



Bruce N. Reed
03/25/97 01:20:24 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Update on Ideas

I need a status report by 6pm on a few ideas we've been looking at:

Health Care (Chris):

1. Medical records privacy
2. EO on unemployed workers
3. Criminal background checks on home health care/nannies
4. Diabetes research

Consumer/Safety/Family (Elizabeth)

1. Seat belts
2. Drunk driving (.08)
3. Aggressive drivers
4. EO on FMLA for federal workers
5. Tobacco/Medicaid

Welfare/Family

1. Child care tax credit
2. Statutory rape
3. When Eli Segal will be ready to announce
4. WR cabinet mtg

Crime

1. Smart guns
2. Youth ROTC

Education

1. NAGB
2. Teacher news

Govt reform

1. Foreign lobbyist ban
2. Sanctions on foreign govts for influence
3. Auto-choice insurance reform

Thanks. Sorry for the short notice.

Message Sent To: _____

Subject: Status of DPC Crime and Drug Initiatives
Date: March 24, 1997

Megan's Law Guidelines

Background: Justice Department is finalizing state guidelines on Megan's Law -- requiring community notification of sex offenders -- and reforms to the Wetterling Act -- which requires convicted sex offenders to register with states for 10 years.

Action: On Thursday March 27th, at a White House event, the President will 1) announce Megan's Law guidelines; and 2) sign a Directive to the AG and Secretary of Defense to instruct federal and military offenders to notify state registration agencies concerning the release to their areas of federal sex offenders.

Assault Weapons Clips

Background: Senator Feinstein has written and spoken to the President regarding the importation of large capacity ammunition feeding devices into the United States.

Action: Treasury Department has provided information on current extent of the problem. Issues to be resolved: 1) congressional fallout for supporting/ proposing a ban on the importation of assault weapon clips.

Victims Directive

Background: Last April, when the President announced his support for a victims rights constitutional amendment, he also directed the Attorney General to report back to him with recommendations on how to improve the protections and services in the Federal system for victims.

Action: Justice Department has been sitting on a draft report for several months. They have been informed that we would like to announce it the during Victims Week -- April 14-19.

POTUS letter to FCC on Hard Liquor ads

Background:: Draft letter to FCC urging them to review the decision of some liquor companies to bread their voluntary agreement to not purchase TV ads.

Action: Presidential event scheduled for April 1st.

Outstanding issue: Shalala opposition to letter.

DoJ's Report on Internet Bomb-Making material

Background: A provision in the Anti-Terrorism Bill directed the Attorney General to conduct a study concerning the extent to which there is available to the public material in any medium that provides instruction on how to make bombs, the extent to which information has been used in incidents of terrorism, and the need for additional laws on this issue.

Action: The Justice Department has completed a report that concludes that it would be "appropriate and beneficial to adopt further legislation to address this problem directly, if that can be accomplished in a manner that does not impermissibly restrict the wholly legitimate publication and teaching of such information, or otherwise violate the First Amendment."

Outstanding issue: Should we announce suggested legislation outlined in the report as an Administrative proposal?

Brady Case Strategy

Background: Supreme Court will soon decide on the constitutionality of the Brady Law.

Action: Several prong strategy -- 1) Legislation reforming Brady Law in response to Supreme Court decision 2) Pledge signed by chiefs and sheriffs to continue to enforce Brady 3) Reno/Rubin letter to all chiefs and sheriffs urging them to continue to enforce Brady 4) ATF letter to all FFLs notifying them of their continued legal obligations under the rest of the Brady Law.

Nanny Checks

Background:

Action:

Regulating Prescriptions Drug in the mail

Background: During ABC Radio Town Hall, the President stated that he was going to examine whether we can better regulate prescriptions drugs traveling through the mail.

Action: ONDCP has contacted FDA and Postal Service for information on current regulations on prescriptions drugs sent through the mail. Should have some feedback from ONDCP early this week.

Upcoming Issues

Crack Cocaine

Sentencing Commission has informed us that they will be proposing amendments to the sentencing guidelines on May 1st to resolve the disparity between crack and powder cocaine sentences. In 1995, the Sentencing Commission recommended that crack cocaine sentencing guidelines be reduced to powder cocaine levels. Congress passed legislation rejecting those recommendations and the President signed this legislation. It appears Sentencing Commission will now propose a "pinch" solution -- lower crack penalties partially and raise powder cocaine penalties.

Outstanding issue: Administration position on any changes to sentencing guidelines needs to be determined.

Supreme Court Internet-porn case

Background: The Supreme Court just heard oral arguments on the constitutionality of the Communications Decency Act -- which makes transmitting indecent material on the Internet punishable by two years in prison and a \$250,000 fine. A decision striking down the provision as unconstitutional could come down early this summer.

Action: We should begin considering legislation that would address an adverse Court decision.

Meetings

COPS Program --- rescheduled

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Meetings

COPS Program --- rescheduled



Bruce N. Reed

03/14/97 04:58:35 PM

Record Type: Record

To: Dennis K. Burke/OPD/EOP

cc: Elena Kagan/OPD/EOP

Subject: Your Ideas

I know you're busy taking away the right to bear arms, but I hope you'll set aside some time to follow up on some of the excellent ideas you put forward in your initiatives memo. In addition to the ones we've already talked about, like the sex offender registry, the Victims deal (can we do a bipartisan event the week of April 14?), the after schools initiative, Brady, and of course, gun clips, can you push forward on:

1. Mayors Drug Conference -- something, anything, to make news with
2. Bullet proof vests -- did we give up on that?
3. the Missing Kids directive
4. HUD report
5. Smart Guns

Your shoes will be impossible to fill, and your legacy is at stake. Thanks. The criminals will breathe easier when you leave here. (But the child pornographers in Arizona will be running scared.)

THE WALL STREET JOURNAL THURSDAY, MARCH 20, 1997

LAW

Justices Show Concern Over Smut On the Net in Indecency-Law Case

By EDWARD FELSENTHAL

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON — The Supreme Court, hearing a challenge to Congress's first attempt to regulate the Internet, appeared deeply concerned about the presence of smut in cyberspace.

Although the justices gave little indication of how they will ultimately rule on the law, which makes it a crime to transmit "indecent" material to minors, they seemed open to the idea that Congress had legitimate motives in getting involved. Several justices suggested that, even if this law



is too harsh, other restrictions on Internet pornography might not be. That would be a blow to some of the plaintiffs in the case, who have argued that any regulation of Internet content violates the First Amendment's free-speech protections.

The law, known as the Communications Decency Act, makes transmitting indecent material punishable by two years in prison and a \$250,000 fine. On-line services could be found to violate the law if they promote or advertise discussion groups or World Wide Web sites that contain such material. Last year, a federal appeals court in Philadelphia struck down the act, calling it a "profoundly repugnant" violation of the First Amendment and arguing in strident terms that the global computer network must be free from government intrusion.

But in oral arguments at the Supreme Court yesterday, the justices took on a decidedly more even-tempered tone. Justice Anthony Kennedy worried about "protecting kids who don't have parents at home" to monitor their behavior. Chief Justice William Rehnquist compared the law to regulations of radio stations that have been held to be constitutional and indicated that he didn't see why the Internet should be treated differently.

Although some of the justices have admitted to discomfort in discussing the complex world of new media, the court had clearly boned up on cyberspace jargon and brandished it in repeated questions about Web technologies. Justices John Paul Stevens and Antonin Scalia seemed interested in ways to "tag" Web sites as improper for minors, much as the proposed "V-chip" for television would allow parents to block sexually explicit or violent programs. Justice Sandra Day O'Connor inquired about special software designed to help parents control what their children do

But much of the morning turned into a lively and somewhat informal conversation about the demands of the First Amendment and the rigors of child-rearing. Bruce J. Ennis, who represented the 50-odd companies and groups that are challenging the law, and Seth Waxman, the lawyer for the government, are both seasoned Supreme Court advocates, and the justices appeared to enjoy the give and take.

Justice Scalia, who has nine children, chided Mr. Ennis for being unrealistic about the amount of time parents can devote to policing their children's activities in cyberspace. "If I had to be present every time my 16-year-old is on the Internet, I would know less about this case than I do today," he said. Justice Stephen Breyer twice mused about the prospect of high-school students mischievously describing their sexual experiences to one another on the Web. "Are you saying that every high-school student who would do this would be guilty of a federal crime?" he asked Mr. Waxman.

Despite their concern about children, the justices were obviously troubled by the rigidity of the act and the possibility that its stiff punishments might deter other kinds of speech on the Internet that are perfectly legal. Justice Kennedy fretted that the law might ultimately lead to the imprisonment of some librarians or the owners of novelty cafes that provide both coffee and Internet access. Justice Ruth Bader Ginsburg compared the law to archaic provisions once on the books in many states that made it a misdemeanor to use bad language around women and children.

Industry observers fighting the act were encouraged by the court's interest in the technology. "When you understand the technology and see how the Internet really works and how parental control tools really work, then you realize that the Communications Decency Act, as currently drafted, won't work," said William Burrington, director of law and public policy at America Online Inc. Mr. Burrington believed the best way to protect children from adult material is through the use of software tools that block access to certain corners of the Internet as well as various ratings systems that have been applied to thousands of Web sites.

A decision in the case is expected in late June. The court has also been asked to resolve a separate New York case that challenges the indecency law; its outcome will presumably be determined by the court's ruling in this case. (*Reno vs. American Civil Liberties Union*)

Separately, in a victory for business, the court ruled that property owners can sue under the Endangered Species Act to limit government conservation efforts.

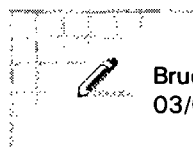
The controversial 1973 species-protection act contains a provision that lets citizens sue the government or anyone else who is violating it. The government had argued that the provision was intended to allow suits only by people with an interest in protecting wildlife. But the justices, in a unanimous opinion by Justice Scalia, said it also lets business sue to block overly intrusive environmental regulations.

"There's going to be a surge of litigation under the Endangered Species Act as a result of this," predicted Patrick Parenteau, director of the Environmental Law Center at Vermont Law School. Mr. Parenteau said the decision may also be used to expand the scope of other laws with similar "citizen suit" provisions.

The case was filed by ranchers and others who object to restrictions on how much water can be drawn from reservoirs in southern Oregon and northern California for irrigation. The limits are designed to protect the habitat of two kinds of endangered fish: the Lost River sucker and shortnose sucker. The ranchers' suit claims that federal officials failed to follow a provision of the species act that requires consideration of the "economic impact" of preservation efforts. The case now returns to the lower court for a trial. (*Bennett vs. Spear*)

—Jared Sandberg
contributed to this article.

ADVERTI:



Bruce N. Reed
03/07/97 06:27:16 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Ideas to vet

The following ideas were suggested for our review. Some are half-baked, some less so, and others may be worth pursuing. Could you look into them and get back to Elena by COB Tuesday your advice on the ones in your area, as well as any better ideas you may have? Thanks. This is the same drill as before -- what's your guess as to whether it's 1) advisable; and 2) something we can get done, and how long will it take us to make a recommendation.

Thanks. The more good ideas of our own we put in the pipeline, the less of this we'll have to do.

1. Child care (Cynthia/Elena): The govt runs the largest day care operation in the country. Could we open govt day care centers to people who don't work for the govt for a reasonable fee? [Cynthia: We should also look at other child care ideas that might make more sense, like endorsing an expansion of the dependent care tax credit, underwriting a major effort to build child care centers, etc.]

2. Environment (Diane/Paul): 1) Is EPA working on an expansion of right to know laws to cover chemical waste in 7 additional industries? 2) When will EPA develop the Safe Water regs requiring every water company to send every consumer an annual statement showing test results of the quality of water in their tap and any health concerns about drinking it? 3) Are we expanding Brownfields?

3. Education/Volunteerism (Diana/Mike): For the service summit, are depts considering adopting schools? Could every dept adopt 10 schools? [OR could they sponsor charter schools? What would they do with a school they adopted?]

4. Family Leave (Paul/Elizabeth/Elena): Could the President do an executive order to extend family leave for federal employees to cover routine doctor visits etc. (in line with our legislative proposal)?

5. Education (Mike): Can we do anything to provide monetary incentives for American students to take engineering courses?

6. Aggressive Drivers (Elizabeth): Is DOT working on a way to set up a system for people to call police from the road on phones to report the location of reckless or aggressive drivers?

