of homicide. Compared to a man, a woman is far more likely to be killed by her spouse, an intimate acquaintance, or a family member than by a stranger. More than 12 times as many females were murdered by a male they knew (1,689 victims) than were killed by male strangers (137 victims) in single victim/single offender incidents in 1997.[5] Of victims who knew their offenders (1,689 victims), more than half (969 victims or 57 percent) were wives, common-law wives, ex-wives, or girlfriends of the offenders.

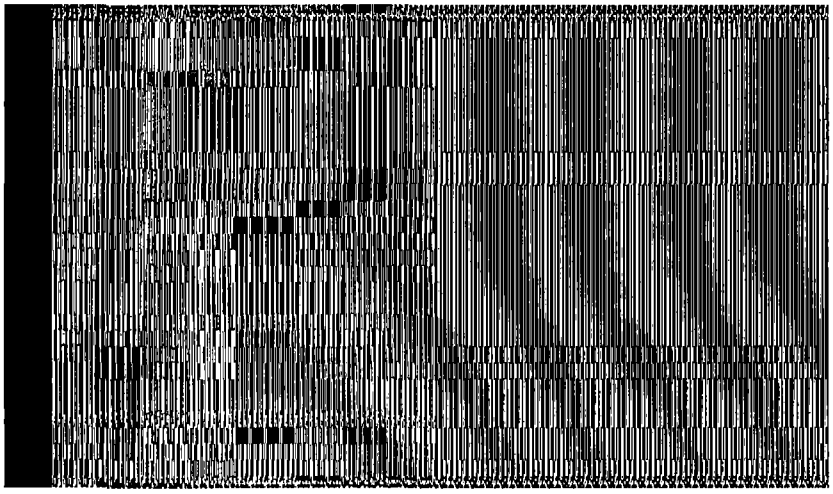


Female Homicide Victims and Weapons

Firearms—especially handguns—were the most common weapons used by males to murder females in 1997. In cases in which the weapon used in the homicide could be identified (1,830 cases), more than half of all female homicide victims (1,000 victims or 55 percent) were shot and killed with guns—nearly 60 percent by male intimates. The number of females shot and killed by their husband or intimate acquaintance (594 victims) was more than four times higher than the total number murdered by male strangers using all weapons combined (137 victims) in single victim/single offender incidents in 1997.

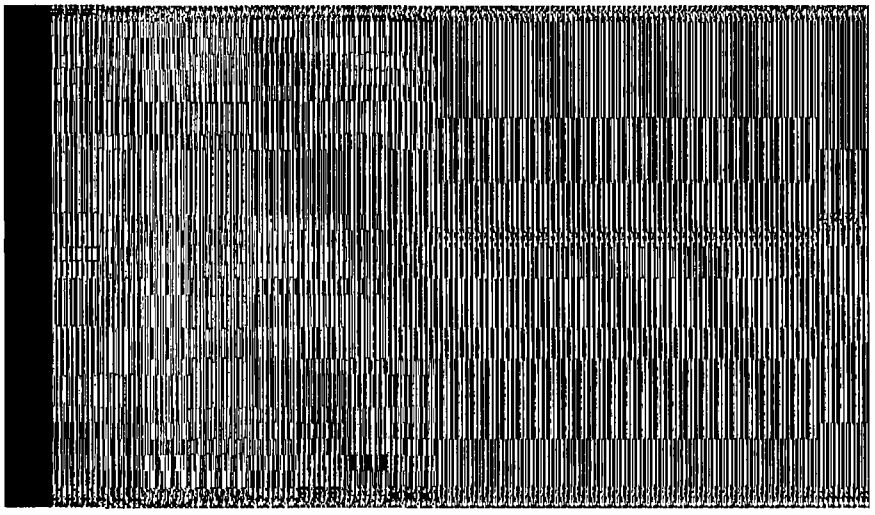


In cases where rnales used firearms to kill females, handguns were clearly the weapon of choice over rifles and shotguns. In 1997 three quarters of female firearm homicide victims (754 of 1,000 victims or 75 percent) were killed with handguns.



Female Homicide Victims and Circumstance

The overwhelming majority of homicides among females by male offenders in single victim/single offender incidents in 1997 were not related to any other felony crime. Most often, females were killed by males in the course of an argument—usually with a firearm. In 1997 there were 1,592 cases in which the circumstance of the homicide between the female victim and male offender in single victim/single offender incidents could be identified. Of these 1,592 cases, 85 percent (1,355 cases) were not related to the commission of any other felony.



More than two thirds of those cases with circumstances not involving a felony (938 cases or 69 percent) involved arguments between the female victim and male offender—and 551 females (59 percent) were shot and killed with guns during those arguments. According to the Supplementary Homicide Report data, in 1997 there were 393 women shot and killed by their husband or intimate acquaintance in single victim/single offender incidents during the course of an argument—more than one woman murdered every day of the year.

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5) These are cases in which the relationship between the victim and the offender could be identified. According to the FBI's 1997 Supplementary Homicide Report data on females murdered by males in single victim/single offender incidents, the relationship of victim to offender could be determined in 1,826 of 1,920 cases. In 94 cases the relationship of victim to offender was "unknown," meaning the reporting police officer was unable to determine at the scene if the victim and offender knew each other or were strangers. According to the July 1992 *Journal of Trauma* study "Men, Women, and Murder: Gender-Specific Differences in Rates of Fatal Violence and Victimization," local law enforcement agencies generally submit case reports early in the course of their investigation, sometimes before the

identity of the offender is known. Although one might assume that most initially unsolved homicides would eventually be determined to have been committed by a stranger, follow-up data from one large metropolitan police jurisdiction (Los Angeles) suggest that a substantial number end up involving an acquaintance or relative of the victim.

Go to next section, Conclusion: Guns and Domestic Violence—A Deadly Mix

Back to *When Men Murder Women* Table of Contents

Date: Fri, 01 Oct 1999 14:53:09 -0400 Add Addresses

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Subject: JJ: dmc letter

Here's what we sent to the Administration today on the dmc issue, along with other civil rights organizations:

October 1, 1999

The President
The White House
Washington, D.C. 20500

Dear President Clinton:

On behalf of the civil rights and children's advocacy communities, we are writing to bring to your attention a matter of serious concern to us and which we believe to be a most basic issue of fundamental fairness in the justice system.

It is well documented that the racial disparities which exist in the treatment of minorities in our society are reflected in our juvenile justice system as well. We strongly believe that any final juvenile justice legislation must address the issue of the disproportionate confinement of minority youth in the juvenile justice system. While the House bill maintains this requirement, the Senate bill essentially guts the current law requirement which directs states to identify the extent to which disproportionate minority confinement (DMC) exists in their states, to assess the reason that it exists, and to develop strategies to address the disproportionate number of minority children in confinement.

We believe it is critically important to retain this core requirement in federal law. In nearly every state, minority youth are over-represented at every stage of the juvenile justice system, particularly in secure confinement. Moreover, federal and state research ironically much of it funded through the provision which the

Senate has substantially repealed has consistently shown that minority youth are more likely than white youth to be detained for the same charges and minorities are detained at higher rates even when other factors are taken into account, such as arrest charge, prior offenses, gender and home living situation. By gutting the DMC provision, the issue of the widespread disparity in the treatment of minority youth will be minimized and current efforts underway in the states to remedy this disparate treatment of minority youth would be seriously undermined.

We applaud the Administration for taking a strong stance as shown in the Statement of Administration Policy this past August on the juvenile justice legislation, and we stand ready to work with you to ensure that this provision is not only maintained in the final juvenile justice bill, but that efforts continue to be implemented at the state and community level to ensure a fairer and more equitable juvenile justice system for all of America's children and youth.

Sincerely,

ACLU
Amnesty International
ASPIRA
Child Welfare League of America
Children's Defense Fund
Friends Committee on National Legislation (Quaker)
Human Rights Watch
Justice Policy Institute
Latino Civil Rights Center
Lawyer's Committee for Civil Rights Under Law
Leadership Conference on Civil Rights
League of United Latin American Citizens
NAACP
National Association of Counsel for Children
National Council of La Raza
National Legal Aid and Defender Association
National Network for Youth
National Urban League, Inc.
The Sentencing Project
Youth Law Center

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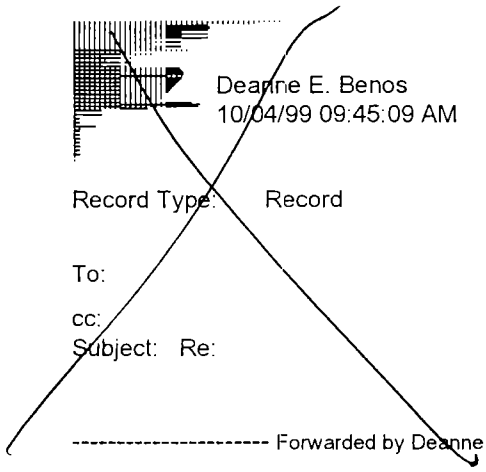

Deanne E. Benos
10/04/99 09:45:09 AM

Record Type: Record

To:

cc:

Subject: Re:

---------- Forwarded by Deanne E. Benos/OPD/EOP on 10/04/99 09:45 AM ----------

October 1, 1999
Chicago Tribune

TRIGGER THINKERS

R. Bruce Dold

The most critical gun-control debate of 1999 has been coming to a head with few people outside Washington paying any attention, maybe because no one has shot up an office or school in, oh, several days.

Last spring, Congress put on a crass show in the wake of the Columbine High School shootings. The Senate defeated gun-control bills, got spooked when the public noticed, then abruptly turned around and voted to clamp down on gun shows.

The House tried to run a sham bill that in some ways weakened existing gun laws, then wound up stuffing the whole thing. No agreement, no law.

The debate got pretty ugly. House Speaker Dennis Hastert (R-Ill.) stuck his neck out by promising that the House would support some modest gun restrictions, but leaders in his own party undermined him.

Democrats didn't act particularly glum. Some Democrats saw the defeat of gun control as a great opportunity. "Six seats! Six seats!" some of them chanted on the House floor, led by Rep. Patrick Kennedy (D-R.I.), the chairman of the Democratic Congressional Campaign Committee. That's how many seats they need to pick up in 2000 to control the House again.

They all took the summer to cool off. Over the last few weeks, a conference committee of the House and Senate has been trying to pick up the pieces. Nobody figured it was going to be easy, because there

#211 6-5526

were a lot of bruised feelings after the House debate in the spring.

In the last few weeks, the conference committee started talking quietly about a compromise on guns. And now there is a deal on the table, offered by House Judiciary Committee Chairman Henry Hyde (R-Ill.)

It does some good things.

It would require that all guns be sold with trigger locks. It would prohibit minors from possessing an assault weapon and would ban any juvenile convicted of a violent crime from buying or owning a firearm for the rest of his life. It would ban the importation of large-capacity ammunition clips.

It tries to finesse the most contentious issue of the spring, background checks at gun shows. Licensed gun dealers have to do a background check before they can sell you a gun. But you can walk up to an unlicensed dealer at a gun show and buy, no questions asked. That makes no sense. Most Democrats and Republicans agree that a background check should be required at gun shows; the question is how to do it.

The Senate voted to make gun buyers wait three days for the background check to be finished before they could pick up their purchase. The House wanted to limit the background check to just 24 hours--and if the check wasn't completed by then, the buyer would get his gun.

Hyde proposes that gun buyers would have to wait only 24 hours for the background check to be done. But if the check turns up a red flag, such as an unresolved arrest report, the wait would be extended to three days for a more extensive background check.

If that's all there were to it, the choice for Democrats would be easy: Take the deal.

But apparently there is more. The Hyde proposal still appears to create loopholes that could exempt some gun-show sales from the background checks. Some fear the compromise might actually ease the rules on interstate shipment of guns.

So Democratic leaders and gun-control groups aren't ready to buy in to Hyde. Not just yet.

The Democrats have a winning political issue. The Columbine shootings made the public much more aware of gun violence. Polls show most of the gun proposals in debate, including trigger locks and background checks at gun shows, have overwhelming public support. Texas Gov. George W. Bush recently said he supports several of the gun-control provisions in this mix. Texas and gun control. You don't often see those words in the same sentence.

But the Democrats also are in danger of overplaying their hand.

At best, they will get modest changes in Hyde's package. If they hold out for more and scuttle gun control altogether, they'll invite the conclusion that gun-control rhetoric is more valuable than gun-control law for them, at least when it comes to taking the House in 2000.

With Democratic support, Hyde's compromise would win in the House and Senate. Last week, the House had a series of test votes on gun control. One motion, sponsored by Rep. Zoe Lofgren (D-Calif.), included most of the provisions of the Hyde compromise, and passed the House 241-167.

This is probably the last chance for gun control for a year, two years, maybe a long time. Members of Congress aren't likely to want to fiddle around with such a hot-button issue next year, months before an election. And if the polls hold up and Bush is elected president, well, he may express support for some gun measures but he won't be leading any charge.

"The perfect must not become the enemy of the good," Hyde likes to say. Hyde's proposal is fairly good. It is better than what House Republicans offered in the spring. It could be even better--but it won't get much better.

Does anyone really want to pass gun control this year? We're about to find out.

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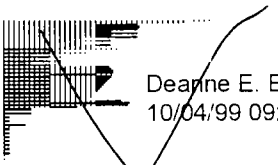

Deanne E. Benos
10/04/99 09:45:09 AM

Record Type: Record

To:

cc:

Subject: Re:

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Chicago Tribune

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THE WHITE HOUSE

OFFICE OF LEGISLATIVE AFFAIRS
HOUSE LIAISON
—FAX COVER SHEET—

DATE: 9/29

TO: Leanne / Deanne

FAX: 202 6-7028

FROM:

- ✓ BRODERICK JOHNSON
- ___ AL MALDON
- ___ LISA KOUNTOUPES
- ___ JANELLE ERICKSON
- ___ JOSH ACKIL
- ___ ERICA MORRIS
- ___ LAUREN GILLESPIE
- ___ BRIAN MASON

(202)456-6620 (TELEPHONE)
(202)456-2604 (FAX)

SUBJECT:

1 OF ____

ONE HUNDRED SIXTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6216

THOMAS E. MOONEY, SR.
GENERAL COUNSEL — CHIEF OF STAFF

JON DUDAS
DEPUTY GENERAL COUNSEL — STAFF DIRECTOR

(202) 225–3951
http://www.house.gov/judiciary

JULIAN EPSTEIN
MINORITY CHIEF COUNSEL
AND STAFF DIRECTOR

September 29, 1999

The Honorable Henry J. Hyde
Chairman
House Judiciary Committee
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing in an attempt to move forward our discussions on closing the loopholes in the gun violence laws and requiring background checks to prevent criminals from obtaining guns at gun shows. While I think that you and your staff have certainly been making good faith efforts at movement in our direction, I do not believe the proposal, as it stands, notwithstanding characterizations in the press, represents the loophole-free text that would be required to gain significant Democratic support.

As we discussed last week and as our staffs have discussed in some detail on September 9, in email correspondence on September 10 and on several subsequent occasions, a number of problems remain in your September 8 draft gun show language. These problems include the following:

1. **Definition of Gun Show** – Your proposal continues to arguably exempt from coverage most flea markets and other events where large numbers of guns are sold merely because the same event sells other non-firearm items as well.

2. **Instant Check Registrant** – Your proposal creates a new, fly-by-night entity known as a instant check registrant which is empowered to conduct background checks but which does not have the same record keeping requirements created in the Senate bill for similar transactions. The Senate provisions, or the functional equivalent thereof, is critical, according to law enforcement officials, to the enforcement of criminal laws when guns are used in crimes.

3. **Elimination of System Necessary to Prevent Fraudulent Gun Sales to Criminals** – Your proposal would eliminate the very minimal requirements of providing records of sales to law enforcement to ensure against fraudulent transactions. Such temporary record keeping requirements are, according to law enforcement, critical to the integrity of the system. In fact, your proposal to eliminate the records would negate the effectiveness of the entire system

4. **Exemptions of Certain Classes of Offenders from Background Check** – Because the 24-hour proposal is designed to detect only arrests, the provision effectively exempts from the

background check requirements entire classes of prohibited persons such as those involved with domestic violence and mentally disturbed individuals.

5. **Certain Transactions Still Exempted.** The proposal still exempts any gun sales from the background check requirement unless the precise gun was "accessible" at a gun show. For instance, a vendor could simply tell a prohibited purchaser that he can sell the prohibited purchaser a semi-automatic weapon *similar* to the one displayed at the gun show with no background check if they simply meet at a fixed location at another time.

6. **Interstate Shipment of Guns** – The proposal effectively ends the three-decade old law, known as the "Lee Harvey Oswald" act enacted in the wake of the assassination of President Kennedy that would stop the interstate shipment of firearms because such shipment can be a recipe for illegal sales.

7. **Civil Immunities** – The proposal immunizes instant check registrants and gun show operators from liability in the absence of any serious Committee hearings or consideration of the implications of such a grant of immunity.

8. **Roving Vendor** – The proposal allows for "roving vendors" at gun shows who are exempted from organizer's disclosure of legal requirements, making it even more difficult to enforce against abusive sales.

In addition, I am surprised that **several changes have been made to the provision banning the importation of high-capacity ammunition magazines** in your September 8 draft. Notwithstanding characterizations in the press, these changes have never been approved by me or my staff. Because it appears that these changes would eviscerate the Senate's ammunition clip ban and the amendment you offered during House consideration of H.R. 2122, I cannot support such proposed changes.

While I know we would both like to come to agreement on this most pressing issue, I believe that we must have a loophole-free proposal that will ensure that criminals can't get guns at gun shows and that our state and federal law enforcement authorities are able to enforce criminal laws against those who use guns to commit crimes. I wish we were closer to an agreement than your most recent draft indicates. However, I remain committed to developing legislation which closes the gun show loophole in a meaningful manner and making other commonsense changes.

In that vein, I am submitting to you a proposal (enclosed) which would effectively close what I believe are the most critical loopholes in the proposal you've made to me.

I look forward to our continuing discussions on this.

Sincerely,

John Conyers, Jr.

John Conyers, Jr.
Ranking Member

Enclosure

SEC. 1104. MANDATORY BACKGROUND CHECK AT GUN SHOWS.

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

"(35) The term 'gun show' means an event –

"(A) at which 50 or more firearms are offered or exhibited for sale, transfer, or exchange, if 1 or more of the firearms has been shipped or transported in, or the event otherwise affects, interstate or foreign commerce; and

"(B) at which there are not less than 5 firearm vendors.

"(36) The term 'curtilage area', with respect to a gun show, means any building or structure in which, and any land on which, the gun show is held, and includes all real property in close proximity to the gun show on which activities in furtherance of firearms transactions occur.

"(37) The term 'gun show organizer' means any person who organizes or conducts a gun show.

"(38) The term 'gun show vendor' means any person who, at a fixed, assigned, or contracted location, exhibits, sells, or offers for sale, transfers, or exchanges 1 or more firearms at a gun show. Provided, That a person who is not a gun show vendor shall not exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms at a gun show.".

(b) Time limit for National Instant Criminal Background Checks.-- Section 103(c) of the Brady Handgun Violence Prevention Act (18 USC 922 note) is amended by adding at the end the following:

"(3) Deadline for Completion of Checks Requested from Gun Shows.--

"(A) In General.–Except as provided in subparagraph (B), the Attorney General shall ensure that each background check conducted through the national instant criminal background check system pursuant to a request made from a gun show is completed within 24 hours after an authorized person has contacted the system to request the check.

"(B) Exception.–The requirement of subparagraph (A) shall not apply if there is information, including but not limited to a record of an arrest, civil protection order, or mental health adjudication, indicating that the person may be prohibited from purchasing a firearm under sections 922(g) or (n) or State law and demonstrating the person is prohibited has been communicated to the Attorney General.".

(c) Regulation of Firearm Transfers at Gun Shows.--

(1) In General.–Chapter 44 of such title is amended by adding at the end the following"

"§ 931. Regulation of firearm transfers at gun shows

"(a)(1) A person who is not a licensed importer, licensed manufacturer, or licensed dealer, and who desires to be registered as an instant check registrant shall submit to the Secretary an application which–

"(A) contains a certification by the applicant that the applicant is a qualified current or retired law enforcement officer as defined by section 926(c) and meets the requirements of subparagraph (A) through (D) of section 923(d)(1);

"(B) contains a photograph and fingerprints of the applicant; and

"(C) is in such form as the Secretary shall by regulation prescribe.

"(2)(A) The Secretary shall approve an application submitted paragraph (1) which meets

the requirements of paragraph (1). On approval of the application and payment by the applicant of a fee of $100 for 3 years, and upon the renewal of valid registration fee of $50 for 3 years, the Secretary shall issue to applicant an instant check registration, and advise the Attorney General of the United States of the same, which entitles the registrant to contact the national instant criminal background check system established under section 103 of the Brady Handgun Violence Protection Act for information about any individual desiring to obtain a firearm at a gun show from any transferor who has requested the assistance of the registrant in complying with subsection (c) with respect to the transfer of a firearm, and receive information from the system regarding the individual, during the 3-year period that begins with the date the registration is issued.

"(B) The Secretary shall approve or deny an application submitted pursuant to paragraph (1) within 60 days after the Secretary receives the application. If the Secretary fails to so act within such period, the applicant may bring an action under section 1361 of title 28 to compel the Secretary to so act.

"(3) An instant check registrant shall keep all records or documents which the registrant collects pursuant to this section during a gun show at a premises, or a portion thereof designated by the registrant, that is open for inspection by the Secretary. The Secretary shall establish by regulation the procedure for inspection, at a premises or a gun show, of the records required to be kept under this section in a manner for a registrant that affords the registrant procedural rights and protections identical to those afforded a licensee under subsections (g)(1)(A), (g)(1)(B), and (j) of section 923. An instant check registrant shall transmit to the Secretary all records required to be kept by the registrant under this subsection, when the registration is no longer valid, has expired, or has been revoked.

"(4) A registration issued under this subsection may be revoked pursuant to the procedures provided for license revocations under section 923.

"(b) It shall be unlawful for any person to organize or conduct a gun show unless the person–

"(1) registers with the Secretary in accordance with regulations promulgated by the Secretary, which shall not require the payment of any fee for such registration;

"(2) before commencement of the gun show–

"(A) records and verifies the identity of each individual who is to be at a gun show by examining, but not retaining, a copy of, a valid identification document (as defined in section 1028(d)(1) of the individual containing a photograph of the individual; and

"(B) provides to each such individual a copy of the document provided by the Secretary under subsection (c)(1); and

"(C) provides each instant check registrant a copy of the documents required to be provided by the Secretary by the gun show organizer under subsection (c); and

"(3) maintains a copy of the records described in paragraph (2) at the permanent place of business of the gun show organizer for such period of time and in such form as the Secretary shall require by regulation.

"(c) The Secretary shall provide to each gun show organizer registered with the Secretary pursuant to subsection (b)(1), (1) a document which sets forth all Federal laws that apply to firearms transactions at gun shows, including all related record keeping requirements, verbatim and (2) a list containing the names and business addresses of currently operating firearms manufacturers, to enable the submission of information required in subsection (d)(1).

"(d)(1) It shall be unlawful, at a gun show or within the curtilage area of a gun show, for a person who is not licensed under section 923 to sell, transfer, or exchange to another person who is not licensed under section 923, a firearm at the gun show or within the curtilage area of the gun show, unless–

"(A) the firearm is transferred through a licensed importer licensed manufacturer, or licensed dealer in accordance with paragraph (2)(B) and otherwise in accordance with law; or

"(B)(i) before the completion of the transfer, an instant check registrant contacts the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act;

"(ii)(I) the system provides the registrant with a unique identification number; or

"(II) 3 business days (meaning a day on which State offices are open) have elapsed since the registrant contacted the system, and the system has not notified the registrant that the receipt of a firearm by such other person would violate subsection (g) or (n) of section 922 or State law;

"(iii) the registrant notifies the person that the registrant has complied with clauses (i) and (ii), or of any receipt by the registrant of a notification from the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act that the transfer would violate section 922 or State law;

"(iv) the transferor and the registrant have verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d)(1) of this title) of the transferee containing a photograph of the transferee; and

"(v) for a use gun, a licensee or the instant check registrant who performs the instant background check has provided strictly limited information about the make, model, and serial number of the used firearm and the identifying information about the licensee or instant check registrant to the licensee who manufactured the firearm and, if the manufacturer has discontinued business under section 923(g), to the Secretary.

