

Keeping Guns out of the Hands of Domestic Violence Offenders

Background:

- In 1994, there were 88,500 incidents of domestic violence where a firearm was present. Responding to these calls is deadly business for law enforcement. From 1985 to 1994, there were 65 law enforcement officers killed when they responded to family quarrels and 9 out of 10 of those deaths resulted from firearms.
- In 1993, President Clinton signed the Brady Law and it has prevented over 60,000 felons, fugitives and others from buying handguns. The 1994 Clinton Crime Bill included the historic Violence Against Women Act, which made it a crime for stalkers and harassers under restraining orders to carry a gun. That provision is beginning to take hold -- in Kentucky alone, over 300 stalkers and harassers were prohibited from buying firearms in one year.
- But many spouse abusers are not covered by existing law. Because of plea bargaining or the downgrading of an offense, the overwhelming majority of domestic violence cases are misdemeanors not felonies. The result is that these offenders are still free under federal law to possess a firearm.

Disarming Domestic Violence Offenders:

- Senator Lautenberg and Representative Torricelli have been pushing for legislation that would prohibit those convicted of any offense involving domestic violence -- misdemeanor or felony -- from owning or possessing a firearm. The Lautenberg bill passed the Senate unanimously.
- Under strict orders from the gun lobby, however, the House Republican Leadership has blocked this legislation. That is why President Clinton is calling on Congress to disarm domestic violence offenders and pass legislation like the Lautenberg Bill before the end of the session.
- This legislation would amend the 1968 Federal firearms statute so that if a person is convicted of any crime of domestic violence -- not just a felony -- s/he forfeits the right to possess a firearm.
- To help States in enforcing such a measure, President Clinton's 1994 Crime Bill is already providing funding for States to improve their criminal history record-keeping abilities and in 1996 the Clinton Administration specifically instituted a "National Stalker and Domestic Violence" record-keeping program.

August 26, 1996

Cop Killer Bullets:

"The Saving Law Enforcement Officers' Lives Act of 1995"

- Criminals should not have access to handgun ammunition that can pierce bullet-proof vests worn by law enforcement officers.
- That is why President Clinton sent to Congress last summer the "Saving Law Enforcement Officers' Lives Act of 1995," which would ban cop killer bullets.
- Although current law provides limits on ammunition based on the specific materials from which it is made, it does not address the problem of excessively powerful ammunition based on its performance.
- President Clinton's legislation directs the Secretary of Treasury to promulgate regulations that will prohibit the manufacture, importation, and distribution of handgun ammunition that can pierce standard bullet-proof vests.
- Before issuing these regulations, the Secretary will consult with law enforcement, body armor and ammunition manufacturers, sporting groups, and the academic research community. In addition, Congress is provided a 45-day opportunity to review the regulations and disapprove of them.
- This legislation would limit the availability of this ammunition without affecting the needs of legitimate sporting enthusiasts. Most importantly, it will save police officers' lives.
- Unfortunately, the gun lobby has held this type of legislation hostage. When Representative Schumer attempted to add a ban on cop-killer bullets to Anti-Terrorism legislation during a committee vote last summer, two Republicans helped kill the measure when they flipped their votes under pressure from the NRA.
- President Clinton is calling on Congress to stop endangering the lives of police officers and send this legislation to him before the end of the session.
- As Dewey Stokes, the former President of the National Fraternal Order of Police so forcefully stated when President Clinton proposed this legislation::

"This is the bill we've been waiting for. One that requires law enforcement, the firearms industry and the Congress to work together to close the book on cop-killer bullets -- and special interests be damned."

August 26, 1996

Tougher Sentences for Gun-Toting Drug Dealers:

"The Enhanced Prosecution and Punishment of Armed Dangerous Felons Act of 1996."

- Law enforcement needs every tool to prosecute drug dealers and armed gangs. Unfortunately, a recent Supreme Court decision tied the arms of Federal prosecutors in these efforts.
- In Bailey v. United States, the Supreme Court severely restricted Federal prosecutors ability to prosecute drug traffickers and gang members for "using" a weapon in a criminal offense. Under the Federal Firearms law, a defendant receives a five year mandatory enhancement for "using" a firearm in the commission of a drug trafficking crime or a crime of violence.
- In Bailey, the Court held that a defendant in these cases can only be charged with "using" the firearm if s/he "actively employed" it in connection with the underlying offense.
- Left to stand, the strict interpretation in Bailey will result in lighter sentences for these criminals. Over the last 5 years, the provision in question in Bailey was used 13,424 times by federal prosecutors.
- The Clinton Administration has responded to the Supreme Court's restrictive ruling by proposing the "Enhanced Prosecution and Punishment of Armed Dangerous Felons Act of 1996."
- This bill would legislatively overrule the Bailey decision and return an important prosecutorial tool to law enforcement. The bill would punish "possession" of a firearm in the course of a violent or serious drug felony, rather than merely "use."
- In addition, the bill proposes that there should be a higher, mandatory ten-year penalty under the Federal Firearms statutes if the firearm is discharged or is otherwise employed to inflict serious bodily injury.
- President Clinton believes that gun-toting drug traffickers and gang members should receive the toughest sentence possible, and he is calling on Congress to move forward on this legislation.

August 26, 1996

Providing Safe Learning Environments for our Kids:

"The Gun-Free School Zones Amendments Act of 1995"

- As President Clinton has said, we must do everything in our power "to make schools places where young people can be safe, where they can learn, where parents can be confident that discipline is enforced ... if young people can't learn in safety they can't learn at all."
- Eliminating guns from schools and their surrounding areas are critical steps toward that goal.
- The number of homicides juveniles commit each year with guns has more than doubled between 1985 and 1992, while there has been no change in nongun homicides. A survey conducted earlier this year found that one in eight youths -- two in five in high crime neighborhoods -- reported having carried a gun for protection. One in nine said they had stayed away from school because of fear of violence. That number jumped to one in three in high crime neighborhoods.
- It is for these reasons that last year the President transmitted to Congress the "Gun-Free School Zones Amendments Act of 1995."
- This legislation would revise the Gun-Free School Zones Act of 1990, which was invalidated by the Rehnquist Court in United States v. Lopez.
- The 1990 Act passed through Congress strongly supported by both parties and signed by President Bush. It was a simple but important measure -- it made it illegal to have a gun within 1,000 feet of a school.
- Unfortunately, the Supreme Court held the law unconstitutional ruling that the Federal government could not regulate this activity because it did not have enough to do with interstate commerce.
- As revised by the legislation now before Congress, the Act would require that the government prove in each prosecution that the firearm in question "has moved in or otherwise affects interstate or foreign commerce."
- This legislation would return a badly needed safety zone around schools throughout the country. President Clinton is challenging Congress to move forward on this legislation before end of the session. The safety of our children is too important to delay action for another year.

August 26, 1996



U.S. Department of Justice
Office of Community Oriented Policing Services

Office of Communications
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NUMBER OF PAGES (including cover sheet): 6

Message: Attached is a copy of the H3 Request for Payment (one-side of the pay form) and the section of the Grant Owner's Manual that instructs how to access grant funds. The ~~and~~ grantee receives an application kit including the manual and the H3 form. The grantee must sign an award document to show they accept the award & to begin drawing down funds. The first few pages of the grant owner's manual lists the terms & conditions of the grant, which they accept by signing the award. One of the conditions is to abide by the



OMB Approval No. 1103-0023 (Exp. 4/98)

REQUEST FOR PAYMENT *Revised H-3*
Office of Community Oriented Policing Services (COPS)
COPS Control Desk
633 Indiana Avenue, NW 3rd Floor
Washington, DC 20531

(1) Grantee:

(2) Grant #:

(3) Ven #:

ORI #:

(4) Request #:

(5) Direct Deposit: Will you receive this payment
through direct deposit?

Yes

No

(6) Type of Request:

Advance

Reimbursement

(7) Type of Payment:

Partial

Full

(8) To date, what is the amount of Federal
money for which you have submitted requests?