7. Criminal Checks for Nannies, Home Health Care (Dennis/Chris): Apparently a couple in NY whose nanny murdered their child is crusading for this. Do we have a database, registry, or background checks for this? [Haven't we done this 10 times already? The Oprah bill, and the new home health care regs, etc.]

8. Medical Records Privacy (Chris): Did you see the NYT story yesterday on the commission on this issue? Can the HC Quality Commission look at this sometime this century?



Thanks. We'll get a better system down soon. I know it's a pain and occasionally goofy, but it's important.

Message Sent To:

Elena Kagan/OPD/EOP
Paul J. Weinstein Jr./OPD/EOP
Michael Cohen/OPD/EOP
Cynthia A. Rice/OPD/EOP
Diane C. Regas/OPD/EOP
Christopher C. Jennings/OPD/EOP
Elizabeth Drye/OPD/EOP
Dennis K. Burke/OPD/EOP
Diana Fortuna/OPD/EOP

Q It is entirely a matter of state law to provide these ^{crim} records ~~in~~ for a non-criminal purpose.

Q Why don't we have a Federal law?
FBI has wanted to leave it to the States

Some minor exceptions:
people who are employees of fed insured banks → have had checks

There is more to be done

THE WHITE HOUSE
WASHINGTON

February 26, 1997

**FOR INTERNAL USE ONLY
TIME SENSITIVE**

**MEMORANDUM FOR JOHN PODESTA
 MARIA ECHAVESTE
 JOHN HILLEY
 RON KLAIN
 GENE SPERLING
 BRUCE N. REED
 CHUCK RUFF
 GREG SIMON
 TOM KALIL**

FROM: Kathleen M.H. Wallman
 Anna Gomez

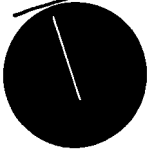
RE: Attached Draft Letter on Liquor Advertising on Television

COPY: Rahm Emanuel

Attached for your views and comments is a draft letter from the President to FCC Chairman Reed E. Hundt. The letter reiterates the President's view, expressed last year in a radio address, in opposition to the distilled spirits industry's decision in 1996 to drop its voluntary ban on hard liquor broadcast advertising. Attached are some background materials on this issue.

This draft is for internal use only. **This is time sensitive**; Rahm indicated that we may need to be prepared to release this on Friday, February 28.

cc: Rahm I. Emanuel

Dennis

*Respond
for Bruce
Thanks.*

The Honorable Reed E. Hundt
Chairman, Federal Communications Commission
1919 M Street, N.W., Suite 814
Washington, D.C. 20554

Dear Chairman Hundt:

I write to ask your assistance in addressing a new and emerging challenge to parents struggling to raise safe, healthy children: the decision by manufacturers of hard liquor to advertise on television.

For half a century, these companies voluntarily refrained from such advertising. They understood that advertising over the uniquely powerful and pervasive medium of broadcasting could reach children inappropriately, encouraging them to drink before it is even legal for them to do so. Until now, these companies have shown appropriate restraint. For as long as there has been television, they have known that a voluntary ban was right and they lived by it.

Now, some companies have broken ranks and started placing hard liquor ads on TV. I was greatly disappointed by their decision. I have previously expressed my dismay at this action and called on the industry to urge all its members to return to their long-standing policy and stand by the ban. I am gratified to learn that, according to one survey, the vast majority of television stations are declining to air these advertisements. I applaud that stand.

I firmly believe that we have a national obligation to act strongly to protect our children from threats to their health and safety. That's why I have fought so strongly to impose appropriate regulations on the sale and distribution of cigarettes and smokeless tobacco and tobacco advertising that appeals to adolescents, to ensure that our schools and children are safe and drug-free, and to combat gangs and violence afflicting our youth.

I applaud your public remarks calling on the industry and broadcasters to reactivate the voluntary ban. I also commend your comments that the Federal Communications Commission has an obligation to consider any and all actions that would protect the public interest in the use of the public airwaves.

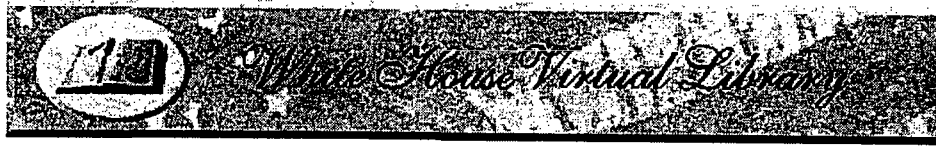
I urge the Commission to take all appropriate actions to explore what effects might ensue in light of the decision by manufacturers of hard liquor to abandon their long-standing voluntary ban on television advertising, specifically the impact on underage drinking. In particular, I believe the Commission should examine whether restrictions on such advertising during certain time periods might be appropriate if a link between the advertising and underage drinking is established.

We have made tremendous progress in recent years reducing the incidence of deaths due to drunk driving among our youth. We have taken important steps including the increase

in the 1980s in the drinking age to 21 and the passage of zero tolerance legislation for underage drinking and driving. But there is more to be done. Too many of our young people are dying in car crashes, and too many young people are starting to drink at an early age, leading to alcohol and other substance abuse problems.

I would appreciate your help and the help of the Commission in exploring the possible actions you could take to support our parents and children in response to the manufacturers' decision to break with the long and honorable tradition of not advertising on the broadcast medium.

Sincerely,



Saturday Radio Address

Saturday Radio Address - 1996-06-15

[Listen to Address from Beginning](#) || [Download Soundfile \(.au ~3.5MB\)](#)

THE WHITE HOUSE

Office of the Press Secretary

Embargoed For Release
Until 10:06 A.M. EDT
Saturday, June 15, 1996

RADIO ADDRESS OF THE PRESIDENT
TO THE NATION

The Oval Office

THE PRESIDENT: Good morning. Tomorrow millions of Americans will reach out to their fathers in thanks. I believe being a father is the most important job a man can do. Today I want to talk with you about what our nation can do to help fathers as they try to raise good children.

A good, strong father can make the difference between a lifetime of disappointment and anger, and a lifetime of fulfillment and good parenting in turn. Children from single-parent families are twice as likely to drop out of high school, to have a child before they're 20, to live in poverty. Children who don't have a dad at home are more likely to do worse in school than those who do, regardless of their household income.

Yet, in so many ways, being a father today is harder than it was when our own dads were young. Most fathers are working longer hours to help support their families. At the same time, as many women move into the workplace, many, many American fathers find themselves taking on even greater responsibilities at home.

So if we want to keep the American family strong in the 21st century, we have to support America's fathers in doing their best by their children. That's why we worked hard to pass the Family and Medical Leave Law, to cut taxes for our hardest-pressed working families, why we're fighting to raise the minimum wage and to make it easier for parents to pay for their children's college education, why we're fighting to protect the Medicaid that helps working parents with children with disabilities to keep working and support their

children.

In addition to supporting fathers, we should expect basic responsibilities from them. That's why we worked so hard to strengthen child support enforcement. And I'm proud that child support collections are up by 40 percent in the last three years. We are also urging fathers to get more involved, along with mothers, in their children's education. In fact, this summer Education Secretary Dick Riley is enlisting fathers and mothers to keep reading to their children and reading with their children through vacation.

While math and science scores have gone up in recent years, our reading scores have remained just about flat. And reading ability drops off when children are out of school. Secretary Riley's Read Write Now initiative will encourage 1 million children to keep reading, even after the school doors close. Fathers can help to build a lifetime of memories for themselves and their children by reading with them every day. I know. On this Father's Day all those books that I read with Chelsea together are among my most precious memories.

We also have to help parents protect their children from bad influences that come from outside the home. American parents are working overtime to keep their homes safe, to set good examples, only to have popular culture make their hard work even harder. That's why we worked hard to give parents the V chip, so they can keep excessive violence and other inappropriate material out of their young children's Tv viewing, and why we have encouraged the entertainment industry to rate their Tv programs. It's why we're supporting anti-drug strategies to help parents keep their children drug free.

Parents also know that, aside from television and drugs, alcohol and tobacco are two of the biggest dangers to our children. Our administration is working hard, along with tens of thousands of citizens, including so many young people in anti-smoking groups, to keep our children away from tobacco. Every day 3,000 kids start to smoke in this country illegally. And 1,000 of them will have their lives shortened as a result. Our administration has proposed strong rules to prevent the advertising, marketing, and sales of tobacco to children.

Now some political leaders who oppose our efforts to restrict advertising and sales to children are saying that cigarettes are not necessarily addictive, even going so far as to compare the dangers of kids smoking to the dangers of some children drinking milk. Well, that's certainly the tobacco company line. But it was the Surgeon General, Dr. C. Everett Koop, under President Reagan, who concluded nearly a decade ago that cigarettes are addictive, highly addictive. In fact, next week 130 of the nation's top doctors and scientists are meeting to discuss how people can break free from tobacco addiction, not whether it's addictive.

So when political leaders parrot the tobacco company line, say cigarettes are not necessarily addictive, and oppose our efforts to keep tobacco away from our children, they continue to cater to powerful interests, but they're not standing up for parents and children. In fact, they're making the job of being a parent even harder.

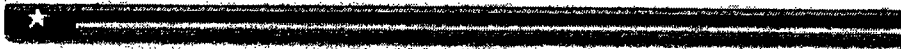
So on the eve of this Father's Day I say to the tobacco industry, support our efforts to keep tobacco away from our kids. And I say to others in public life, stop fighting those efforts; you should be supporting them, too.

One thing parents haven't had to worry about is their

kids being exposed on television and radio to liquor advertisements. For half a century, liquor companies have voluntarily kept their ads off the air for the simple reason that it was the right thing to do. So I was disappointed this week when a major company announced it would break the ban and put liquor ads on Tv, exposing our children to liquor before they know how to handle it or can legally do so. After voluntarily staying away from this for 50 years, being good corporate citizens, companies are now considering changing plans. I ask the companies to get back to the ban. Pull those ads. We appreciate your good corporate citizenship, and our parents need it to continue.

Let's all resolve to make the job of being a father easier. Tomorrow we celebrate our fathers, who every day, without fanfare or recognition, are doing the hard work it takes to be good fathers, good husbands, good citizens of our country. To all of you, I say thank you, God bless you, happy Father's Day, and thanks for listening.

End



To comment on this service: feedback@www.whitehouse.gov

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**U.S. House of Representatives
 Committee on Commerce**

Room 2125, Rayburn House Office Building
 Washington, DC 20515-6115

January 2, 1997

JAMES E. DERGERMAN, CHIEF OF STAFF

The Honorable Reed Hundt
 Chairman
 Federal Communications Commission
 1919 M Street, N.W.
 Washington, D.C. 20554

Dear Chairman Hundt:

The Members of this Committee have been closely observing the developing controversy surrounding beverage alcohol advertising. Like you, we believe the beverage alcohol industry, like any other industry, has the duty to encourage its customers to use its products responsibly.

We view with great seriousness the role of the Congress in this controversy. As we consider the issues surrounding broadcast advertising for beverage alcohol, I want to understand more fully your views and those of each of your fellow Commissioners about your agency's ability, competence, and jurisdiction to address those issues.

As you know, Congress established the Federal Communications Commission over sixty years ago. The Commission was created pursuant to Congress' responsibility under the Commerce Clause of the Constitution to foster the orderly development of our nation's telecommunications services, including broadcast radio and television. The Commission was given the authority to license radio and television stations, and only limited, and clearly articulated, authority over the matters that are broadcast.

Congress also carefully limited the Commission's authority. For example, Congress has never given the Commission the ability to censor specific programming or advertising; to prohibit or limit broadcasters' ability to air commercial advertising; or to prohibit or limit particular advertising of products or services legally sold in interstate commerce. It is unclear that Congress could give the Commission the ability to do any of those things in a manner consistent with the First Amendment. Even in the limited instances where the content of broadcast advertising, or the specific products or services that may be advertised, is regulated or prohibited — including

The Honorable Reed Hundt

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obscene or indecent advertising, prohibitions on gambling advertising and public broadcasting underwriting, and cigarette advertising -- it was Congress that required the Commission to act.