"(2)(A) The rules of paragraphs (2),(3), and (4) of section 922(t) shall apply to firearms transfers assisted by instant check registrants under this section in the same manner in which such rules apply to firearms transfers made by licensees.

"(B)(i) The licensee or registrant may personally deliver or ship the firearm to the prospective transferee in accordance with clause (ii) if the gun show has terminated, and –

"(I)(aa) 3 business days has elapsed since the licensee or registrant contacted the system from the gun show and the licensee or registrant has not received notification from the system that receipt of a firearm by the prospective transferee would violate subsection (g) or (n) of section 922 or State law; or

"(bb) the licensee or registrant has received notification from the system that receipt of a firearm by the prospective transferee would not violate subsection (g) or (n) of section 922 or State law; and

"(II) State and local law would have permitted the licensee or registrant to immediately deliver the firearm to the prospective transferee if the conditions described in item (aa) or (bb) had occurred during the gun show.

"(ii)(I) The licensee may personally deliver the firearm to the prospective transferee at a location other than the business premises of the licensee, without regard to whether the location is in the State specified on the license of the licensee, or may ship the firearm by common carrier to the prospective transferee.

"(II) The registrant may personally deliver the firearm to a prospective transferee who is a resident of the State of which the registrant is a resident, or may ship the firearm by common carrier to such a prospective transferee.

"(III) The requirements of subsections (I) and (II) do not alter the prohibitions on the interstate transfer of firearms under section 922.

"(3) An instant check registrant who agrees to assist a person who is not licensed under section 923 in complying with subsection (c) with respect to the transfer of a firearm shall –

"(A) enter the name, age, address, and other identifying information on the transferee (or, if the transferee is a corporation or other business entity, the identity and principal and local places of business of the transferee) as the Secretary may require by regulation into a separate bound record;

"(B) record the unique identification number provided by the system on a form specified by the Secretary;

"(C) on completion of the functions required by paragraph (1)(B) to be performed by the registrant with respect to the transfer, notify the transferor that the registrant has performed such functions; and

"(D) on completion of the background check by the system, retain a record of the background check as part of the permanent business records of the registrant; and

"(E) on completion of the background check by the system, submit the information required by subsection (d)(1) to the firearms manufacturer or, if the manufacturer has discontinued business under section 923(g), to the Secretary.

"(4) This section shall not be construed to permit or authorize the Secretary to impose record keeping requirements on any vendor who is not licensed under section 923, except to the extent that the vendor is acting as an instant check registrant.

"(e) It shall be unlawful for any person to receive a firearm from another person that the person knows has been transferred to the recipient in violation of this section.

"(f) It shall be unlawful for any person to structure, assist in structuring, or attempt to structure or assist in structuring a firearms transaction, for the purpose of evading any requirement of subsection (d).".

(2) PENALTIES. – Section 924(a) of such title is amended by adding at the end the following:

"(7)(A) Whoever knowingly violates subsection (b)_, (d)(1), or (d)(2) of section 931 shall be –

"(i) fined under this title, imprisoned not more than 1 year, or both; or

"(ii) in the case of a second or subsequent conviction of such a vi9olation, fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever knowingly violates subsection (d)(3) or (e) of section 931 shall be fined under this title, imprisoned not more than 3 years, or both.

"(C) In addition to any other penalties imposed under this paragraph, the Secretary may, with respect to any person who knowingly violates subsection (b), (d), or (3) of section 931 –

"(i) impose a civil fine in an amount equal to not more than $2,500; and

"(ii) if the person is registered pursuant to section 931 (a), after notice and

opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 931(a).".

(3) CONFORMING AMENDMENT. – Section 923(j) of such title is amended in the first sentence by striking "or event" and all that follows through "community".

(4) CLERICAL AMENDMENT. – The section analysis for chapter 44 of such title is amended by adding at the end the following:

"931. Regulation of firearms transfers at gun shows.".

(d) INSPECTION AUTHORITY. – Section 923(g)(1) of such title is amended by adding at the end the following:

"(E)(i) When the Secretary has reasonable cause to believe that evidence of a violation of this chapter may be found at the place of business of a gun show organizer or any place where a gun show is being held, the Secretary may, upon demonstrating such cause before a Federal magistrate and securing from the magistrate a warrant authorizing entry, enter during business hours any such place (including any place of storage of the gun show organizer), for the purpose of inspecting or examining any records or documents required to be kept by the gun show organizer under this chapter or rules or regulations under this chapter.

"(ii) The Secretary may enter during business hours the place of business of any gun show organizer and any place where a gun show is being hld, without such reasonable cause or warrant, for the purpose of inspecting or examining the records required by section 923 or 931 and the inventory of licensees conducting business at the gun show in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the organizer or licencee or when such examination may be required for determining the disposition of one or more particular fifearms in the course of a bona fide criminal investigation.

"(iii) The requirements of subsections (i) and (ii) do not alter the Secretary's authority under section 923 to inspect licensees."

(e) INCREASED PENALTIES FOR SERIOUS RECORD-KEEPING VIOLATIONS BY LICENSEES. – Section 924(a)(3) of such title is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly makes any false statement or representation with respect to the information required by this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

"(B) If the violation described in subparagraph (A) is in relation to an offense –

"(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

"(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.".

(f) INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.--

(1) PENALTIES. – Section 924(a) of such title is amended –

(A) in paragraph (5), by striking "subsection (s) or (t) of section

922" and inserting "section 922(s)"' and

(B) by adding at the end the following:

"(8)(A) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 3 years, or both.

"(B) In the case of a second or subsequent conviction under this paragraph, the person shall be fined under this title, imprisoned not more than 5 years, or both.".

(2) ELIMINATION OF CERTAIN ELEMENTS OF OFFENSE.-- Section 922(t)(5) of such title is amended by striking "and, at the time" and all that follows through "State law".

(g) EFFECTIVE DATE.-- The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 1105 GUN OWNER PRIVACY; PROHIBITION ON BACKGROUND CHECK FEE; AND PREVENTION OF FRAUD AND ABUSE OF SYSTEM INFORMATION.

(a) PROHIBITION ON BACKGROUND CHECK FEE.-

(1) IN GENERAL. – Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"§ 540B. Prohibition on fee for background check in connection with firearm transfer

"No officer, employee, or agent of the United States, including a State or local officer or employee acting on behalf of the United States, may charge or collect any fee in connection with any background check required in connection with the transfer of a firearm (as defined in section 921(a)(3) of title 18).".

(2) TECHNICAL AND CONFORMING AMENDMENT.-- The section analysis for chapter 33 of title 28, United States Code, is amended by inserting after the item relating to section 540A the following:

"540B. Prohibition on fee for background check in connection with firearm transfer.".

(b) PROTECTION OF GUN OWNER PRIVACY AND OWNERSHIP RIGHTS. –

(1) IN GENERAL.-- Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"§ 932. Gun owner privacy and ownership rights

(a) Section 922(t)(C) of title 18, United States Code, is amended by inserting before the period at the end the following ";consistent with the responsibility of the Attorney General under section 103(h) of the Brady Handgun Violence Prevention Act to ensure the privacy and security of the system and to prevent system fraud and abuse, but in no event shall such records be used for the creation of a national firearms registry. To ensure that such records shall not be used for the creation of a national firearms registry, the General Accounting Office is authorized to conduct an annual audit of the National Instant Criminal Background Check System to verify the Attorney General's compliance with the requirements of section 193(h) and this section.

(B) EFFECTIVE DATE. – The amendments made by this section shall take effect on the date of the enactment of this Act, except that the amendments made by

subsection (a) shall take effect as of October 1, 1999.

(Insert Section Requiring Mfr to Keep Serial #s)

SEC. 1104. MANDATORY BACKGROUND CHECK AT GUN SHOWS.

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

"(35) The term 'gun show' means an event -

"(A) at which 50 or more firearms are offered or exhibited for sale, transfer, or exchange, if 1 or more of the firearms has been shipped or transported in, or the event otherwise affects, interstate or foreign commerce; and

"(B) at which there are not less than 5 firearm vendors.

"(36) The term 'curtilage area', with respect to a gun show, means any building or structure in which, and any land on which, the gun show is held, and includes all real property in close proximity to the gun show on which activities in furtherance of firearms transactions occur.

"(37) The term 'gun show organizer' means any person who organizes or conducts a gun show.

"(38) The term 'gun show vendor' means any person who, at a fixed, assigned, or contracted location, exhibits, sells, or offers for sale, transfers, or exchanges 1 or more firearms at a gun show. Provided, That a person who is not a gun show vendor shall not exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms at a gun show.".

(b) Time limit for National Instant Criminal Backgroumd Checks.-- Section 103(e) of the Brady Handgun Violence Prevention Act (18 USC 922 note) is amended by adding at the end the following:

"(3) Deadline for Completion of Checks Requested from Gun Shows.--

"(A) In General.-Except as provided in subparagraph (B), the Attorney General shall ensure that each background check conducted through the national instant criminal background check system pursuant to a request made from a gun show is completed within 24 hours after an authorized person has contacted the system to request the check.

"(B) Exception.-The requirement of subparagraph (A) shall not apply if there is information, including but not limited to a record of an arrest, civil protection order, or mental health adjudication, indicating that the person may be prohibited from purchasing a firearm under sections 922(g) or (n) or State law and demonstrating the person is prohibited has been communicated to the Attorney General.".

(c) Regulation of Firearm Transfers at Gun Shows.--

(1) In General.-Chapter 44 of such title is amended by adding at the end the following"

"§ 931. Regulation of firearm transfers at gun shows

"(a)(1) A person who is not a licensed importer, licensed manufacturer, or licensed dealer, and who desires to be registered as an instant check registrant shall submit to the Secretary an application which-

"(A) contains a certification by the applicant that the applicant is a qualified current or retired law enforcement officer as defined by section 926(c) and meets the requirements of subparagraph (A) through (D) of section 923(d)(1);

"(B) contains a photograph and fingerprints of the applicant; and

"(C) is in such form as the Secretary shall by regulation prescribe.

"(2)(A) The Secretary shall approve an application submitted paragraph (1) which meets

the requirements of paragraph (1). On approval of the application and payment by the applicant of a fee of $100 for 3 years, and upon the renewal of valid registration fee of $50 for 3 years, the Secretary shall issue to applicant an instant check registration, and advise the Attorney General of the United States of the same, which entitles the registrant to contact the national instant criminal background check system established under section 103 of the Brady Handgun Violence Protection Act for information about any individual desiring to obtain a firearm at a gun show from any transferor who has requested the assistance of the registrant in complying with subsection (c) with respect to the transfer of a firearm, and receive information from the system regarding the individual, during the 3-year period that begins with the date the registration is issued.

"(B) The Secretary shall approve or deny an application submitted pursuant to paragraph (1) within 60 days after the Secretary receives the application. If the Secretary fails to so act within such period, the applicant may bring an action under section 1361 of title 28 to compel the Secretary to so act.

"(3) An instant check registrant shall keep all records or documents which the registrant collects pursuant to this section during a gun show at a premises, or a portion thereof designated by the registrant, that is open for inspection by the Secretary. The Secretary shall establish by regulation the procedure for inspection, at a premises or a gun show, of the records required to be kept under this section in a manner for a registrant that affords the registrant procedural rights and protections identical to those afforded a licensee under subsections (g)(1)(A), (g)(1)(B), and (j) of section 923. An instant check registrant shall transmit to the Secretary all records required to be kept by the registrant under this subsection, when the registration is no longer valid, has expired, or has been revoked.

"(4) A registration issued under this subsection may be revoked pursuant to the procedures provided for license revocations under section 923.

"(b) It shall be unlawful for any person to organize or conduct a gun show unless the person-

"(1) registers with the Secretary in accordance with regulations promulgated by the Secretary, which shall not require the payment of any fee for such registration;

"(2) before commencement of the gun show-

"(A) records and verifies the identity of each individual vendor who is to be at a gun show by examining, but not retaining, a copy of, a valid identification document (as defined in section 1028(d)(1) of the individual containing a photograph of the individual; and

"(B) provides to each such individual a copy of the document provided by the Secretary under subsection (c)(1); and

"(C) provides each instant check registrant a copy of the documents required to be provided by the Secretary by the gun show organizer under subsection (c); and

"(3) maintains a copy of the records described in paragraph (2) at the permanent place of business of the gun show organizer for such period of time and in such form as the Secretary shall require by regulation.

"(c) The Secretary shall provide to each gun show organizer registered with the Secretary pursuant to subsection (b)(1), (1) a document which sets forth all Federal laws that apply to firearms transactions at gun shows, including all related record keeping requirements, verbatim and (2) a list containing the names and business addresses of currently operating firearms manufacturers, to enable the submission of information required in subsection (d)(1).

"(d)(1) It shall be unlawful, at a gun show or within the curtilage area of a gun show, for a person who is not licensed under section 923 to sell, transfer, or exchange to another person who is not licensed under section 923, a firearm at the gun show or within the curtilage area of the gun show, unless–

"(A) the firearm is transferred through a licensed importer licensed manufacturer, or licensed dealer in accordance with paragraph (2)(B) and otherwise in accordance with law; or

"(B)(i) before the completion of the transfer, an instant check registrant contacts the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act;

"(ii)(I) the system provides the registrant with a unique identification number; or

"(II) 3 business days (meaning a day on which State offices are open) have elapsed since the registrant contacted the system, and the system has not notified the registrant that the receipt of a firearm by such other person would violate subsection (g) or (n) of section 922 or State law;

"(iii) the registrant notifies the person that the registrant has complied with clauses (i) and (ii), or of any receipt by the registrant of a notification from the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act that the transfer would violate section 922 or State law;

"(iv) the transferor and the registrant have verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d)(1) of this title) of the transferee containing a photograph of the transferee; and

"(v) for a use gun, a licensee or the instant check registrant who performs the instant background check has provided strictly limited information about the make, model, and serial number of the used firearm and the identifying information about the licensee or instant check registrant to the licensee who manufactured the firearm and, if the manufacturer has discontinued business under section 923(g), to the Secretary.

"(2)(A) The rules of paragraphs (2),(3), and (4) of section 922(t) shall apply to firearms transfers assisted by instant check registrants under this section in the same manner in which such rules apply to firearms transfers made by licensees.

"(B)(i) The licensee or registrant may personally deliver or ship the firearm to the prospective transferee in accordance with clause (ii) if the gun show has terminated, and –

"(I)(aa) 3 business days has elapsed since the licensee or registrant contacted the system from the gun show and the licensee or registrant has not received notification from the system that receipt of a firearm by the prospective transferee would violate subsection (g) or (n) of section 922 or State law; or

"(bb) the licensee or registrant has received notification from the system that receipt of a firearm by the prospective transferee would not violate subsection (g) or (n) of section 922 or State law; and

"(II) State and local law would have permitted the licensee or registrant to immediately deliver the firearm to the prospective transferee if the conditions described in item (aa) or (bb) had occurred during the gun show.

"(ii)(I) The licensee may personally deliver the firearm to the prospective transferee at a location other than the business premises of the licensee, without regard to whether the location is in the State specified on the license of the licensee, or may ship the firearm by common carrier to the prospective transferee.

"(II) The registrant may personally deliver the firearm to a prospective transferee who is a resident of the State of which the registrant is a resident, or may ship the firearm by common carrier to such a prospective transferee.

"(III) The requirements of subsections (I) and (II) do not alter the prohibitions on the interstate transfer of firearms under section 922.

"(3) An instant check registrant who agrees to assist a person who is not licensed under section 923 in complying with subsection (c) with respect to the transfer of a firearm shall –

"(A) enter the name, age, address, and other identifying information on the transferee (or, if the transferee is a corporation or other business entity, the identity and principal and local places of business of the transferee) as the Secretary may require by regulation into a separate bound record;

"(B) record the unique identification number provided by the system on a form specified by the Secretary;

"(C) on completion of the functions required by paragraph (1)(B) to be performed by the registrant with respect to the transfer, notify the transferor that the registrant has performed such functions; and

"(D) on completion of the background check by the system, retain a record of the background check as part of the permanent business records of the registrant; and

"(E) on completion of the background check by the system, submit the information required by subsection (d)(1) to the firearms manufacturer or, if the manufacturer has discontinued business under section 923(g), to the Secretary.

"(4) This section shall not be construed to permit or authorize the Secretary to impose record keeping requirements on any vendor who is not licensed under section 923, except to the extent that the vendor is acting as an instant check registrant.

"(e) It shall be unlawful for any person to receive a firearm from another person that the person knows has been transferred to the recipient in violation of this section.

"(f) It shall be unlawful for any person to structure, assist in structuring, or attempt to structure or assist in structuring a firearms transaction, for the purpose of evading any requirement of subsection (d).".

(2) PENALTIES. – Section 924(a) of such title is amended by adding at the end the following:

"(7)(A) Whoever knowingly violates subsection (b)_, (d)(1), or (d)(2) of section 931 shall be –

"(i) fined under this title, imprisoned not more than 1 year, or both; or

"(ii) in the case of a second or subsequent conviction of such a vi9olation, fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever knowingly violates subsection (d)(3) or (e) of section 931 shall be fined under this title, imprisoned not more than 3 years, or both.

"(C) In addition to any other penalties imposed under this paragraph, the Secretary may, with respect to any person who knowingly violates subsection (b), (d), or (3) of section 931 –

"(i) impose a civil fine in an amount equal to not more than $2,500; and

"(ii) if the person is registered pursuant to section 931 (a), after notice and

opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 931(a).".

(3) CONFORMING AMENDMENT. – Section 923(j) of such title is amended in the first sentence by striking "or event" and all that follows through "community".

(4) CLERICAL AMENDMENT. – The section analysis for chapter 44 of such title is amended by adding at the end the following:

"931. Regulation of firearms transfers at gun shows.".

(d) INSPECTION AUTHORITY. – Section 923(g)(1) of such title is amended by adding at the end the following:

"(E)(i) When the Secretary has reasonable cause to believe that evidence of a violation of this chapter may be found at the place of business of a gun show organizer or any place where a gun show is being held, the Secretary may, upon demonstrating such cause before a Federal magistrate and securing from the magistrate a warrant authorizing entry, enter during business hours any such place (including any place of storage of the gun show organizer), for the purpose of inspecting or examining any records or documents required to be kept by the gun show organizer under this chapter or rules or regulations under this chapter.

"(ii) The Secretary may enter during business hours the place of business of any gun show organizer and any place where a gun show is being hld, without such reasonable cause or warrant, for the purpose of inspecting or examining the records required by section 923 or 931 and the inventory of licensees conducting business at the gun show in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the organizer or licencee or when such examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

"(iii) The requirements of subsections (i) and (ii) do not alter the Secretary's authority under section 923 to inspect licensees."

(e) INCREASED PENALTIES FOR SERIOUS RECORD-KEEPING VIOLATIONS BY LICENSEES. – Section 924(a)(3) of such title is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly makes any false statement or representation with respect to the information required by this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

"(B) If the violation described in subparagraph (A) is in relation to an offense –

"(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

"(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.".

(f) INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.–

(1) PENALTIES. – Section 924(a) of such title is amended –

(A) in paragraph (5), by striking "subsection (s) or (t) of section

922" and inserting "section 922(s)"' and

(B) by adding at the end the following:

"(8)(A) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 3 years, or both.

"(B) In the case of a second or subsequent conviction under this paragraph, the person shall be fined under this title, imprisoned not more than 5 years, or both.".

(2) ELIMINATION OF CERTAIN ELEMENTS OF OFFENSE.-- Section 922(t)(5) of such title is amended by striking "and, at the time" and all that follows through "State law".

(g) EFFECTIVE DATE.– The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 1105 GUN OWNER PRIVACY; PROHIBITION ON BACKGROUND CHECK FEE; AND PREVENTION OF FRAUD AND ABUSE OF SYSTEM INFORMATION.

(a) PROHIBITION ON BACKGROUND CHECK FEE.-

(1) IN GENERAL. – Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"§ 540B. Prohibition on fee for background check in connection with firearm transfer

"No officer, employee, or agent of the United States, including a State or local officer or employee acting on behalf of the United States, may charge or collect any fee in connection with any background check required in connection with the transfer of a firearm (as defined in section 921(a)(3) of title 18).".

(2) TECHNICAL AND CONFORMING AMENDMENT.– The section analysis for chapter 33 of title 28, United States Code, is amended by inserting after the item relating to section 540A the following:

"540B. Prohibition on fee for background check in connection with firearm transfer.".

(b) PROTECTION OF GUN OWNER PRIVACY AND OWNERSHIP RIGHTS. –

(1) IN GENERAL.-- Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"§ 932. Gun owner privacy and ownership rights

(a) Section 922(t)(C) of title 18, United States Code, is amended by inserting before the period at the end the following ";consistent with the responsibility of the Attorney General under section 103(h) of the Brady Handgun Violence Prevention Act to ensure the privacy and security of the system and to prevent system fraud and abuse, but in no event shall such records be used for the creation of a national firearms registry. To ensure that such records shall not be used for the creation of a national firearms registry, the General Accounting Office is authorized to conduct an annual audit of the National Instant Criminal Background Check System to verify the Attorney General's compliance with the requirements of section 193(h) and this section.

(B) EFFECTIVE DATE. – The amendments made by this section shall take effect on the date of the enactment of this Act, except that the amendments made by

subsection (a) shall take effect as of October 1, 1999.

(Insert Section Requiring Mfr to Keep Serial #s)

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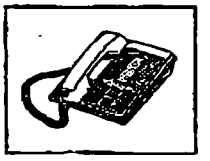

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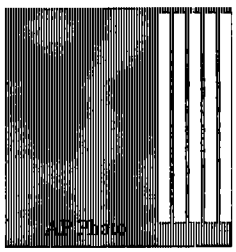
Monday September 27 7:55 AM ET

Bride Fatally Shot by Ex-Boyfriend



RIDGEFIELD, N.J. (AP) - A bride was shot to death, allegedly by an ex-boyfriend, moments before she was to board a limousine to take her to the wedding.

Gladys Ricart was posing in her wedding gown for last-minute photographs Sunday at her home when Augustine Garcia arrived, pulled a handgun out of a briefcase and shot the 39-year-old accountant several times, authorities said.

Ms. Ricart was pronounced dead at the scene. She leaves behind a 20-year-old son and her fiance, James Preston, 36.

Garcia, 47, was arrested after the bride's brother subdued him and grabbed his gun. He was scheduled to be arraigned on murder and weapons possession charges.

Bergen County Prosecutor William Schmidt said Ms. Ricart and Garcia broke off a six-year relationship about nine months ago. She met Preston several months later.

Friends said Garcia continued pursuing Ms. Ricart.

``He abused her physically,'' said a neighbor, Joe Bongiovanni. ``She tried to help him change until she couldn't take it anymore.

``She broke off with him but he was still stalking her,'' he said.

About 40 family members and friends were at the home when Ms. Ricart was shot. Preston was to meet her later Sunday at a New York City church.

Garcia was held overnight by Ridgefield police.

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Questions or Comments

Heston says NRA could accept deal on waiting period for gun-show sales

By Joyce Howard Price
THE WASHINGTON TIMES

Charlton Heston, president of the National Rifle Association, says the NRA would be willing to accept a compromise on the waiting period required to buy firearms at gun shows in gun-control legislation being hammered out in Congress.

On CNN's "Late Edition" yesterday, Mr. Heston reiterated that the NRA "favors background checks" at such events and would prefer "instant checks," which can be done by computer. But he indicated his organization is flexible on the issue.

"It obviously is uncertain what law will be passed in the Congress, but we are confident that we will be content with what they pass," Mr. Heston said.

In May, the Senate passed a gun-control bill that would have required a three-day waiting period for people buying guns at gun shows. The House proposed reducing that waiting period from three days to 24 hours.

"We're trying to find a compromise on that time limit," House Speaker J. Dennis Hastert said yesterday on CBS' "Face the Nation."

On CNN, Mr. Heston was asked by host Wolf Blitzer if the NRA "would be willing to go along with some middle ground if it could be found in a compromise."

"Yes, I think so," the NRA leader said.

Mr. Blitzer said data from the Bureau of Alcohol, Tobacco and Firearms indicate that 10 percent of guns used in crimes by juveniles are bought at gun shows and flea markets.