\$

(9) How much Federal money have you spent to date ?

\$

(10) How much local money have you spent to date ?

\$

(11) Period covered by this request: From ____/____/____ to ____/____/____

(12) If this is an *advance*, how much local money will you
spend during the period outlined in (11)?

\$

(13) If this is an *advance*, how much Federal money do you
request for the period outlined in (11)?

\$

(14) If this is a *reimbursement*, how much Federal money
do you now request for the period outlined in (11)?

\$

(15) Certification

*I certify to the best of my knowledge and belief that this request is correct and complete and that
Federal moneys spent and to be spent are for the purposes set forth in the COPS grant award
documents.*

Name and Title (type or print)

Telephone number

Signature

Date submitted

APPROVAL

I. GRANT ACCEPTANCE, TERMS AND CONDITIONS

In order to officially begin your grant, you will need to review the Award Page and Conditions, *sign* the Award Page and return it to the COPS Control Desk, 633 Indiana Ave, N.W., 9th Floor, Washington, D.C. 20531. You will not be able to draw down any grant funds until the COPS Office receives your signed Award page.

THE AWARD PAGE

The Award page contains pre-printed information of your law enforcement and government officials' names and addresses. If this information is incorrect or has changed, please correct it on the attached correction page. The award also indicates your official grant funding amount, the award number, the award date, and the grant time period. The grant amount may differ from the estimated amount announced in December because the final grant amount is based upon your approved budget.

The award date for all COPS AHEAD grants is listed on the Award page. This means that the grant's share of any salaries and benefits you incur after that date in connection with the new officer(s) will be reimbursed.

Your grant award number is in the format of 95-CC-WX-0000. If you have any questions regarding your grant, please refer to your grant award number or your agency's ORI number and we will do our best to assist you.

GRANT CONDITIONS

By accepting this grant, you are entering into a partnership with the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS). As part of that partnership, you agree to 10 grant conditions (and possibly additional conditions specific to your agency). The Assurances and Certifications that you submitted with your application also remain in force during your grant period. Copies are included for your reference as Appendix B. These conditions are listed on the back of the enclosed "AWARD" document. The section that follows describes, in detail, each of the award conditions, their rationale and their implications. It also addresses many commonly asked questions.

Reasons for grant conditions

The requirements of your COPS AHEAD grant are established within:

- the Public Safety Partnership and Community Policing Act of 1994 under which the COPS Office was established; and
- applicable rules, regulations and guidelines issued under that Act and policies issued by the Office of Management and Budget (OMB), the General Accounting Office (GAO), and the United States Treasury.

II. ACCESSING GRANT FUNDS

This section provides information about how you get paid and gives answers to payment-related questions. Currently, there are two methods of payment that you can use to access your grant funds: The COPS Request for Payment Form (*Revised H-3*) and LOCES (electronic payment). In addition to these methods, the COPS office has another method of payment currently in the development phase. Two weeks from receiving this package, we will mail to you the additional method of payment which we hope you will find quite useful. However, for your immediate payment needs, we have provided to you a COPS Request for Payment Form, Revised H-3. Please make copies of that form, complete and submit it as necessary.

PAYMENT METHODS

There are two methods that you may use to access your grant funds:

- I. COPS Request for Payment Form (*Revised H-3*)
- II. LOCES - electronic payment.

I. COPS Request for Payment Form (*Revised H-3*)

This payment method allows you to request advances or reimbursements on a bi-weekly or monthly basis. Please make copies of the Request for Payment Form so you can use it for future payment requests.

Advances:

Advances can be submitted using the COPS Request for Payment Form by checking the box on line 1a. marked "advance." The Federal Government has four basic rules regarding advances. Advances can be terminated if the grantee:

- (1) Is unwilling or unable to attain project goals
- (2) Maintains excess cash on hand
- (3) Does not adhere to the terms and conditions of the grant
- (4) Fails to submit reliable and/or timely reports.

The concept of *minimum cash on hand* applies to COPS AHEAD grants. The *minimum cash on hand* concept requires that you request funds based upon immediate disbursement. You should time your request for payment to ensure that Federal cash on hand is the minimum that you need to make your immediate salary and fringe benefit payments. There should be no excess Federal grant funds on hand, except for approved advances.

Reimbursements:

Requests for reimbursements can be submitted using the "COPS Request for Payment" form by checking the box on line 1a. marked "reimbursement." Only reimbursements for actual salaries and benefits of COPS AHEAD officer(s) can be made.

Can funds be directly deposited into a city or department's bank account?

Yes. After you complete the COPS Request for Payment Form, please refer to the enclosed **ACH VENDOR/MISCELLANEOUS PAYMENT FORM**. Please fill out the middle section with your agency's name, address, tax identification number and contact person. After the form is received and processed by the COPS Office, the funds will be deposited electronically into your account. Notice of the deposit will be sent to you on the day the deposit is made. The Form has complete instructions on its reverse side. You will only need to fill this form out one time and from then on, all of your payments will be directly deposited into your designated account upon receipt and approval of your request by the Office of the Comptroller.

When and to whom should we submit these requests?

Reimbursement and advance requests should be submitted at least monthly to the COPS Control Desk, 633 Indiana Ave, N.W., 9th Floor, Washington, D.C. 20531.

What are the next steps?

If you are not using direct deposit, once the COPS Request for Payment form is received, reviewed and approved, a Voucher and Schedule for payment is prepared for the amount approved. This schedule is forwarded to the U.S. Treasury requesting issuance and a check mailed directly to you or to your designated financial agent through the direct deposit option.

II. LOCES

What is LOCES?

LOCES is the Letter of Credit System. This payment method utilizes the "Letter of Credit" procedure and requires access to a computer with a modem to complete the request and financial forms. Funds will be transferred electronically to your agency. It is encouraged for all grantees who receive over \$120,000. A separate LOCES manual explains this system and how to use it. This manual may be requested by contacting the Office of the Comptroller, Office of Justice Programs. In addition, the Office of the Comptroller will provide technical assistance on using this system.

ADDITIONAL PAYMENT QUESTIONS

Can we earn interest on our grant funds?

You should minimize the time between your drawdown of grant funds and your payment of grant costs. You need to account for interest earned on advance of Federal funds as follows:

- (1) You may keep interest earned on all advances of Federal grant funds up to \$250 per fiscal year.
- (2) You should promptly, but at least annually, remit or credit the COPS Office interest earned over and above the \$250 identified in (1) above.

Table 4.—Matched Pairs Analysis—Victims and Primary Offenders in School-Associated Violent Deaths

Variable	Victims (n=79), No.	Primary Offenders (n=79), No.	Ratio of Discordant Pairs ^a	Matched Odds Ratio ^b (95% Confidence Interval)
Age <20 y	64	64	7/6	1.17 (0.38-3.70)
Male	64	77	2/15	0.13 ^c (0.01-0.57)
Race/ethnicity				Undefined ^d
White non-Hispanic	20	14	0/0	0.40 (0.05-2.03)
Black non-Hispanic	38	40	2/5	1.00 (0.27-3.72)
Hispanic	19	18	5/5	0.07 ^e (0.01-0.24)
History of criminal charges	13	40	2/30	Undefined ^d
Gang member	17	35	0/24	0.07 ^e (0.00-0.37)
Weekly alcohol or drug use	9	24	1/15	Undefined ^d
Carrying a weapon	4	72	0/63	Undefined ^d
Student at time of death	58	50	17/7	2.43 ^f (1.03-6.28)

^aNo. of victims only/No. of primary offenders only.
^bFor victims vs primary offenders.
^c $P < .05$ by maximum likelihood estimate of the odds ratio.
^d $P < .05$ by McNemar χ^2 test.

were 2 deaths (1.9%) among Asian/Pacific Islanders. A majority (n=76 [72.4%]) of the victims were students, with a median grade level of 10. Twenty (n=93 [21.5%]) of the victims had a history of previous criminal charges. Similar proportions of victims were reported by police or school officials to have been members of organized gangs (16/100 [16.0%]), to have used alcohol or other drugs weekly or more frequently (19/78 [25.0%]), or to have been armed with a weapon at the time of death (21/98 [21.4%]).