Congress expressly created the Commission to be its expert agency on telecommunications issues. It is far less evident that Congress expected or empowered the Commission to become the expert agency on the effects of advertised products on segments of society, to be the evaluator of claims of the harmfulness of lawfully sold products, or to ban or limit advertising of those products. If the Commission took on that role, I am concerned that it could achieve little else that Congress expects of it within its existing mandate. This is particularly troublesome because Congress plainly gave one of your sister agencies, the Federal Trade Commission, explicit authority to address these matters.

As a result, I find curious your public assertions that the Commission can regulate broadcast advertising of beverage alcohol. These views are especially noteworthy since they are not held universally by your fellow Commissioners.

To better understand the many points of view at the Commission on this issue, through this letter I am requesting you, and each of your fellow Commissioners, to provide your views on the Commission's ability to regulate advertising, including alcoholic beverage advertising. Please include in your responses answers to the following questions:

- Where in the Communications Act has the Commission been given the ability to censor specific programming or advertising?
- Where in the Communications Act has the Commission been given the ability to prohibit or limit broadcasters' ability to air commercial advertising?
- Is it possible, consistent with the First Amendment and the Communications Act, for the Commission to censor specific programming or advertising, or to prohibit or limit broadcasters' ability to air commercial advertising?
- Can the Commission censor or regulate specific programming or advertising before it actually airs? When?
- From where does the Commission derive any specific authority to regulate or prohibit particular kinds of advertising?
- Does the Communications Act give the Commission the ability to regulate or prohibit advertising in any area other than specific areas where Congress specifically gave the Commission that authority?

The Honorable Reed Hundt
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- What legal authority does the Commission have to assert that it can render expert judgments on the effects of advertised products on segments of society, to be the evaluator of claims of the harmfulness of lawfully sold products, or to ban or limit advertising of those products?
- What specific resources would the Commission call upon to reach its judgments on the effects of advertised products on segments of society, to be the evaluator of claims of the harmfulness of lawfully sold products, or to ban or limit advertising of those products?
- Do you believe it is appropriate, consistent with the First Amendment, for the Commission or any Commissioner to suggest, intimate, or threaten that a broadcast license may be denied, conditioned, limited, or not renewed on the basis of the content of otherwise lawful advertising aired or to be aired by a licensee or applicant?

We would appreciate a response from you and each individual Commissioner no later than January 31, 1997.

Sincerely,



JOHN D. DINGELL
RANKING MEMBER

cc: Commissioner James H. Quello
Commissioner Rachelle Chong
Commissioner Susan Ness

OFFICE OF
THE CHAIRMANFEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

January 31, 1997

The Honorable John D. Dingell
U.S. House of Representatives
Committee on Commerce
Room 2125
Rayburn House Office Building
Washington, DC 20515-6115

Dear Congressman Dingell:

Thank you for your letter of January 2. I appreciate your interest in the important issue of the introduction of distilled-spirits advertising onto television and radio. Like you, I believe this controversy demands close scrutiny.

You pose several questions concerning the source of the FCC's authority in this area, and in particular, its authority to limit broadcasters' ability to air commercial advertising. The FCC's authority stems from its powers under Title III of the Communications Act to ensure that the grant or renewal of broadcast and other radio licenses serves the "public interest, convenience, and necessity." 47 U.S.C. §§ 309(a), 309(k). The Act also gives the FCC the authority to promulgate whatever rules or regulations are necessary to carry out the provisions of the Act, including rules which bear on its licensing responsibilities. 47 U.S.C. §§ 154(i), 303(r).

This statutory language has historically and consistently provided an ample jurisdictional basis for the FCC to evaluate broadcasters' use of their licenses, including their advertising activities, and to take action when the public interest requires it. For example, relying on its authority under the public-interest standard, the FCC proposed in 1969 to ban the broadcast of cigarette commercials by radio and television stations. Notice of Proposed Rulemaking, Amendment of Part 73 of the Federal Communications Rules With Regard to the Advertisement of Cigarettes, 16 FCC 2d 284 (1969). The FCC concluded that it had authority to ban cigarette advertising under the public-interest standard. *Id.* at ¶ 15. (FCC action was overtaken by Congress' enactment of a ban on cigarette advertising, 15 U.S.C. § 1335.) The D.C. Circuit upheld the FCC's ability to require cigarette counter-advertising under its public-interest standard in the context of the now-repealed fairness doctrine. Banzhaf v. FCC, 405 F.2d 1082, 1087 (D.C. Cir. 1968), cert. denied, 396 U.S. 842 (1969). In so doing, the court rejected the argument that the FCC's public-interest mandate did not provide a jurisdictional mandate to evaluate the issue. 405 F.2d at 1091-93.

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The public-interest goal of protecting youthful viewers has been a specific concern of the FCC, and several cases have upheld the FCC's authority to take steps to shield children from certain television programming which is harmful to them. See Denver Area Educ. Telecommunications Consortium, Inc. v. FCC, 116 S. Ct. 2374, 2385 (1996); FCC v. Pacifica Foundation, 438 U.S. 726, 748-49 (1978); Action for Children's Television v. FCC, 58 F.3d 654, 661 (D.C. Cir. 1995). The Fourth Circuit's recent Anheuser-Busch decision, affirming the constitutionality of a ban on liquor advertising in areas where children walk to school or play in their neighborhoods, demonstrates that advertising restrictions to protect young people may be constitutional. Anheuser-Busch, Inc. v. Schmoke, 101 F.3d 325 (4th Cir. 1996).

Your letter notes that the Federal Trade Commission has authority over some advertising matters. However, FTC jurisdiction under the FTC Act over false and misleading advertisements and unfair or deceptive practices does not divest the Commission of jurisdiction over the broadcast of distilled spirits advertising. See 15 U.S.C. §§ 45 & 52. Rather, the FTC and the FCC exercise concurrent jurisdiction over broadcast advertisements. See Elimination of Unnecessary Broadcast Regulation, 57 Rad. Reg. 2d 913, 924-25 (1985) (describing prior FCC regulation that held broadcast licensees responsible to the FCC under the public interest standard for false or misleading advertisements), recon. denied, 58 Rad. Reg. 2d 864 (1985), aff'd, Telecommunications Research and Action Center v. FCC, 800 F.2d 1181 (D.C. Cir. 1986). Because of their complementary jurisdiction, since 1957 the FTC and the FCC have maintained a cooperative relationship whereby the agencies exchange information regarding broadcast advertisement complaints. Id.

The FCC has the authority to examine the issues raised by the introduction of distilled-spirits advertising and to take action, if appropriate. Of course, Congress could at any time address these issues through legislation, and indeed, there are many legislative proposals which merit full consideration.

The questions you raise regarding the proper scope of the FCC's jurisdiction, and its appropriate role in this matter, are significant issues that would benefit from a thorough examination pursuant to a formal Commission proceeding. A Notice of Inquiry would provide a forum to permit interested members of the public, broadcasters, cable operators, the distilled-spirits industry, advertisers, the academic community, and others to voice their views and to present data relevant to this use of the public's broadcast spectrum. It would also provide a basis, if appropriate, for the FCC to consider taking steps under its existing statutory authority or recommending particular statutory changes to Congress.

A Notice of Inquiry would permit careful consideration of the important First Amendment issues raised in this context. Courts have long recognized that, because of its special features, the broadcast medium receives more limited First Amendment protection than do other media. Therefore, broadcast advertisements may well be properly subject to

Honorable John D. Dingell

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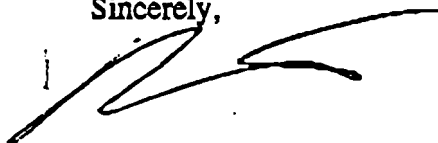
appropriately tailored restrictions if these advertisements were shown to be harmful to young viewers. Of course, any interpretation of the public interest standard would have to be consistent with the anti-censorship provision of 47 U.S.C. § 326.

Your letter asks what resources the FCC would call upon to reach a judgment regarding the effects of such advertisements on viewers. Because examination of this matter falls within the exercise of our jurisdiction and within our general rule-making authority, the FCC would draw upon the general resources available for use in the satisfaction of our statutory mandate. A Notice of Inquiry is an initial, fact-gathering action. If the record developed in response to a Notice of Inquiry were to indicate that the Commission should act, the Commission would need to undertake another proceeding before introducing any new rule.

Your last question asks whether it would be appropriate for the Commission to suggest, intimate, or threaten that a broadcast license may be denied, conditioned, limited, or not renewed on the basis of lawful advertising content. It is not appropriate to threaten licensees on the basis of lawful activities, and we have not done so here.

I hope that this information has proved helpful. Please let me know if you require any additional information. I look forward to working with you on this matter.

Sincerely,



Reed E. Hundt
Chairman

Enclosure

Boucher wants ASkyB, broadcasters to reach consensus

Local retransmission rights likely on congressional agenda

By Heather Fleming
WASHINGTON

Before he takes to Capitol Hill ASkyB's case for retransmitting local TV signals, Representative Rick Boucher (D-Va.) wants broadcasters and ASkyB to reach some consensus.

Based on a ruling last year by the Library of Congress's Copyright Office, ASkyB—the DBS venture of Rupert Murdoch's News Corp. and MCI—thinks it can retransmit local TV signals under existing cable and satellite copyright law. But it seeks legislation to secure the right.

"I support the approach that ASkyB is recommending, but the advice I've given to News Corp. is that they need to have an agreed-upon approach with broadcasters to an amendment to the Home Satellite Viewers Act," Boucher said in an interview. "If they can reach an agreement with the broadcasters, they will have little difficulty in processing the legislation."

Under the current system, affiliates of the same network with overlapping "Grade B contours"—a broadcast signal's coverage area—have the right to object to retransmission of the local net-

work signal by a DBS operator within the overlapping area. What would make more sense, Boucher says, is to distribute the signals based on the markets defined by Nielsen (DMA) or Arbitron (ADI) ratings services rather than the actual coverage area, which ASkyB is pushing.

"Broadcasters should find some value in that," says Boucher. "Each broadcaster would be in a position to have [its] signal reach more households, and [the broadcaster could] make sure it dominates within the ADI without some other affiliate intruding in its space."

The National Association of Broadcasters (NAB) will take up the issue at its board meeting in Naples, Fla., next week.

"The cable industry is skeptical, and independent broadcasters are skeptical of the proposal," one industry lobbyist says. "If you presume that affiliates and large independents are reaching everyone in a market, giving consent



Rick Boucher

[to retransmit the signal] does not increase their reach and ad revenue."

National Cable Television Association (NCTA) President Decker Anstrom says he will withhold judgment on ASkyB's plan until he sees a specific legislative proposal. "But generally, if a satellite provider wants to be treated as a cable operator for purposes of the cable compulsory license, it also [must take on] other obligations, such as must carry, syndicated exclusivity and other non-duplicative sports rights," says

Anstrom. Under must-carry laws, cable companies have to carry local broadcast signals.

Another cable lobbyist says the ASkyB proposal would "probably be no big deal unless we lose must carry [at the Supreme Court].... But if cable systems have to do must carry and [ASkyB] wants to cherry-pick, the cable industry would find that totally unacceptable."

Because the 105th Congress is just beginning,

Boucher—a member of both the House Judiciary Committee's Courts and Intellectual Property Subcommittee and the House Commerce Committee—has not yet discussed the issue with House or Senate colleagues.

However, Senate Judiciary Committee Chairman Orrin Hatch (R-Utah) and ranking member Patrick Leahy (D-Vt.) are considering legislative proposals of their own.

An aide to Senator John McCain (R-Ariz.), chairman of the Commerce Committee, says he considers the issue

Hundt losing steam on television liquor ads

NEW ORLEANS—FCC Chairman Reed Hundt's drive to investigate liquor advertising has stalled, according to a top aide. "We don't have a consensus now at the commission or on the Hill about what the commission's next step will be," said Hundt aide Julius Genachowski Sunday at the Association of Local Television Stations' pre-NATPE conference.

"There may not be that much left to talk about," Genachowski said. Most TV stations have decided not to accept liquor advertising, he said.

In condemning liquor advertising earlier, Hundt had said that government intervention would not be necessary if most sta-



Julius Genachowski

tions eschewed the ads. In a BROADCASTING & CABLE survey, 86% of the responding station executives said they were avoiding the liquor spots. But 69% said they should have the right to carry them.

Led by Alaska, several states have petitioned to launch an inquiry in hopes of discouraging the ads.

But John Dingell (Mich.), the powerful ranking Democrat on the House Commerce Committee, told the FCC to stay out of the controversy.