Mr. Hastert yesterday predicted a "good common-sense" gun-control bill will emerge from a conference trying to work out differences between House and Senate measures. House Judiciary Committee Chairman Henry J. Hyde, Illinois Republican, said Thursday negotiators are close to reaching agreement on legislation to tighten gun-control laws.

On CBS, Mr. Hastert pledged that the House will vote on the bill. "We just need bipartisan support to pass it," he said.

Mr. Heston, on CNN, was confronted with figures provided by a rival organization, Handgun Control Inc., that show there are currently 104,000 licensed gun dealers in the United States but only about 1,700 or 1,800 ATF agents. He was asked if the NRA would support increased funding for ATF.

"What we want is to see the laws enforced. The main problem with this administration is their refusal to prosecute criminals. There are now 20,000 gun-control laws on the books . . . but in this administration prosecution of criminals arrested . . . has sunk by 45 percent," the film star said.

As for ATF, Mr. Heston said: "I don't think it is a question of a lack of money. It is a lack of will on the part of the administration. President Clinton does not want to prosecute. He wants to pass laws. He refuses to prosecute."

Mr. Blitzer said Attorney General Janet Reno appeared on his show a few weeks ago and held that prosecutions, for the most part, should be left to state and local authorities.

But Mr. Heston doesn't buy that. "Many of these are violations of federal laws, which obviously should be prosecuted by federal administrations," he said.

The NRA president cited the success Richmond has had with a program called Project Exile, in which the federal government comes in and prosecutes juveniles that local authorities can't prosecute.

"Richmond is a fairly modestly sized city," said Mr. Heston. "Since they have instituted Project Exile, they have prosecuted and imprisoned more criminals with gun crimes on their hands than the states of California, New Jersey, New York and the District of Columbia combined."

The Washington Times

MONDAY, SEPTEMBER 27, 1999

The Washington Times
MONDAY, SEPTEMBER 27, 1999

Specter's course is beset by hurdles

By Jerry Seper
THE WASHINGTON TIMES

Sen. Arlen Specter's appointment to lead a task-force probe into the Justice Department's handling of three high-profile criminal cases has irked not only Democrats — who have refused to participate — but many Republicans who believe the inquiry may be on shaky ground.

"There are questions of whether Mr. Specter, without some bipartisan support, will have the power or the budget he needs to conduct a thorough investigation," said one high-ranking Republican source.

"Without the ability to issue subpoenas and compel testimony, let alone offer grants of immunity if necessary, he might be nothing more than just another toothless tiger," added another GOP source, who noted that Senate rules require a vote from a committee's minority for subpoenas and immunity grants.

Mr. Specter, Pennsylvania Republican and a member of the Senate Judiciary Committee who has advocated a broad look into the Justice Department's handling of several criminal cases, was named to the post last week by Senate Majority Leader Trent Lott of Mississippi.

Task force lacks bipartisan backing

Specter press secretary Charles Robbins said he had no comment on concerns by some Republicans over Mr. Specter's ability — without bipartisan support — to get subpoenas, immunity grants or the budget to run the probe. But, he said, the senator intended to conduct a "bipartisan fact-finding investigation," adding that he hoped to model the inquiry after one he conducted in 1995 into the government's handling of the standoff at the Idaho cabin of white separatist Randall Weaver.

Last week, the Judiciary Committee's chairman, Sen. Orrin G. Hatch, Utah Republican, said he wanted a more narrowly focused inquiry by the full committee and reluctantly signed off on Mr. Specter's appointment after it had been proposed by the majority leader.

Mr. Hatch did not attend a news conference to announce Mr. Specter's appointment, telling reporters on Thursday he would have "preferred it be done another way. It's out of my hands now." He reiterated that position on Friday, following a meeting with Attorney General Janet Reno and FBI Director Louis J. Freeh, although he said he would help if asked.

Senate Democrats have opposed any committee investigation of the Justice Department, citing, in part, the ongoing inquiry by Waco special counsel John C. Danforth. But they have said if one was going to be conducted, it should be a matter for the full Judiciary Committee.

Sen. Patrick J. Leahy of Vermont, ranking Democrat on the Judiciary Committee, has described the Specter probe as "one-sided and partisan." He told reporters on Friday he did not intend to name any of the committee's Democrats to the Specter panel.

Mr. Lott, in announcing creation of the Specter task force, said the Senate had a "constitutional and institutional responsibility" to investigation the question: "Why don't we have justice at the Justice Department?"

The task force has been tasked to investigate three areas:

- The 1993 FBI siege at the Branch Davidian compound near Waco, Texas, in which 86 persons, including 24 children, died in a fire. The task force will try to determine if federal authorities made false statements, withheld evidence or used incendiary devices, among other issues.
- The suspected theft of nuclear secrets from U.S. weapons laboratories and technology transfers from this country to China, which a separate committee concluded earlier this year had significantly enhanced its nuclear and missile capabilities through espionage.
- Plea bargains given to several defendants in the Justice Department's ongoing investigation into suspected campaign finance abuses during the 1996 presidential elections.

The task force will not investigate President Clinton's decision to grant clemency to 16 Puerto Rican terrorists.

Republicans on the task force committee include Mr. Specter; Sen. Charles E. Grassley, Iowa Republican; and Sen. Strom Thurmond, South Carolina Republican. Mr. Specter also is still considering hiring Charles LaBella to lead the investigation. Mr. LaBella ran the Justice Department's campaign finance probe before leaving the department earlier this year after a dispute with Miss Reno over her decision not to seek the appointment of an independent counsel in the case.

Last week, Mr. Danforth said that investigators at the behest of Mr. Specter had already visited the siege site near Waco, Texas, "without even troubling to give me a call."

Monday September 20 04:43 PM EDT

Who Controls Gun Control?

ABCNEWS.com

This Week **Sunday, September 20, 1999**
(This is an unedited, uncorrected transcript.)

COKIE ROBERTS Another horrendous shooting this week, this one in a church in Texas, where, of course, George W. Bush is the governor. Governor Bush canceled his campaign appearances, came home to Texas and made a statement about whether laws should be changed—gun laws, to deal with incidents like this. Here's what Bush had to say.

GEORGE W. BUSH, REPUBLICAN PRESIDENTIAL CANDIDATE I don't know the law, a governmental law, that would put love in people's heart.

COKIE ROBERTS And that is his answer. Is that going to work?

GEORGE STEPHANOPOULOS No, because the problem is that he signed a law in the State of Texas and the Gore campaign, was quick to fax this all around Washington this week that would allow people to bring concealed weapons into a church. And that's what—this is the most direct connection people have seen so far. What he has going for him, though, is that even though people seem to care about gun control, they never put it and they want more gun control. They don't put it at the top of their list of what a president can deal with.

COKIE ROBERTS No, in fact it was very much toward the bottom of a list of issues that ABC asked voters about. But the gun control folk are trying to gin it up, and there is a new advertisement about to be shown all around the country which is including all of these shooting incidents. Let's take a look at that. (Clip from TV Commercial)

ANNOUNCER One killed, four children, one adult wounded. Four children, one adult killed. Twelve children wounded. Twelve children, one adult killed. Twenty-three children wounded. Enough is enough. No more excuses. Call Congress and tell them to close the loopholes that give children and criminals easy access to firearms.

COKIE ROBERTS Now, the traditional wisdom has always been that the pro-gun control people are not as ardent in their views as the pro-gun people. Do things like this make a difference?

GEORGE WILL Sure, they'll make a difference. On the politics of it, this is a problem for George Bush and the Republicans generally. On the facts and the substance, the policy of it, I don't get it. I mean, what is the Gore campaign saying that if Bush hadn't signed that law, that man would have said, oh, it's illegal to take in there. I'm not going to shoot those people. I mean, the hubris of the political class in assuming that for every eruption of evil on this planet, they can draft some clever statute that will stop it is itself a problem.

SAM DONALDSON Well, guns are a problem also, as we've just seen there.

GEORGE WILL Sure.

SAM DONALDSON I mean, George Bush says there's an evil in the land. I agree with him if he means there's something going on out there, that we don't understand and guns didn't cause. But if this guy walks in the church and has nothing but a toothbrush and pulls the bristles, everybody lives. And so the question of why people act this way—it's very important, but if they don't have a gun, George, they don't kill anybody.

COKIE ROBERTS There's something less evil than craziness to me.

SAM DONALDSON So, they're crazies maybe, but without a gun, they don't kill anyone.

BILL KRISTOL Two things, that ad, it's deeply dishonest. "The Washington Post"
this morning has a front page story, no bill currently before Congress would have stopped any of these killings in the last year. Period. It's just factually the case that all these rules and regulations that they're fighting about on the Hill right now could have been passed and it wouldn't have stopped any of these killings. Fine, if you want make a more liberal case, but to say that the Congressional legislation, which Vice President Gore supports, and he hasn't proposed going further. He's vice president of the United States ...

GEORGE STEPHANOPOULOS Yes he has, he proposed for licensing of hand guns.

BILL KRISTOL He's vice president of the United States. He should introduce legislation to that effect, so the Congressional argument is phony. On the conceal-to-carry issue, I live in Virginia. We have concealed carry of hand guns. You have to have a background check and you have to have training. I'm not more scared to go to my synagogue in Virginia because we have the conceal carry law. And I would say that in bad neighborhoods in Virginia, people who work in the 7-11 late at night, I think they should have the right to carry a handgun against criminals.

COKIE ROBERTS Well, we're going to keep debating this issue, but there's a new injustice week, and we don't have much time, but last night, we have a new Miss America, the first Miss Kentucky. And they are now trying to or talking about changing the rules in the Miss America contest. Somebody who has had an abortion, been married, can be Miss America. Sam?

SAM DONALDSON Yes. right, because—put on this. Miss means miss, and you said, well if she was Mrs but now she's Miss and if she was pregnant, now she's not. I don't think it matters. The thing that struck me about it, they cut down from the 10 finalists doing their act to only five because the television ratings are going down. So I do not believe that it matters whether Miss has been married before or not. Well it's repugnant to the English language in a sense, to say it doesn't.

COKIE ROBERTS What about our ideal?

GEORGE WILL She better not smoke. (Laughter)
asdf That would push them over the edge. Look, it used to be they'd come out and that Bert Parks would say to some woman usually from Mississippi who was the winner every year, say, what do you want to be when you grow up? She'd say chief justice. Who's your hero? Albert Schweitzer. What's your favorite book, "Green Eggs and Ham," or something like that, and they'd go down these lists and it was perfectly harmless and we didn't have—didn't take that seriously, the ideal stuff. It was a bathing beauty contest—can't we get back to that?

GEORGE STEPHANOPOULOS Good riddance, let's get rid of it all. I mean, there's some concern by the traditionalists that this is going to ruin the pageant. Fine. Let's do away with it, we shouldn't be holding this up. It is just a bathing beauty contest. Is that the ideal we want to be setting up for young women of America?

GEORGE WILL It's a free society. (Laughter)

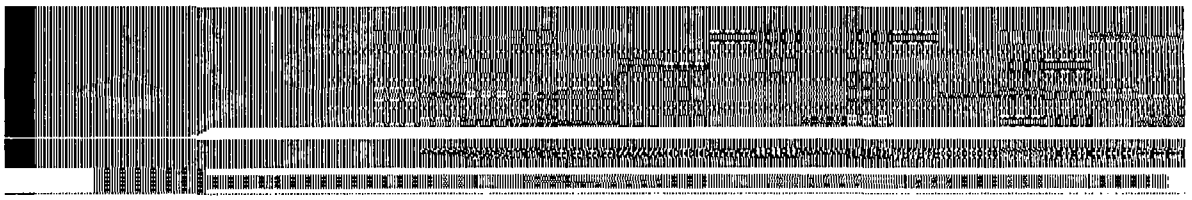
BILL KRISTOL It is however, somewhat revealing. You can't be married ... (Laughter) Look, they have to say they are not married—it's better to be divorced than married by the new rules and it's better to have had an abortion than to bring a child to term, which is a little weird when you think about it.

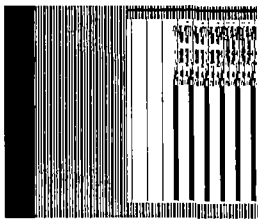
COKIE ROBERTS Yes, it's basically none of their business. But I'm not forgetting this. I like Miss America and Sam and I will be back in a moment.

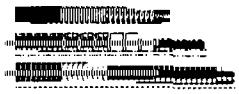
(Commercial Break)

SAM DONALDSON Here's a look at what's coming up on ABCNEWS. (ABCNEWS clips)

COKIE ROBERTS Well, that's all for us today. Until next week, that's *This Week.*







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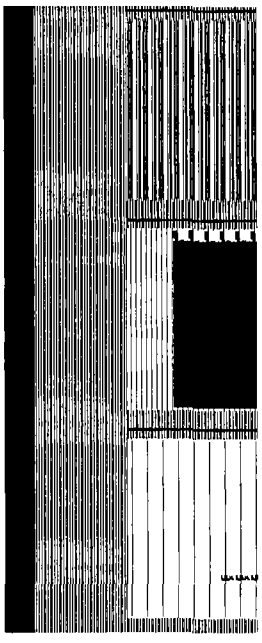


Gun Control's Limited Aim

Bills Would Not Have Stopped Recent Killings

By David B. Ottaway and Barbara Vobejda
Washington Post Staff Writers
Sunday, September 19, 1999; Page A01

None of the gun control legislation under discussion in Congress would have prevented the purchase of weapons by shooters in a recent spate of firearms violence, including last week's massacre at a Texas church, gun control supporters and opponents agree.

People at both ends of the spectrum in the gun control debate say the provisions before a House-Senate conference committee would have done nothing to save the scores of people who died in those attacks.

In that string of violence, all of the killers had either bought their guns legally or found an easy way to get around state and federal laws. The provisions now on the table, from child-safety locks to stricter regulation of gun shows, would not have stopped the sales.

"The whole gun control debate is on the fringe of the problem," said Kristen Rand, director of federal policy at the Violence Policy Center, a gun control advocacy group. "You can't pretend by plugging loopholes here and there that you're going to have an effect on the crux of American gun violence."

John Velleco, a spokesman for Gun Owners of America, voiced a similar conclusion for different reasons.

"Not only would the provisions being discussed do nothing to prevent those shootings, neither do the thousands of gun laws on the books today," he said.

The Senate version of the juvenile justice bill would impose new restrictions on weapons sales by unlicensed dealers at gun shows, requiring them to conduct criminal background checks on buyers. It also would outlaw the import of ammunition clips of more than 10 bullets, require child safety locks on all new handguns and prohibit juveniles from obtaining assault weapons.

The House defeated a weaker package of gun control measures and passed its juvenile justice bill without any gun provisions. The two sides remain far apart on a compromise, raising doubts that any legislation will be enacted this year.

The deadlock reflects Americans' enduring ambivalence on the issue of federal regulation of gun ownership. Congress is up against another eternal problem: It is impossible to prevent a mentally unstable person who has legal access to guns from using them.

Federally licensed firearms traders must have customers fill out a government form that asks a series of questions, including whether they have "ever been adjudicated mentally defective" or "ever been committed to a mental institution."

An affirmative answer blocks the sale. But although several of the recent shooters were seeking psychiatric help, none would have been required to answer "yes" on the form.

Determining the mental health of a would-be buyer is a thorny problem, said Adam Eisgrau, chief lobbyist for the Center to Prevent Handgun Violence and Handgun Control. Providing federal authorities or gun dealers with mental health records, he said, raises "substantial privacy issues."

"But that's the kind of discussion we have to begin, in order to protect ourselves from people who are just like us one day and then monsters the next," he said.

The current effort to reduce gun violence began in April, after the shooting deaths of 14 students and a teacher at Columbine High School in Littleton, Colo.

The two teenage killers, Eric Harris and Dylan Klebold, obtained three of their four guns -- two shotguns and a rifle -- from Klebold's girlfriend, Robyn Anderson. Because she was 18 and had no criminal record, her purchase of those guns was legal; though if she served as a "straw purchaser" for Klebold, she violated federal law.

It is not known whether Anderson purchased the guns from a licensed or an unlicensed dealer, but in either case she would not have been affected by the pending legislation because she would have passed a criminal background check.

Another provision of the Senate bill would ban the sale or possession of assault weapons by anyone under 18. But neither the rifle nor the two shotguns used in the Littleton slayings fall into that category, and Harris had recently turned 18.

It was illegal for Klebold and Harris to possess the fourth gun, a TEC-DC9 semiautomatic pistol, because federal and Colorado laws bar minors from owning handguns.

Mark Manes, a Columbine graduate, bought the pistol legally at a gun show and then sold it to Harris and Klebold for $500. Manes pleaded guilty in August to supplying a weapon to a minor and faces up to 18 years in prison at his sentencing next month.

Benjamin Nathaniel Smith, the 21-year-old white supremacist who went on a shooting rampage through Illinois and Indiana in early July, bought his two guns from an unlicensed private dealer who was not required to conduct a background check. Earlier, a federally licensed trader refused to sell guns to Smith because a check showed he was under a court order to stay away from his wife.

But even the stronger Senate bill would not have prevented Smith

from purchasing the gun from the private dealer, because the bill's background checks would be required only at gun shows.

In the case of Mark Barton, a distraught day trader in Atlanta who killed nine people before shooting himself in late July, all four of his handguns had been purchased legally, federal agents say. And because Barton had no criminal record, he could have bought more weapons any time before the shootings.

Buford Furrow Jr., who went on a rampage at a day-care center outside Los Angeles in August, also legally bought the seven guns in his arsenal. Furrow did not become ineligible to purchase firearms until last fall, after he assaulted an administrator at a psychiatric hospital. He served five months in jail, making him a felon ineligible under federal law to own a firearm. But police had never taken away the arms he had already accumulated.

Last week, after Larry Gene Ashbrook went on a shooting rampage in a Fort Worth Baptist church, law enforcement officials said he had legally purchased the two semiautomatic pistols he carried that night.

"It's extremely doubtful any particular set of laws is going to stop people willing to die in order to kill other people," said James Baker, chief lobbyist for the National Rifle Association.

Baker and other opponents of expanded gun control laws argue that police could do more to reduce firearm violence by enforcing existing laws, including prosecuting would-be gun buyers who fail background checks. In Furrow's case, Baker said, authorities should have taken away the guns he had in his possession after he became a felon.

Gun control supporters on Capitol Hill argue that, although the provisions under consideration would not have prevented the recent gun violence, they nevertheless would solve at least one serious problem: the ability of felons to buy handguns, without background checks, from unlicensed dealers at gun shows.

"Criminals can walk into gun shows today and buy semiautomatic weapons and other firearms," Rep. John Conyers Jr. (Mich.), ranking Democrat on the House Judiciary Committee and a member of the conference committee, said in a statement last week. "This is the madness we are trying to stop."

After the Texas shooting, Sen. Orrin G. Hatch (R-Utah), who chairs the Senate Judiciary Committee and the conference committee, vowed to finish work on the juvenile justice bill.

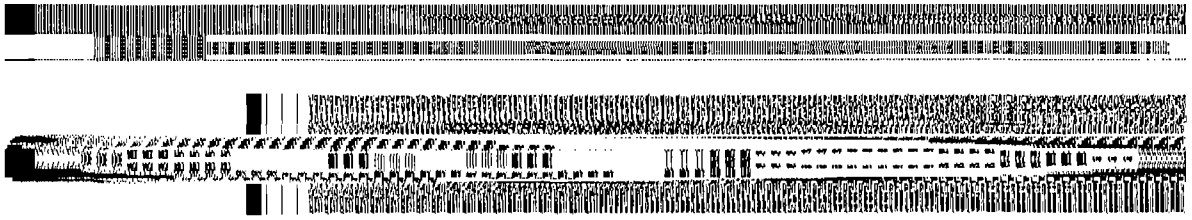
"This event, and others like it in recent months, have energized a well-deserved and beneficial debate about the criminal use of firearms," he said in a statement.

But congressional staffers make it clear that the two sides are far from agreement and that, even in a season of shootings, the bill could go down in a partisan fight.

"We're about to sink this public investment in juvenile justice over

the definition of a gun show," said a Republican staffer. "It's nuts."

Researcher Alice Crites contributed to this report.



We previously provided you with a memorandum, entitled "Detailed Comments," containing extensive analysis of the pending "Juvenile Justice" ~~and "Gun Control" Bills~~, H.R.1501 and S.254, ~~which are scheduled to be considered in Conference shortly~~. The "Detailed Analysis" indicated that the Department of Justice was continuing to evaluate a small handful of provisions in the two bills. One of those provisions is section 110 of H.R. 1501. As we explain below, the Department has strong constitutional and policy objections to subsections (a) and (c) of section 110. ~~We will attempt to provide you the remainder of our comments on other provisions of the two bills within the next couple of days.~~

1. House Bill Section 110(a):
Limitation on Court Jurisdiction to Enter or Carry Out Certain Prisoner Release Orders

Section 110(a) of H.R.1501 would create a new 28 U.S.C. § 1632. Proposed § 1632(a) would provide that "no court of the United States or other court listed in section 610 [of Title 28] shall have jurisdiction to enter or carry out any prisoner release order" that would result in a prisoner's release or nonadmission on the basis of prison conditions. The "court[s] listed in section 610" include the courts of appeals and district courts of the United States, the district courts of Guam, the Virgin Islands, and the Canal Zone, and the Courts of Federal Claims and International Trade. 28 U.S.C. § 610. We assume that the term "prisoner release order" is to have the meaning assigned that term in the Prison Litigation Reform Act of 1995 ("PLRA"), 18 U.S.C. § 3626(g)(4), which includes "any order . . . that has the purpose or effect of reducing or limiting the prison population."

The current PLRA already substantially limits the power of federal courts to enter prisoner release orders as a remedy for unconstitutional prison conditions. Pursuant to 18 U.S.C. § 3626(a)(3), "no court shall enter a prisoner release order unless" (1) a court has previously ordered "less intrusive relief that has failed to remedy the deprivation of the Federal right," and (2) a three-judge court finds "by clear and convincing evidence" that crowding is the primary cause of the constitutional violation and that "no other relief will remedy the violation of the Federal right." In light of this preexisting limitation, it appears that proposed § 1632(a) would, in effect, operate to prohibit federal courts from entering prisoner release orders only in those cases where such an order would be necessary to fully remedy a constitutional violation.[1] Such a limitation on the power of federal courts to provide an effective remedy for constitutional violations and to require the cessation of ongoing unconstitutional state conduct would raise a number of very serious constitutional concerns.

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[1] Theoretically it is possible that, under the current PLRA, a court could enter or carry out a prisoner release order in order to remedy a federal statutory (as opposed to constitutional) right. The constitutional analysis in the text above would not apply to any such cases where the remedy is based only on federal statutory authority. We are unaware, however, of any statutory basis for such orders where there is no constitutional violation. Accordingly, it appears that the proposed restriction would apply only in cases where courts find that a prisoner release order is necessary to fully remedy a constitutional violation.

The gravity of the constitutional problems would depend, in large part, on the extent to which § 1632(a) would prevent plaintiffs from obtaining judicial relief for unconstitutional prison conditions, and the extent to which the federal judiciary would be able to superintend state prison conditions to ensure that they satisfy constitutional requirements. Although the Supreme Court has not squarely addressed the question whether the Constitution mandates that the federal judiciary be available to provide or assure such relief, the Court frequently has presumed that an effective remedy must be available to curtail a continuing state practice that transgresses constitutional requirements. See, e.g., Green v. Mansour, 474 U.S. 64, 68 (1985) ("Remedies designed to end a continuing violation of federal law are necessary to vindicate the federal interest in assuring the supremacy of that law"); North Carolina State Bd. of Educ. v. Swann, 402 U.S. 43, 45-46 (1971) (state statute prohibiting state officials from effecting race-based assignment and transportation of students violates command "that all reasonable methods be available to formulate an effective remedy"); Rufo v. Inmates of Suffolk County Jail, 502 U.S. 367, 391 (1992) (a court's modification of a judgment in a prison conditions case under Federal Rule of Civil Procedure 60(b) "must not create or perpetuate a constitutional violation").[2] Indeed, the presumption of an effective judicial remedy for constitutional violations underlies the Supreme Court's consistent practice of declining to construe statutes to preclude all federal judicial redress for a constitutional claim, in order "to avoid the 'serious constitutional question' that would arise" from such constructions. Webster v. Doe, 486 U.S. 592, 603 (1988). This presumption appears to extend to Eighth Amendment violations as well. See Rhodes v. Chapman, 452 U.S. 337, 347 (1981) (federal courts must "discharge their duty to protect constitutional rights"); id. at 354 (Brennan, J., concurring) (noting that "judicial intervention is indispensable if constitutional dictates . . . are to be observed in the prisons") (emphasis in original); id. at 369 (Blackmun, J., concurring) ("the federal courts must continue to be available to those state inmates who sincerely claim that the conditions to which they are subjected are violative of the [Eighth] Amendment . . . . Against that kind of penal condition, the Constitution and the federal courts . . . together remain as an available bastion").