Although they share many features, homicide and suicide can have very different social meanings. An analysis of the victims of these 2 types of violent deaths revealed some significant differences. Compared with homicide victims, suicide victims were slightly older and more likely to have been male. However, these differences were not statistically significant. Individuals who died by suicide were more likely to have been white non-Hispanic (odds ratio [OR], 5.55; 95% CI, 1.78-18.55), less likely to have been recognized as a gang member (OR, undefined), and far more likely to have been armed with a weapon at the time of death (OR, 104.88; 95% CI, 17.65-782.25). Suicide victims were also more likely to have used alcohol or other drugs on a weekly basis, and this difference approached statistical significance (OR, 3.42; 95% CI, 0.94-12.57).

To compare victims and offenders, we selected a subset consisting of all homicide deaths for which we had collected information on a primary offender (n=79). The primary offender was the individual identified by police, school officials, or both as principally responsible for the death. We conducted a matched-pairs analysis (Table 4) to compare the traits of victims with those of their primary offenders. The matched-pairs analysis allows direct comparison of the victim and offender involved in the same event. The matched-pairs analysis is based on cases in which the

victim and offender differ from one another (discordant pairs) on a given trait.

In this subset, victims and their offenders were equally likely to have been less than 20 years old or Hispanic. Victims were less likely than primary offenders to have been male (OR, 0.13; 95% CI, 0.01-0.57), to have had a history of prior criminal charges (OR, 0.07; 95% CI, 0.01-0.24), to have been affiliated with a recognized gang (OR, undefined), to have used alcohol or other drugs weekly (OR, 0.07; 95% CI, 0.00-0.37), or to have been armed with a weapon at the time of the fatal injury (OR, undefined). Victims were more likely than their primary offenders to have been white non-Hispanic (OR, undefined) or to have been a student at the time of the event (OR, 2.43; 95% CI, 1.03-6.28).

COMMENT

Conclusions

School-associated violent deaths account for less than 1% of the homicides and suicides among school-aged children in the United States. Although rare, these fatalities were more common than expected; the number of events identified in this study exceeded the number of school-associated deaths reported elsewhere (*People*, June 14, 1998:44).¹¹ As a sentinel health event, even a single school-associated violent death demands investigation and reassessment of preventive practices. Moreover, creating school environments that are free of violence and drugs is one of the National Education Objectives for the year 2000.¹² While many educators and public health officials have suggested strategies to prevent or reduce violence in the school setting,^{1,12} choosing among the recommended interventions is difficult because none has been objectively demonstrated to reduce violent injury or death. A rational approach to selecting the most promising preventive interven-

tion strategies may be suggested by considering the epidemiologic features of the deaths identified in this report.

For example, the characteristics of victims and offenders identified in this study might suggest that efforts to prevent future school-associated fatalities should be targeted at males, at minority racial and ethnic groups, and at students in secondary school grades and in urban school districts. However, interventions must not be limited to these groups, since fatal violence involves all sorts of individuals and affects schools and communities of all types and sizes. Although epidemiologic data may be useful for identifying the environments and populations most at risk, education officials recommend that every school develop a safe school plan for a systematic and broad-based approach to preventing school violence through a combination of educational, environmental, and supervision strategies.¹³

It was also reported that several of the victims and offenders in this study had criminal histories, had been gang members, or had used alcohol or other drugs on a regular basis. No population-level data were available to characterize these activities as risk factors for school-associated violent deaths in this study. However, criminal activity, gang membership, and alcohol or other drug use are widely regarded as precursors of violent injury among young people.^{2,3} Interventions that reduce these risk factors may have some role in reducing violent injury and death. Perhaps more important is that interpersonal disputes constituted the most frequently identified motive for school-associated violent death in this study. This suggests that improving the ability of young people to identify and peacefully resolve interpersonal conflict might be a reasonable approach to reducing the risk of fatal violence in the school setting.

Another striking epidemiologic feature of the deaths identified in this study is that most resulted from firearm-related injuries. This was true for both self-inflicted and interpersonal violent deaths. While suicide and homicide can have very different social meanings and causal pathways, the predominant role of the firearm in both types of violent death suggests a common approach to prevention. Strategies designed to reduce the availability of firearms may be particularly applicable to the school environment. These approaches include environmental changes such as installing metal detectors at school entrances, as well as regulatory initiatives such as adopting strict "zero-tolerance" policies toward disciplining students who bring firearms onto campus.

All of these findings indicate that violent deaths associated with schools are

School-Associated Violent Deaths—Kachur et al

epidemiologically similar to violent deaths among young people in general, suggesting, as others have observed,⁶ that when high levels of violent behavior exist among young people in a community, some of that violence will be played out in and around the schools. Therefore, a rational response to the problem must consider school-associated violence in its larger community context.²¹ In such an effort, schools can serve as a focal point for broader action. Many common approaches to reducing school-associated violence—such as security cameras, metal detectors, and random locker searches—would have little effect beyond the immediate environment of the school building. In this study, fewer than one third of school-associated violent deaths occurred inside school buildings, and nearly as many students died on the way to or from school as died during class. These findings support the recommendation that school officials work closely with other agencies in their communities to develop a comprehensive approach to preventing violence among young people.

Study Limitations

In this review, school-associated violent deaths were defined broadly and included the deaths of individuals who might have had little to do with the school except that they were fatally injured on school property. Also included were deaths that arose from disputes in the community but that happened to occur while the victim was at school or on the way to or from the campus. In addition, the study included at least 5 deaths in which the intention was ambiguous. Four of these deaths were initially reported as homicides and 1 as a suicide, but all were ruled unintentional by the courts. It is not possible to know how many of the remaining cases would also be ruled unintentional, as most had not been completely adjudicated at the time of the investigation. On the other hand, the case definition excluded deaths that may have resulted directly from disputes initiated at school if the fatal injury did not occur on campus or while the victim was clearly in transit to or from school.

Furthermore, cases that were never reported in the press may have been overlooked altogether because both case-finding strategies relied heavily on news reports. However, since most of the recognized cases received extensive, often nationwide, coverage, it is not likely that many cases of school-associated homicide or suicide went entirely unreported. If any such cases did occur, they may differ from the cases that were deemed more newsworthy and are characterized in this report. Since neither of the case-finding strategies was complete,

the capture-recapture analysis is a useful method of estimating the number of cases that might have been missed. As noted, this analysis suggested that our case-finding efforts missed only a small number ($n=10$ [$<10\%$]) of school-associated violent deaths. However, these 2 case-finding strategies may have been positively dependent, in which case the capture-recapture correction would still underestimate the true total.²²

Another important consideration is that deaths represent only a small fraction of the problem of school-associated violence. The distribution and characteristics of fatal events described in this report may not adequately reflect the distribution and characteristics of nonfatal violent behavior. However, homicide and suicide are clearly the most extreme and visible manifestations of the problem. Any successful effort to reduce school-associated violence must address the level of injury and death.

Because the data in this report are based on a small number of deaths, the risk estimates presented here may be unstable. Furthermore, denominator data were not available for the entire study period. Enrollment data from the start of the 1992-1993 academic year were the most current national education statistics available and were used to compute rate estimates. Similarly, the proportional mortality ratio was calculated on the basis of 1992 mortality data. Therefore, the risk estimates presented here should be interpreted not as actual rates but as the best possible estimates based on available data. Finally, the 2-year cross-sectional study design did not allow us to evaluate changes in risk over time.

Despite these limitations, important conclusions can be drawn from this first nationwide review of school-associated violent deaths in the United States. School-associated homicides and suicides are rare events and are epidemiologically similar to violent deaths among young people elsewhere in the community. Multiple targeted interventions to prevent violent injury and death have been proposed, but more research is needed to establish the effectiveness of the various strategies. Until then, the most rational response to preventing these tragedies is a coordinated cooperative approach that addresses youth violence in the community as well as the school environment.