"Congress has never given the commission the ability to air commercial advertising," he said in a Jan. 2 letter to the FCC.

—HAI

Domestic Policy Council Initiatives and Events for 1997

Crime and Drugs

March

Prison Drug Testing Last year, the President pushed Congress to pass a provision requiring states to drug test prisoners and parolees as a condition for receiving 1994 Crime Bill Prison grant funding. Unfortunately, during the process Congress amended this provision to preclude states from using prison grant funds to help pay for the drug testing. The President's Anti-Gang Bill includes a provision permitting states to use 1994 Crime Bill funding for drug testing.

On December 12, 1996, the President announced that the Justice Department had developed drug testing and sanction guidelines to assist states in meeting the new requirements. The guidelines require states to implement a post-conviction program of controlled substance testing, interventions, and sanctions with articulated policies and procedures by September 1, 1998.

These guidelines should be now be followed up with two actions:

- 1) **Presidential Letter to Governors.** President sends a letter to all 50 governors informing them that reducing cycle of drug abuse in our nation's criminal justice systems is one of his top priorities and he has every intention of making these deadlines a reality. He would seek their support in passing the Anti-Gang Bill provision, which would greatly assist them in achieving the mutual goal of breaking the cycle of crime and drugs.
- 2) **Prison Drug Testing Initiative Director.** President would announce that he has asked a high profile criminal justice expert/top professor-type (or Commission w/ high profile Chair) to administer this program. Over the next 12 months, this Director will work with all 50 states to ensure that their drug testing plans are adequate and up to speed. This announcement will show Presidential commitment and action. Just as important, it takes control of the monitoring of states out of bowels of the Justice Department bureaucracy, where it would otherwise not occur.

Safety Lock Event and Executive Order (Anti-Gang and Youth Violence Strategy Event #1) A provision in the President's Anti-Gang and Youth Violence Bill requires Federal Firearms License Dealers to sell a safety lock with any handgun. To highlight this provision and serve as an example, the President would announce that he is directing all federal law enforcement agencies to require that handguns be issued with a safety lock (I believe ATF

already has this requirement). The President would sign the directive at a White House event accompanied by the Bradys and law enforcement.

The event could be held on March 30th, which is the 16th anniversary of Jim Brady's shooting.

Hard Liquor Advertising For years, the hard liquor industry has voluntarily agreed not to show liquor ads on TV. Some companies have now broken that agreement. In furtherance of his National Drug Control Strategy roll-out, the President would send a letter to the FCC requesting that they consider restrictions on hard liquor advertising on television during certain time periods.

Sex Offender Registry President would visit the National Center for Missing and Exploited Children in Arlington, Virginia where he would take a tour of facility and announce that the interim National Sex Offender Registration system -- which he directed the Attorney General to develop in the June 21, 1996 Radio Address -- is now up and running.

He would also announce that he is signing an Executive Order instructing the Attorney General and the Secretary of Defense to insure that sex offenders released from Federal and Military prisons are listed in the national registry.

ABC Radio Anti-Drug Town Hall The President has already agreed to participate in a radio town hall for ABC in Mid-March in which he would field questions and discuss youth drug use with youth and parents.

April

National Anti-Drug Media Campaign The President's FY 98 Budget Submission includes \$175 million for a national anti-drug media campaign directed towards our youth. This initiative is the cornerstone behind the number one goal in the President's National Drug Control Strategy -- to reduce youth drug use. The President and General McCaffrey have already indirectly challenged the media to match our contribution dollar for dollar so that \$350 million would be dedicated to anti-drug ads. Unfortunately, we will not be able to expend any funds on this initiative until we enact the appropriation bill. ONDCP can, however, expend discretionary funds in their FY 97 budget to begin producing anti-drug ads.

At a Rose Garden event, the President would kick-off his Administration's anti-drug media campaign with one of the celebrities who has committed to appear in an ad. President Clinton would also release a letter that he is sending to every network issuing his challenge that

they match our contribution and begin dedicating more air time to anti-drug ads (ONDCP is currently reaching out to celebrities and sports figures such as Michael Jordan, Grant Hill, and Tiger Woods to tape anti-drug ads).

Anti-Gang Prosecutor Event (Anti-Gang and Youth Violence Strategy Event #2)

The cornerstone of the President's Anti-Gang and Youth Violence Strategy is a \$200 million anti-gang prosecution grant program. The President would meet with prosecutors from across the country in the Oval Office where they would thank him for his strong support in fighting gangs. The prosecutors -- Republican and Democrat -- would urge Congress to move quickly to pass the President's bill.

After schools Initiatives Event (Anti-Gang and Youth Violence Strategy Event #3).

To highlight his 1000 new after schools initiatives in his Anti-Gang Bill, the President would visit a successful after schools program and meet with the kids who have been positively impacted by the schools staying open in the evenings, on the weekends, and in the summer. That day, he would also announce that HHS is providing several million dollars in grants from its FY 97 appropriation for new After schools programs across the country.

Victims Constitutional Amendment In June 1996, the President announced his support for a constitutional amendment for victims rights -- to guarantee victims the right to be notified, to receive restitution, receive reasonable protection measures, and to be heard at sentencing and parole hearings.

At a White House event, the President would:

1. Urge Congress to pass the Amendment quickly;
2. Receive a report from the Attorney General -- in response to his June 25, 1996 Directive -- outlining measures taken by the Justice Department to increase and improve Federal level victim's services and protections;
3. Announce the creation of a Federal victim notification system; and
4. Announce additional funding from the Victims Crime Fund -- which is larger than ever before -- that will be provided to victims services and shelters throughout the country.

This event could occur on April 19, the third anniversary of the Oklahoma City bombing or during April 14-18, which is National Crime Victims Week.

May

Mayor's Drug Conference In announcing the 1997 National Drug Control Strategy, President Clinton stated that he will be convening a White House Mayors Conference on Drug Control on May 21st. This is in response to a request from Chicago Mayor Daley, who is currently chair of the U.S. Conference of Mayors.

The President could use that event to announce a new drug initiative or a development in one of the other listed initiatives. For example, he could announce the Chair of the Prison Drug Testing Program or kick-off his anti-drug media campaign.

National Peace Officers' Memorial On May 15th, the President would speak on the Mall to law enforcement and families in honor of National Peace Officers' Memorial Week. He would urge Congress to pass his safety lock proposal so that more gun violence deaths can be prevented.

National Missing and Exploited Children Day May 16th. The President and the First Lady would host an event in the Rose Garden honoring National Missing and Exploited Children. John Walsh, Mark Klaas, Colleen Nick (who met with the President after her daughter, Morgan, was reported missing) and others would be in attendance.

The President would unveil a PSA -- in which he appears -- that would be used for serious child kidnaping cases where the child is abducted by a stranger. The President would also release a letter that he is sending to all 50 Governors asking them to post missing children photos in all state government buildings and property, modeled after his 1996 Directive requiring all Federal facilities to post such photos.

Summer

Brady Law Supreme Court Case Late Spring/Summer. When the Supreme Court decides the challenge to the Brady Law, assuming we lose, the President would hold an event at the White House with law enforcement and the Bradys where he would announce:

- 1) Proposed legislation that he is sending to the Hill to address the Supreme Court case and that he is calling on Congress to immediately pass it;
- 2) A letter from Reno and Rubin to chief law enforcement officers nationwide asking them to continue enforcing Brady checks; and that
- 3) He has already received a signed pledge from numerous Police Chiefs and Sheriffs across the nation that they will continue to conduct Brady checks.

COPS Hiring Announcements Throughout the coming year, the Justice Department will have several rounds of new COPS announcing. During 1997, 17,000 additional new community police officers will be funded by the Justice Department.

For the Third Anniversary of Crime Bill signing on September 13, 1997, the President and the Attorney General would swear-in the "75,000th cop" signifying that the program is 3/4's towards the President's goal of 100,000 new police officers in three years.

Parental Responsibility Bill In a speech on youth violence and drugs, the President would encourage more states and localities to adopt parental accountability or responsibility laws, so that parents are held accountable for the acts of their children.

Drug Strategy Letter Before Congress returns from their long August recess, the President would send a letter to the Speaker and the Senate Majority Leader urging them to ensure when they return that his drug budget is fully funded as they conclude the appropriations process.

Fall

Signing of Anti-Gang Bill/ National Gang Tracking Network President Clinton would travel to Boston to sign his Anti-Gang and Youth Violence legislation, the site of his initial announcement. He would also announce that his National Gang Tracking Network is now operating throughout the Northeast and other regions will soon be able to access it.

First State-wide Implementation of 3-1-1 In response to a public safety crisis created by clogged 9-1-1 services across the nation, on July 23, 1996, President Clinton asked the Attorney General to work with the FCC, law enforcement and the telecommunications industry to develop a national community policing number for non-emergency calls. On February 13, 1997, the FCC responded to the President by setting aside 3-1-1 for non-emergency public safety use. With funding from the Justice Department, the City of Baltimore has already instituted a 3-1-1 system and it has been enormously successful in reducing 9-1-1 backlog.

The President would travel to Colorado to announce that it is the first state to adopt state-wide use of 3-1-1 and that it will serve as a model for other states. He would urge every state to adopt 3-1-1 by the year 2000.

Other Potential Report Announcements Throughout the Year.

HUD One-Strike for Public Housing Report March. In March 1996, the President announced the implementation of the One-Strike policy for public housing. HUD is starting to

collect information on the number of public housing agencies that are implementing the policy. In March, the HUD Secretary would provide the President with a one-year progress report on One-Strike. If grant announcements were ready for the Public Housing Drug Elimination Grants or Operation Safe Home, they could also be announced.

Violence Against Women Report Summer. One of the most important and far-reaching sections in the 1994 Crime Bill was the Violence Against Women Act. The Attorney General would provide the President a report outlining its progress to date.

Shaming Sentences. The President would encourage more states and localities to support shaming sentences for minor offenses -- so that juveniles offenders are forced to apologize in public and adults are morally condemned through public identification of their non-violent acts.

In a crime speech, the President would announce his continuing commitment to truth-in-sentencing for violent crimes and then pivot into his support for alternative sentencing when appropriate, such as shaming sentences, which instill the values of a community and deter illegal activity.

New Law Enforcement Technology. The President would announce that his Administration is ushering in a new age in police technology that will not only help prevent crime but also make policing safer.

Through this Administration's efforts, we are on the verge of a "smart gun" that can only be fired by the actual gun owner; advanced "concealed weapons technology" that will keep gun-toting criminals off our streets; "crime mapping" that will pinpoint crime patterns and reduce crime like it did in New York; and "gun shot detection" which will help locate criminals. (.... and DNA technology that will locate the "real killers!!!")

February 26, 1997

Can 'smart' guns save many lives?

The newest idea for gun control: 'smart' pistols that can be fired only by their owners

In Muskingum County, Ohio, Sheriff's Lt. Michael Lutz surprised a burglar breaking into a gas station and wound up dead from three gunshots to the face. In Fall River, Mass., Officer Thomas Giunta scuffled with a man in an apartment building and died of three shots to the chest. In Christiansburg, Va., Officer Terry Griffith was fatally shot once in the head while trying to catch a shoplifter. Each officer was shot with his own weapon, wrestled away by an assailant. The stories aren't unusual: From 1985 to 1994, 89 cops were slain with their own guns.

What if guns were "smart" (or "personalized") enough to fire only for their rightful owners and a few other authorized users? That would probably save cops' lives and prevent other tragedies as well. Close to 500 children and ado-

lescents are killed in firearms accidents each year, many with their parents' guns. Some 1,400 youngsters commit suicide with guns annually.

Personalizing guns is also likely to help stanch the flow of firearms to criminals. Studies show that 40 percent to 70 percent of the guns used by felons are stolen, most from private homes. Thefts total some half-million guns a year. Smart guns would be less attractive targets, since most criminals could not easily put them to use.

Inoperable. "Personalized handguns would be inoperable by the curious young child, the depressed teenager and the criminal who steals the gun from a home or disarms a law enforcement officer," says Stephen Teret of the Johns Hopkins Center for Gun Policy and Research. For several years, Teret and a small band of public-

health experts have looked into the smart-guns idea, with results that are shaping the next gun-control debate.

In February, Sandia National Laboratories completed a study laying out law enforcement requirements for smart guns and evaluating options in technology. Firearms makers are developing prototypes. Plaintiffs are demanding that all guns be made smart (story, Page 36), and lawmakers in several cities and states are likely soon to propose laws requiring all guns sold within their boundaries to include smart technology.