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[2] See also, e.g., Henry M. Hart, Jr., The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 66 Harv. L. Rev. 1362, 1386-96 (1953); Daniel J. Meltzer, Congress, Courts, and Constitutional Remedies, 86 Geo. L. J. 2537, 2563-65 (1998); Richard H. Fallon, Jr. & Daniel J. Meltzer, New Law, Non-Retroactivity, and Constitutional Remedies, 104 Harv. L. Rev. 1731, 1787-90 (1991); cf. Marbury v. Madison, 5 U.S. (1 Cranch) 137, 163 (1803) ("'[I]t is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded.' . . . The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right.") (quoting 3 W. Blackstone, Commentaries 23 (1783)); Schweiker v. Chilicky, 487 U.S. 412, 423 (1988) (courts should decline to create Bivens remedy when "Congress has provided what it considers to be adequate remedial mechanisms for constitutional violations").

For this reason, we believe courts would not construe proposed § 1632(a) to eliminate the jurisdiction of all federal courts, including the Supreme Court, to order or effect a remedy involving prisoner release in any prison conditions case in which such a remedy is necessary to prevent an ongoing constitutional violation. See Constitutionality of Legislation Withdrawing Supreme Court Jurisdiction to Consider Cases Relating to Voluntary Prayer, 6 Op. O.L.C. 13, 14 (1982) (Opinion of Attorney General Smith) ("Congress may not . . . , consistent with the Constitution, make 'exceptions' to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers"); see also, e.g., Felker v. Turpin, 518 U.S. 651, 660-62 (1996) (construing statute to preserve Supreme Court's power to hear habeas corpus petitions filed as original matters, and thereby obviating the constitutional question that would have been raised had the statute been construed to completely repeal the Court's authority to entertain a habeas petition). Rather, in light of the constitutional concern we have identified, as well as the punctuation and context of proposed § 1632(a), we believe that the phrase "listed in section 610" would best be understood to modify "court of the United States" as well as "other court," thus excluding coverage of the Supreme Court from the limitation in § 1632(a).[3] To avoid possible confusion and unnecessary litigation, however, we recommend that the provision at least be amended to clarify that it does not restrict the remedial powers of the Supreme Court, perhaps by deleting the words "of the United States or other," thereby leaving the provision to refer simply to "any court listed in Section 610."

Even so construed or amended, however, proposed § 1632(a) would still raise the serious question whether Congress may strip the lower federal courts of the authority to order the only remedy capable of ending an ongoing constitutional violation.[4] While this question has been the subject of extensive scholarly debate,[5] the Supreme Court has not yet definitively addressed the question, and its resolution cannot be predicted with any degree of confidence.

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[3] Moreover, the Supreme Court ordinarily does not itself "enter or carry out" orders.

[4] As explained above, section, proposed § 1632(a) apparently would operate only if and where a prisoner release order is necessary to remedy or halt unconstitutional conduct.

[5] See, e.g., Lawrence Gene Sager, Foreword: Constitutional Limitations on Congress' Authority to Regulate the Jurisdiction of the Federal Courts, 95 Harv. L. Rev. 17, 80-89 (1981); Meltzer, Congress, Courts, and Constitutional Remedies, 86 Geo. L. J. at 2549-65; John Harrison, Jurisdiction, Congressional Power, and Constitutional Remedies, 86 Geo. L.J. 2513 (1998). This debate is closely related to the broader question of Congress's power to limit the jurisdiction of the lower federal courts to hear particular kinds of cases. The seminal treatment of that topic remains Henry M. Hart, Jr., The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 66 Harv. L. Rev. 1362 (1953). See also, e.g., Sager, Foreword: Constitutional Limitations, supra; Charles L. Black, Jr., Decision According to Law 17-19, 37-39 (1981); Gerald Gunther, Congressional Power to Curtail Federal Court Jurisdiction: An Opinionated Guide to the Ongoing Debate, 36 Stan. L. Rev. 895 (1984).

The likelihood that § 1632(a) would be declared invalid, however, is increased significantly by the fact that, as a practical matter, it could operate to prevent plaintiffs from obtaining effective relief from any court, state or federal. If plaintiffs were to seek the same type of relief in state court, the federal removal statute, 28 U.S.C. § 1441, presumably would permit state and local defendants to remove the suit to a federal court, and proposed § 1632(a) would prevent that federal court from providing any remedy involving or requiring a prisoner release, thereby making it impossible for plaintiffs to obtain the relief necessary to cure the unconstitutional state conduct. Cf. Boys Markets, Inc. v. Retail Clerks Union, 398 U.S. 235, 246-247 (1970) (noting that removal would leave an "injunction remedy technically available in the state courts but render[] [it] inefficacious").

In addition to the foregoing constitutional problem, the remedial restrictions in proposed § 1632(a) would raise further significant separation of powers and article III concerns. Even assuming arguendo that the Constitution would permit Congress to withdraw the jurisdiction of the lower federal courts to entertain prison conditions cases altogether, a serious constitutional question nevertheless would arise if Congress were to permit article III courts to decide such cases but selectively withdraw the courts' power to decide how such cases should be resolved under governing constitutional and statutory law. See United States v. Klein, 80 U.S. (13 Wall.) 128, 145-47 (1871).[6] Because federal courts would continue to have jurisdiction over Eighth Amendment claims but would be precluded by proposed § 1632(a) from resolving such cases in the manner they believe to be mandated by the Constitution, the proposed legislation would be vulnerable to challenge on the ground that Congress was impermissibly intruding on the judiciary's full article III powers. Moreover, because section 1632(a) apparently would, in the only cases in which it would apply, "usurp the judicial function by depriving the inferior federal courts of their power to issue any remedy at all," it might "convert the judicial power . . . into the essentially legislative function of deciding cases without any power to issue relief affecting individual legal rights or obligations in specific cases." Constitutionality of Legislation Limiting the Remedial Powers of the Inferior Federal Courts in School Desegregation Litigation, 6 Op. O.L.C. 1, 9 (1982) (Opinion of Attorney General Smith).[7]

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[6] See also Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts, 66 Harv. L. Rev. at 1372-73; Sager, Foreword: Constitutional Limitations, 95 Harv. L. Rev. at 87-88; cf. Plaut v. Spendthrift Farm, Inc., 514 U.S. 211, 218-219 (1995) ("Article III establishes a 'judicial department' with the 'province and duty . . . to say what the law is' in particular cases," and "gives the Federal Judiciary the power, not merely to rule on cases, but to decide them, subject to review only by superior courts in the Article III hierarchy") (quoting Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177 (1803)).

[7] In addition, proposed § 1632(a)'s restriction on "carrying out" prisoner release orders could raise another serious constitutional concern, because apparently it would restrict the power of courts to enforce prisoner release orders that they already have entered. Insofar

In addition to the foregoing serious constitutional concerns, we strongly oppose section 110(a) on policy grounds. Section 110(a) is unnecessary. The PLRA already greatly limits the authority of federal courts to issue prisoner release orders in causes of action arising under federal law, and has effectively protected against the unwarranted issuance of prisoner release orders. In fact, as far we are aware, since enactment of the PLRA no court has entered a new prisoner release order pursuant to the current statutory procedures for imposing such orders. We also are concerned that Congress not create a precedent of attempting to deprive article III courts of jurisdiction to issue effective remedies in civil rights cases. Even if this is within Congress's constitutional power, such a precedent need not and should not be set.

2. House Bill Section 110(c)(1): Termination of Existing Consent Decrees

Section 110(c)(1) of H.R.1501 would provide that any consent decree that was "entered into" prior to the enactment of the Prison Litigation Reform Act of 1995 ("PLRA"), that "provides for remedies relating to prison conditions," and that is "in effect" on the day before the date of enactment of [section 110(c)], "shall cease to be effective on the date of the enactment of this Act." Section 110(c)(1) would raise serious separation of powers concerns.

In Plaut v. Spendthrift Farm, Inc., 514 U.S. 211 (1995), the Court held that Congress

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as this restriction were applied to previously entered orders that were necessary to remedy or arrest ongoing constitutional violations, it would appear to transgress the principle that the federal judiciary has "the power, not merely to rule on cases, but to decide them, subject to review only by superior courts in the Article III hierarchy." Plaut, 514 U.S. at 218-19. As we explain in further detail in the following section, Congress may, by changing the underlying law on which an injunction is premised, require courts to alter the terms of ongoing injunctive relief, see, e.g., Pennsylvania v. Wheeling & Belmont Bridge Co., 59 U.S. (18 How.) 421, 431-32 (1855)); see also Rufo, 502 U.S. at 388; Plaut, 514 U.S. at 232 (citing Wheeling & Belmont Bridge Co.). Congress may not, however, alter the constitutional law that may underlie an injunction, such as the requirements of the Eighth Amendment. Therefore there is a serious question whether Congress has the power to prohibit courts from carrying out previously entered injunctive relief that is constitutionally required, see Gavin v. Branstad, 122 F.3d 1081, 1086 (8th Cir. 1997) (Congress would have no power to effect the alteration of existing decrees by changing the law of the Eighth Amendment), cert. denied, 118 S. Ct. 2374 (1998); see also Imprisoned Citizens Union v. Ridge, 169 F.3d 178, 183-87 (3d Cir.1999) ("This would be a very different case if . . . the PLRA categorically terminates all relief available to 'prisoners who claim constitutional violations.' But the PLRA expressly preserves the courts' authority to remedy violations of prisoners' federal rights.") (citation omitted), and there is a serious risk that application of proposed § 1632(a) to such injunctions would violate separation of powers principles such as those discussed in Plaut.

transgresses the separation of powers when it attempts to alter a final judgment entered by an article III court. At issue in Plaut was legislation that allowed plaintiffs in certain securities fraud suits to revive actions previously dismissed as time-barred. The Court held that the legislation represented an attempt by Congress to "set aside the final judgment of an Article III court by retroactive legislation," id. at 230, and thus violated separation of powers principles. In Plaut's context of money damages, the Court stated that "[h]aving achieved finality . . . a judicial decision becomes the last word of the judicial department with regard to a particular case or controversy," id. at 227, which Congress cannot review or disturb.

In contrast, the Court noted that a prospective order issued by a court, whether in the form of a litigated judgment or a consent decree, does not similarly represent "the last word of the judicial department with regard to a particular case or controversy." Id. The Court stated that its ruling in Plaut regarding a final monetary judgment was distinguishable from decisions approving statutes "that altered the prospective effect of injunctions entered by Article III courts." Id. at 232 (citing Pennsylvania v. Wheeling & Belmont Bridge Co., 59 U.S. (18 How.) 421 (1855)). In particular, the Court in Plaut indicated that its decision in that case does not affect the rule that Congress may, by changing the underlying law on which an injunction is premised (including the law respecting the power of the court to award such relief), require courts to alter the terms of ongoing injunctive relief. For example, in Wheeling & Belmont Bridge Co. (cited by the Court in Plaut), the Court upheld a lower court's abatement of a decree enjoining construction of a bridge over navigable waters, where Congress had passed legislation rendering the bridge a lawful structure. 59 U.S. (18 How.) at 431-32. This principle extends, as well, to ongoing relief contained in a consent decree. See Rufo v. Inmates of Suffolk County Jail, 502 U.S. 367, 388 (1992); System Fed'n No. 91 v. Wright, 364 U.S. 642, 651-52 (1961).

So, for example, the current PLRA changed the law respecting the authority of courts to provide relief in prison condition cases, limiting such relief to that "necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs." 18 U.S.C. § 3626(a)(1). And a cognate provision of the PLRA, 18 U.S.C. § 3626(b), entitles the defendant to a court-ordered termination of an existing decree, unless the district court finds that continuing prospective relief satisfies the new statutory limitations — i.e., that such relief is "necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs." Numerous courts of appeals have concluded that the termination provision does not violate the separation of powers principle discussed in Plaut, because Congress may require courts to terminate executory portions of injunctions and consent decrees that exceed the courts' current statutory remedial authority.[8]

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[8] See Berwanger v. Cottey, 178 F.3d 834, 839 (7th Cir. 1999); Benjamin v. Jacobson, 172 F.3d 144, 159-63 (2d Cir. 1999) (en banc), pet. for cert. filed, No. 98-2042 (June 21, 1999); Imprisoned Citizens Union v. Ridge, 169 F.3d 178, 183-87 (3d Cir.1999); Hadix v. Johnson, 133 F.3d 940, 942-43 (6th Cir.1998); Dougan v. Singletary, 129 F.3d 1424, 1426 (11th Cir.1997), cert. denied, 118 S. Ct. 2375 (1998); Inmates of Suffolk County Jail v. Rouse, 129

Section 110(c)(1), by contrast, would terminate consent decrees, and would do so even in cases where the ongoing decrees are in conformity with the applicable law that Congress has prescribed for prospective decrees. The bill, in other words, would not (like the current PLRA termination provision) merely set forth a statutory standard for courts to apply in determining whether to continue relief and thereby "affect[] the adjudication of the cases . . . by effectively modifying the [law] at issue in those cases," Robertson v. Seattle Audubon Society, 503 U.S. 429, 440 (1992); instead, it would automatically terminate judicial decrees without permitting the courts to determine whether that relief is permissible and authorized under the prevailing statutory and constitutional law. Accordingly, section 110(c)(1) would raise very serious constitutional questions under the separation of powers principles discussed in Plaut. Cf. also United States v. Klein, 80 U.S. (13 Wall.) 128, 146-47 (1871) (although Congress may establish new law and leave a court to "apply its ordinary rules to the new circumstances created by the act," it may not "prescribe[]" an "arbitrary rule of decision" for a case); id. at 147 (Congress may not forbid an article III court to "give effect to evidence which, in its own judgment, such evidence should have").

This constitutional problem would arise even if section 110(c) were to require the courts themselves to terminate outstanding decrees without any change in the law. But in this case that constitutional problem would be exacerbated because section 110(c) would not require or permit the courts to do anything: instead, it would be self-executing. To be sure, even after section 110(c) would cause a consent decree to "cease to be effective," a court could thereafter reenter a consent decree — possibly even the same decree — in accordance with applicable law. In the interim, however, section 110(c) would in practical terms constitute a "temporary legislative veto over court-ordered relief in an ongoing case before the court." Hadix v. Johnson, 144 F.3d 925, 941 (6th Cir. 1998). This would, in effect, give Congress a form of "direct review," Plaut, 514 U.S. at 218, of certain court orders. There is a serious question whether such direct subvention of judicial decrees would impermissibly upset the "constitutional equilibrium created by the separation of the legislative power to make general law from the judicial power to apply that law in particular cases," id. at 224.[9]

F.3d 649, 655-59 (1st Cir.1997), cert. denied, 118 S. Ct. 2366 (1998); Gavin v. Branstad, 122 F.3d 1081, 1085-89 (8th Cir.1997), cert. denied, 118 S. Ct. 2374 (1998); Plyler v. Moore, 100 F.3d 365, 371-72 (4th Cir.1996), cert. denied, 520 U.S. 1277 (1997).

[9] See Brian M. Hoffstadt, Retaking the Field: The Constitutional Constraints on Federal Legislation That Displaces Consent Decrees, 77 Wash. U. L. Q. 53, 90 (1999) (the current PLRA termination provision, which in effect instructs courts to modify existing decrees to the extent the courts find the decrees inconsistent with new law, is constitutional because the court "is still the entity responsible for performing the judicial function of actually modifying the decree"; but "[w]hen Congress declares an outstanding decree null and void, it may cross the line of permissible activity by negating a judicial order and encroaching upon the prerogative of the Judiciary to render dispositive judgments"); Hadix, 144 F.3d at 940-41 (dicta) ("[b]ecause the suspension of a judicial order is a judicial act not to be undertaken directly by the Legislature," a

Moreover, section 110(c)(1) apparently would terminate consent decrees even where such decrees are necessary to remedy or to halt unconstitutional state conduct. By restricting courts' authority to effectuate prior decrees that are necessary to remedy or arrest constitutional violations, this prohibition would raise the substantial constitutional concerns that we discussed in the previous section with respect to section 110(a) of H.R.1501.[10]

In addition to the foregoing serious constitutional concerns, we strongly oppose section 110(c) on policy grounds. Section 110(c) would directly and substantially undermine the Civil Rights Division's program of enforcing constitutional rights in correctional facilities throughout the nation. It would lead to much unnecessary and burdensome litigation by the Department to re-establish through litigation the remedies previously reached through amicable settlements. Moreover, it would unnecessarily displace the authority of local and state officials to decide for themselves whether to seek termination of existing consent decrees through the current termination procedures in the PLRA.

The PLRA already provides defendants with ample opportunity to seek termination of consent decrees where defendants believe such decrees pose an undue burden or unnecessary interference with local administration of correctional facilities. See 18 U.S.C. §§ 3626(b), (e). And defendants may file a new motion for termination of relief one year after an earlier motion has been denied. Section 110(c) would terminate a consent decree even in those cases in which courts have denied such motions on the basis of "written findings based on the record that prospective relief remains necessary to correct a current and ongoing violation of . . . Federal right[s]." 18 U.S.C. § 3626(b)(3). It also would terminate relief in cases in which the

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"direct legislative suspension of orders of Article III courts" could not "be harmonized with our tripartite system of governance"); French v. Duckworth, 178 F.3d 437, 446 (7th Cir. 1999) (a "self-executing legislative determination that a specific decree of a federal court . . . must be set aside" would "place[] the power to review judicial decisions outside of the judiciary" and "amount[] to an unconstitutional intrusion on the power of the courts to adjudicate cases"); cf. id. at 449 (Easterbrook, J., dissenting from denial of rehearing en banc) ("If Congress should provide that injunctions in prison litigation expire five minutes after the court receives a motion, this would indeed be unconstitutional, . . . not because of anything in Article III," but because of "the due process clause, which entitles litigants to a meaningful opportunity to be heard before a final decision").

[10] See Imprisoned Citizens Union, 169 F.3d at 186 ("This would be a very different case if . . . the PLRA categorically terminates all relief available to 'prisoners who claim constitutional violations.' But the PLRA expressly preserves the courts' authority to remedy violations of prisoners' federal rights.") (citation omitted). Furthermore, the constitutional concerns would be magnified still further where the terminated decree includes a "prisoner release order," because section 110(a) of the bill (discussed above) would prohibit lower federal courts from entering such prisoner release orders even where necessary to remedy and abate constitutional violations.

defendants have chosen not to avail themselves of the opportunity to move for termination of relief. The reasons local officials have chosen not to seek such relief undoubtedly vary from case to case. In many instances, the jurisdiction will have made an informed decision that it cannot defend the constitutionality of current conditions (as is particularly likely in cases just recently settled), or would prefer to focus its resources on improving conditions rather than on litigation or negotiations to re-institute a consent decree. Section 110(c) would disrespectfully displace that considered judgment of local and state officials.

Moreover, the provision would pose an unwarranted and significant burden to the United States. When the PLRA became law, the Department of Justice was plaintiff or plaintiff-intervenor in about 25 active prison, jail, and juvenile cases in which courts had entered litigated or consent decrees. The Civil Rights Division has monitored these cases carefully since passage of the PLRA, reviewing current conditions at the covered facilities. On the basis of this review, the Division has been able to dismiss many of these cases, including a longstanding consent decree covering Michigan's prisons for men. Almost all the defendants in the other cases have decided not to seek termination of the decrees, preferring instead to focus their efforts on compliance. In these cases, the proposed amendment would terminate decrees that the United States and the defendants agree remain appropriate and necessary, and would trigger new and unnecessary litigation relating to reentering judicial relief.

* * * *

For all of the foregoing reasons, we strongly recommend that section 110 ~~be deleted from the House~~ bill, leaving intact the current PLRA procedures for the termination of consent decrees and other prospective relief.

MEMORANDUM

TO: Senate & House Juvenile Crime Legislative Assistants

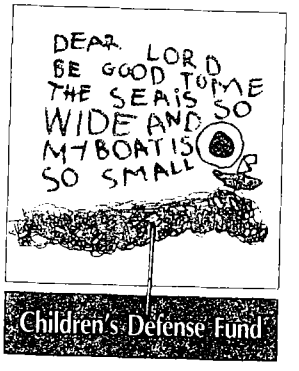
FROM: Marc Schindler (Youth Law Center) & Liz Ryan (CDF)
Co-Chairs, Juvenile Justice Coalition

DATE: September 17, 1999

RE: Juvenile Justice legislation

As the Senate and House conferees consider final juvenile justice legislation, we've provided you with the attached news clippings on this legislation.

If you need additional information, please feel free to contact either of us. We can be reached by phone at: 202/637-0377 (Marc) or 202/662-3586 (Liz) or by email at: mschindler.ylc@erols.com or Lryan@childrensdefense.org.



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The Washington Post

FRIDAY, MAY 14, 1999

William Raspberry

Race, Crime And Punishment

African American youths constitute 15 percent of 10- to 17-year-olds but account for 26 percent of juvenile arrests.

That would be a disturbing statistic even if it meant that black kids are that much likelier to commit the sorts of crime that lead to juvenile arrests. But listen to the rest of it:

This same 15 percent accounts for 41 percent of those detained as delinquents, 46 percent of the juveniles in corrections institutions and 52 percent of the juveniles transferred to adult criminal court after judicial hearings.

What those numbers—supplied by the Washington Bureau of the NAACP—strongly imply is not merely disproportionate lawlessness but dissimilar treatment throughout the juvenile justice system. At the very least, they are the sort of numbers that ought to prompt criminal justice authorities across America to take a look at what they're doing.

That, in fact, is what has been happening under a piece of federal legislation that now may be headed for the scrap heap.

Under a provision of a law enacted in the late 1980s, states are required to "address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, jails and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population."

The states also get some funding to pay for the effort.

This, I hasten to add, is not a "quota" bill. As Vincent Schiraldi of the Washington-based Justice Policy Institute notes, the law "does not require and has never resulted in the release of juveniles, or require numerical quotas for arrest or release of any youth from custody based on race." But it has prompted some attention to disproportionate minority confinement, attention that might never have been paid without the legislation.

A California study, for example, revealed that minority youths routinely get stiffer punishments and are more likely to get jail time than white kids who commit the same offenses. Another study in Portland, Ore., found minority youngsters being locked up at rates several times higher than their arrest rates. (One result of the Portland study is that arrest and confinement rates for black juveniles are close to equal.)

According to Schiraldi, some 40 states are developing plans to address disproportionate minority confinement.

But an effort has been underway in the Senate this week to kill the provision that launched those plans. Republican Sens. Orrin Hatch of Utah and Jeff Sessions of Alabama are trying—again—to substitute language that would call for prevention efforts "to the extent that segments of the juvenile population" are confined at rates greater than their proportion in the general population.

Isn't that the same thing? No. "Segments of the juvenile population" could mean boys—half that population but obviously well over half of the juveniles behind bars. It could mean urban kids, more likely than their suburban or rural counterparts to be confined. It might mean anything at all. But the point of the original legislation is the disproportionate incarceration of *minority* youth—mostly black and brown.

> The numbers strongly imply dissimilar treatment for minorities and whites throughout the juvenile justice system.

Why the reluctance to recognize the problem for what it is?

I don't mean to suggest that disproportionate minority confinement results solely from the willful unfairness of bigoted authorities. It results from all sorts of things—including the greater likelihood that minority parents will be poor, uneducated or politically unconnected, which means they will be less likely to have their children released to their custody by police officers and judges.

It may result as well from the greater tendency of white officials to see white juvenile offenders as "troubled youth" and black offenders as troublemakers, gangbangers or predators—as Littleton made clear.

The point, though, is that whatever the source of the disproportion, state and local officials ought to want to know about it, if only to satisfy themselves that they are carrying out their duties as fairly as they know how.

It just won't do (again, citing NAACP statistics from 1992) that African American boys are six times more likely than their white counterparts to be incarcerated for crimes against people, four times more likely to be locked up for property crimes or 30 times more likely to be confined in a state facility for drug offenses.