The authors are grateful to the many local officials who participated in the study. We especially acknowledge the assistance of Sandra Jennings, Christopher Behrens, MD, Amy Blumenthal, and Sandra Boyland, MD, in completing the interviews and Jan Stanwell, MLS, for her part in identifying cases.

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Shootings at Schools Prompt New Concerns About Violence

By PETER APPLEBOME

Two years after school districts around the nation crumbled to adopt tough provisions to keep guns out of schools, fatal shootings of students and teachers are again on the rise, renewing concerns about crime and violence in schools.

In the last month alone, a teenager was shot to death on a school bus in St. Louis on Thursday, a teacher in Los Angeles was critically wounded in the head by a stray bullet the week before, and a teacher and two students were shot and killed by a student with a high-powered rifle on Feb. 3 in a junior-high classroom in Moses Lake, Wash.

The violence comes at a time when safety has become an overriding concern about the nation's schools and when President Clinton is advocating the use of school uniforms and

as a condition for receiving federal education money like suspending for a year a student who took guns to school. The law was eventually overturned by the Supreme Court as an undue federal intrusion into local matters, but nearly all the local policies remain in effect.

Of the 147 violent deaths in schools tracked by the school safety center since 1992, 119 have been from guns. Officials said that since there was no official reporting of violent deaths in schools the numbers were almost certainly conservative. They said about three million felony or misdemeanor-level crimes were committed at schools each year.

Experts say that the vast majority of schools remain safe and that school violence remains a problem primarily in neighborhoods where violence is endemic. There are 54 million students in the nation's public and private schools.

"Schools aren't shooting galleries," said Frank Newman, president of the Education Commission of the States. "The chances of anyone getting shot, or particularly anyone in a suburban school district, are very, very small."

But, Mr. Newman said, violence and particularly a small group of disaffected, habitually violent students, remain one of the most pressing problems facing both the schools and the nation.

"Crime and violence is down across the country," he said, "but what's up is youth violence, and what we haven't come to grips with is the core of kids who are becoming more violent, more armed and unaffected by the norms of society. It's a real cancer, and we're not addressing it."

The current school year has been marked by a stream of chilling instances of violence.

On Thursday, a teenager in St. Louis waiting at a school bus stop with a .280-caliber semiautomatic pistol shot and killed a pregnant 15-year-old girl and wounded the bus driver. Police say they do not know the motive and are looking for the gunman.

On Feb. 22, a fifth-grade teacher at a school in South-Central Los Angeles was hit in the head by a stray bullet fired in a gang dispute off the school grounds as he and his students studied in the school cafeteria. The teacher, 30-year-old Alfredo Perez, is still in critical condition.

On Feb. 3, a 14-year-old honors student armed with a high-powered rifle and two handguns, walked into a main classroom in Washington State and opened fire, killing a teacher and two students and critically wounding



Photographs by Associated Press

A shooting victim was rushed from a junior high school in Moses Lake, Wash., where a teacher and two students were killed last week.



St. Louis police looked for clues last week around a school bus after a shooting left a 15-year-old girl dead and the driver wounded.

a 13-year-old girl.

In November, a teenager in Lynville, Tenn., who was reported to be angry about a traffic accident, opened fire with a rifle in a crowded school hallway, killing a student and teacher. In October, a 16-year-old high school student in Blackville, S.C., shot two teachers, killing one, and then killed himself.

Teachers' unions and some education experts have said the incidents reflect the need to adopt tough standards that weed out violent, disruptive students and get them out of schools and into specialized centers.

But many experts concede that the problem is not that simple, that while some assailants are habitual offenders in violent inner-city neighborhoods, many others are unlikely killers in unexpected places whose access to a gun turns what in the past

might have been a minor incident into a fatal one.

"Violence is no respecter of geography, or size of school or location or demographics," Mr. Stephens said.

Both Mr. Stephens and Mr. Newman said the shootings underscored the need for schools to adopt security and counseling strategies for curbing violence and working with or providing alternative campuses for troubled youths. They also said it was unlikely that schools could somehow remain peaceful and gun free when the world around them was violent and gun saturated.

"There are more weapons and more willingness to use them," Mr. Newman said, "so isn't it inevitable we'll see some of this in the schools? The same kids involved in shootings in the schools are involved in shootings outside the schools."

NYT 3/3/96

¹⁷¹⁶ Guns Are No. 2 Cause of Death Among the Young, Data Show

WASHINGTON, April 8 (AP) — Gunfire is the second-leading cause of death among Americans ages 10 to 19, the Children's Defense Fund said today in a report. And firearm deaths are increasing faster among that age group than in any other.

In 1993, an American aged 10 to 19 died every 92 minutes from gunfire, the report said. The leading cause of death in that age group remained accidents, primarily involving vehicles.

"This information really should set off alarm bells for every mother and father in America," said Enola Arid of the defense fund, a nonpartisan advocacy group. "It is, unfortunately, not surprising. We have not done what we should be doing to try and keep our children safe and away from guns."

According to the report, data compiled by the National Center for Health Statistics show that deaths from guns among Americans below age 20 increased 7 percent in 1993 from 1992, to 5,751 from 5,379. That compares with a 4.8 percent increase in deaths by gunfire among all age groups, to 39,594 from 37,776.

An analysis of the 5,751 deaths showed that 3,681 were homicides, 1,460 suicides, 326 accidents and 104 cause unknown. Breaking those down by age showed that 116 victims were below age 5, 141 were 5 to 9, 700 were 10 to 14 and 4,794 were 15 to 19.

A gun was the leading cause of death among black men ages 15 to 19. The death rate from guns among black men ages 15 to 19 was 153.1 per 100,000, among their white peers 28.8 per 100,000.

"The morally unthinkable killing of children has not only become routine," said Marian Wright Edelman, president of the defense fund, "but is increasing in the world's leading democracy."

"What will it take for parents and religious, community and political leaders to stand up and say enough?"

The defense fund said the Government was doing too little to keep guns away from schools and children, and it criticized Congressional Republicans for wanting to repeal the Federal ban on assault-style weapons.

GUN-FREE SCHOOL ZONES FACTOIDS

◆ SENATOR KOHL'S ORIGINAL GUN-FREE SCHOOL ZONES PASSED -- BY UNANIMOUS CONSENT -- AS PART OF THE 1990 CRIME BILL. IT WAS ENDORSED BY NATIONAL EDUCATION ASSOCIATION, THE AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS, THE NATIONAL SCHOOL BOARDS ASSOCIATION, THE NATIONAL ASSOCIATION OF ELEMENTARY SCHOOL PRINCIPALS AND THE AMERICAN ACADEMY OF PEDIATRICS, AMONG OTHERS. THE NRA DID NOT OPPOSE.

◆ ACCORDING TO THE NATIONAL SCHOOL SAFETY CENTER, APPROXIMATELY 135,000 STUDENTS CARRY GUNS TO SCHOOL EVERY DAY.

◆ ACCORDING TO THE NATIONAL SCHOOL SAFETY CENTER, NEARLY 3 MILLION CRIMES OCCUR IN OR NEAR SCHOOL CAMPUSES EVERY YEAR -- ABOUT ONE EVERY 6 SECONDS THAT SCHOOL IS IN SESSION.

School Safety Update, National School Safety Center News Service, September, 1993.

◆ ACCORDING TO THE CDC, OVER A TWO YEAR PERIOD -- JULY 1992-JUNE 1994 -- THERE WERE AT LEAST 105 SCHOOL-RELATED VIOLENT DEATHS.

◆ ABOUT 40 STATES CURRENTLY HAVE GUN-FREE SCHOOL ZONES LAWS. HOWEVER, THESE LAWS ARE:

- 1) A PATCHWORK OF LAWS ; AND
- 2) LARGELY CREATED IN RESPONSE TO THE 1990 FEDERAL GUN-FREE SCHOOL ZONES.

◆ IN 1990, THE CENTERS FOR DISEASE CONTROL FOUND THAT ONE IN 20 STUDENTS CARRIED A GUN IN A 30 DAY PERIOD. THREE YEARS LATER, IT WAS ONE IN 12.