Fulton Arms Inc. and Colt's Manufacturing Co. are testing designs that go way beyond the low-tech devices like trigger locks used most recently to prevent unauthorized users from firing a gun. An early version of the Fulton SSR-6 revolver won top honors at the 1993 National Inventors Expo. In it, a magnetic encoder sends a signal from a ring worn by the owner to a decoder in the weapon. It can't fire unless the connection unlocks the trigger. According to Fulton's chief executive officer, Kenneth Pugh, the company hopes to mass produce the gun by next spring, primarily for homeowners who want a weapon for self-defense.

The Colt's entry—a .40-caliber semiautomatic pistol—is intended primarily for police. Radio signals allow the weapon to recognize and respond to a transponder worn by the authorized user (graphic). The transponder's normal range is only a few inches, so the gun won't work for a stranger who snatches it. The weapon is designed to recognize up to 50 transponders, so other cops could fire the gun if necessary. Colt's officials say they've figured out a way to

defeat jamming of the radio system, a frequent concern, but they won't say how. The smart system will hike the cost of a standard service pistol from \$600 to \$900. Colt's hopes to place 100 or so in cops' hands for testing within 15 months and put the guns on sale in late 1999. "We're very excited about this," says Doug Overbury, Colt's vice president for engineering, "and we're frothing at the mouth to move it to the next level." Police groups are guardedly optimistic, wondering how reliable the guns are.

A model law. The politics of the smart-guns issue are also gathering momentum. Within weeks, the Johns Hopkins gun policy center will release a model

law that states and localities could use to require personalized guns. The Model Handgun Safety Standard Act would create local commissions to establish specifications for smart guns that would have to be met within four years. Baltimore Mayor Kurt Schmoke has already expressed interest. The model law is likely to result in proposed legislation early next year in traditionally liberal gun states like Massachusetts, Maryland and New Jersey. This week, Massachusetts Attorney General Scott Harshbarger will hold a hearing on proposed rules requiring all handguns sold in the state to be equipped with child-proofing features.

While gun owners and manufacturers' groups say they support smart technology that would yield safer firearms, the model law makes them suspect that the real agenda of smart-gun backers may be a scheme to confiscate or ban guns. They also worry that the technology might create a false sense of security and reduce pressure for the kind of education and training that represent

Cont'd

the keys to firearm safety. But advocates for the advance claim that some people will always act irresponsibly. And some are likely to be saved by a smarter gun. ■

BY GORDON WITKIN

Making mean streets nice. Computer maps that take the 'random' out of violence

In New York City, where fear has long been a way of life, the statistics are shocking: Serious crime in Gotham dropped 27 percent between 1993 and 1995, in contrast to the national decline of only 2 percent over the same time period. Longer prison terms, the waning of the crack epidemic and

faceted computerized mapping programs that enable cops to ask more focused questions about crimes on their beats—and to come up with more creative strategies to fight them block by block. And while New York leads the way, cops in Chicago, San Diego, Edmonton, Alberta and many other

information in day-to-day policing decisions. At the NYPD, for example, it took three to six months to produce useful crime statistics. "So we wouldn't know until winter what had happened in the summer," says Sgt. Eugene Whyte of the Compstat unit. Police departments would put together crude, labor-intensive pin maps—"the same way Hannibal did in 218 B.C.," says former NYPD Deputy Commissioner Jack Maple.

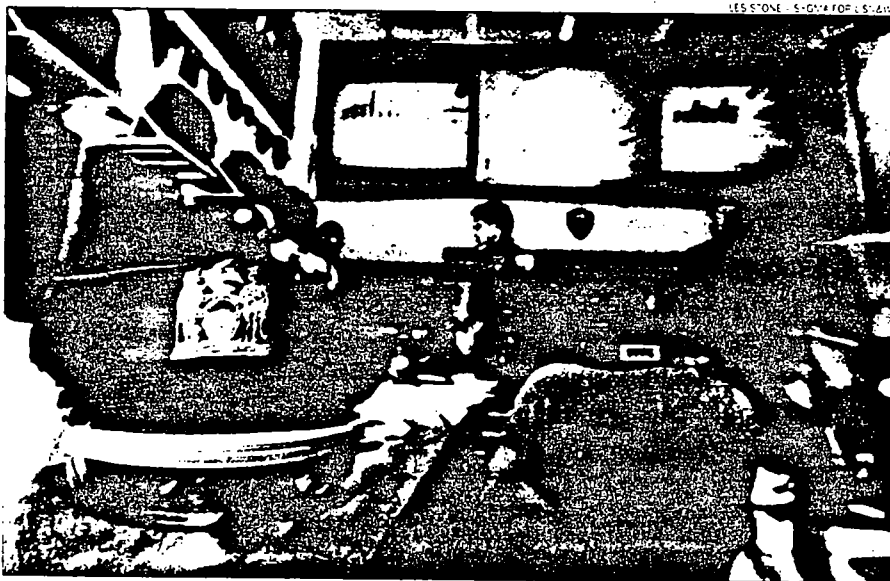
Nefarious patterns. But over the past decade or so, advances in computer-aided dispatching systems and mapping-software programs, coupled with the increasing power of personal computers, have put computerized mapping within the grasp of even smaller police departments. The beauty of the mapping programs is that they allow for easy merging of disparate sets of data. As a result, they provide a far more so-

phisticated understanding of what's happening on the streets. Cops using the programs have Eureka! moments when crime trends and clusters seem to jump off the screen. "Some patterns the human mind can grasp easily," says Eck, "but no one can keep track of hundreds of events, so you need some way of logging and portraying the data."

With crime data displayed in meaningful patterns, cops can deploy personnel where they are most needed. In Dallas, for instance, police mapped a series of rapes against the residences of parolees, and quickly found their suspect. In Chicago's 22nd Police District, officers investigating a rash of school burglaries saw a clear pattern when they mapped the time and location of the crimes; they adjusted their surveillance and soon nabbed a burglar fleeing a school. In New York, Compstat maps revealed that cops were making drug arrests where they were easiest rather than where most citizens complained of drug sales. In hard-to-infiltrate public-housing complexes, vice cops were reassigned to respond to the community's concerns. The maps also allow before-and-after assessments of initiatives like neighborhood drug sweeps.

Crime mapping is becoming so popular so rapidly that the technology may soon be as much a part of the cop's toolbox as the ubiquitous nightstick. And it may actually do more to reduce crime and fear on the streets of America's cities. ■

BY GORDON WITKIN



Crime is rarely haphazard. But it's much easier to spot patterns in visual displays.

the settling of turf wars among rival gangs certainly contributed to the decline. But experts also believe that some of the answer has been on display at 7 a.m. every Wednesday and Friday since 1994, deep within the New York City Police Department's command-and-control center. There, precinct commanders are grilled by their superiors while a series of neighborhood diagrams appear on a video screen above, using multicolored dots, ovals and crosses to plot everything from shooting locations to subway stations, from drug markets to methadone clinics.

The process—known as Compstat, for "compare statistics"—represents the latest in American law enforcement: the use of lightning-fast, multi-

cities are adopting the new technology. Computerized crime mapping, says criminologist John Eck, "is probably the greatest technological innovation to hit policing in decades."

"Police departments have always had access to reams of crime data, but in the past the beat cops made little use of the

**Dallas cops mapped a
rash of recent
rapes against the
residences of prison
parolees. Gotcha!**

2

They're toking up for algebra class. Teenagers need incentives to keep it clean

Will today's grade-school students be the potheads and coke fiends of the early 21st century? That's the fear of crime watchers, who see few good new ideas to stop the drug abuse numbers from creeping upward. A new federal report says drug use among secondary-school students

American Alliance for Rights and Responsibilities. As he envisions it, schools would require or at least encourage students to take drug tests. The schools would be scored, and those posting the best records would get awards—something akin to the hoopla that surrounds National Merit Scholarships. The psy-

who pass get cards entitling them to discounts of 10 to 50 percent at 150 local businesses. Working with leaders of the Rotary Club, coordinator Gloria Terrell is talking to firms about providing college scholarships for students at the cleanest schools. Little Rock, Ark., Rotarians plan their own discount program soon.

At least two incentives are at work, experts believe: Students who are enticed by merchandise discounts and help with college might nudge fence-sitting friends away from drugs. Similarly, the threat of tests might help students fend off peer pressure to get high. "Students tell friends, 'Our school tests for drugs, so I can't try this or I'm going to get caught,'" says Raymond Kubacki, whose Boston-based Psychomedics Corp. has contracts with 21 schools to test hair samples for drug use. Terrell cites examples of impact in Dallas, such as a high school boy

who once belonged to a youth gang but who credits D-FY-IT with getting him on track to attend college. An evaluation should show in a few years whether D-FY-IT has brought drug abuse down.

Roadblocks ahead. Costs and civil liberties concerns may hold back significant expansion of these pilot programs. It's not clear right now who would pay for the tests—not to mention the treatment and counseling that would be offered to those who failed. Hair can be analyzed for drug use patterns for as little as \$40; urine, for as little as \$5. Advocates argue that the costs, paid by Rotarians in Texas, are modest compared with the damage that drug addicts do.

The legal concerns about mandatory drug testing await a test case. It could happen in New Orleans, where District Attorney Harry Connick has called for drug tests in local schools. Students who

tested positive would be offered treatment but would not be prosecuted. Still, educators are balking, afraid that families and civil libertarians will object to the intrusion on students' privacy. But the Supreme Court has approved compulsory drug tests for student athletes, and Connick believes the principle could be extended. A possible compromise might be mandatory but anonymous tests, which would provide schoolwide incentives without risking false accusations against individuals. Only more experiments will show whether incentives tied to drug tests can help turn the narcotics plague around. When you're losing a war, no strategy should go untried. ■



More teens are inhaling, and neither preaching nor punishment is dissuading them.

rose again last year, including a near doubling in the total who smoke marijuana daily. While "get tough" advocates continue to lobby for stiffer penalties—as Bob Dole did during the presidential campaign—supporters of prevention efforts emphasize the need for speedy treatment and preaching against the perils of narcotics. Those policies all have merit, but largely missing from the debate are practical, positive incentives for teens to take a pass.

One emerging idea is to use drug tests as the basis for competitions that would recognize teens who stay clean. "Let's generate social pressure in schools to reward non-drug use instead of focusing on penalizing abuse," suggests Roger Conner of the Washington, D.C.-based

chology is to emphasize group pride—much the way builders promote safety by calling attention to sites' injury-free streaks. But individuals could profit, too.

Modest experiments are underway. In a Dallas program called D-FY-IT (Drug Free Youth in Texas), 10,000 students have taken drug tests voluntarily. Those

Drug testing in the schools gives fence-sitters an excuse to fend off peer pressure to get high.



U. S. Department of Justice

Criminal Division

Office of the Assistant Attorney General

Washington, D.C. 20530

February 27, 1997

MEMORANDUM

TO: Dennis Burke

FROM: John Bentivoglio 

SUBJ: Miscellaneous materials on guns, prison crime

As we discussed yesterday, attached is a summary of the results from the Boston Gun Tracing project. The findings support a number of the provisions in our bill, including adding gun offenses to list of RICO predicates (since it appears clear that a significant portion of the guns used by juveniles are obtained through illicit and probably well organized markets); and increasing penalties for receipt of firearm with altered or missing serial number (twenty percent of recovered guns had serial numbers missing or altered).

Also attached are some articles about two infamous drug-kingpins-in-prison-still-dealing-drugs cases. The first is Rayful Edmonds, who according to one article made up to 60 phone calls a day from the federal maximum security prison in Lewisburg, Penn.; in the calls, he brokered major cocaine deals between D.C. drug pushers and Colombian distributors. The second involves the head of the Latin Kings gang, who was convicted of running a continuing criminal enterprise -- from inside the prison.

The Bureau of Prisons argues, with some merit, that they have limited resources (and their first priority is preventing riots, escapes and assaults on corrections officers). Also, recently they endorsed the notion of facilitating law enforcement access to tapes made of all calls. Despite this, I'm convinced there is more we can and should be doing, including with respect to the criminal activities run out of state prisons (where the problem is more severe than at the federal level).

Give me a call so we can figure out coffee or lunch tomorrow, if you have time.