The Washington Post

The Missing Voice in Debate On Youth Crime

By Courtland Milloy

Sunday, May 23, 1999; Page C01

The debate in the U.S. Senate on guns and juvenile crime last week was missing something vital. If only I could amend the Congressional Record . . .

The presiding officer: The senator from the District of Columbia is recognized.

(The first U.S. senator elected from the District rises to address the nation's most elite political body. He is tall and robust, in his late sixties, has a bad back and a shock of gray hair but doesn't need Viagra or want Rogaine.)

My senator: Mr. President, let me say at the outset that I am honored to be a part of this distinguished group. I know that my presence here today frightens some of you who thought all along that the District would send another liberal to Congress and, indeed, I am one. But when it comes to this epidemic of death by murder of our children, just call me concerned.

As you know, one out of every two children murdered in America is a black child, even though black children make up only 15 percent of the juvenile population. But it wasn't until the shooting deaths of white children in suburban Littleton, Colo., that this body started to get serious about guns. What am I supposed to say now, "Thank God for Columbine"? Distinguished ladies and gentlemen, we can't go on doing business this way.

Among the issues before us today is an amendment to the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999 -- called the Disproportionate Minority Confinement mandate, which seeks to reduce the number of black children being imprisoned.

But, as was the case with the homicide statistics for black children, the incredibly high incarceration rate of black children is not seen by the majority of the Senate as a matter for concern.

According to Barry R. McCaffrey -- the national drug policy director

-- African Americans make up only 13 percent of those who actually commit drug crimes in the United States, but we are 67 percent of those in prison for drug crimes. What gives?

My distinguished colleague, Sen. Orrin G. Hatch (R-Utah), replies: "The fact that 13 percent of the offenders are African American and 67 percent of those incarcerated are -- I don't see any information here saying that higher percentage was unjustifiably put in jail. These percentages don't tell us what the crimes were in the individual cases. If these individuals committed a crime, then they go to jail. Does that mean there are a lot of white people getting off? I don't see any evidence of that, either."

And yet, Mr. Hatch, if we are honest with ourselves, I think we can deduce from those numbers and other reports that black people are getting the short end of the justice stick and that white America is in denial about its own drug problems.

My Democratic colleagues in Congress have been hammering away at racial disparities in America's justice system, and to no avail, I might add, ever since conservative Republicans took over Congress.

I admire those liberals. I'm a big fan of Sen. Paul D. Wellstone (D-Minn.). And I applaud him and Sens. Edward M. Kennedy (D-Mass.), Russell Feingold (D-Wis.), Dianne Feinstein (D-Calif.) and Richard J. Durbin (D-Ill.) for pushing so valiantly for a national review of why so many black children are being imprisoned these days.

But I sometimes wonder how much my white colleagues really know about fighting racism in modern America. They keep trying to use rational arguments when racism is not a rational concept.

Consider what the juvenile justice expert Jerome Miller wrote about his days dealing with youthful offenders in the great state of Massachusetts:

"If a middle-class white youth was sent to us as dangerous, he was much more likely to be dangerous than the African American teenager with the same label. For [the white youth] to be labeled dangerous, he usually had done something that was very serious indeed. By contrast, the African American teenager was dealt with as a stereotype from the moment the handcuffs were first put on, to be easily and quickly moved along to the more dangerous end of the violent/nonviolent spectrum, albeit accompanied by an official record meant to validate the biased series of decisions."

That is the kind of subtle but devastating racism that will never show up on Sen. Hatch's radar. He doesn't even grasp the most blatant stuff.

Here's the raw deal in a nutshell: Blacks are six times as likely to be

admitted to state juvenile facilities for committing the same crimes against persons as their white counterparts, four times as likely to be imprisoned for the same property crimes as whites and more than 30 times as likely to go jail for the same drug offenses as whites.

Sen. Hatch says: "I just hear that there are more young African American kids who go to jail than white kids; therefore, there must be something wrong with the system. I don't agree with that. If there are more young African American kids committing crimes, and especially vicious crimes and violent crimes, you don't help the problem by saying they should not be punished and they should not be incarcerated somehow or other . . . unless there is a justification for that."

Orrin, Orrin . . . look at me. Must we always wait for a problem to hit white America before we act as Americans to solve it? How easily some hearts bleed at the sight of wounded white children but become like turnips when those in pain are black.

THE BALTIMORE SUN

May 28, 1999,Friday ,FINAL

SECTION: EDITORIAL ,25A

LENGTH: 864 words

HEADLINE: Jim Crow returns in juvenile justice bill

BYLINE: Charles Levendosky

BODY:

ONCE AGAIN the Senate has passed a deeply flawed juvenile crime bill.

Last year, the Senate wanted to allow juveniles to be jailed in the same facility with adults, despite the horrors that arose from such a practice.

Sen. Orrin Hatch, a Utah Republican, and Sen. Jeff Sessions, an Alabama Republican, pleaded for that one and pushed the current racist juvenile crime bill through the Senate. It was passed a week ago, 73-25, with two senators abstaining.

The troubling part of this juvenile crime bill is that it eliminates the requirement forcing states to address the disproportionate confinement of black and Hispanic juveniles. In 1988, Congress amended the Juvenile Justice and Delinquency Prevention Act of 1974 to include a mandate for states to study and attempt to correct this problem. Forty-six states have completed their studies and identified the problem in their law enforcement systems. Forty states are developing plans to address it.

The federal mandate does not require arrest quotas or that any minority juvenile be released from jail. But it does require states to look at the problem. The Hatch-Sessions bill totally discards that federal mandate.

In California, for instance, minority youths consistently received more severe punishments and were more likely to receive jail time than white youths -- for the same offense.

Baltimore figures

National figures show that approximately the same percentage of white juveniles use drugs as black juveniles. Yet a study done by the National Center on Institutions and Alternatives showed the marked racial disparity in waging the drug war in Baltimore. In 1980, 18 white juveniles were arrested in Baltimore and charged with drug sales compared with 86 black juveniles arrested for the same crime. By 1990, the disparity leaped enormously. Only 13 white juveniles were arrested for selling drugs, but 1,304 black youths were arrested for the same crime.

That's what is meant by disproportionate minority confinement. It's a national problem. It's real and it's based upon racial fears. Racism has been a growing specter in the juvenile justice system since the turn of the century. The federal mandate is a step to dealing with the problem.

One should note that Senate doesn't have any black members.

The only member of a minority is American Indian, Sen. Ben Nighthorse Campbell, a Colorado Republican, who voted against the Senate bill.

But Mr. Hatch doesn't believe the disproportionate arrest rates for minority juveniles is due to racism. He stated on the Senate floor that those are the kids who are selling drugs to "our" children and they should be convicted. "Our" obviously means " white" in Mr. Hatch's prejudiced parlance.

Sen. Paul Wellstone, a Minnesota Democrat, hit the heart of the problem in his response to Mr. Hatch: "This is all about race. I cannot believe that I have heard on the floor of the Senate an argument that race is not the critical consideration.

"When the police decide which kids are searched, you don't think that has anything to do with race? When we get to the question of which kids are arrested, you don't think that has anything to do with race? . . . You are sleepwalking through history. "

School shootings

The irony of this sad debate is that this juvenile crime bill is loaded with anti-gun provisions and congressional hysteria because of the recent school shootings perpetrated, by the way, by white juveniles.

The congressional hysteria shows in the senators' cry of a rising juvenile crime wave. Not so. Mr. Hatch and Mr. Sessions used 1994 as the reference year for the presumption that juvenile crime is on the rise, but neglected the latest data from 1995 through 1997, showing that juvenile crime has dropped dramatically.

A letter dated May 10 to the Senate signed by 36 prominent criminologists and crime policy experts pointed out the senators' error: "The Justice Department's "Crime in the United States" reported last November that the juvenile homicide arrest rate had dropped again for the fourth straight year -- by more than 45 percent since 1993 . . .

"Today, the percentage of violent crime arrests attributed to juveniles is lower than it was in 1975."

When the Senate version of the juvenile crime bill reaches conference committee, the Congressional Black Caucus will play a pivotal role in demanding that the mandate remain in the final bill. The caucus sent a letter to Senate Majority Leader Trent Lott, a Mississippi Republican, pointing out that an overwhelming majority of House members endorsed the retention of the mandate in the House juvenile justice bill.

Mr. Hatch and Mr. Sessions ignore the clear evidence of the widespread disparity in the treatment of minority juveniles in this nation's law enforcement system. If the Hatch-Session's bill becomes law without the mandate, it will by that omission create a Jim Crow justice system for minority children. Not a step forward, but a long step backward.

Chicago Tribune

FOUNDED JUNE 10, 1847

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Editorials

Blind to color or blind to justice?

The American justice system is not always just: That failing is particularly evident in the cases of minorities, especially African-Americans. It's as true in the juvenile justice system as in the adult one, and it is impossible to remedy inequities in the latter without properly addressing them in the former.

Black youngsters age 10 to 17 make up 15 percent of the U.S. adolescent population, yet they account for 46 percent of the kids in juvenile correctional institutions. Problem is, they don't commit 46 percent of the crimes.

The phenomenon is called "disproportionate minority confinement," and it doesn't just mean the ratio of blacks to whites in juvenile detention and prison is far larger than the ratio in the general population. It means the justice system treats African-Americans more harshly than it does white Americans.

For most of this decade, federal law has required that individual states identify the extent to which disproportionate minority confinement exists in their detention and correctional facilities, assess the reasons for it and take steps to remedy it. So far, 40 states have undertaken the task.

But the Violent and Repeat Juvenile Offenders Act passed earlier this month by the United States Senate dilutes that mandate substantially by deleting references to race and minority issues and directing states more generally to look at disproportionate confinement of "segments of the juvenile population."

In doing so, the Senate measure sidesteps a serious and pervasive problem that has far-reaching effects for children, families and whole communities. One of the bill's authors, Sen. Orrin Hatch (R-Utah), defended the wording on the floor of the Senate on grounds that the justice system is "color blind" and that there is no evidence of discrimination based on race.

Yet statistics show that minority children in the juvenile justice system are confined in numbers far out of proportion to their rates of arrest.

In California, which has the highest number of juveniles in custody in state facilities, research has shown that African-American youths are consistently more likely to be incarcerated than their white counterparts *for the same offenses*. In 1996, 59 percent of juveniles arrested in California were minorities, but 70 percent of those incarcerated were minorities.

Such disparate treatment in the juvenile system accounts in part for the disproportionate number of African-American men in adult prisons, since a convicted adult is more likely to be given a prison sentence than probation if he has a prior criminal record and already has been detained in the juvenile system.

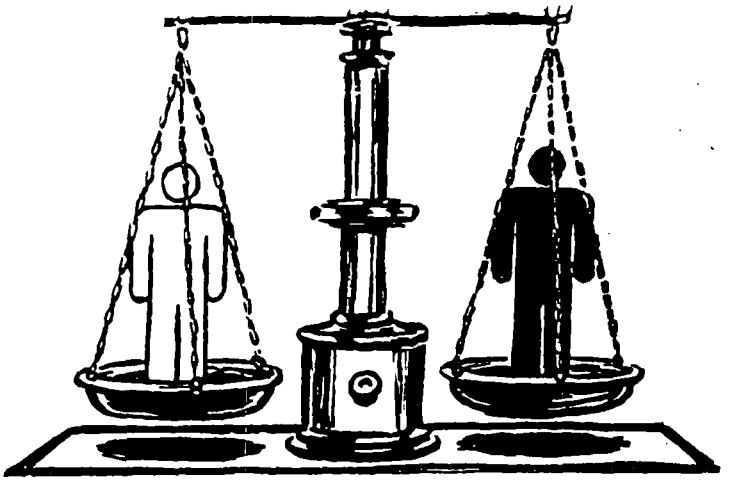
What's more, even before they reach adulthood, black youths are far more likely than whites to be transferred to adult criminal courts.

An issue so central to the Constitution's guarantee of equal justice for all ought not be obscured in the vague and tepid language of the Senate's juvenile justice bill. Unfortunately, it's the same bill that contains critically important gun-control measures, which must not be jeopardized.

But Congress can retain the state mandates on disproportionate minority confinement *and* preserve gun-control by combining the gun control legislation with the House's juvenile justice bill, which is similar to the Senate's but doesn't meddle with existing law on the minority confinement issue.

That would be the prudent—and the just—course.

The Washington Post
Monday, June 14, 1999 A



BY DEAN RICHER

Paul Wellstone and David Cole

Balance Check

We need to track the jailing of young minorities.

Federal law requires states to identify and improve disproportionate incarceration of members of minority groups. That law has been in place since 1992 and has prompted 40 states to develop programs to reduce minority involvement in the juvenile justice system.

Unfortunately, the requirement is under attack, and the Senate Judiciary Committee opposes an amendment to the juvenile crime bill that would preserve it. The resulting Republican juvenile justice bill would repeal the existing mandate, effectively closing our collective eyes to racial disparity in juvenile justice.

There is ample evidence of discrimination. Consider:

- Minority youth are 33 percent of all youth aged 10 to 17, but 66 percent of those incarcerated.
- Between 1982 and 1991, the height of the war on drugs, arrests of minority juveniles for drug offenses increased by 78 percent, while arrests of white juveniles decreased by 34 percent.

The Republican response to these figures is simple: Blacks and some other minorities commit more crime, and therefore they should be incarcerated more often. But that doesn't explain the disparities. If that were all that were going on, one would expect to see relatively consistent figures at each successive stage of the juvenile justice system. In fact, the disparities get progressively worse.

African American youth, for example, are 26 percent of arrests but 32 percent of those referred to juvenile court, 41 percent of those detained as delinquents and 52 percent of those tried as adults.

These disparities match similar figures in the criminal justice system's treatment of adults. The U.S. Public Health Service estimates that blacks are 14 percent of the nation's illegal drug users. Yet they are 35 percent of those arrested for drug possession, 55 percent of those convicted for drug possession and 74 percent of those sentenced to prison for drug possession.

If that evidence does not at least raise a question about discrimination, it is difficult to know what would. Yet the Republican bill discourages even the collection and assessment of evidence on racial disparities. Claiming, against all available evidence, that there is no problem, the Republicans' bill would keep us ignorant of the problem.

In fact, racial disparities in criminal justice generally are worse today than they were in 1950, when segregation was legal. Then, African Americans were 30 percent of the incarcerated population; today they represent more than half. The Justice Department reports that at current trends, one of every four black male babies born today will spend a year or more of his life in prison. And for every one black man who graduates college each year, 100 are arrested.

If those figures or anything like them applied to the white population, the politics of criminal and juvenile justice would be different. Instead of calls for mandatory minimums for "super-predators," trying juveniles as adults and "three-strikes-and-you're-out" laws, we'd be hearing about the need to keep kids in school, provide more community programs and improve job opportunities.

Current law directs states to identify the extent to which disproportionate minority confinement exists, assess the reasons why it exists and develop intervention strategies to address the causes. As a result, most states are making progress on this issue.

The Republican strategy of "see no evil, hear no evil," by contrast, is self-defeating. By discouraging the collection of information on the demographics of law enforcement, we exacerbate the already deep racial divide on this issue.

The House version of the Juvenile Crime bill, passed in the last Congress by 414-16, preserves the federal requirement to address disproportionate minority confinement. Having just missed in the Senate, we must now call on members of the House to insist that this protection of minority youth be kept when House and Senate conferees meet this month to work out differences between the two bills.

Paul Wellstone is a Democratic senator from Minnesota. David Cole is a law professor at Georgetown University.

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Juvenile Justice System: A Success Story Under Fire

■ **Law:** Faced with trend toward trying youths as adults, backers of special courts point to their legacy of innovation.

By GREG KRIKORIAN
TIMES STAFF WRITER

With children and violent crime now inextricably linked in the national consciousness, one of America's most widely imitated judicial innovations of this century, the Juvenile Court system, is under fire.

Indeed, even as serious crime by youth has been in decline in recent years, shocking spasms of violence—in country classrooms or on big city streets—threaten a juvenile justice system that transformed the perception of children here and around the world.

"I'm very concerned. I think all of the trends in juvenile justice are toward the demise of the Juvenile Court," said Northwestern University law professor Steven Drizer. "And the saddest part is that the principle that children are different, that they are less culpable, that they are more amenable to intervention, is as true today as it was 100 years ago."

Yet as Drizer and others lament attacks on the Juvenile Court system, one that paved the way for remarkable reforms in public education, child labor laws and even the development of urban recreation programs, many who have studied the system note optimistically that it already has weathered more criticism than almost any institution around.

"It is in amazingly good health for being the most attacked system on Earth," said Frank Zimring, professor of law at UC Berkeley's Boalt Hall. Indeed, Zimring said, for all its critics, the nation's juvenile justice system is "the most widely admired and uniformly popular legal innovation in American history."

All 50 states have juvenile courts that guard children's identities, offer a variety of sentences for offenses and emphasize rehabilitation, not incarceration. The same is true in many nations. And notwithstanding claims that the juvenile courts often coddle natural-born criminals, many experts say the evidence—both statistically and anecdotally—proves otherwise. Indeed, they note, juvenile crime has been in decline for much of the decade even when the system has been under almost constant attack.

"If you think the idea of the justice system is just punishment and that you are almost assured people are going to be back in trouble with the law, then you have to like the adult prison system as your model," said Peter Greenwood, who directs Rand's Criminal Justice Program.

"If on the other hand you want to prevent recidivism and think you should look at other things that led someone to commit a crime, like whether a kid was sexually abused as a little child or beaten up by a drunken parent . . . then you have to like the Juvenile Court system because it can turn kids around."

One widely cited study of Orange County's juvenile justice system found that only 8% of youthful offenders were responsible for more

Please see COURTS, A9

Associated Press

Washington D.C. Judge Reggie Walton, right, describes experiences as a young man in the juvenile justice system during recent celebration of 100th anniversary of Illinois juvenile courts. Listening is Sally Henderson, Illinois TV reporter who is considered another success story of the juvenile courts.

'To injure no man, but to bless all mankind'

BOSTON · MONDAY
AUGUST 2, 1999

THE CHRISTIAN SCIENCE MONITOR

75¢

Celebrating the American juvenile court system

By Vincent Schiraldi

WHEN 1968 Olympic Gold-medalist and record-breaking long-jumper Bob Beamon was only 9, he first began getting in trouble with the law. When Justice Department official and former marine Ron Laney was 17, he had so many arrests, he was almost tried as an adult. San Francisco District Attorney Terence Hallinan got into so much trouble as a kid he was banished from his home county at age 17.

Aside from their youthful problems and adult successes, Beamon, Laney, and Hallinan have something else in common – they all benefited from the treatment and protection of the juvenile court.

America's juvenile court system turns 100 this summer. In the late 1800s, a group of Chicago women, led by Jane Addams and Lucy Flower, were appalled by conditions in adult jails, where they found children as young as 8 alongside adults. They successfully advocated for the creation of the first juvenile court in the world.

The court was part of a series of century-shaping reforms inspired by the work of the Chicago reformers, including compulsory universal education, child labor laws, and the development of parks and recreation spaces for children. The court's founders believed childhood to be a sacred time during which young people needed to learn from, but not be crushed by, their mistakes. The court was built on the foundation of rehabilitation; it separated juveniles from adult offenders; and its proceedings were confidential so that youthful indiscretions would not ruin young lives.

The concept was wildly successful and is arguably America's most widely replicated justice system reform. By 1925, 46 states and the District of Columbia, along with 16 countries, had established separate courts for children where none existed before.

As imperfect as it is, the juvenile court system allows children to learn from, but not be crushed by, their mistakes.

Ironically, as the court celebrates its centennial and the vision of its founders, Rep. Bill McCollum, (R) of Florida, would end it. His controversial bill, which recently passed the House, allows 13-year-olds to be jailed with adults, gives prosecutors non-reviewable discretion to try juveniles as adults, and erodes the confidentiality rights of young people. Last year, more than 17,000 juveniles were imprisoned in adult prisons – 3,500 of them general population with adults.

Would Bob Beamon have brought home the gold if he was sent to an adult prison instead of an alternative school? Would Ron Laney who, as a marine fought and was wounded in Vietnam, have been able to serve his country if he'd been tried and convicted as an adult? Would Terence Hallinan have gone to law school and on to help reduce San Francisco's juvenile crime rate by 27 percent through a combination of new programs and prosecution if McCollum's bill were law when he was a teen?

Common sense and hard data tell us that, as imperfect as the juvenile court system is, it's a whole lot better than the adult system. When we sentence youths as adults, as McCollum would have us do, they get re-arrested more frequently, more quickly and for more serious offenses than similar youth retained in the juvenile justice system. When kids are locked up with adults, they are sexually assaulted five times more frequently and commit suicide eight times more frequently than youth detained in juvenile facilities.

Addams and Flower were right and McCollum is wrong. Their 100-year-old experiment has as much relevance to young people today as it did then.

As Congress contemplates reverting to a 19th-century system of juvenile justice, it should expect no better results than Addams and Flower found 100 years ago. Instead, today's Beamons, Laneys, and Hallinans deserve the same chance to turn their lives around as the young people of previous generations, through a strengthened juvenile court, with the kind of resources it needs to work with today's young people. That's a 20th-century reform that would be worth supporting.

■ *Vincent Schiraldi is director of the Washington, D.C.-based Justice Policy Institute, which published his book, 'Second Chances.'*

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The Miami Herald

www.herald.com

97th YEAR, No. 325

THURSDAY, AUGUST 5, 1999

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Give kids a chance to make a better choice

BOB BEAMON

Olympic gold-medalist Bob Beamon is director of athletic development at Florida Atlantic University and co-author of The Man Who Could Fly: The Bob Beamon Story.

Some people think that Mexico City was the longest jump I ever made. But just getting there was tougher.

Starting when I was 9 years old, I got into trouble with the law. I stole things. I got into fights. I skipped school. By the time I was 14, I was in a gang and had been expelled from a school for assault and battery. Social workers recommended that I be sent to a prisonlike facility far from home, and my fate hung in the balance when I appeared before a juvenile-court judge.

I remember being really scared and looking down at the ground as the judge deliberated my future. My grandmother pleaded my case, and the judge, who was thoughtful and compassionate, gave me another chance and sent me to an alternative school.

The teachers were challenging, and true to my grandmother's pledge, she closely supervised my every move. The school was tough, but thanks to the judge, I had the time and space to learn that there was more to life than getting into trouble.

The rest is history.

I got off the corner and into the community center, and got interested in sports. I leapt into high school track and, just a few years later, jumped 29 feet and 6 inches in the 1968 Mexico City Olympics, flying 2 feet and 6 inches farther than anyone else ever had.

Since breaking the long-jump record, I've worked as a counselor, an entrepreneur, an author, a motivational speaker and a corporate spokesman. When I speak to kids today, especially those at risk of taking the wrong path, I tell them: "You have a chance to make a better choice."

To commemorate the 100th anniversary of the juvenile court, I am part of a project in which 25 adults come together to tell the story of how caring judges and juvenile-court officials changed our lives. We are prosecutors, politicians, poets, probation officers, broadcasters, academics, attorneys, authors, stockbrokers and firefighters. We've worked at the highest levels of governments and served our country honorably.

But when we were kids, every one of us was in trouble with the law. We all benefited from the juvenile court's intervention and its focus on rehabilitation and confidentiality, rather than the crippling punishment of the adult system.

But today — in the very year that the children's court is celebrating its centennial — Congress is about to change the way kids are treated before the law. It may very well take away the kind of chance that I and many others had to turn our lives around.

The one-size-fits-all justice inherent in the bill is dangerous to the future of juvenile justice. The bill, which is sponsored by U.S. Rep. Bill McCollum, R-Orlando, will strip judges of the power to make good choices about kids' futures and give prosecutors the power to send kids directly to adult court.

We need look no further than our own state to see what a dismal failure this policy has been. Florida led the nation in allowing its prosecutors to send kids to prison and jail. Despite trying more kids as adults than any other state, we have the nation's second-highest violent-crime rate among juveniles.

Researchers at the University of Central Florida and Florida State University have shown that kids sent to prison are more likely to reoffend and commit more-serious crimes when released than kids sent to the juvenile-justice system. Young people sent to jail don't get the educational and rehabilitative services that their peers get in juvenile court. All of us suffer from this collective mistake that leads to higher crime rates.