Weapon-Carrying Among High School Students -- United States, 1990; CDC Health Objectives for the Nation, October 11, 1991.
Youth Risk Behavior Surveillance -- United States, 1993;
 CDC Surveillance Summaries, March 24, 1995.

◆ GUNS ARE INVOLVED IN MORE THAN 75 PERCENT OF JUVENILE HOMICIDES.

◆ THE JUVENILE GUN PROBLEM IS EXPLODING: IN 1988, 25,498 JUVENILES WERE ARRESTED ON WEAPONS CHARGES NATIONALLY. BY 1993, THAT NUMBER HAD INCREASED TO MORE THAN 47,000. IN WISCONSIN, 1,315 JUVENILES WERE ARRESTED ON WEAPONS CHARGES BUT BY 1993 THAT NUMBER HAD INCREASED TO 2,635.

Crime in the United States, 1992 Uniform Crime Report, U.S. Department of Justice, Federal Bureau of Investigation (F.B.I.), 1992.
 WI figures from WI Bureau of Justice Assistance.

◆ IN 1991, 1 OF 5 WEAPONS ARRESTS WAS FOR A JUVENILE.

◆ IN 1984, 1,134 JUVENILES WERE ARRESTED FOR MURDER. BY 1992, THAT NUMBER MORE THAN DOUBLED TO 2,829.

Crime in the United States, 1992 Uniform Crime Report, U.S. Department of Justice, Federal Bureau of Investigation (F.B.I.), 1992.

◆ FIREARMS KILL MORE TEENAGERS THAN CANCER, HEART DISEASE, AIDS AND ALL NATURAL DISEASES COMBINED.

H.H.S. News Release, U.S. Department of Health and Human Services, March 23, 1994. taken from a report released by the National Center for Health Statistics released on March 23, 1993.

◆ MORE THAN 1,400 CHILDREN DIE EACH YEAR FROM GUNS -
- A TOLL THAT HAS MORE THAN DOUBLED OVER THE PAST EIGHT YEARS

H.H.S. News Release, U.S. Department of Health and Human Services, March 23, 1994. taken from a report released by the National Center for Health Statistics released on March 23, 1993.

◆ GUNSHOT WOUNDS ARE THE LEADING CAUSE OF DEATH FOR BLACK TEENAGE BOYS IN AMERICA.

H.H.S. News Release, U.S. Department of Health and Human Services, March 23, 1994. taken from a report released by the National Center for Health Statistics released on March 23, 1993.

◆ A REPORT IN JULY 1993 RELEASED BY THE JOYCE FOUNDATION REVEALED AN ASTOUNDING PORTRAIT OF THE PREVALENCE OF GUN CULTURE AMONGST JUVENILES.

- 59% OF RESPONDENTS SAID THAT THEY COULD GET A HANDGUN "IF I WANTED ONE;"
- 15% SAID THAT THEY HAVE CARRIED A HANDGUN ON THEIR PERSON IN THE PAST 30 DAYS;"
- ONE IN 25 SAY THEY HAVE TAKEN A HANDGUN TO SCHOOL THIS PAST YEAR.

A Survey of Experiences, Perceptions, and Apprehensions About Guns Among Young People in America, Prepared for The Harvard School of Public Health Under a Grant from The Joyce Foundation and Conducted by LH Research, Inc. Louis Harris, Study Director, 1993.

◆ ROUGHLY ONE IN TEN TEENAGERS BETWEEN THE AGES OF TEN AND NINETEEN HAS FIRED A GUN OR BEEN SHOT AT, AND ABOUT TWO IN FIVE SAY THEY KNOW SOMEONE WHO HAS BEEN KILLED OR WOUNDED BY GUN FIRE.

◆ A UNIVERSITY OF MICHIGAN SURVEY REVEALED THAT 14 PERCENT OF 10TH GRADERS AND 12 PERCENT OF 12TH GRADERS SAY THEY FEAR FOR THEIR SAFETY AT SCHOOL.

U.S. News and World Report, November 8, 1993, p. 31-32.

◆ A SURVEY OF 1,600 INNER CITY MALE STUDENTS FOUND 22% OWNED AT LEAST ONE GUN. OF THE KIDS WHO OWNED GUNS, THE PERCENTAGE OWNED THE FOLLOWING:

SEMIAUTOMATIC HANDGUN	82%
REVOLVER	68%
SHOTGUN	45%
SAWED-OFF SHOTGUN	41%
TARGET, HUNTING RIFLE	36%
MILITARY-STYLE RIFLE	27%
SINGLE-SHOT HANDGUN	18%
HOMEMADE HANDGUN	18%

◆ ACCORDING TO THE NATIONAL INSTITUTE OF JUSTICE, HERE'S WHERE KIDS GET HANDGUNS

FRIEND	38%
FAMILY MEMBER	23%
THE STREET	14%
GUN SHOP	11%
DRUG ADDICT/DEALER	8%
STOLEN/OTHER	6%

"Saving Youth from Violence," Carnegie Quarterly. Vol. XXXIX, No. 1, Winter 1994.

Violent Offender Incarceration and Truth in Sentencing Incentive Grant Program: Interim Final Rule



Violent Offender Incarceration and Truth in Sentencing Incentive Grant Program

AGENCY: U.S. Department of Justice, Office of Justice Programs (OJP).

ACTION: Interim Final Rule.

SUMMARY: This Interim Rule implements and requests comments regarding the Violent Offender Incarceration and Truth in Sentencing Incentive Grant Program, Subtitle A of Title II of the Violent Crime Control and Law Enforcement Act of 1994. The Violent Offender Incarceration and Truth in Sentencing Grant Program will provide grants to states, and states organized in multi-state compacts, for assistance to correctional systems. These regulations are being issued in accordance with the mandate in Subtitle A of Title II that rules and regulations regarding the uses of grant funds under this program be issued. While this rule discusses the implementation of the overall Subtitle A program, fiscal year 1995 funds have only been appropriated for the construction-related costs of correctional boot camps.

DATES: Interim rule effective on December 7, 1994; comments must be received March 7, 1994.

ADDRESS: Comments may be sent to Marlene Beckman at the Office of Justice Programs, 633 Indiana Avenue, 13th Floor, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Response Center at 1-800-421-6770 or (202) 307-1480.

SUPPLEMENTARY INFORMATION: Federal funding is authorized under Subtitle A of Title II of

the Violent Crime Control and Law Enforcement Act of 1994 (Subtitle A), Public Law 103-322, for grants to states, and states organized in multi-state compacts, for assistance to adult and juvenile correctional systems. The program recognizes that states and local jurisdictions have experienced substantial increases in jail, prison and juvenile confinement populations in recent years, resulting in escalating costs and serious difficulties in managing overcapacity correctional populations. Because of these constraints, correctional systems have often been unable to implement new programs, develop alternative confinement strategies, or open new facilities. This program seeks to provide funds to address the immediate needs of correctional facilities and programs.

In particular, the program emphasizes the need to make available both conventional jail and prison space for the confinement of violent offenders and to ensure that violent offenders remain incarcerated for substantial periods of time through the implementation of truth in sentencing laws. Accordingly, Subtitle A directs the Attorney General to award grants to construct, develop, expand, modify, operate, or improve correctional facilities, including boot camp facilities and other alternative correctional facilities that will free secure prison space for the confinement of violent offenders.

Fifty percent of the total amount of funds appropriated each year will be allocated for Truth in Sentencing Incentive Grants and the other 50 percent will be allocated for Violent Offender Incarceration Grants, 85 percent of which is to be distributed by specified formula with the remaining 15 percent available for discretionary grant awards.

The formula amount available to carry out the grant programs for any fiscal year will be allocated to each eligible state based on Part 1 violent crime data reported to the Federal Bureau of Investigation for use in the Uniform Crime Reports (UCR). If such data is unavailable, applicants may also utilize figures as reported in publications by the Bureau of Justice Statistics (BJS). (See, e.g., "Census of State and Local Correctional Facilities, 1990.")