National Institute of Justice

Research Preview

Jeremy Travis, Director

November 1996

Juvenile Gun Violence and Gun Markets in Boston

A Summary of a Research Presentation by David M. Kennedy, Harvard University

Like other major cities in the United States, Boston is grappling with the problem of youth violence in certain of its poor minority neighborhoods. Over the past 5 years, the city has experienced 155 youth homicides by gun and knife—most of which were gun victimizations of young black men. Although gun violence began when youths started selling crack cocaine in the 1980s, today youths in Boston's high-risk neighborhoods frequently carry and use guns out of fear and as part of a larger dynamic of gang activity.

Among recent efforts to contain gun violence in Boston, a National Institute of Justice-supported "problem-solving" project was launched to devise and implement strategic interventions and evaluate their effectiveness. Its unique approach has focused on first analyzing the supply and demand for guns and then trying unorthodox methods both to disrupt illicit firearms markets and deter serious youth violence. For more than a year, Harvard researchers have been meeting biweekly with a working group whose members include representatives of the Boston Police Department, the U.S. Bureau of Alcohol, Tobacco and Firearms (ATF), the U.S. Attorney's Office, the Suffolk County District Attorney's Office, the Massachusetts Department of Probation, and city-employed gang outreach and mediation specialists known as "street workers."

Boston's illicit gun market

Supply side. From the project's onset, the team recognized the need for disrupting the city's illicit gun market. They were already well aware of a freewheeling illicit firearms market, in spite of strict regulations governing

the sale of firearms in Massachusetts. It had been assumed that all guns ending up in the hands of juveniles were being brought in via the "I-95 pipeline" from Virginia, Georgia, Tennessee, and Mississippi. However, analysis determined that one-third of the traceable guns recovered from youths in the past 5 years had been purchased originally in Massachusetts—a discovery in keeping with what is known about the primary source of handguns even in other heavily regulated States, such as California. In Massachusetts, this local market had been almost entirely ignored by law enforcement.

Eighty percent of the guns taken from youths were handguns; of these, slightly more than 50 percent were semiautomatic pistols. Trace analysis revealed that more than 25 percent of the pistols recovered from youths were less than 2 years old, nearly half of these had been recovered within 6 months of initial retail sale, and the serial numbers on 20 percent had been obliterated. Moreover, of the thousands of new gun brands available on the market, five made up 40 percent of the total guns recovered. Together, the characteristics of the handguns taken from youthful offenders—purchased (for the most part) out-of-State, very new, semiautomatic, and obliterated serial numbers—pointed to the existence of a flow of new guns diverted into the illicit market at points very close to first retail sale; this was not the pattern of guns burgled from houses that is typical of adults.

Demand side. The researchers' practitioner partners argued from the beginning of the project that youth homicide in Boston was a problem of gang-involved, serial-offending youths victimizing one another. The project team began looking for clues in the backgrounds

of those involved in youth homicide. They found that the profiles of both victims and offenders were remarkably similar and included gang membership and high rates of offending.

Youth homicides are concentrated in neighborhoods that are home to an estimated 61 gangs or "crews," involving approximately 1,300 juveniles; few alliances have been forged, and relationships are primarily hostile. Although gang turfs constitute less than 4 percent of the city, they account for 25 percent of Boston's serious crime (e.g., drug dealing, assault and battery with guns and other weapons, and weapons offenses). The pattern of weapons use is markedly different, moreover, from that in surrounding communities. An analysis tracking youths treated in hospital emergency rooms showed that, compared to adjacent neighborhoods, this high-crime region had more incidents involving the use of every type of weapon. But, whereas knife wounds outnumbered gun wounds in the border areas, gun wounds were far more frequent in the heart of the youth homicide region.

Most youths living in hot spots were well known to the criminal justice system. For example, 75 percent of known homicide victims and offenders had at least been arraigned for some offense, 25 percent had been detained in a juvenile facility, and 55 percent had been on probation; in fact, 25 percent of offenders were on probation at the time they committed murder.

Strategic interventions

The project team reasoned that interventions would need to decrease both the supply of and demand for guns that were central to the "shooting wars" among criminally active gangs. The practitioner partners on the project team—i.e., the police, probation and parole officers, and street workers—have crafted a strategy aimed at curtailing serious youth violence across Boston's high-risk neighborhoods. In one particularly violent gang neighborhood, they delivered a clear message to the effect that, unless the shootings stopped and guns were relinquished, gang members would be subject to an intense level of scrutiny and, for those on probation and parole, severe personal restrictions. Gang members were told that drug markets would shut down, warrants would be served, the streets would swarm with law enforcement officers (including a Federal presence), bedchecks would be performed on probationers, rooms would be searched by parole officers, unregistered cars would be taken away, and disorder offenses such as

drinking in public would be pursued. When one gang member with a 15-year history of violent felonies was found walking down the street with a single bullet in his possession, he was arrested. Taking into account his prior convictions, he was indicted as an armed career criminal and sentenced to nearly 20 years in prison. Stunned gang members soon turned over their handguns, and the neighborhood became quiet.

The project team is seeking the same results in other gang territories. What had been initially a reactive and tactical approach has now become preventive and strategic. Practitioners have let it be known to gangs throughout the city that shooting people, terrorizing their neighborhoods, and possessing or selling guns will not be tolerated. Gun suppliers have been put on notice that ATF is tracing recovered firearms, debriefing arrestees about gun trafficking, and following up on the results.

Gang members in Boston have been presented with a choice: Stop the flow of guns and stop the violence—or face rapid, focused, and comprehensive enforcement and corrections attention. It is too soon to evaluate the long-term effectiveness of this strategy, but its immediate impact has been more than encouraging. Gang members do not read about three-strikes laws or armed career criminal statutes in the *New York Times*; if they are to be reached, enforcement agencies must be forthcoming about the sanctions and consequences that result from criminal behavior and be ready to back those words with action. Youth violence in the city already appears to have been substantially reduced.

This summary is based on David Kennedy's presentation to an audience of researchers and criminal justice practitioners as part of NIJ's Research in Progress Seminar Series. David Kennedy is a senior researcher at the Kennedy School of Government's Program in Criminal Justice Policy and Management at Harvard University. A 60-minute VHS videotape of the seminar, *Juvenile Gun Violence and Gun Markets in Boston*, is available for \$19 (\$24 in Canada and other countries). Please ask for NCJ 160766. Use the order form on the next page to obtain this videotape and any of the other tapes now available in the series.

Points of view in this document do not necessarily reflect the official position of the U.S. Department of Justice.

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August 09, 1996, Friday, Final Edition

SECTION: A SECTION; Pg. A01

LENGTH: 1568 words

HEADLINE: Notorious D.C. Drug Dealer Turns Informer to Aid Mom; Edmond Sets Up 5 to Cut Her Prison Time

BYLINE: Toni Locy, Washington Post Staff Writer

BODY:

Rayful Edmond III, once the District's most notorious drug dealer and a man who kept on dealing even after he went to federal prison for life, emerged yesterday in a new role: snitch. Federal authorities revealed that his latest criminal dealings were for the benefit of the government -- and his mother.

U.S. Attorney Eric H. Holder Jr. announced yesterday that Edmond delivered five up-and-coming drug traffickers to the FBI and the D.C. police, pleaded guilty to even more drug counts and agreed to forfeit \$ 200,000 of the profits he racked up during his prison-cell dealing.

Prosecutors said that they believe Edmond, 31, finally has shown remorse for his drug-dealing ways and that they agreed to ask a federal judge to reduce the sentence of his mother, Constance "Bootsie" Perry, 56, as a reward for her son's cooperation. Perry, whose tape-recorded remarks about the scale of Edmond's empire were a key to her son's 1989 conviction, is serving a 14-year prison term for her participation in his drug gang.

Edmond agreed to help the government if federal authorities would use his cooperation as a reason to ask a judge to reduce his mother's sentence. Holder said that authorities had agreed to the deal but that her status is up to the judge who sentenced her.

The immediate results of Edmond's work were the arrests in Washington of 11 people, five of whom authorities described as the biggest drug dealers in town now. Two other local men were arrested and charged in a related case in Pennsylvania.

After announcing the new arrests and indictments yesterday, Holder and W. Lane Crocker, the agent in charge of the FBI's Washington field office, sharply criticized the federal Bureau of Prisons, blaming its lax management for allowing international drug deals to be orchestrated from prison.

"It is intolerable that criminals who were incarcerated for the precise purpose of protecting our citizens have instead been able to use prison facilities as their home offices for creating and commanding massive narcotics enterprises that have left nothing in their wake but death and destruction on the streets of our cities," Holder said.

"Today's events demonstrate the shocking fact that inmates in federal correctional institutions have been able to participate in international

The Washington Post, August 09, 1996

cocaine conspiracies from within prison walls," Holder said.

Dan Dunne, a spokesman for the Bureau of Prisons, said that the investigation would not have been a success had it not been for the agency's help and that officials there believe that Edmond's activities "are isolated cases."

The possibility that Edmond might be cooperating with authorities first surfaced nearly two years ago, when six people, including Edmond's girlfriend, were indicted after being caught on wiretaps of telephone calls as Edmond introduced cocaine buyers and sellers.

At the time, officials said they would not comment on whether Edmond had moved over to the government side or whether they were negotiating to gain his cooperation.

James W. Rudasill Jr., a lawyer who represented one of the people indicted then, had asserted in a hearing in U.S. District Court that he believed Edmond was cooperating with authorities.

"I knew," Rudasill said yesterday. "But [Edmond's] persona is so strong: Rayful is the ultimate stand-up guy. That persona just sucks people in. Rayful Edmond would be the last person anyone would think would be a snitch."

Rudasill also said he believes the people arrested in this sweep will have little success saying they were ensnared illegally.

He said he expects that prosecutors will use the "chain conspiracy" argument, saying that the defendants conspired with each other to buy and sell drugs, even though Edmond was a key player in all of the transactions.

"It's very remote," he said of their chances of successfully arguing that Edmond, as an agent of the government, entrapped them.

Authorities said that Edmond actually switched sides 18 months ago. And Holder said he hopes the move will help to deflate the Edmond lore -- of fancy cars, gorgeous women and basketball stars -- that still circulates in the neighborhoods near his old base of operations, in the 400 block of M Street NE.

"Rayful Edmond is no hero," the city's top prosecutor said. "He is simply a thug with a wasted past and a hopeless future," because he will never walk out of prison a free man.

Edmond is serving a sentence of life without parole for his 1989 conviction for running the largest, most organized drug ring the District has ever seen. Knowing that he would never leave prison prompted Edmond to seek a deal for his mother, prosecutors said. But the final decision of whether her son's cooperation will gain her a break lies with U.S. District Judge Charles R. Richey Jr., who presided over her trial. No hearing date has been set.

Authorities would not say yesterday where Edmond and Perry are now being held.

Perry is one of several family members, including Edmond's two sisters, a half brother, an aunt and a brother-in-law, who were convicted in two lengthy trials. Perry's remarks to a government informant were among the most stunning

The Washington Post, August 09, 1996

and crucial evidence presented.

She described Edmond's rise in the drug business, from a little boy who held cash for her as she sold illegal pills to a drug kingpin. "And, like, when he started out," Perry said on the recording, "it was just like, you know, he was doing hand to hand . . . on the street corner . . . and then he . . . just got too big. He just up and went out on his own."

Edmond's devotion to his mother also is legendary. One of the first things he did as he made his first big money was to buy her a condominium in Prince George's County. Later, drug proceeds allegedly were used for a house in Kettering and tens of thousands of dollars in improvements to it.

He kept sending money to her after they both went away to prison -- money he made by brokering international drug deals that authorities say they believe resulted in more cocaine hitting Washington's streets than Edmond's organization had sold in the 1980s.

Assistant U.S. Attorney Steven J. Roman said he believes Edmond finally regrets what he has done to his home town by selling cocaine and helping others sell it. Asked during a news conference yesterday if Edmond has any remorse, Roman said, "Yes, quite a bit at this stage." He said that if the new cases go to trial, Edmond probably will be called to testify.

According to the scenario revealed by prosecutors, Edmond took advantage of every privilege while at the Lewisburg, Pa., federal prison, using the phones to arrange introductions of Washington drug dealers to Colombian suppliers. He often made nearly 60 calls in less than five hours. His contacts on the outside set up conference calls for him to Colombia, and he used the prison mails and visiting hours to work out the details of the meetings of the various parties. He even mediated disputes, persuading the Colombians not to kill Washington drug dealers when they fell behind in their payments for cocaine.