McCollum's juvenile-crime bill also opens up children's court records to colleges and universities. This is nothing more than punishment for punishment's sake. How can we expect our children to choose a better route when, by opening up their records, we sabotage their futures? If these laws were in effect 35 years ago, I and many others like me simply would not be leading our current productive lives.

Young people need to be punished when they commit crimes, and there always will be a few who need to be incarcerated to keep the public safe. But most kids need the helping hand of a caring judge and probation officer — not the heavy hand that slams a prison door shut.

Congress should reject laws focused on punishment and allow kids the chances to make a better choice.

Chicago Tribune

Chicagoland South

50c NEWSSTAND

Thursday, August 5, 1999

Commentary

In the next cell to me was Charles Manson, awaiting trial for the murders that would forever be linked to his name.

Adult prisons are not the place for juveniles

By Luis J. Rodriguez

The accused murderer placed the razor blade against the skin of my neck.

He put his face up to mine: scrutinizing me for signs of fear. Another accused murderer stood next to him, grinning broadly, as a 13-year-old stood behind me. I had given myself the task of protecting this youth against the adult prisoners in the Los Angeles County Hall of Justice jail—known then as the "Glasshouse." I was 16—too young to be in an adult facility. But I had been arrested for rioting during the 1970 Chicano Moratorium against the Vietnam War, also known by some observers as the East L.A. riot.

From a sheriff's substation jail, to an overcrowded juvenile hall, we ended up at the infamous Glasshouse—two 16-year-olds, a 15-year-old and the 13-year-old. In the next cell to me was Charles Manson, awaiting trial for the murders that would forever be linked to his name. Along the tier, which a sheriff's deputy called "murderer's row," were other accused killers, including the two in my cell: One claimed to have killed a teacher and another allegedly shot a youth at a housing project.

It was 10 days in hell. Fortunately, all charges were dropped. And I was able to hold my own against the man with the blade, looking him straight in the eye and telling him that he had better make sure I was good and dead, because if not I was going to come after him. Silence followed.

But soon he removed the blade from my neck and started to laugh. Later, all four of us played cards until lights out.

However, another kind of scar had been placed in my heart.

Although I had been arrested numerous times since the age of 13 for stealing and fighting and disturbing the peace, I made a violent turn after my stay in the Glasshouse.

Stabbings, shootings and armed robberies became the core of my involvement in the neighborhood gang. A year after the Glasshouse experience, I was arrested for attempted murder in an incident in which four people were shot.

A year after that, I faced a hard-time prison sentence for a scuffle with police officers.

Ultimately, I was convicted of a lesser charge and received county jail time. In that case, a judge decided to give me a "second chance." I had by then returned to school after dropping out, started doing art and writing, and received letters of support from the community. The path of crime I was on was blocked by the careful and consistent involvement of adults.

These mentors and elders included a teacher who saw worth in the poems and vignettes I had first written in a juvenile facility when I was 15.

They included a Chicano activist who ran the John Fabela Youth Center that served the South San Gabriel barrio. They included the high school's home-school coordinator who become like a second mother—guiding, scolding, but always showing me positive ways of meeting my needs. And Mike Duran, a former gang member who worked for the Los Angeles County Probation Department and who involved me in his "get-together" retreats that have trained leaders out of troubled youth for more than 30 years.

These are people who brought to bear an important quality in relating to young people: the quality of their presence.

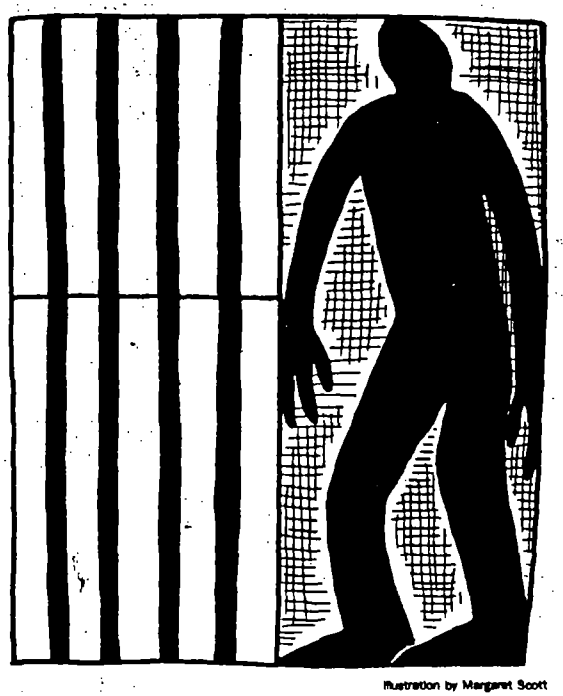


Illustration by Margaret Scott

After my last encounter with the law, I vowed never again to go to jail for criminal or violent acts. I have kept that vow for 27 years.

Without those caring and wise people in my life, I believe I would not be here today.

Presently, legislation by Rep. Bill McCollum (R-Fla.) is being considered that would give federal prosecutors wide-ranging discretion to send kids charged with federal crimes to adult court and to prison. My personal experience, including 25 years of working with young people from diverse communities throughout the country, compels me to oppose such legislation.

While there must be consequences for one's actions, the consequences should also include finding the means to heal one's wounds. This will require redemptive measures, healthy recreation, intellectual activity, skills training, art and rituals, human connections and community initiatory practices. All aspects of the lives of violent and troubled youth must be attended to, including a strong spiritual centering. The aim is get them to become competent and confident people—to give back to their community rather than to take.

Although some juvenile detention centers may fail to manage these things, most adult prisons won't try.

The pending federal legislation is partly a return to more than 100 years ago when America routinely tossed its youthful offenders into jails alongside hardened criminals, nurturing in them a disrespect for the law and all but guaranteeing that they'd re-offend soon after their release. It was this dreadful situation that prompted Chicago's Jane Addams to help create the world's first juvenile court system, 100 years ago.

With the most advanced resources and technology at our disposal, we can't afford to go backward. Before Addams' crusade, jailing kids with adults was a simple-minded and mean-spirited response to what were real issues of poverty, alienation and violence in the mostly immigrant communities of our cities. These issues still plague us today, affecting mostly black and brown children. We can do better.

Our policies must heed the advice of most experts in the field who tell us that youth is the time when the psyche is most susceptible to intervention and change. Youth is a time when we all make mistakes and learn to overcome them. If we enshrine the concept that people cannot change when they reach adolescence, we are condemning the whole community to instability and fear.

Our policies are too often based on expedience, not effectiveness. This usually amounts to "zero tolerance" in the courts, schools, families, workplace and other institutions. This is a losing proposition. Crime is characterized by a web of broken relationships—economic, social, political, familial and, finally, brokenness within one's self. By pushing the "problem" youth out, we are snipping the delicate threads of community that should keep us together.

The harder but exceedingly more rewarding work includes hanging in with young people, teaching them, guiding them, tapping into the creative reservoir they all carry so they can find the meaningful life they are meant to live.

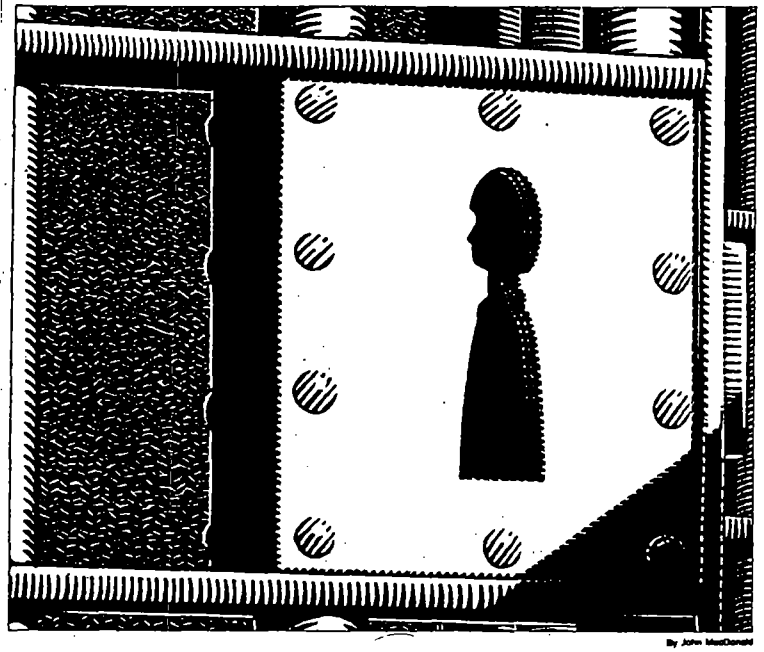
It happened with me. While I have kept out of trouble, I have come back to juvenile facilities, prisons, public schools, homeless shelters and community centers as a poet, teacher, mentor and elder. I have done this now for 20 years. What was destructive in my life turned into its opposite, which is what palpable transformative processes are all about.

We need comprehensive policies and strategies that flow from our extensive social experience on how people become positive and active members of the community. The foundation for this is the powerful and elemental idea that we save our communities by saving our youth.

Luis J. Rodriguez is founder-director of Tia Chucha Press, a poetry press in Chicago, and a volunteer for Youth Struggling for Survival, a not-for-profit organization working with gang and non-gang youth. He is the author of "Always Running: La Vida Loca, Gang Days in L.A." and "It Doesn't Have to be This Way: A Barrio Story," an illustrated, bilingual children's book.

Chicagoland South
50c NEWSSTAND
Chicago Tribune
Thursday, August 12, 1999

Crime, punishment and children



By John MacDonald

Give kids a chance at redemption

By Steven A. Drizin and Vincent Schiraldi

Bob Beamon, Olympic gold medalist and record-breaking long jumper, began getting into serious trouble with the law at the age of 9. So did Claude Brown, author of "Manchild in the Promised Land," the 1960s classic coming-of-age memoir. San Francisco District Atty. Terrence Hallinan had been arrested so many times during his youth that he was literally banished from Marin County at the age of 17.

These three "success stories" and 22 others are featured in a new book, "Second Chances," released in connection with the 100th anniversary of the first juvenile court's founding in Chicago on July 3, 1899. All the men and women featured in the book benefited from the treatment and protection of the juvenile court and the vision of Jane Addams, Lucy Flower and the other court founders.

In some cases, the court's emphasis on confidentiality allowed them to transcend their youthful indiscretions; for others, specific programs or caring adults profoundly influenced their life paths; and in other cases, the court simply afforded them the time to discover who they were and what they wanted to be. In all these cases, though, the court gave them the chance to learn from their mistakes and make better choices when next confronted with the temptation to break the law.

But as the court celebrates its centennial, Rep. Bill McCollum (R.-Fla.) is poised to strike a crippling blow to the philosophy that underpins the court. McCollum's bill, which recently passed the House, applies to federal crimes and would allow 13-year-olds to be jailed with adults; gives prosecutors non-reviewable discretion to try juveniles as adults and erodes the confidentiality rights of young people.

This is not the first time McCollum has sung this tune. In the mid-1990s he drafted the Violent Youth Predator Act, declaring about today's youth: "They're the predators out there, they're not children anymore. They're the most violent criminals on the face of the Earth." That McCollum is beating the same drum today, even after six years of declining juvenile crime and even after other prognosticators of doom have backed away from their earlier forecasts, should be a warning to us all.

Nor can McCollum and other politicians rightly claim credit for the drop in juvenile crime. That began in 1993, long before McCollum's road show. Moreover, states that have been more moderate on juvenile crime have experienced the same juvenile crime reductions as states that have gotten tougher. McCollum's state, Florida, the nation's leader in trying juveniles as adults, has the second-highest rate of juvenile crime, 48 percent higher than the national average. This is hardly an outcome he should be exporting to the rest of the country.

If anything is responsible for the 44 percent drop in juvenile homicide charges over the last six years, it is improving economic conditions for teenagers (and their parents) and diminished access to handguns. Between 1995 and 1997, when the juvenile homicide rate was plummeting, the adolescent unemployment rate dropped by 10 percent. This, coupled with increases in the minimum wage and more jobs for adults, significantly improved the financial picture for today's teens. And, in 1995, it became illegal under federal law for teenagers to possess handguns or ammunition. States and local jurisdictions, passing more restrictive measures, have also helped keep guns out of the hands of kids.

The number of juvenile homicides in Washington, D.C., for example, has dropped an astonishing 63 percent since neighboring Virginia and Maryland restricted gun sales, at the very time when the number of kids locked up in Washington dropped by half. Coupling reasonable gun control measures with comprehensive community-based efforts to persuade kids not to use guns to settle their disputes, Boston went for 2¼ years without a single child being killed by a gun.

Statistics aside, the human costs of passing McCollum's bill are dramatic. Would Bob Beamon have brought home the gold if he had been sent to an adult prison? Would he have gone on to mentor and inspire countless disadvantaged youths if he had been sent to adult court instead of to an alternative school? Would Terrence Hallinan have gone to law school, become D.A. and helped reduce San Francisco's juvenile crime rate by 27 percent if McCollum's bill were law when he was a teen?

The answer to these questions is probably no. When we sentence youths as adults, they get rearrested more frequently, more quickly and for more serious offenses than their counterparts in juvenile court. When we lock them in adult prisons, they are eight times more likely to commit suicide and five times more likely to be sexually assaulted than youths in juvenile facilities. Amnesty International estimates that last year, approximately 200,000 children under the age of 18 were prosecuted as adults. Last year, more than 17,000 juveniles were incarcerated in adult prisons—3,500 of them in the general population with adults. We should be ashamed of these statistics and should not continue to disgrace ourselves by adding to them.

The juvenile court system, though far from perfect, is a much better system for children than the adult system. Its Chicago founders were right to build on the promise and potential of children. Bill McCollum is wrong to build on the premise that children who commit crimes are evil, hopeless, incapable of redemption.

Beamon, Hallinan, Brown and the other men and women in "Second Chances" are living testaments to the resiliency of children and their capacity to change. They also are living proof of the relevance of the juvenile court for today's troubled youth. Today's Beamons, Hallinans and Browns deserve the same chance to turn their lives around as the young people of previous generations. Rather than destroying the juvenile court, Congress should be working to strengthen it.

Steven A. Drizin is supervising attorney of Northwestern University School of Law's Children and Family Justice Center. Vincent Schiraldi is director of the Justice Policy Institute.

Getting tough on juveniles brings results

By Pete du Pont

It's almost time to go back to school. What's the No. 1 concern of many parents, teachers and school officials? Safety and security.

Despite the notoriety of last April's slaughter at Columbine High School, the good news is that youth crimes have been declining sharply since 1994. According to the Justice Department's recent Crime Victimization Survey—based on interviews of nearly 50,000 households—serious violent crimes committed by juveniles ages 12 to 17 dropped 40 percent between 1993 and 1998. Other evidence tells the same tale. The number of youths arrested for murder dropped 39 percent between 1993 and 1997, according to the FBI.

During the last school year, school-related violent deaths were half of those six years earlier. The main victims of young criminals are young and the Victimization Survey also shows that serious violent crimes against youths ages 12 to 17 is down 39 percent since 1993.

So the youth crime decline is really happening. Why? Was it the elimination of violence from our movies, television, video games and the Internet? Hardly. Maybe it's a secret revival of intact families and firm embrace of traditional morality across the land? Not likely.

Should politicians get the credit? This time, they may have a point that their handiwork has helped. Most states toughened up their laws on juvenile delinquents in the '90s and we may be getting a positive return on our tax dollars.

Each year the police arrest nearly 2 million youths under age 18 on criminal charges. In 1997 one in 15 juveniles taken into police custody were referred to criminal (adult) court—the highest percent (6.6 percent) in history. That means that real consequences were more likely than ever.

Still, very few youths serve any real detention time. Only about 100,000 young offenders are in secure residential facilities throughout the country, and their average length of stay is only 147 days. Most arrested youths experience little or no detention time. Probation and a dollop of community service are the worst that happens to most of them. The system remains soft, perilously close to a punishment-free zone.

The juvenile system was started exactly one century ago in Cook County. The idea quickly spread across the nation, promoted by the same self-styled progressives who instituted such reforms as rehabilitation instead of punishment, probation, parole and the indeterminate sentence.

The theory was that treatment by social workers and other experts would minister to the "best interest" of the child and thereby reduce criminal tendencies. Our therapeutic culture makes youth a strong excuse. As a result, the juvenile system inspires little fear.

The Denver Youth Survey, a major study tracking 1,500 boys and girls since 1987, finds that arrest and processing by the juvenile justice system does little to deter delinquent behavior. After a first arrest, arrestees engage in at least as much delinquency as similar (statistically "matched") youths without an arrest. On the other hand, in a study of all 50 states from 1977-1993, economist Steven Levitt of the University of Chicago found that juvenile offenders are at least as responsive to incarceration as adults.

There is a substantial drop in criminal activity at the age of majority, especially in states that try adult criminals severely compared to juvenile criminals. Contrary to the recent "superpredator" theory over the recent rise of youth crime, Levitt believes most of the rise was a response to the softening of the juvenile system in the early 1980s compared to the toughening of adult punishment, which drove adult crime down.

Conferees on Capitol Hill currently are working on eliminating differences in the House and Senate versions of juvenile crime reform bills. Crime legislation will emerge for President Clinton's signature this year. Some provisions are praiseworthy, like those that follow the states in toughening up the treatment of juvenile offenders. Yet the bills also federalize more crime fighting, hire more bureaucrats, spend tax money and push more controls on firearms.

What the data show, though, is that with juveniles just as with adults, punishment deters. That is why youth crime is declining.

Pete du Pont, a Republican, is the former governor of Delaware.

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NEWSLINE

Juveniles deserve a second chance

By Terence Hallinan

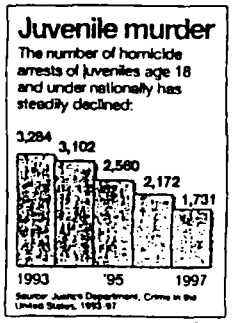
When I was a teen-ager, I was kicked out of school and arrested several times for fighting. A juvenile court judge eventually got so tired of my misbehavior that he literally kicked me out of my home county of Marin, Calif.

During my "banishment," I worked as a longshoreman and attended the University of California, Berkeley. There I was able to channel my pugilistic ways into a spot on the varsity boxing team, falling two bouts short of making the U.S. Olympic team. Over time — which is what the juvenile court gave me — I went on to practice law for 20 years, was elected to two terms on the San Francisco Board of Supervisors and, in 1996, was elected San Francisco's district attorney. Since I took office, violent juvenile crime is down 27% in San Francisco — the sharpest decline of any large county in the state.

A unique perspective on court system

Yes, I appreciate the irony. But as a prosecutor and a graduate of the juvenile court system, I also believe I have a unique perspective on the court's operation — and a personal investment in maintaining its core tenets.

Founded 100 years ago by a group of reform-minded women led by Chicago's Jane Addams, the juvenile court was part of a series of century-shaping changes in how our country viewed childhood. Others included compulsory, universal education, child labor laws and the creation of parks and recreation spaces for children.



The court's founders viewed childhood as a sacred time during which adolescents needed the guidance of caring adults. They were shocked to find at the time that hundreds of children as young as 8 were jailed alongside adults. So they fashioned a court that separated kids from adults, focused on individual care and rehabilitation, as well as fair punishment, and maintained youths' confidentiality so that youthful indiscretions didn't ruin adult promise.

Yet, as it celebrates its centennial, this American invention never has been in more jeopardy. A juvenile crime bill sponsored by Rep. Bill McCollum, R-Fla., would allow 13-year-olds to be jailed with adults, would curtail confidentiality protections, would create a mandatory sentencing scheme for kids, and would give prosecutors sole discretion, with no judicial oversight, to try juveniles as adults in federal court.

Likewise, an initiative on California's 2000 ballot sponsored by former governor Pete Wilson would also strip judges of decision-making power over whether certain juveniles should be tried as adults, and abolish confidentiality protections. These proposals follow actions by 41 states that passed laws between 1992 and 1995 making it easier for kids to be tried as adults.

There is no question that many of us profiled in the new book *Second Chances* simply would not be where we are today if such laws were in effect when we were young. The book, published by the Justice Policy Institute, a criminal justice think tank, recounts the stories of 25 juvenile court "graduates." They include politicians and probation officers; academics, attorneys and authors; students, stockbrokers and salespeople; firefighters and football players; and judges and juvenile counselors. As kids, every one of us was in trouble with the law; as adults, we're all productive, successful contributors to society.

Don't take away discretion from judges

Permanently staining the lives of young people due to youthful arrests is harmful and counterproductive. Taking discretion away from judges to make individual decisions about young people is a form of cookie-cutter justice that ignores their problems and strengths, to everyone's detriment. And jailing young people with adults is inhumane, dangerous and tantamount to giving up on kids — something we should never do.

In San Francisco, we've taken a bite out of juvenile crime through a balanced approach that combines community-based programs to help kids turn their lives around with fair but certain prosecution of youthful offenders. I have no problem fighting to lock up a kid or to have him tried as an adult if it is necessary to protect public safety. I also have no problem letting a neutral judge make the final decision after having heard all of the evidence. But a system that focuses only on punishment and ignores rehabilitation is ineffective and morally bankrupt.

On its 100th anniversary, we need to reinvigorate our juvenile court system so that it can address today's problems with solutions relevant to the 21st century, not hamstring them. Juvenile courts should hold youths accountable for their behavior without crippling them for life. They should continue to give kids a chance to make a better choice — the same chance that I and countless other young Americans had during this century.

Terence Hallinan is the district attorney of the city and county of San Francisco.

Regrettable Regression in the Way We Treat Young Criminals

The Washington Post
August 29, 1999

By L. Mara Dodge

In 1999, 100 years after the establishment of the nation's first juvenile court in Cook County, Ill., virtually all states have succeeded in passing legislation to criminalize or "adultify" their juvenile justice systems. It is now far easier to transfer juveniles to adult court, hold them in adult jails and sentence them to adult prisons. Most of the laws require judges to impose harsher and longer sentences than ever before.

I have worked with delinquent and disadvantaged youths in juvenile and adult prisons, in alternative programs for teenagers at risk and in inner-city schools, and I am deeply troubled by the shift to such draconian measures, which undermine the basic philosophy of the juvenile court as established a century ago.

In a sense, this recriminalization is a return to a philosophy—children are small adults—that Nobel Prize-winning social reformer Jane Addams and a group of visionary women fought in the 1890s, when children were routinely confined to adult prisons. They dreamed of establishing a court where troubled children would have access to specialized treatment services, and they succeeded.

The evidence of recriminalization is alarming. Last year, nearly 18,000 youths spent time in adult prisons, and 20 percent of those were mixed in with the general adult population. On any given day, 7,000 to 8,000 youths are held in adult jails nationwide. In most states juvenile records are more accessible than ever, and some states allow juvenile offenses to be counted in three-strikes legislation. Meanwhile, the United States remains the only Western nation that permits executions for crimes committed as a juvenile. As a country, we seem to have bought into the notion long advanced by tough-on-crime advocates that juvenile offenders should be treated as criminals who happen to be young, not children who happen to be criminal.

These efforts to toughen up the juvenile justice system are built on myth and misperceptions. The first myth, popularized by Princeton University professor John DiIulio, is that we are confronted by a new generation of superpredators who are beyond the rehabilitative capabilities of the juvenile court. (Interestingly, the assumption is not new. Historian Thomas J. Bernard, in "The Cycle of Juvenile Justice," has documented that for 200 years there has been a persistent belief that juveniles have been committing more serious crimes than their predecessors "in the good old days 30 or 40 years earlier.") The second myth is that we are experiencing an unprecedented wave of juvenile crime. Both myths have shown tremendous staying power, despite six straight years of declining juvenile crime rates in the United States.

Nationwide, violent offenses account for 5 percent of all juvenile arrests; homicides represent 0.1 percent. Juveniles are far more likely to be arrested for nonviolent property offenses (38 percent) and "status offenses," actions for which only minors can be arrested, such as underage drinking, running away and curfew violations (24 percent), according to the FBI's uniform crime report for 1996.

The recent horrific school shootings and well-publicized murders committed by teenagers have grossly distorted our view of young people and our perceptions of juvenile crime in general. Those cases, while shocking, are atypical. When official statistics from all sources are carefully assessed, there is strong evidence that juvenile crime (like crime overall) has declined over the last three decades.