The statute contemplates the availability of \$7.9 billion in funding over six years, beginning with \$175 million authorized in fiscal year 1995. It is important to note, however, that Congress appropriated only \$24.5 million for Subtitle A programs for fiscal year 1995. Moreover, the Appropriations Act limits these funds to a discretionary grant program for the construction of correctional boot camps. Specifically, grant awards in fiscal year 1995 are to develop, construct, or expand boot camp programs which include coordinated, intensive aftercare services following release. It is anticipated that program guidelines and information outlining the application process for adult and juvenile boot camp fiscal year 1995 grant awards will be available in January 1995.

Statement of the Problem

State and local prison populations continue to grow. Moreover, there are a number of states and local jurisdictions under court order because of overcrowding in their correctional facilities. The majority of jurisdictions operate above the total rated capacity for their correctional facilities. Those facilities under court order for overcrowding which have taken steps to control their burgeoning inmate populations tend to operate at or near capacity in order to remain in compliance with the court orders.

Correctional systems faced with rising prison populations and court-ordered ceilings have responded in various ways. Some have implemented population management task forces to ensure that violent criminals are not released as a result of accommodating nonviolent offenders. Others have simply released offenders when their institutions reach a certain population level, without significant

controls over the security classifications of the inmates. Still other systems under court order have implemented statutory release programs.

The Violent Crime Control and Law Enforcement Act of 1994

Subtitle A provides for immediate assistance to correctional systems to contend with this growing inmate population crisis. Of primary importance is the recognition that there must be adequate conventional confinement space for violent offenders, both adults and juveniles, to serve a substantial portion of their sentences. This program, therefore, provides grants to assist correctional systems in managing a comprehensive approach which will provide for the confinement of violent offenders; help address the problems associated with overcapacity in correctional facilities through the improvement, development, expansion or modification of present facilities and programs; and support comprehensive programs and treatment that will assist in reducing recidivism.

Federal, State and Local Partnerships

Because crime is primarily a state and local issue, the Subtitle A grant program envisions a federal, state, and local collaboration to address the problems associated with the incarceration and punishment of violent offenders. State and local government officials were involved in the congressional hearings that guided this legislation, and will continue to be involved as the Department of Justice moves forward in establishing policy guidance, developing regulations, and implementing program guidelines.

In addition, this grant program provides flexibility to states and local governments in utilizing federal funds to plan, construct, and operate correctional facilities in ways that best meet their needs and in the most cost-effective manner. Built into the program is the recognition that correctional systems can use grant funds in a variety of ways to ensure the greatest and most timely impact.

Under Subtitle A, corrections systems will have the ability to quickly bring on-line additional bed space in facilities which, although construction has been completed, are not being utilized due to funding constraints. States and local agencies can also activate prison and jail expansion and juvenile corrections projects that have been planned, but not launched, due to lack of funds. The grant program further provides for the expansion of alternative correctional options for nonviolent offenders which will free secure bed space for dangerous offenders to serve their sentences.

Moreover, corrections systems will have flexibility in using surplus federal property. Beds for violent offenders can be made available in secure facilities through the conversion of closed military facilities or other appropriate federal facilities to facilities for housing low-security inmates.

Subtitle A also recognizes the benefits of regional prisons, particularly for adjoining localities. The economies of scale resulting from a multi-state compact prison are particularly beneficial for confining specialized groups of offenders, such as medical/psychiatric inmates, inmates requiring protective custody, and high security inmates.

The grant program balances appropriate accountability through various eligibility criteria, the availability of technical assistance, and the evaluation of programs implemented with these funds, with the flexibility states and local governments require and deserve based on their individual needs and expertise. Grant eligibility criteria specifically provide for the involvement of counties and local governments and the sharing of funds with these entities.

Moreover, the federal role provides sufficient structure and definition in the eligibility criteria to meet the program's goals, while allowing for judgment by grant recipients to take into account the states' various unique situations, criminal and juvenile justice practices, and correctional systems. The program accounts for the different needs of the states and local entities, and reflects that there is no "national standard" approach that will suit all jurisdictions. The grant monies are available for

the range of correctional needs such as system planning and facility development, as well as the construction, expansion, modification, improvement, and operation of a variety of correctional facilities.

Violent Juvenile Crime

Concern also continues nationwide over the escalation in violent juvenile crime. According to the FBI's Uniform Crime Reports, juvenile arrests for violent offenses increased dramatically over the five-year period from 1988 to 1992 — 47 percent — while adult violent crime arrests increased 19 percent. The estimated 129,600 Violent Crime Index arrests of juveniles in 1992 was the highest in our history, with 3,300 arrests for murder, 6,300 for forcible rape, 45,700 for robbery and 74,400 for aggravated assault. Moreover, during the past few years, there has been a marked escalation of homicides by juvenile offenders. Teenage homicides have more than doubled since 1984, and juvenile homicides involving firearms have increased 175 percent since 1983. Of particular importance is that the size of the current 14-17 year-old population, which has been responsible for much of the recent youth violence, will increase by about 20 percent in the next decade.

The "Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders," developed by the Department's Office of Juvenile Justice and Delinquency Prevention, is the centerpiece of the Department's response to growing juvenile crime. The Subtitle A grant program is an integral part of the comprehensive strategy's intervention component. The program is based on the recognition that an effective model for the treatment and rehabilitation of delinquent offenders must combine accountability and sanctions with increasingly intensive treatment and rehabilitative efforts at every stage of the continuum.

The intervention component calls for establishing a range of graduated sanctions that includes both immediate interventions and intermediate sanctions, including both nonresidential and residential placements and programming. Boot camps offer an

intermediate sanction for nonviolent juvenile offenders. These programs should be short-term and include a formal aftercare phase, actively involving the family and the community in supporting and reintegrating the juvenile into the community.

While the strategy encourages the use of nonresidential community-based programs and intensive supervision programs for many juvenile offenders, it recognizes that the criminal behavior of some serious, violent and chronic offenders requires the use of secure detention and corrections facilities to protect the community and provide a structured treatment environment. This grant program will facilitate jurisdictions in meeting the challenge of placing juvenile offenders in need of confinement in secure facilities.

Grants for Correctional Facilities

The Subtitle A authorization provides for two different grant programs: (1) Violent Offender Incarceration Grants, and (2) Truth in Sentencing Incentive Grants. Of the total federal funding authorized to Subtitle A grant programs each year, 50 percent is allocated for each of these two grant initiatives. With the exception of a limited discretionary grant program, this funding will be distributed to states based on the formula specified in Subtitle A. Although the statute provides for states and multi-state compacts as the only eligible grant recipients, **Subtitle A requires that states involve counties and other units of local government and share funds received under this program with them.**

To be eligible to receive funding under either of the Subtitle A programs, states must comply with a series of assurances involving sentencing policies and practices and other guarantees of sound correctional systems to ensure that violent offenders are sufficiently incapacitated and that the public is protected.

Included in the assurances are requirements that the state: (1) implement sentencing reforms that ensure violent offenders receive sufficiently severe punishments, (2) recognize the rights and needs of crime victims, and (3) develop a comprehensive correc-

tional management plan that includes diversion programs, particularly drug diversion programs, community corrections programs, systems designed to accurately evaluate and classify inmates within the system, and programs and treatment designed to assist in reducing recidivism, including rehabilitation and treatment programs and job skills. Emphasis will be placed on a corrections system's ability to plan for and implement these basic components of a comprehensive and coordinated approach to correctional policy.

Comprehensive Correctional Planning

By definition, a comprehensive system involves state and local governments; thus, the development of a comprehensive plan necessitates a partnership and collaboration among state and local entities. Because the flow of offenders begins at the local level, both local and state governments play key roles in the punishment of offenders through alternative sanctions and incarceration in correctional facilities. The input of county and municipal juvenile and criminal justice officials will be considered essential to creating an effective overall state strategy to meet the goals of this grant program. Both local and state governments also have a strong interest in any change in the capacity of any component of the corrections system. The statutory assurances are clear in their intent that states are expected to share funds with local units of government in support of effective implementation of the comprehensive plan.