Edmond pleaded guilty yesterday in Williamsport, Pa., to conspiracy and agreed to forfeit to the government \$ 200,000 he received in commissions on multi-kilogram drug deals he brokered from his prison cell between Washington dealers and major suppliers from a large Colombian drug cartel from October 1992 to July 1994.

In cooperating, Edmond kept doing what he had been doing from his cell at the maximum-security Lewisburg prison. During the past 18 months, he contacted five alleged major drug dealers from the Washington area and arranged for them to meet an undercover agent, D.C. police Detective Jesus C. Gonzales, who posed as a representative of the Trujillo-Blanco family in Colombia.

Dunne said the Bureau of Prisons monitors inmates' communications with the outside world.

"We do monitor inmates' phone calls, correspondence and visits to the extent we are legally permitted to do so in order to detect threats to the institution and other illegal activities," he said.

According to court papers, the five men -- Marcus Haynes, 25, Adolph Jackson, 24, Lecount Jackson, 42, Darrell Coles, 33, and Rodney Murphy, 26 -- were fooled because most of them had had past dealings with the Colombian family thanks to

The Washington Post, August 09, 1996

Edmond. Each of the men allegedly visited Edmond at the Lewisburg penitentiary and later was introduced by phone to Gonzales. In July, authorities said, the men and their associates met with Gonzales in Newark to work out the details of their purchase of 60 kilograms of cocaine for \$ 1 million, with \$ 375,000 to be paid upon initial delivery.

Beginning about 11:30 a.m. Wednesday, the five were arrested as the deliveries were being made. They, along with six associates, were taken into custody. The six others are: Jimmy J. Robinson, 26, Derrick L. Hopkins, 26, Richard Deane, 27, Anthony A. Smithers, 27, Johnny Cherry, 28, and Christopher L. Johnson, 28.

Through their attorneys, all 11 were arraigned yesterday and pleaded not guilty to the charges. They are being held without bond, pending hearings beginning today and continuing on Monday.

Two other Washington men, Michael A. Jackson, who is a prisoner at Lorton Correctional Complex, and James M. Corbin Jr., were indicted in Pennsylvania on Wednesday and will be taken there to face the charges.

GRAPHIC: Illustration, William J. Hennessey Jr. for The Washington Post; Photo, RAYFUL EDMOND III At the suspects' arraignment in U.S. District Court are Assistant U.S. Attorney Richard Edwards, left; U.S. Magistrate Judge Patrick J. Attridge; and defendants (front row) Richard Deane, Adolph Jackson and Anthony A. Smithers, and (back row) Lecount Jackson and Derrick L. Hopkins.

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February 15, 1997, Saturday, Late Edition - Final

SECTION: Section 1; Page 26; Column 5; Metropolitan Desk; Second Front

LENGTH: 884 words

HEADLINE: Seen as Threat, Gang Chief Gets a Life Term in Solitary

BYLINE: By DAVID KOCINIENSKI

BODY:

Saying that only extraordinary restrictions can prevent a Bronx gang leader from continuing murderous enterprises from behind bars, a Federal judge sentenced the head of the state's Latin Kings street gang yesterday to a life sentence that must be served in solitary confinement and with severely limited visits from family members and his lawyer.

Judge John S. Martin of United States District Court in Manhattan said the only foolproof way to prevent Luis Felipe, known as King Blood, from endangering the public would be to impose the death penalty, a punishment which the judge said he would have chosen despite his philosophical objections to capital punishment. But Federal sentencing guidelines do not permit the death penalty in conspiracy cases, so Judge Martin placed unusually restrictive conditions on Mr. Felipe's prison term, depriving him of any telephone calls and permitting visits only with family members who are approved by the court and occasional conferences with his lawyer.

"This defendant has no regard for human life and obviously enjoys a godlike role in determining who should live and who should die," Judge Martin said in sentencing Mr. Felipe, 34. "This defendant has forfeited any right to human contact."

Mr. Felipe was convicted in November of ordering three murders. He was found guilty on all 18 counts of a Federal racketeering indictment.

Judge Martin said the extreme measures were warranted because Mr. Felipe had manipulated his prison privileges in the past, ordering three murders from his jail cell. In one, the victim was strangled and beheaded and his gang tattoo was cut off his arm.

* But by ordering the kind of restrictions usually left to the discretion of the Federal Bureau of Prisons, Judge Martin exceeded the usual guidelines followed by Federal judges, stunned Mr. Felipe and angered some of the 200 Latin King gang members who stood outside the courthouse awaiting the sentence.

"You accuse me of killing people, but you'll be killing me every day," Mr. Felipe said to the judge, according to his lawyer, Lawrence Feitell.

Mr. Feitell said he was outraged by the harsh sentence, calling it unconstitutional, and said it deprived Mr. Felipe of his right to appeal.

The New York Times, February 15, 1997

"Why don't you give him a gun and let him shoot himself," said Mr. Feitell, who vowed to appeal the restrictions. "He's being tortured."

★ Richard Zabel and Alexandra A. E. Shapiro, assistant United States attorneys, said they were pleased by the sentence of life imprisonment for the murder conspiracies and an additional 45 years for weapon possession. Prosecutors declined to comment on the judge's restrictions, saying they wanted to research the sentence.

★ But some legal experts said Federal law gives judges the latitude to dictate the conditions of a prison term, especially in cases involving criminals considered a danger to the public.

"Under the sentencing statute, he is allowed to consider protecting the public from future crimes, and so by isolating Felipe, he may be allowed to do this under a theory of deterrence," said John Byrnes, a lawyer with the Federal Defender Division of the Legal Aid Society. "But we think it's a moot question, because it's likely that the Bureau of Prisons would do something like this anyway."

The sentence is the latest in a string of legal setbacks for Mr. Lopez, a Cuban immigrant who became New York City's most powerful and deadly gang leader while behind bars.

The Latin Kings were founded in Chicago in the 1940's as a fraternal organization, and Mr. Felipe began the New York City chapter in 1986, while serving a manslaughter sentence in the Collins Correctional Facility in Helmuth, N.Y., 30 miles south of Buffalo.

Using revolutionary rhetoric and a rigid code of conduct enforced by brutal discipline, the gang became highly visible in city neighborhoods and correctional institutions, where its hundreds of members identified themselves by wearing black and gold beads. When Federal authorities began an investigation into the Latin Kings' activities five years ago, gang membership was around 2,000.

Mr. Felipe was among 50 Latin Kings charged in 1995, but the only one to stand trial, because the other gang members all pleaded guilty or cooperated with the authorities.

Although gang bylaws preach love and respect, testimony at the trial described Mr. Felipe as a leader whose followers paid for their transgressions with blood. Gang members testified that Mr. Felipe issued orders of "T.O.S.," or "terminate on sight," against one follower who ran from a fight and another who had insulted Mr. Felipe's girlfriend.

At sentencing yesterday, the mother of one gang member who was murdered said she will forever be haunted by the killing. Lola Reyes, whose son Ismael was killed in January 1994, urged the judge to impose a long sentence on Mr. Felipe for ordering the slaying.

"Now I just sit around on holidays and cry or go to the cemetery," she said.

The gang's new leader, Antonio Fernandez, known as King Tone, has vowed to pursue a nonviolent agenda. But Bronx prosecutors accused the Latin Kings of

The New York Times, February 15, 1997

putting a \$5,000 contract on a police officer's life last year to protest the acquittal of a police officer who had been charged in the killing of a Hispanic man in the Bronx.

GRAPHIC: Photo: Luis Felipe founded the New York Latin Kings chapter while serving a sentence for manslaughter. (pg. 26)

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HEADLINE: NO FREEDOMS / LATIN KING GETS LIFE IN SOLITARY

BYLINE: By Michele Salcedo. STAFF WRITER

BODY:

In a sentence he said was unprecedented in its harshness, a federal judge yesterday gave Luis Felipe, founder of the New York chapter of the Latin Kings, life plus 45 years in solitary confinement, with no possibility of parole.

"This defendant has forfeited any right to human contact," said U.S. District Judge John S. Martin in Manhattan. "This is a case where if the death penalty were available, I would impose it . . . as the only foolproof means of preventing this defendant from ordering murders in the future."

Defense attorney Lawrence Feitell said he was shocked at the sentence. "John Gotti got a slap on the wrist compared to what happened to my client," he said.

"You're killing me," Felipe told the court.

✱ A jury convicted Felipe, known as King Blood, in November on 18 charges of racketeering, conspiracy, murder, attempted murder and firearms violations. Witnesses described how Felipe ran the Almighty Latin King Queen Nation, including ordering the deaths of six gang members, while he was in the Collins Correctional Facility upstate.

"The record demonstrates that Mr. Felipe is an intelligent and ruthless individual who will go to great lengths to see that his murderous orders are communicated to his subordinates," Martin told a courtroom packed with Felipe's supporters. "I feel we must do everything possible to see that this does not happen."

✱ The conditions the judge set include:

- No contact with other prisoners.
- No telephone calls.
- No communications with any members of the Latin King Queen Nation.
- No visits or communication with anyone except Feitell and family members approved by the court.

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- Monitoring of visits with anyone other than Feitell.

- Copies of all correspondence with anyone other Feitell will be sent to federal prosecutors.

After hearing the sentence, Felipe spoke out. "You're doing to me what you say I did to other people," said Felipe, who has not been allowed to have a razor or scissors to shave or cut his hair since he was moved to a federal prison in Schuylkill, Pa. "You're killing me . . . You have sentenced me to die a little every day."

Feitell argued with the judge for 45 minutes over the conditions of incarceration. Feitell persuaded the judge to modify the original conditions under which even Felipe's visits with Feitell would have been monitored by a second attorney.

Outside the courtroom, Feitell said he planned to appeal the sentence. "I'm shocked and dismayed at the conditions of his life behind prison walls," Feitell said. "I know of no other case where a defendant is not allowed any interaction with anyone."

* Prosecutors Steven Cohen and Alexandra Shapiro declined to comment on the restrictions, saying they would have to research legal history.

Felipe was the only one of the 18 Latin Kings indicted in 1994 to stand trial. The others cooperated with federal prosecutors or pleaded guilty. Two of those who cooperated, Alex Figueroa, known as King Sombra, and Nelson Torres, known as King Nel, have yet to be sentenced. The others received sentences ranging between 10 and 30 years in prison.

Among those, prosecutors said, Felipe ordered killed was William Cartagena, at one time third in the Latin King hierarchy. Felipe ordered Cartagena killed for stealing money from the organization and disobeying an order to kill another Latin King. Members of the Latin Kings strangled him, cut off his arms, legs and a Latin King tattoo, and set fire to the body in a bathtub.

Cartagena's girlfriend, Margie Carderon, was nearly killed when her parents' apartment was set on fire on Felipe's orders. She testified for the prosecution.

* Victor Hirschman, an innocent bystander, was fatally shot when he answered the door of an apartment where a Halloween party was going on. Several Latin Kings had gone to the party to look for and kill Rafael Gonzalez, another Latin King.

Outside the courthouse yesterday, 200 Latin Kings and Queens supporters chanted, "amor de rey," Spanish for "king's love." Some wore black-and-yellow parkas, others Latin King sweatshirts, with the Latin King three-pointed crown printed in yellow on the hood.

When Antonio Fernandez, known as King Tone, who replaced Felipe as the Latin King leader, emerged from the courthouse, the group gathered in a circle to pray. The group then rode the subway up to 125th Street, where members went to St. Mary's Church.

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Fernandez, who has worked diligently to change the image of the Latin Kings from a murderous gang to a social group intent on uplifting Latinos by helping each other, said he was outraged by the sentence. "The people who blew up the World Trade Center, they didn't even get this harsh a sentence," Fernandez said. "Because he's a Latino he has to get more."

Lola Reyes, the mother of one of Felipe's victims, Ismael Gonzalez, told the court during the sentencing yesterday that Felipe had ruined her life by killing her son. "Now I just sit around on holidays and cry or go to the cemetery," she said, crying.

GRAPHIC: 1) Newsday File Photo By Michael E. Ach - KINGLY CONVERSATION. Latin King leader Antonio Fernandez, right, appeared with fellow member Hector Torres on a WBAI radio talk show last year. 2) Newsday Color Cover File Photo - Luis Felipe in prison in 1995.