For years, I have been trying to make sense of crime statistics. They are enormously complicated, and easily affected by small changes in reporting and processing procedures. For example, police are more likely to arrest juveniles today than they were 20 years ago. In many states, schools are required to call the police for any fight among students, in some cases even for verbal threats such as name-calling. An increase in arrests, therefore, does not necessarily indicate an increase in real rates of juvenile crime.

Juvenile arrest rates are misleading in other ways. Children are more likely to be arrested on weaker evidence than adults, and many children are released without being charged. Children are also far more likely to commit crimes in groups, which means there are multiple arrests for a single offense. For these reasons, rates of "clearance"—tracking crimes for which juveniles are actually charged and prosecuted—are far more accurate than arrest rates. And what do these clearance rates reveal? Variables make precise conclusions difficult, but since 1972, the rates of most types of crime committed by youth seem to have declined.

One thing is true: Juvenile homicide is way up. But should our response to all juvenile crimes be fueled by this one area of increase? I think not. Juvenile homicide arrests nearly tripled between 1984 and 1993 and have declined by more than 40 percent since then. But here again, arrest figures are misleading, since many of these homicide arrest cases were subsequently dismissed. One example: Youths ages 13 to 15 made up 4.2 percent of the U.S. population

and accounted for 4.2 percent of all homicide arrests in 1995, but in the end they were prosecuted for homicide in only 2.4 percent of all cases. The same pattern is clear for older teens. Moreover, the 1980s increase in homicide arrests reflected a rise in gun violence. The number of youths arrested for homicides not involving guns has declined steadily since 1984.

And when we look closely at the so-called "serious youthful offenders"—the ones being sent to prison—we find large numbers of nonviolent cases. Nationwide, two-thirds of youths transferred to adult criminal court in 1996 were charged with nonviolent offenses.

Originally, the juvenile court gave judges leeway to devise alternatives to a prison sentence. Today, ever-larger numbers of offenders—who are overwhelmingly African American and Latino—are being swept into an increasingly harsh system. In 36 states, automatic-transfer laws mandate that a juvenile who commits certain offenses be prosecuted in adult court. And funding cutbacks mean rehabilitative or treatment programs are scarcer than ever. For example, prisoners are no longer eligible for federal Pell Grants, which help fund higher education and technical training. That change has meant the end of the program that enabled me to spend five years teaching in the Illinois prison system.

There is no evidence that these get-tough policies work. In fact, juvenile defendants who are tried in adult courts are more likely to commit new crimes, and more serious crimes, than similar offenders who are prosecuted in juvenile court. And while everyone seems to have heard about offenders who return to juvenile court again and again as if through a revolving door, for many youths, that's simply not the case. According to a 1995 Department of Justice report, 60 percent of children who are referred to juvenile court learn their lesson the first time: They never reappear there. These are the successes the public rarely hears about. However, in jurisdictions such as Los Angeles, where juvenile caseloads reached 500 children per officer by the mid-1990s, and virtually all treatment programs were eliminated, it is not surprising that such success stories have become far fewer.

The juvenile court was meant to give kids a second chance—to allow them to make youthful mistakes without being penalized for life. It is this possibility that current practices are snuffing out. In the past, many youths, even those heavily involved in criminal activity, moved away from crime as they matured. Their juvenile records were kept private, whereas nowadays, laws in some states make those records available to schools, future employers and the military. Today, a single juvenile conviction can brand someone for life.

While we commemorate the juvenile court's centennial, it's worth noting that the court has never had the personnel and resources necessary to fulfill its rehabilitative mission. There never was a golden age. Since its founding in 1899, the juvenile court has repeatedly been under attack—in the 1930s and 1950s, for instance—whenever there has been widespread fear over perceived increases in juvenile crime.

Still, Jane Addams's era was a far more visionary one than our own, and it is a vision we should restore. It seems to me that current get-tough policies reflect a society that has given up on its children. We have lost faith that troubled and troublesome young people are capable of rehabilitation. Worst of all, as we have criminalized our juvenile justice system, we have demonized the youths it serves.

PREPS Class 1-A, 2-A football previews/ D1

Star Tribune

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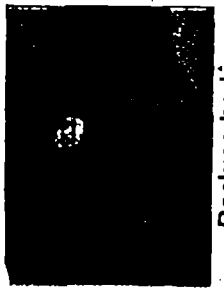

Recluse body exhumed/B6

Congress urged to block juvenile justice bill

By LANCE GAY
Scripps Howard News Service

WASHINGTON – Olympic gold-medalist Bob Beamon says it was just luck, a caring grandmother and a compassionate judge that turned his life around when he got into trouble as a juvenile delinquent.

Former Sen. Alan Simpson, R-Wyo., said it was his probation officer who gave him a second chance after he was convicted on a federal charge for shooting mailboxes. And Kansas City Chiefs linebacker Derrick Thomas said his entanglement with the juvenile justice system turned out to be "one of the most important breaks I ever got."

Now some of the former youth offenders who have gone to become broadcasters, academics, stockbrokers and prosecutors are joining forces to urge lawmakers to block a get-tough juvenile crime bill that is before a House-Senate conference committee.

The legislation, passed by the House and Senate in response to the spate of schoolyard shootings, would revamp a century-old juvenile justice system by granting prosecutors broader authority to prosecute youths as adults – with adult sentences.

Provisions would establish a national standard in giving prosecutors new powers to try even 14-year-olds as adults for violent crimes. The youths wouldn't be able to appeal the decision to have them tried as adults.

In a letter sent to Senate Judiciary Committee Chairman Orrin Hatch, R-Utah, this week, 14 former juvenile delinquents joined with the Justice Policy Institute, a Washington-based criminal justice think tank, to ask Congress to look at the successes of the current juvenile justice system, not the problems.

They warned that lawmakers will make things worse if they create an inflexible juvenile justice system that doesn't differentiate between troubled youths and criminals.

"While our stories represent a diversity of experience within the juvenile court, we all benefited from its system of interventions and its focus on

Please see BILL, A12

BILL: *Former long-jumper says getting tough not the answer*

Continued from A1

rehabilitation and confidentiality, rather than the crippling punishment of the court system," the letter says.

Beamon, who won gold in the long jump at the 1968 Mexico City Olympics, is now director of athletic programs at Florida State University in Miami. He said in a telephone interview that he signed the letter to warn Congress not to rush through changes of the juvenile justice system. "I would be very careful, and make some observations before acting," he said.

Beamon, 52, said he worries that Congress is blaming failures of the juvenile justice system for the shootings at Columbine High School near Denver last April, when most who are implicated in such schoolyard shootings didn't have a history of juvenile delinquency that would bring them in contact with the justice system.

"We're fast-forwarding it too much," he said.

Beamon said he only got where he is today because a juvenile court judge took a chance with him when he was 14, and released him into the custody of his grandmother and put in an alternative school in Manhattan, even though he had a four-year record of truancy, fighting, stealing and being a gang leader.

"The judge saw something," Beamon said, adding he's convinced he would not have found the drive for athletics if the judge had sentenced him to "real time."

Dennis Sweeny was convicted of burglaries and theft as a teenager, but went on to become San Francisco's chief juvenile probation officer before retiring three years ago.

"Getting tough is not the answer. You could have the death penalty at 12, and that would not stop another Columbine," Sweeny said.

Sweeny said that Congress should spend money on researching the causes of juvenile crime rather than pumping funds into new juvenile courts and tougher penalties.

"All we are doing now is creating a bigger industry – the correction industry that now has a lot of political clout," he said.

San Francisco District Attorney Terence Hallinan is so angry at the juvenile justice measure that he has bought newspaper ads attacking it as a step backwards to Victorian times, when there were no separate juvenile courts, and children as young as 8 were jailed with adults.

Hallinan, a former juvenile offender who was banished from his home county at 17 by a juvenile court judge, also expressed dismay over the offer of federal funds to jurisdictions that change juvenile laws.

He said that will result in local governments changing their laws to get the money.

"I strongly resent the federal government using fiscal powers to force their policies on local jurisdictions," Hallinan told reporters recently.

Derek Thomas, the 32-year-old linebacker for the Chiefs, chose to make public his juvenile arrests for auto theft to explain his work in juvenile prevention programs.

"Every kid is not a bad kid. They may do bad things, but all they need is an opportunity. The juvenile justice system gave me that second chance," he said.

COURTS: System Is on Trial

Continued from A3

than half of all juvenile crime. And in the vast majority of cases, the study found, youths who came through the Juvenile Court system once never returned on another offense.

"I think Los Angeles mirrors those statistics and I think the statistics alone show we are doing something right," said Michael Nash, presiding judge of Los Angeles County's Juvenile Court system and a former deputy attorney general whose prosecutions included the Hillside Strangler case.

Still, some high-publicity crimes involving teenagers, and even preteens, have proved so shocking that most states have made it easier in the 1990s to prosecute children as adults. Every state but Hawaii now allows youths as young as 14 to be tried as adults. Five states allow them at age 13, two at age 12 and three at age 10. The rest have no minimum at all.

The result: Each year, an estimated 200,000 children are tried in adult courts and, if convicted, often face the same punishments as adults, according to a 1998 report by Amnesty International.

Although he was in trouble with the law as a teenager, former U.S. Sen. Alan Simpson (R-Wyo.) believes today's system must be toughened to discourage crimes that are unconscionable.

"Obviously I don't think they should get rid of the Juvenile Court system," said Simpson, who at 17 pleaded guilty to destroying federal property. "I just feel there are certain heinous crimes that deserve adult treatment."

Said Simpson: "What I did was shooting mailboxes . . . we never ever intended to hurt anybody, we were never into physical abuse. But nowadays, the things you read about [juvenile crime] just make your stomach turn."

In California, voters next March will decide on an initiative—sponsored by former Gov. Pete Wilson—to significantly toughen the prosecution of youths by, among other things, authorizing prosecutors to directly file adult charges on some crimes against teens as young as 14.

Nationally, U.S. Sen. Orrin G. Hatch (R-Utah) has been among those arguing that the juvenile justice system must be overhauled.

"There are few issues that will come before the Senate this Congress that touch the lives of more of our fellow Americans than our national response to juvenile crime," the Senate judiciary chairman said before the full Senate recently passed the legislation.

Hatch's sweeping bill would allow prosecutors and the attorney general to decide whether youths should be tried as adults for federal crimes.

But others, including some who had run-ins with the law as teenagers, worry that the Juvenile Court system is becoming a scapegoat for aberrant incidents. "I think a lot of the disdain for the system is based on misinformation—that juvenile offenders are coddled . . . that juvenile offenders are all released when they reach [adulthood]," said James Alan Fox, professor of criminal justice at Northeastern University.

"Trying juveniles as adults may satisfy our thirst for vengeance and our desire for justice. But it does very little to rehabilitate juvenile offenders and turn their lives around. In fact, it may do more harm than good."

In August 1970, Luis Rodriguez was barely old enough to drive when, as one of a crowd of Chicanos protesting the Vietnam War, he was Maced, arrested and held at the Mens Central Jail because there was no room left at Juvenile Hall.

Housed in an adult wing dubbed "murderers' row," the 16-year-old Rodriguez and a frightened 13-year-old were kept in a cell next to Charles Manson's. One cellmate, Rodriguez said, sneaked a razor into jail and quickly threatened to kill the teenager. "I thought if I stood up to him it was the best thing. So I told him, 'You better make sure I'm good and dead, otherwise I am gonna kill you.'" Rodriguez remembered. "The guy looked at me real hard, pulled the blade away and started laughing."

Because the gambit worked, Rodriguez and the other youth

Associated Press

Bob Beamon, 1968 Olympics long jump gold medalist, went through the juvenile justice system as a youthful offender.

were spared. But the memory still sears Rodriguez, who is now a successful author and poet living in Chicago.

"What it taught me," he said, "was that young people being put in adult facilities is wrong."

One hundred years ago, that same conclusion prompted Chicago reformers led by Jane Addams to push Illinois to open the nation's first Juvenile Court in July 1899. Their campaign followed disclosures that hundreds of children as young as 8 were being terrorized in adult jails. The resulting Illinois Juvenile Court Act of 1899 spawned other groundbreaking reforms, based on a simple premise:

Children are children, not mini-adults.

"If you think how far the idea has spread, it is remarkable," said Northwestern's Dinzer. "At the turn of the century, children were considered property. They were put in the work force at an early age. They were not entitled to public education. And they were housed in orphanages, poorhouses and adult jails if they had trouble with the law or came from broken families.

"The movement . . . reshaped and redefined what childhood meant throughout the world," Dinzer added. "There were a whole series of reforms that said basically children are not adults. They require supervision and an investment [in] human and financial capital to get them to adulthood."

That sea change in how America viewed its children soon led other nations to follow suit. "When you think that this was a time when [not] travel overseas was [regulated] over air travel, when there were few highways, let alone superhighways, and when more people had bicycles than cars, to have places like Madagascar have a Juvenile Court was pretty staggering," said Dinzer.

But the Juvenile Court's evolution has not been without growing pains. Long before this decade's attacks, the court had been blasted from all sides for either glossing over the due process rights of children or for being too soft on teens who have proven, by repeat appearances, that they cannot be rehabilitated.

"I think the history of the juvenile justice system has been really quite mixed," said David Tanenhaus, an assistant professor of constitutional history at the University of Nevada, Las Vegas. "Although it was created with the best of intentions, by the 1920s it started to fade from the public eye, and by the mid-1950s, many of the judges in charge did not have legal training; some of them did not even have a college education.

"So we found that by the 1960s, juveniles had the worst of both worlds—they had neither due process protections that adults had, nor did they receive the social services or therapy that the juvenile justice system had promised.

"The real challenge for the 21st century," he said, "is to create a system that can deal with all the new learning we have about child development and how humans evolve over time."

In the meantime, Tanenhaus said, the constant assaults on the system make it more likely than ever that some state will move to abolish its juvenile justice program—a move that he and others describe as dangerous.

Were it not for America's Juvenile Court, he and others note, countless adults might never have been given the help needed to turn their lives around.

Many of them are well-known, like Olympic long jumper Bob Beamon, San Francisco Dist. Atty. Terry Hallinan and Washington, D.C., Superior Court Judge Reggie Walton, who served as deputy drug czar in the Bush administration.

Others, while not as familiar, hold significant positions in government. After being spared adult incarceration, Ron Laney became a decorated veteran of the Vietnam War before joining the U.S. Justice Department, where he now directs the Missing and Exploited Children's Program from Washington.

And others, still young adults, credit the juvenile courts with not giving up on them.

"I got a last chance and I was able to take that opportunity and run with it," said Jeremy Estrada, a violence-prone teenager from Boyle Heights who, at 23, is now a husband, a father and a premed senior at Pepperdine University.

After returning last week from a retreat counseling troubled teenagers, Estrada said it was precisely such programs that helped him turn his life around.

Added Los Angeles Judge Nash: "I am not going to sit back and say I am totally satisfied with the performance of the Juvenile Court or that we are totally meeting the needs of society. But having spent many years in criminal court, I can say there is very little satisfaction in that system, unless your primary satisfaction is derived from putting people in jail....

"We can't save them all, but we can save a lot of them," he said. "And I think that justifies the court's existence."

Bill McCollum, R-Altamonte Springs. ''I don't have any qualms about it.''

Since Rep. McCollum sought to keep the son of a political crony from deportation for stealing to buy drugs, he is guilty of a double standard as well as grandstanding in his bid to succeed Sen. Connie Mack. Rep. McCollum doesn't want to hear what he doesn't know. The more experienced and thoughtful Mr. Siegel, who is brave enough to admit what he didn't know five years ago, understands that Florida's juvenile justice reforms need more reform, not emulation.

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Illustration by Tom Herzberg

Second chances

Locking up kids robs them of their future—and robs the future of them

By Bob Beamon

Some people think that Mexico City was the longest jump I ever made. But just getting there was tougher.

Starting when I was 9 years old, I got into trouble with the law. I stole things. I got into fights. I skipped school. By the time I was 14, I was in a gang and had been expelled from a school for assault and battery. Social workers recommended that I be sent to a prisonlike facility far from home, and my fate hung in the balance when I appeared before a juvenile court judge.

I remember being really scared and looking down at the ground as the judge deliberated my future. My grandmother pleaded my case, and the judge, who was thoughtful and compassionate, gave me another chance and sent me to an alternative school.

The teachers were challenging, and true to my grandmother's pledge, she closely supervised my every move. The school was tough, but thanks to the judge, I had the time and space to learn that there was more to life than getting into trouble.

The rest is history.

I got off the corner and into the community center and got interested in sports. I leapt into high school track and, just a few years later, jumped 29 feet 6 inches in the 1968 Mexico City Olympics, flying 2 feet 6 inches farther than anyone else ever had.

Since breaking the long-jump record, I've worked as a counselor, an entrepreneur, an author, a motivational speaker and a corporate spokesman. When I speak to kids today, especially those at risk of taking the wrong path, I tell them: "You have a chance to make a better choice."

To commemorate the 100th anniversary of juvenile court, I am part of a project in which 25 adults come together to tell the story of how caring judges and juvenile court officials changed our lives. We are prosecutors, politicians, poets, probation officers, broadcasters, academics, attorneys, authors, stockbrokers and firefighters. We've worked at the highest levels of governments and served our country honorably.

But when we were kids, every one of us was in trouble with the law. We all benefited from the juvenile court's intervention and its focus on rehabilitation and confidentiality, rather than the crippling punishment of the adult system.

But today—in the very year that the children's court is celebrating its centennial—Congress is about to change the way kids are treated before the law. It may very well take away the kind of chance that I and many others had to turn our lives around.

The one-size-fits-all justice inherent in a pending bill is dangerous to the future of juvenile justice. The bill, which is sponsored by U.S. Rep. Bill McCollum (R-Fla.), will strip federal judges of the power to make good choices about kids' futures and give prosecutors the power to send kids directly to adult court.

We need look no further than Florida to see what a dismal failure this policy has been on the state level. Florida led the nation in allowing its prosecutors to send kids to prison and jail. Despite trying more kids as adults than any other state, it has the nation's second-highest violent-crime rate among juveniles.

Researchers at the University of Central Florida and Florida State University have shown that kids sent to prison are more likely to break the law again and commit more serious crimes after their release than kids sent to the juvenile justice system. Young people sent to jail don't get the educational and rehabilitative services that their peers get in juvenile court. All of us suffer from this collective mistake that leads to higher crime rates.

McCollum's juvenile crime bill also opens up children's federal court records to colleges and universities. This is nothing more than punishment for punishment's sake. How can we expect our children to choose a better route when, by opening up their records, we sabotage their futures? If these laws had been in effect 35 years ago, I and many others like me simply would not be leading our current productive lives.

Young people need to be punished when they commit crimes, and there always will be a few who need to be incarcerated to keep the public safe. But most kids need the helping hand of a caring judge and probation officer—not the heavy hand that slams a prison door shut.

Congress should reject laws focused on punishment and allow kids the chance to make a better choice.

Olympic gold medalist Bob Beamon is director of athletic development at Florida Atlantic University and co-author of "The Man Who Could Fly: The Bob Beamon Story."

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Essay

How I Used My Second Chance

By JEREMY ESTRADA

I was only 12 when Rudy died in my arms, the victim of a stabbing by six rival gang members. Rudy was my neighbor, my best friend, my companion. After he died, I turned to his gang for solace. I lost all interest in school and had an almost uncontrollable urge to fight. During one fight, I beat a boy so badly that he was hospitalized with internal bleeding to his brain. This vicious assault led to my first criminal charges. But with no treatment for my anger, I continued to act out in increasingly violent ways.

Eventually, I landed in the juvenile detention center and from there was sent to a group home for a year and a half. After release, I "re-offended" and was sent to a youth camp for another six months. Although I learned job skills, I still had not been given any treatment for my anger.

This time when I was released, my gang was in the midst of a war. Several of my friends had been killed and I got a gun, planning to avenge their deaths. Before I had the chance, my stepmother found the gun and called the police.

I thought I was headed for prison. But the juvenile court gave me a last chance, sending me to Rite of Passage, a wilderness challenge program, tucked away in the Nevada desert. Something clicked out in the desert. A teacher taught me how to do fractions, working with me until I mastered the math. This dedicated teacher renewed my dormant interest in education. Soon, I expanded my horizons, writing essays, studying politics and government.

My counselor encouraged me to go to college and assisted me with the paperwork and financial aid applications. Two days after being released from Rite of Passage, I was a college student.

I never looked back. Studying hard, I earned straight As in two years at Lassen Junior College and was elected president of the Hispanic Student Assn. I transferred to Pepperdine University, will soon graduate, and plan to attend medical school. I continue to mentor youth in Rite of Passage and recently spoke at an international conference on juvenile justice held in Poland.

No matter what I do, I can never forget where I came from. I feel obligated to tell my story to other young people in similar circumstances.

But today, kids like me may not get the second chance they need. Federal legislation is being considered that would give prosecutors nonreviewable discretion over whom to try as adults, would relax the prohibitions against housing teenagers with adults in jails and prisons, and would eliminate the confidentiality of juvenile court records, making them available to law enforcement and school officials, including college admissions officers.

If I had been tried as an adult rather than given a chance (indeed, many chances) to work through my anger, I doubt I'd be here today. If I had been housed in an adult prison, instead of being sent to a place with caring and committed counselors, my passion for education would never have been discovered. I'm sure I would have only gotten deeper into the gang life.

If universities are allowed access to juvenile court records, I fear that kids will never get the chance to outgrow their pasts. Pepperdine knew of my troubled past because I made the choice to disclose it, not because my records were automatically sent to the university.

I was speaking publicly about my experiences and a scout from the school heard me and invited me to apply. He had the wisdom to look beyond my transgressions and see me for who I had become. I'm not sure other college admissions officers would be so enlightened. If they had seen my records first, my opportunity to go to Pepperdine might have been stolen, and my life, which now includes a beautiful wife and daughter, would not look so promising.

Jeremy Estrada is a student at Pepperdine University.

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Help kids make leap to better decisions

By BOB BEAMON

Some people think that Mexico City was the longest jump I ever made. But just getting there was tougher.

Starting when I was 9 years old, I got into trouble with the law. I stole things. I got into fights. I skipped school. By the time I was 14, I was in a gang and had been expelled from a school for assault and battery. Social workers recommended that I be sent to a prisonlike facility far from home, and my fate hung in the balance when I appeared before a juvenile-court judge.

I remember being really scared and looking down at the ground as the judge deliberated my future. My grandmother pleaded my case, and the judge, who was thoughtful and compassionate, gave me another chance and sent me to an alternative school.

The teachers were challenging, and true to my grandmother's pledge, she closely supervised my every move. The school was tough, but thanks to the judge, I had the time and space to learn that there was more to life than getting into trouble.

The rest is history.

I got off the corner and into the community center, and got interested in sports. I leapt into high school track and, just a few years later, jumped 29 feet and 6 inches in the 1968 Mexico City Olympics, flying 2 feet and 6 inches farther than anyone else ever had.

Since breaking the long-jump record, I've worked as a counselor, an entrepreneur, an author, a motivational speaker and a corporate spokesman. When I speak to kids today, especially those at risk of taking the wrong path, I tell them: "You have a chance to make a better choice."

To commemorate the 100th anniversary of the juvenile court, I am part of a project

See Leap, back page

Olympic gold-medalist Bob Beamon is director of athletic development at Florida Atlantic University and co-author of "The Man Who Could Fly: The Bob Beamon Story." From Knight Ridder Newspapers.

Leap

Continued from Page G1

in which 25 adults come together to tell the story of how caring judges and juvenile-court officials changed our lives.

We are prosecutors, politicians, poets, probation officers, broadcasters, academics, attorneys, authors, stockbrokers and firefighters. We've worked at the highest levels of governments and served our country honorably.

But when we were kids, every one of us was in trouble with the law. We all benefited from the juvenile court's intervention and its focus on rehabilitation and confidentiality, rather than the crippling punishment of the adult system.

But today — in the very year that the children's court is celebrating its centennial — Congress is about to change the way kids are treated before the law. It may very well take away the kind of chance that I and many others had to turn our lives around.

The one-size-fits-all justice inherent in the bill is dangerous to the future of juvenile justice. The bill, which is sponsored by U.S. Rep. Bill McCollum, R-Fla., will strip judges of the power to make good choices about kids' futures and give prosecutors the power to send kids directly to adult court.

We need look no further than Florida to see what a dismal failure this policy has been. Florida led the nation in allowing its prosecutors to send kids to prison and jail. Despite trying more kids as adults than any other state, we have the nation's second-highest violent-crime rate among juveniles.