Participants in the comprehensive plan development should represent a broad mix of interested and involved organizations and officials from varying perspectives. Every effort should be made by the state to include mayors, city and county officials, police departments, sheriffs, judges, prosecutors, community corrections administrators, representatives from the treatment and education communities and indigent defense, concerned citizens, and victims' advocates, as well as the juvenile justice system. Applicants should also take an active role in involving state and juvenile justice administrative agencies and advisory boards. The manner in which criminal and juvenile justice

functions are structured in various states and their relationships with other justice agencies will affect the roles played in the development of an effective correctional plan.

The comprehensive correctional plan must address how the state has involved local jurisdictions and the plan for sharing funds with local facilities, truth in sentencing and victims' rights issues, and the continuum of correctional options required for adult and juvenile offenders. It must meet the overall goal of incarcerating violent offenders, and must convey the options for nonviolent offenders that will free up traditional bed space to accomplish that goal.

Victims' Rights and Needs

To be eligible to receive grants, states must provide assurances that they have implemented policies that provide for the recognition of the rights and needs of crime victims. No specific requirements for complying with this condition are prescribed by this interim rule in relation to fiscal year 1995 funding because of the need for comprehensive review of the status of victims' rights measures in state systems. State applications for fiscal year 1995 funding should include information on measures which are in effect or under consideration in the state to protect the rights and interests of crime victims.

More definitive guidance will be provided concerning compliance with this condition in a final rule or related guidelines for funding in fiscal year 1996 and thereafter. Areas that have been identified as implicating important rights and needs of crime victims include: (1) providing notice to victims concerning case and offender status, (2) providing an opportunity for victims to be present at public court proceedings, (3) providing victims the opportunity to be heard at sentencing and parole hearings, (4) providing for restitution and other compensation to victims, and (5) establishing administrative mechanisms or other mechanisms to effectuate these rights.

States that expect to seek funding under this program in fiscal year 1996 or thereafter are encour-

aged to review the status of victim rights measures in their systems, particularly with reference to the five areas identified above. Federal law incorporates significant measures in each of these areas for federal cases. The provisions of federal law governing these issues may be useful for states as a possible model for reform, if they have not already adopted similar measures in their own systems. See 42 U.S.C. 10606(b)(3), (7), 10607(c) (notice concerning case and offender status); 42 U.S.C. 10606(b)(4) (right to be present at public court proceedings); Rule 32 of the Federal Rules of Criminal Procedure, as amended effective December 1, 1994 (right of allocution in sentencing for victims); 18 U.S.C. 3663, 3553(c) (general restitution provisions for federal cases); 42 U.S.C. 10607(a) and (b), 10607(c)(5) (assignment of responsibility for victim-related functions).

Truth in Sentencing Incentive Grants

To be eligible to receive funding under the Truth in Sentencing Grant Program, in addition to meeting the assurances listed in Subtitle A, states must also meet certain sentencing requirements. In particular, to qualify for this part of the grant program, states must have in effect sentencing laws that either provide for violent offenders to (1) serve not less than 85 percent of their sentences, or (2) meet other requirements that ensure that violent offenders, and especially repeat violent offenders, remain incarcerated for substantially greater percentages of their imposed sentences.

The Office of Justice Programs is aware that the vast majority of states will at present have difficulty in meeting the condition that violent offenders serve at least 85 percent of the sentence imposed. No specific guidance for complying with this assurance is prescribed at this time both because funding for this program is not available in FY '95, and also because of the need for further review of state compliance issues. Moreover, we are particularly interested in comments from the field on compliance issues and on the definition of "violent offender" for purposes of truth in sentencing grant awards.

FY 1995 Correctional Boot Camp Initiative

The availability of funds each year is, of course, limited by the appropriations process. In fiscal year 1995, Congress has allocated \$24.5 million to Subtitle A grant programs and has imposed additional limitations on the uses of these grant funds.

Consistent with congressional intent, grant awards in fiscal year 1995 will be for construction-related costs of correctional boot camps and will be allocated through the discretionary grant component of the Violent Offender Incarceration Grant Program. Construction-related costs are broadly interpreted to include costs associated with both the planning and development of the facility. OJP is expressly precluded, however, from funding operating expenses.

Specifically, grant funds can be used to plan, develop, construct, or expand adult and juvenile boot camp programs which must include coordinated, intensive aftercare services for inmates following release. Pursuant to the requirements specified in Subtitle A, boot camps are correctional programs of no longer than six-months incarceration and must: (1) exclude offenders who have at any time been convicted of a violent felony or similarly adjudicated juveniles, (2) adhere to a regimented schedule, (3) provide for inmate participation in education, job training and substance abuse counseling or treatment, and (4) coordinate intensive aftercare services with the services provided during the period of confinement.

The program emphasis in fiscal year 1995 will be on the construction, renovation and expansion of correctional boot camp facilities that will free conventional prison, jail and juvenile correctional space for the confinement of violent offenders so they can serve a substantial amount of their imposed sentences. To receive funds, correctional systems will have to demonstrate, through a comprehensive correctional plan and prisoner screening and security classification system, that (1) there is a need for additional secure confinement space for violent offenders, and (2) this need will be met

through the construction of a boot camp facility that provides housing otherwise unavailable for nonviolent offenders.

With regard to juvenile facilities, priority will be given to juvenile boot camps that are designed to prevent juvenile offenders at risk from becoming violent offenders. This desired outcome will most likely be accomplished if the jurisdiction engages in efforts that maximize the likelihood that juvenile boot camp participants would otherwise be incarcerated in traditional secure facilities (e.g., participation limited to those youths who have been adjudicated delinquents and who have been sentenced to the juvenile state correctional agency). Among this population, juvenile offenders whose escalating patterns of delinquent behavior indicate that an authoritative boot camp intervention is likely to suppress or abate emerging tendencies towards chronic or violent delinquent behavior should be considered prime candidates for boot camp participation.

To be eligible to receive grants for correctional boot camp construction, states must meet the eligibility criteria outlined for the Violent Offender Incarceration Grant Program, including the assurances specified in Section 20101(b) of Subtitle A.

Detailed program guidelines and application material for the fiscal year 1995 correctional boot camp initiative will be available in January 1995.

Technical Assistance and Training/Evaluation

In keeping with the intent of Congress to assist states in meeting these assurances, the Department proposes to designate up to 10 percent of the funds available in this program to provide technical assistance and training to states that presently do not meet the required general assurances or want to expand and improve on current efforts in these areas. Specifically, the Department will provide training and assistance to states with the comprehensive corrections planning process, the development of truth in sentencing statutes, and in other-

wise moving toward compliance with the required conditions. States which meet the general assurances in fiscal year 1995, or are working toward compliance, will be in a better position to receive grant monies under these programs over the next several years.

Further, it is the intent of the Department that selected federal initiatives under the new anti-crime law be evaluated. To accomplish this goal, a portion of the overall funds authorized under this Subtitle will be set aside for purposes of implementing a national evaluation strategy. Recipients of funds must agree to cooperate with federally-sponsored evaluations of their projects and to conduct evaluations as required by the national evaluation strategy. In addition, recipients of program funds will be required to conduct a local assessment and report on program implementation.

Request for Comments

In submitting comments, please be cognizant of the above-described statutory limitations. In administering the Subtitle A, Correctional Facilities Grant Program, OJP seeks to fulfill congressional intent by ensuring that the statutory limitations are applied appropriately to all recipients.