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March 12, 1997

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: IDEAS

Health and Safety

1. Patients' Bill of Rights/Quality Commission: The counsel's office is almost done vetting our nominations for the Quality Commission, which will be charged with developing a Patients' Bill of Rights. Announcement of the Commission can be combined with the release of a HHS regulation that would guarantee an expedited appeal whenever a plan proposes to deny care that a Medicare patient believes is urgently needed.

2. Medicare fraud legislation: We have finalized and are ready to announce a new and very good package of Medicare fraud and abuse initiatives. We can unveil this package in Saturday's radio address -- or if it doesn't fit there, we can look for another opportunity to make the announcement. At the same time, we can underscore our recent successes in prosecuting fraudulent health care providers.

3. Medical records privacy: We are working with HHS to develop legislation to ensure appropriate privacy protections for medical records. The subject is complex, but we have the discussions on a fast track. We are aiming to have legislation ready within a month.

4. Business endorsement of kids' coverage: We are working on an event at which important representatives of the business community endorse our proposal to extend health care coverage for children. We think we can have this event ready sometime in April.

5. Executive order on unemployed workers: We are exploring whether we have legal authority to issue an executive order granting six months of health care coverage to unemployed federal workers (thus mirroring our budget proposal). We should know within a week or so whether this action is doable.

6. Classified research with human subjects: In response to recommendations of the President's Advisory Committee on Human Radiation Experiments, we have prepared (1) an

Executive Order strengthening protections for human subjects of secret research; and (2) legislation expanding compensation for Cold War-era uranium miners. We can announce these policies and release a summary report detailing the Administration's full response to the Committee's 18 recommendations. This is tentatively scheduled for release March 25, to provide news during the President's day off.

7. Tobacco Advertising: We are reviewing a proposal for the President to take action responding to tobacco companies' use of the internet and other fora to get around our tobacco regulation. We could use "Kick Butts" day to announce this proposal, but we should first get DOJ assurance that this proposal does not compromise our efforts to defend our tobacco regulation in court. We are also working on a response in case the federal judge in North Carolina rules against us. That ruling is expected in the next 5 weeks.

8. Seat Belt Study: The Department of Transportation will give the President a report in a week or so on ways to increase seat belt use. DOT's report is likely to include ideas for presidential challenges to states and business groups, as well as a proposal (consistent with our budget) to offer financial incentives to states to improve and enforce seat belt laws. We can release the report when the President meets with Big 3 auto executives. (It is possible that we could announce at the same event a bigger safety initiative: the addition of language to our NEXTEA proposal sanctioning states that don't have tough seatbelt laws. Secretary Slater is currently considering whether to support sending this language to Congress.)

9. Aggressive drivers/driver emergency number: DOT is working on a package of proposals to deal with aggressive drivers; we expect to get the package within 10 days. But DOT thinks the package will seem skimpy and that it may provoke safety advocates to say that the real problem is the speed limit. DOT has suggested as an alternative action creating a uniform emergency number for cellular phones. DOT thinks such an action can be ready by May.

10. Children's Health EO: The DPC, NEC, CEQ, and OSTP are working on an executive order designed to ensure that the federal government considers the special needs of children when taking regulatory action. The executive order requires every agency to determine whether a regulation may impose disproportionate risks on children and, if so, to evaluate the specific effects of the regulation on children. Several agencies have raised serious last-minute objections, but we are hoping that we can work these out in the next few weeks.

11. AIDS Vaccine / Emerging Infections / Wiping Out Polio Worldwide: Our scientists are confident there will be an AIDS vaccine, but are very reluctant to promise one by a time certain. (Margaret Heckler made such a promise in the early '80s, and was ridiculed for it.) We are meeting with them again this week to press the question one more time. We have asked them to recommend steps the President could take to advance the search for an AIDS vaccine. OMB offered to find them more money, but they said that wouldn't make much difference. We are also working with them on the possibility of an initiative to combat emerging infections like ebola and malaria around the world. No one knows it, but our budget includes \$20 million for the World Health Organization and other groups like Rotary International to wipe out smallpox worldwide.

Education

1. **Testing in military schools:** Announcement scheduled for tomorrow.
2. **School construction event.** Announcement scheduled for this Friday.
3. **State School Officer Endorsements:** The Chief State Schools Officers organization will endorse the President's testing proposal when he meets with them on Monday. We are also lining up endorsement letters from individual members.
4. **California Endorsement of Testing Plan:** California's superintendent, Delaine Eastin, is prepared to endorse our testing proposal, and a group of Silicon Valley high-tech executives are prepared to do so as well. This is scheduled for the President's visit March 24. California's endorsement is very important, since the state has 10-15% of the country's schoolchildren.
5. **Advisory Panel for Education Tests:** The Education Department is thinking about the appropriate structure and composition of a panel of teachers and other trusted educators to advise on the development of our 4th and 8th grade tests. (The Department may decide to use an existing, non-governmental group to perform this function.) We expect a decision in a few weeks.
6. **Teacher of the Year:** The President will meet with the Teacher of the Year and other outstanding teachers at the White House on April 18. He may be able to announce that the National Board for Professional Teaching Standards has selected additional master teachers.
7. **Roundtable/Town Hall on Standards:** The President could participate in a session with teachers, students, parents, and others to explain the standards associated with his 4th and 8th grade tests. The roundtable would demonstrate with concrete examples the kind of student work -- and the kind of teaching -- that reflects high standards.
8. **Agency sponsorship of charter schools:** We can set a process in motion for federal agencies -- for example, NASA or the NSF -- to sponsor charter schools in partnership with teams of teachers. We should keep this project small at the start and focus it on DC. It will probably take us three or four months to be ready to announce the first sponsorship.
9. **Incentives for engineering:** We are currently exploring whether we can take executive action (or should propose legislation) providing monetary incentives for students to take engineering courses. We will know more within a week.

Welfare

1. **Welfare-to-Work Transportation Plan:** We announced today our Access to Jobs proposal,

which would allocate \$600 million of NEXTEA funding to improve transportation systems so that welfare recipients and other low-income workers could get to work more easily. We are currently exploring whether we can take an executive action that would call further attention to these efforts. We should know in a week or two.

2. Child Support: We can announce new child support enforcement numbers, along with the submission of a new HHS report on child support enforcement and our submission of legislation (previously announced) to make it a felony to cross state lines to evade child support obligations. This is another possible radio address for this Saturday or the next.

3. Statutory Rape/Teen Pregnancy Prevention: DOJ should be ready sometime in April to release a report on statutory rape and its relation to teen pregnancy rates. We could do a radio address timed to coincide with the release of this report, discussing strategies to enforce statutory rape laws and decrease teen pregnancies.

4. Internet in welfare offices: We are currently exploring ways to increase the access of welfare offices around the country to internet, with its wide range of job databanks. Eli Segal's organization may play some role in this effort. Gingrich is also interested. We will have a proposal within a week or two.

5. Welfare business group announcement: Eli Segal is planning a formal announcement of his organization in early April, preferably in Milwaukee -- where he would line up the support of a few hundred businesses, Mayor Norquist, Governor Thompson, and Mitch Fromstein, head of Manpower. This is tentatively scheduled for April 7.

Crime and Drugs

1. Hard Liquor Advertising: For years, the hard liquor industry has voluntarily agreed not to show liquor ads on TV. Some companies have now broken that agreement. In furtherance of his National Drug Control Strategy roll-out, the President could send a letter to the FCC requesting that they consider restrictions on hard liquor advertising on television during certain time periods.

2. Sex Offender Registry: The President could visit the National Center for Missing and Exploited Children in Arlington, Virginia where he would take a tour of facility and announce that the interim National Sex Offender Registration system -- which he directed the Attorney General to develop in the June 21, 1996 Radio Address -- is now up and running. He also would announce that he is signing an Executive Order instructing the Attorney General and the Secretary of Defense to ensure that sex offenders released from Federal and Military prisons are listed in the national registry. This is ready to go.

3. National Anti-Drug Media Campaign: The President's FY 98 Budget Submission includes \$175 million for a national anti-drug media campaign directed towards our youth. We will not be able to expend any funds on this initiative until we enact the appropriation bill, but ONDCP can

expend discretionary funds in its FY 97 budget to begin producing anti-drug ads. At a Rose Garden event, the President could kick off his Administration's anti-drug media campaign with one of the celebrities who has committed to appear in an ad. The President could also release a letter that he is sending to every network issuing his challenge that they match our contribution and begin dedicating more air time to anti-drug ads. ONDCP is currently reaching out to celebrities and sports figures such as Michael Jordan, Grant Hill, and Tiger Woods to tape anti-drug ads. This event should be ready sometime in April, and could coincide with the Chicago Bulls visit April 3.

4. Anti-Gang Prosecutor Event: The cornerstone of the President's Anti-Gang and Youth Violence Strategy is a \$200 million anti-gang prosecution grant program. The President could meet with prosecutors from across the country in the Oval Office where they would thank him for his strong support in fighting gangs. The prosecutors -- Republican and Democrat -- would urge Congress to move quickly to pass the President's bill. We recommend April for this event.

5. After-school initiative event: To highlight his new after-schools initiatives in the Anti-Gang Bill, the President could visit a successful after-school program and meet with the kids helped by the program. That day, he also would announce that HHS is providing several million dollars in grants from its FY 97 appropriation for new after-school programs across the country. This event should occur after the anti-gang event described above.

6. Victims Constitutional Amendment: In June 1996, the President announced his support for a constitutional amendment for victims rights -- to guarantee victims the right to be notified, to receive restitution, receive reasonable protection measures, and to be heard at sentencing and parole hearings. At a White House event, the President could: (1) urge Congress to pass the Amendment quickly; (2) receive a report from the Attorney General -- in response to his June 25, 1996 Directive -- outlining measures taken by the Justice Department to increase and improve Federal services and protections for victims of crime; (3) announce the creation of a Federal victim notification system; and (4) announce additional funding from the Victims Crime Fund -- which is larger than ever before -- that will be provided to victims services and shelters throughout the country. This could be a radio address for April 19, the third anniversary of the Oklahoma City bombing or during April 14-18, which is National Crime Victims Week.

7. Nanny checks: We could introduce legislation prepared by the Justice Department that would facilitate criminal checks for non-criminal purposes -- for example, a check on a potential nanny or schoolbus driver. But we oversold the Oprah bill a couple of years ago as a solution to this problem; if we do another big event, we will have to admit that our purported solution didn't do much of anything.

8. Ban on importation of gun clips: We are looking into the possibility of endorsing Sen. Feinstein's bill to close a loophole in the assault weapons ban by prohibiting the importation of 15-round magazines. We will have a recommendation later this week.

Family

- 1. Family leave executive order:** We think we have legal authority to issue an executive order granting federal employees the additional family leave provided in our legislative proposal. We will have a final answer on this proposal within the week.
- 2. Child care centers:** Ideas proposed to us last week on child care would be either ineffectual or prohibitively expensive. We are continuing to look for sensible policy initiatives.

Service Summit

- 1. Scholars' Program:** We announced last year a \$1,000 scholarship for high school students who have performed outstanding service, with the federal government putting up \$500 and a community or service organization (e.g., Lions, Elks, Kiwanis, Moose) putting up the rest. We can be ready any time to do an event inviting high schools that have obtained matching funds to submit names of candidates for the scholarship (perhaps in conjunction with a letter from the President to every high school principal).
- 2. Commitments/Adopt-a-School:** We could announce "commitments" from the federal government to the service summit -- proposals for how the federal government can support service and voluntarism to help youth. We could be ready to make such announcements in 2-3 weeks if necessary. One possible commitment would involve agencies adopting schools -- offering literacy services, donating computers, doing career days, etc.

Environment

- 1. Brownfields:** The EPA wants to roll out an expansion of the existing Brownfields pilot program in about two months. The Administration will also resubmit legislation creating a new tax incentive and grant program to encourage the redevelopment of Brownfields.
- 2. Right-to-know law:** EPA should be ready in about two months to issue a rule extending disclosure obligations under the right-to-know law to a number of additional industries -- probably including mining, hazardous waste handlers, and utilities.
- 3. Safe water regulations:** EPA will propose regulations to require water utilities to provide information to consumers about what is in tap water. The proposal will not be ready until September or so.