Researchers at the University of Central Florida and Florida State University have shown that kids sent to prison are more likely to reoffend and commit more-serious crimes when released than kids sent to the juvenile-justice system.

Young people sent to jail don't get the educational and rehabilitative services that their peers get in juvenile court. All of us suffer from this collective mistake that leads to higher crime rates.

McCollum's juvenile-crime bill also opens up children's court records to colleges and universities. This is nothing more than punishment for punishment's sake. How can we expect our children to choose a better route when, by opening up their records, we sabotage their futures?

If these laws were in effect 35 years ago, I and many others like me simply would not be leading our current productive lives.

Young people need to be punished when they commit crimes, and there always will be a few who need to be incarcerated to keep the public safe. But most kids need the helping hand of a caring judge and probation officer — not the heavy hand that slams a prison door shut.

Congress should reject laws focused on punishment and allow kids the chances to make a better choice.

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EDITORIALS

Juvenile crime

Give as many kids as possible a chance to turn around their lives

After nearly 15 years as a judge in Sonoma County Juvenile Court, one might expect Jeanne Buckley to fall into "kids-are-going-to-hell-in-a-handbasket" camp. Her experience has taught her just the opposite.

In a conversation about her decision to leave her post, Buckley made this crucial point:

There are about 35,000 kids in grades seven through 12 in Sonoma County.

About 500 of them are on some kind of probation.

About 70 are serious repeat offenders "who drive you nuts."

"But most kids are OK!" Buckley declared.

Her decision to step down comes as juvenile crime is high on the political radar screen. Horrific school shootings, gang activity, the off-putting appearance now in vogue among young people who hang out in Courthouse Square and other gathering spots — all these have many civilians wringing their hands and politicians rushing forward to ease popular concerns with legislation.

The problem is, some of the remedies will make the problem worse and destroy young lives that quite likely would straighten out if given the chance.

On Page G1, Bob Beamon, the man who set a world long jump record in the 1968 Mexico City Olympics, writes that he drifted into crime at the tender age of 9, and by 14 he was before a juvenile judge who could have incarcerated him in a place where he would have been hardened and learned still more violent ways from his fellow inmates.

Instead, the judge gave Beamon another chance. He took advantage of it and has gone on to live an exemplary life that includes counseling young kids to stay out of trouble.

As Beamon writes, one of the scarier provisions in the federal juvenile crime legislation is a proposal that would require states, if they want block grant funding, to take away from judges and give to district attorneys the decision of whether to certify a juvenile to stand trial as an adult.

That means prosecutors — not juvenile judges like Jeanne Buckley or the judge who gave Bob Beamon a chance to reach Olympic glory — would have arbitrary say over whether a 14-year-old would do better under the supervision of a judicial system designed to rehabilitate him or under an adult system that has no programs for and no experience with young kids.

> The problem is, some of the remedies will make the problem worse and destroy young lives . . .

Some youthful offenders do not belong in the juvenile system. The youngest person Buckley ever ordered to stand trial as an adult was 15, one of the young men who savagely beat Dylan Katz into a coma in Windsor in 1996.

But those cases are the exceptions. A study in Orange County showed that of the kids who show up in juvenile court, the overwhelming majority never return after their first scary visit, a sizeable percentage show up twice, and about 8 percent are kids who are repeat, chronic offenders.

As Congress returns to the juvenile crime bill, which has been larded up with such extraneous issues as gun control and wine sales on the Internet, responsible lawmakers will write legislation that strengthens the ability to deal with serious juvenile offenders but does not destroy thousands of other lives before they have a chance to begin.

They must do so for the sake of the kids, but also for everybody else — which means all Americans — who have a stake in troubled kids getting better not worse.

Chicago Tribune

September 7, 1999 Tuesday, CHICAGO SPORTS FINAL EDITION

SECTION: COMMENTARY; Pg. 14; ZONE: N; Voice of the people (letter).

LENGTH: 319 words

HEADLINE: JUVENILE CRIMINALS

BYLINE: Lynnette Stamps, Dwayne Sanders, Youth organizers, Illinois Caucus for Adolescent Health.

DATELINE: CHICAGO

BODY:

We applaud the coverage by Louise Kiernan in "Doors shut on 1 theory as the youth prisons open" (Page 1, Aug. 30). The Illinois Caucus for Adolescent Health advocates for holistic and preventative approaches to juvenile justice, which the article outlined. The recent trend to criminalize youth as "superpredators" has promoted such unnecessarily punitive legislation as Chicago's anti-gang loitering ordinance, which promotes profiling in low-income communities and communities of color.

The increased rates of incarceration of adolescent women are an alarming trend. Despite the decrease in juvenile-related crimes since 1994, Congress is considering legislation to give states block grants in the amount of $1.5 billion to fight juvenile crime. The trend for programs funded by this money will treat adolescents with tougher, adultlike policies. The continuing treatment of youth as adults does not provide young people with the rehabilitation envisioned by the creators of Illinois' juvenile justice system; rather it is a step in shaping hardened criminals in years to come.

One example of effective prevention services that offer promise can be found in DuPage County, where a jail work camp provides an alternative rehabilitation method for non-violent juvenile felons. The camp will help inmates obtain their GED certificates, learn how to prepare resumes, learn basic computer skills and apply for jobs. The goal of the administrators is for everyone to leave the program with a job.

Incidents such as the recent school shootings must not be used to justify the passage of punitive juvenile justice legislation. Quick-fix solutions often do more harm than good. Illinois' evolution into a more progressive program on this issue will hopefully influence other states to rethink their public policy from the political demonization of juveniles to a more realistic perception of juvenile crimes.

GRAPHIC: GRAPHICGRAPHIC: (Illustration by) Anya Johnson.

LANGUAGE: ENGLISH

The Palm Beach Post

September 2, 1999, Thursday, FINAL EDITION

SECTION: OPINION, Pg. 16A

LENGTH: 553 words

HEADLINE: CREATE BETTER CITIZENS, NOT NEW CRIMINAL CLASS

BODY:

Five years after the Legislature gave prosecutors in Florida the power to send children to adult court, one author of the law regrets it. Former state Sen. Gary Siegel, who chaired the Senate Criminal Justice Committee that wrote the 1994 juvenile justice reforms, believes the law does too little to keep children from committing crimes.

''When you take a 13- or 14-year-old and send him to the state pen,'' said Mr. Siegel, a Republican who represented a suburban Orlando district, ''you've created a career criminal.'' His criticism mirrors the results of a University of Florida study, which shows that children treated as adults are more likely to commit a crime again than those who go through juvenile court. Yet Florida's reforms have become the model for Congress' dangerous juvenile justice bill, which lawmakers plan to discuss next week.

No state has tried more children in adult court than Florida. As The Post reported Monday, Florida houses 10 percent of the 16,000 juveniles in adult prisons nationwide. One, 16-year-old Charisma McGee, spent two years in prison for burglary and auto theft. She qualified for punishment as an adult, at age 14, because she had been through the juvenile courts for shoplifting and purse-snatching. Because the juvenile system had no room in its programs for Charisma, her name went on a waiting list. She spent 21 days in a juvenile detention center and was sent home without getting the treatment, supervision and punishment a judge had ordered. Then she committed a more serious crime.

Charisma's case is typical. When she got out of prison, she moved back with her grandmother, one of the few in her family not incarcerated. Her little sister is in the juvenile detention center. Both her parents are in prison. Her 24-year-old boyfriend is in jail. What role models does she have?

Legislators wanted Florida's new juvenile justice laws to give prosecutors a way to protect society from violent children and to give those who had committed lesser crimes a sobering jolt that the juvenile courts could not provide. Among other problems, juvenile judges could not hold unruly defendants in contempt of court. The reforms have accomplished that goal, in some cases.

But there was a second goal: keep problem children from becoming career criminals. Florida was supposed to reduce the waiting lists for juvenile justice programs and keep track of children when they went home. That part of the law - which requires more money if it is to be successful - has not been a priority.

The sponsors of the federal bill have written it the same way: lots of money for prisons; no money for prevention. When anyone commits a serious crime, ''that person, whatever his age, has to be removed from society,'' said Rep.

The Courier-Journal (Louisville, KY.)

September 8, 1999, Wednesday KY/KENTUCKY

SECTION: NEWS Pg.05b

LENGTH: 532 words

HEADLINE: State studying racial mix of juvenile inmates

SOURCE: STAFF

DATELINE: LEXINGTON, Ky.

BODY:

Kentucky is will spend up to $ 100,000 to study the racial gap in its juvenile detention centers, to determine whether they have a disproportionate number of black children and - if so - why.

Only 11 percent of Kentucky's children are black. But in 1998, 31 percent of the 12,690 admissions at the state's juvenile jails were black.

The disproportion is even greater in Louisville and Lexington, urban areas where most of the state's African Americans live. In 1998, the cities' non-adult minority populations averaged about 15 percent, but nearly half of the youths placed in detention centers were minorities.

''We're concerned that we don't have a lot of good numbers and facts to work with on this issue. There isn't much use in our speculating on what the causes might be,'' said Fayette District Judge Megan Lake Thornton, vice chairwoman of Gov. Paul Patton's juvenile-justice committee, which approved the proposed study.

In 1988, Congress responded to the disparity by amending the Juvenile Justice and Delinquency Prevention Act of 1974 to require all states to study the racial situation in their juvenile-justice systems.

Kentucky is conducting its study - albeit 11 years later - under the auspices of its 2-year-old Department of Juvenile Justice.

Most states' studies have concluded that black children were more likely than whites to commit the types of crimes - theft, burglary, assault and drug dealing - that attract the attention of police.

The reasons for this are complicated, said Kathryn Wood, a Somerset criminal-defense lawyer who is on the juvenile-justice committee.

Speaking generally, Wood said, black youths are more likely to be afflicted by the types of social problems - poverty, broken homes, parents with criminal records and poor educations - that can lead to a life of crime.

The juvenile-justice committee promised to give serious thought to possible solutions once the study is completed this fall.

The Courier-Journal (Louisville, KY.), September 8, 1999

''Our mood is, we want to get to the bottom of this problem,'' Wood said. ''If the numbers are as they appear right now, it's very unfair, and it needs to stop. We also realize it won't be easy.''

''It's a scary subject to address, and before you can address it, you need to get it on the table and have everyone drop their defensiveness,'' said Pam Lester of the Kentucky Department of Juvenile Justice.

Some people want juvenile jails - and later, adult prisons - to hold ''other people's children'' who can make the white middle class uncomfortable on the streets, Lester said.

''But we all live in the same community,'' she said. ''We all have a stake in the success of all the children, not just the children who look like us. I don't believe in pointing fingers and saying: 'These are my kids; I care about them. And those are somebody else's kids; I don't care what happens to them.' ''

Disproportionate numbers also appear in Kentucky's adult prisons - 38 percent of the inmates are black.

But the disparity is especially disheartening when teen-agers are involved, Lester said, because the original intent of juvenile courts a century ago was to rehabilitate young people instead of imprisoning them.

LANGUAGE: English

LOAD-DATE: September 10, 1999

Two Juvenile Justice Bills Under Consideration Would Make System Worse

BY CHRISTINE GERHARD

Two juvenile justice bills, now before a House-Senate conference committee in Congress, contain punitive measures, that if included as part of the final bill that the full Congress is expected to vote on this Fall, would make worse a juvenile justice system already characterized by Amnesty International as being harmful to children.

Regressive measures in the two bills fail to take into account the downward trend in juvenile crime, and instead, hit hard on the punitive side.

The House bill is especially disturbing because it re-institutes the dangerous practice of allowing young offenders in the federal system to be placed in cells with adults. Incredibly, one proposal would allow offenders as young as 13 to be housed with adult inmates in federal prisons, subjecting them to greater likelihood of sexual abuse and suicide.

Research has shown that juveniles commit suicide in adult jails eight times as often as those held in juvenile detention facilities. They are five times more likely to be sexually assaulted, twice as likely to be assaulted by staff, and 50 percent more likely to be attacked with a weapon.

The final bill should maintain current provisions calling for separation of children and adults, although even under present law, more than 3,700 juvenile offenders have been sentenced to prisons where they are not separated from adults, according to Amnesty International.

Other potentially injurious measures include removing confidentiality protections, thereby reducing the likelihood that youthful offenders could reenter mainstream society without stigma; expanding prosecution of juveniles in federal courts; allowing prosecutors alone, without review by judges, to determine if youthful offenders should be tried as juveniles or adults; and requiring judges to impose long sentences on offenders, regardless of age, or the merits of each case.

The Senate bill repeals the already weak provision in federal law, requiring states to address the disproportionate confinement of minority youth, who like minority adults, are overrepresented in the nation's jails and prisons.

Both the House and Senate bills inappropriately give parents the right to waive federal protections for their errant children, possibly subjecting the children to unacceptably long periods when they would be incarcerated with adults. These provisions should be dropped from the final bill.

Any new federal legislation must balance accountability for criminal activity with prevention measures that help kids stay on the straight and narrow, and must retain basic protections for children and youth who are already involved with the juvenile justice system.

The juvenile justice proposals are being considered by five Senators and 20 Representatives, including Sen. Orrin Hatch, as Congress convened after Labor Day and the Conference Committee began its work.

The Committee should reject the unnecessarily harsh proposals, and instead, place emphasis on increasing resources for proven juvenile crime prevention programs.

In particular, the Conference Committee should adopt two provisions in the Senate bill that would increase funding for prevention. One involves setting aside for prevention programs 25 percent of an existing accountability block grant for juvenile programs.

The other provision calls for establishment of a " parenting as prevention" program. It is essential for the conferees to adopt the 25 percent set aside guarantee because investments in proven crime prevention programs are the key to curbing juvenile crime.

Without a set-aside guarantee, there would be temptation to spend money on more detention and correctional programs, which the other 75 percent is intended for, instead of prevention efforts.

Finally, what started out as juvenile justice legislation has come to be overshadowed by the bills' gun control amendments. Since firearms kill nearly 13 children and young people every day, the modest gun law provisions that are in the Senate bill must be adopted: three business day background checks for all gun show purchases, safety devices sold with every gun, a ban on importing high-capacity ammunition clips, and a ban on juvenile possession of assault weapons.

These are minimum level provisions that will help protect children from gun violence. They should be included in the final bill along with the maintenance of current protections for youthful offenders and sufficie funding for prevention progran These are the best hopes for fi ther reductions in juvenile crin

The Child Welfare League America (CWLA) is an assoc tion of more than 1,000 public a not-for-profit agencies that rectly help 3 million at-risk ch dren and their families annual

CWLA concentrates on p tecting abused and neglect children, strengthening vulne ble families, and breaking t link between child abuse and j venile crime. CWLA's Weste Region is comprised of 15 stat including Utah, and has over 2 agencies and organizations co mitted to guarding children rights and protecting children needs.

Christine Gerhard is deputy rector of the CWLA Western Offi — Mountain States. To learn mo about CWLA or how you can he "Protect America's Children," vi the website at www.cwla.org.

The Idaho Statesman

September 12, 1999, Sunday

SECTION: Editorial ; Pg. 9b

LENGTH: 410 words

HEADLINE: Bills would endanger young people

BYLINE: By Mike Jones

BODY:

Juvenile justice bills now before some House-Senate conference committees in Congress contain punitive measures that, if included in the final bill that Congress is expected to vote on this fall, would make worse a juvenile justice system already characterized by Amnesty International as harmful to children.

Regressive measures in the two bills fail to take into account the downward trend in juvenile crime and, instead, emphasize the punitive side. Incredibly, one proposal would allow offenders as young as 13 to be housed with adult inmates in federal prisons, subjecting them to a greater likelihood of sexual abuse and suicide.

Any new federal legislation must balance accountability for criminal activity with prevention measures that help kids stay on the straight and narrow - and it must retain basic protections for children and youths who are already in contact with the juvenile justice system.

Besides the proposal to house young offenders with adult prisoners, other potentially injurious measures include expanding prosecution of juveniles in federal courts; allowing prosecutors alone, without review by judges, to determine if youthful offenders should be tried as juveniles or adults; and preventing judges from considering each case on its merits. Recent studies have shown that youths, when tried in adult courts, serve less time, are more likely to reoffend and are more likely to commit an even more serious offense.

The conference committee should adopt two provisions in the Senate bill that would increase funding for prevention. One involves setting aside 25 percent of an existing block grant for juvenile prevention programs. The other calls for establishment of a "parenting as prevention" program. Investments in proven crime prevention programs are the key to curbing juvenile crime.

The House bill is especially disturbing because it re-institutes the dangerous practice of allowing young offenders in the federal system to be placed in cells with adults. Research has shown that juveniles commit suicide in adult jails eight times as often as those held in juvenile detention facilities. They are five times more likely to be sexually assaulted, twice as likely to be assaulted by staff and 50 percent more likely to be attacked with a weapon.

The final bill should maintain current provisions calling for separation of children and adults.

The Idaho Statesman, September 12, 1999, Sunday

Mike Jones of Boise is president of the Idaho Youth Ranch.

LOAD-DATE: September 14, 1999

Letters to the Editor

By mail: Letters to the Editor, Chicago Sun-Times, 401 N. Wabash, Chicago, 60611
By fax: (312) 321-2120; **By e-mail:** letters@suntimes.com
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Letters must include name, address and a daytime telephone number.
Letters may be edited for space or content.

More punishment no cure for kids' crime

The juvenile justice bills now before a House-Senate conference committee in Congress contain punitive measures that would make worse a system already characterized by Amnesty International as harmful to children.

Regressive measures in the two bills the committee will merge fail to take into account the downward trend in juvenile crime and instead hit hard on the punitive side. Incredibly, one proposal would allow offenders as young as 13 to be housed with adult inmates in federal prisons, subjecting them to greater likelihood of sexual abuse and suicide.

Any new federal legislation must balance accountability for criminal activity with measures that help kids stay on the straight and narrow—and it must retain basic protections for children who are already in contact with the juvenile justice system.

In particular, the conference committee should adopt provisions in the Senate bill that would increase funding for prevention. Investments in proven crime prevention programs are the key to curbing juvenile crime.

The House bill is especially disturbing because it reinstitutes the dangerous practice of allowing young offenders in the federal system to be placed in cells with adults. Research has shown that juveniles commit suicide in adult jails eight times as often as those held in juvenile detention facilities. They are five times more likely to be sexually assaulted, and 50 percent more likely to be attacked with a weapon.

The Senate bill repeals the weak provision requiring states to address the disproportionate confinement of minority youths, who, like minority adults, are overrepresented in the nation's jails and prisons. The Senate provision should be dropped. And both bills inappropriately give parents the right to waive federal protections for their errant children, possibly subjecting the children to unacceptably long periods when they would be incarcerated with adults. This provision also should be dropped.

Finally, what started out as juvenile justice legislation has come to be overshadowed by gun control amendments. Since firearms kill nearly 13 children and young people every day, the modest gun law provisions in the Senate bill must be adopted: three-business-day background checks for all gun show purchases, safety devices sold with every gun, a ban on importing high-capacity ammunition clips and a ban on juvenile possession of assault weapons. These minimum-level provisions should be included in the final bill along with the maintenance of current protections for juvenile offenders and sufficient funding for prevention programs. These are the best hopes for further reductions in juvenile crime.

Constance H. Ackert,
executive director,
Illinois Action for Children

Juvenile Crime Bill Unconscionable

BY JANICE PETERMAN

As the mother of a young son who died needlessly in an adult jail, you can imagine my outrage and shock to hear that some members of Congress are ignoring countless tragedies of children being harmed in jails, prisons and juvenile facilities, like the one that took my son Chris's life, and seeking to pass laws that will result in more children being hurt and abused.

During the last 17 years, I have bitterly regretted the day my former husband allowed our 17-year-old son Chris to be placed in the Ada County Jail for $73 in unpaid traffic fines.

His father thought the experience would toughen Chris up, and if nothing else he thought he would at least be safe in the jail.

In a three-day ordeal, our slightly built young son, who had a reputation as a good kid and who had never been in any serious trouble before, was beaten, tortured, burned and bludgeoned to death by five older inmates who shared his cell.

Four of the five had extensive records. Yet the jail didn't know how to deal with youngsters or provide basic safeguards which would have protected our son from his killers.

I swore his death would not be in vain. I turned my grieving for Chris into work to protect other families from suffering a similar tragedy.

As part of the class action lawsuit that was filed on our behalf, I was horrified to learn that more than 650 children had been held in the same jail over a 3-year period, 42 percent for traffic offenses and 17 percent for such minor things as truancy and underage drinking.

We also discovered that another 17-year-old youngster, who had been serving a 30-day sentence for failing to pay a fine for possession of tobacco, had been beaten about a week before Chris was killed by some of the same inmates who were responsible for Chris's death.

Amazingly, after this youth had been beaten for 2 hours he was taken to the local hospital only to be returned to the same cell afterwards.

Thankfully, the local officials in Boise agreed to enter into a consent decree to end incarceration of youth in the jail, an agreement which is still in place today. However, now Congress is threatening to change this.

As part of the juvenile crime bill which was passed by the House, and which is due to be taken up by a House-Senate Conference Committee in September, Representative Tom DeLay (R-TX-22) has inserted a provision which would automatically terminate all consent decrees of this type which were in effect before April of 1996.

I've learned that these types of consent decrees exist in scores of counties around the country where children have been abused and mistreated in adult jails and poorly run juvenile facilities.

That means that if the DeLay amendment is made into law, children could once again be held in the Boise jail where Chris died, and thousands of children could again be locked up under dangerous, often horrific conditions in other jails and juvenile facilities all over America.

Congress is also considering other changes that would place many children at risk and do nothing to make our communities safer. These changes include allowing federal prosecutors non-reviewable discretion to try youths charged with federal offenses as adults, thereby allowing children as young as 13 years old to be jailed with adults, and eroding the confidentiality protections for young people by making their records available to schools to which they are applying.

I'm praying that Congress comes to its senses. We all agree that kids need to be held accountable for their behavior, but accountability shouldn't mean putting our children in dangerous and inhumane situations. Mr. DeLay and his colleagues in Congress shouldn't give up on our kids — we never would.

Janice Peterman is the mother of a teen who was killed while in an adult correctional facility.

Chicago Tribune

Sunday, September 12, 1999

Setting the tone for juvenile justice

The federal government does not involve itself greatly in matters of juvenile crime and punishment, and that is as it should be. After all, juveniles rarely commit federal crimes.

But in recent years, as the notion of protecting the citizenry from a predicted generation of pint-sized predators gained political currency, Congress vigorously turned its attention to juvenile crime issues. Properly directed, such attention might be welcome; sadly, it is not in this case.

A conference committee is working now to reconcile juvenile justice bills passed earlier this year by the House and the Senate, and the conferees no doubt are preoccupied with high-profile gun-control amendments. But gun control, critical as it is, ought not be allowed to overshadow the bills' juvenile justice provisions.

That's because although only a relative handful of juvenile offenders come under the jurisdiction of the federal courts each year, the laws governing their treatment constitute a model for the states.

The bills under consideration raise concerns because they whittle away at critical areas of protection that have long formed the bedrock of juvenile justice in this country. And if there is one overarching role the federal government *must* play, it is to set a tone and send the message that juveniles who come in contact with the law are entitled to protections not accorded adults; that rehabilitation, not long-term incarceration, is the goal, and that prevention now is far preferable to punishment later.

Yet between them, the House and Senate have included a number of provisions that would seriously erode those principles. They would:

■ Broaden the circumstances in which children as young as 13 may be prosecuted and sentenced as adults for certain crimes. Is a kid of 13 old enough to fully understand his constitutional rights? Is he old enough for society to give up on his chances for a productive life? It is appalling that Congress could answer yes to those questions.

■ Give prosecutors unilateral discretion to transfer to adult court a juvenile charged with certain crimes. In those rare cases where it may be warranted to strip a child of the protections usually accorded children, the decision to do so should be left to a judge, not to the prosecutor, who has a built-in conflict of interest.

■ Allow juveniles to have incidental contact with adult prisoners and, in some cases, *to be housed with them*. This even though kids in adult prisons are eight times more likely to commit suicide than those in juvenile facilities, and have a far greater chance of being injured. Surely justice is not served by increasing the numbers of children put at such risk.

If Congress wants to show its concern for curbing juvenile crime, it should be offering full funding and support for prevention measures, including early intervention and parenting programs. That would preserve the integrity of the juvenile justice system—and send the right message to the states.