Comments are particularly encouraged with respect to the following definitions and implementation policy issues:

- 1) Definition of "Violent Offender" [§ 91.2(a), § 91.4(b)] (This interim rule reserves the issue for now, but the Department will issue a final rule based on comments received, in advance of the implementation of Subtitle A in fiscal year 1996);
- 2) Definition of "Serious Drug Offense" [§91.4(b)];
- 3) How a state can demonstrate compliance with the assurance that it has implemented, or will implement, correctional policies and programs, including "truth in sentencing laws that: (a) "ensure that violent offenders serve a substantial portion of the sentences imposed," (b) "are designed to provide sufficiently severe punishment for violent offend-

ers, including violent juvenile offenders," and (c) "the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public." [§ 91.2(i), § 91.3(b)(1)];

4) How a state can demonstrate compliance with the condition to "provide for the recognition of the rights and needs of crime victims" [§ 91.3(b)(2)];

5) How a state can demonstrate that, as a result of the funds received under this section, secure space will be made available for the confinement of violent offenders [§ 91.3(b)(3)];

6) How to ensure that states have met the condition to involve and share funds received with counties and other units of local government [§ 91.3(b)(5);

7) How to define the scope of the Comprehensive Correctional Plan [§ 91.3(d)]; and

8) How a state can demonstrate compliance with the condition for receiving Truth in Sentencing Incentive Grants, i.e., "persons convicted of violent crimes serve not less than 85% of the sentence imposed" [§ 91.4(b)].

In soliciting comments on the above definitions and key policy implementation issues, OJP hopes to forge a productive federal/state/local partnership in addressing the challenge of providing an effective criminal justice system response to the increased numbers of violent offenders.

The final rule will address all comments submitted and substantive differences incorporated will be explained.

Administrative Requirements

This regulation has been drafted and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. This rule is a "significant regulatory action" under Executive Order 12866, § 3(f), Regulatory Planning and Review, and accordingly this rule has been reviewed by the Office of Management and Budget.

The Assistant Attorney General for the Office of Justice Programs in accordance with the Regulatory Flexibility Act (5 U.S.C. § 605(b)) has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

No information collection requirements are contained in this rule. Any information collection requirements contained in future application notices for programs authorized by this rule will be reviewed by the Office of Management and Budget (OMB), as is required by the provisions of the Paperwork Reduction Act, 91 U.S.C. 3504(h).

This regulation is being published as an interim final rule, without prior publication of notice and comment, and is made effective immediately, for good cause as explained below. Under 5 U.S.C. 553(a)(2), matters relating to grants are exempted from notice and comment requirements. Moreover, in this case, advance notice and comment would be impractical and contrary to the public interest. Title II, Subtitle A of the Violent Crime Control and Law Enforcement Act of 1994 requires the publication of regulations implementing the grant program within 90 days of enactment of the Act.

In order to satisfy congressional requirements and intentions of expeditious implementation, these regulations are effective immediately so that eligible states may apply for the boot camp discretionary program. Publishing a notice of proposed rulemaking and awaiting receipt of comments would significantly delay the implementation of the FY '95 boot camp grant program. Such delay would be contrary to the public interest and would contradict the congressional intent to provide immediate grant assistance.

Although OJP will proceed expeditiously with regard to the promulgation of guidelines for the fiscal year 1995 boot camp program, we are very interested in receiving public comment on the overall program and will consider all comments in preparing the final rule.

List of Subjects

Grant Programs, Judicial Administration.

For the reasons set out in the preamble, Title 28, Chapter 1, of the Code of Federal Regulations is amended by adding a new part 91 as set forth below.

PART 91 — GRANTS FOR CORRECTIONAL FACILITIES

Subpart A — General

Section

- 91.1 Purpose
- 91.2 Definitions
- 91.3 General Eligibility Requirements
- 91.4 Truth in Sentencing Incentive Grants
- 91.5 Violent Offender Incarceration Grants
- 91.6 Matching Requirement

Subpart B — FY 1995 Correctional Boot Camp Initiative

91.10 General

Authority: Section 20105 of Subtitle A, Title II of the Violent Crime Control and Law Enforcement Act of 1994.

Subpart A — General

§ 91.1 Purpose.

The Attorney General, through the Assistant Attorney General for the Office of Justice Programs, will make grants to states and to states organized as multi-state compacts to construct, develop, expand, operate or improve correctional facilities, including boot camp facilities and other alternative correctional facilities that can free conventional space for the confinement of violent offenders, to:

(a) ensure that prison space is available for the confinement of violent offenders; and

(b) implement truth in sentencing laws for sentencing violent offenders.

§ 91.2 Definitions.

(a) “*Violent Offender*” — Reserved.

(b) “*Serious Drug Offense*” means an offense involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance [as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802)], for which a maximum term of imprisonment of 10 years or more is prescribed by state law.

(c) “*Part 1 Violent Crimes*” means murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports. If such data is unavailable, Bureau of Justice Statistics (BJS) publications may be utilized. See, e.g., “Census of State and Federal Correctional Facilities, 1990.” [“Part 1 Violent Crimes” are defined here solely as the statutorily prescribed basis for the formula allocation of funding.]

(d) “*Recipient*” means individual states or multi-state compacts awarded funds under this Part.

(e) “*State*” means a State, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam and the Northern Mariana Islands.

(f) “*Comprehensive Correctional Plan*” means a plan which represents an integrated approach to the management and operation of adult and juvenile correctional facilities and programs and which includes diversion programs, particularly drug diversion programs, community corrections programs, a prisoner screening and security classification system, appropriate professional training for corrections officers in dealing with violent offenders, prisoner rehabilitation and treatment programs,

prisoner work activities (including to the extent practicable, activities relating to the development, expansion, modification, or improvement of correctional facilities) and job skills programs, educational programs, a pre-release prisoner assessment to provide risk reduction management, post-release assistance and an assessment of recidivism rates.

(g) “*Correctional facilities*” includes boot camps and other alternative correctional facilities for adults or juveniles that can free conventional bed space for the confinement of violent offenders.

(h) “*Boot Camp*” means a corrections program for adult or juvenile offenders of not more than 6-months confinement (not including time in confinement prior to assignment to the boot camp) involving:

(1) assignment for participation in the program, in conformity with state law, by prisoners other than prisoners who have been convicted at any time for a violent felony;

(2) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training, and work;

(3) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(4) post-incarceration aftercare services for participants that are coordinated with the program carried out during the period of imprisonment.

(i) “*Truth in sentencing laws*” means laws that:

(1) ensure that violent offenders serve a substantial portion of sentences imposed;

(2) are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders; and

(3) the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public.

§ 91.3 General Eligibility Requirements.

(a) Recipients must be individual states, or states organized as multi-state compacts.

(b) Application Requirements. To be eligible to receive either a formula or a discretionary grant under Subtitle A, an applicant must submit an application which includes:

(1) Assurances that the state(s) have implemented, or will implement, correctional policies and programs, including truth in sentencing laws. No specific requirements for complying with this condition are prescribed by this interim rule for fiscal 1995 funding because of the need for further review of the status of truth in sentencing laws and the impact and needs requirements relating to reform in state systems.

(2) Assurances that the state(s) have implemented or will implement policies that provide for the recognition of the rights and needs of crime victims. States are not required to adopt any specific set of victims rights measures for compliance, but the adoption by a state of measures which are comparable to or exceed those applied in federal proceedings will be deemed sufficient compliance for eligibility for funding. If the state has not adopted victims rights measures which are comparable to or exceed federal law, the adequacy of compliance will be determined on a case-by-case basis. States will be afforded a reasonable amount of time to achieve compliance. States may comply with this condition by providing recognition of the rights and needs of crime victims in the following areas:

- i) providing notice to victims concerning case and offender status;
- ii) providing an opportunity for victims to be present at public court proceedings in their cases;
- iii) providing victims the opportunity to be heard at sentencing and parole hearings;
- iv) providing for restitution to victims; and

v) establishing administrative or other mechanisms to effectuate these rights.

(3) Assurances that funds received under this section will be used to construct, develop, expand, operate or improve correctional facilities to ensure that secure space is available for the confinement of violent offenders.

(4) Assurances that the state(s) has a comprehensive correctional plan in accordance with the definition elements in section 91.2. If the state(s) does not have an adequate comprehensive correctional plan, technical assistance will be available for compliance. States will be afforded a reasonable amount of time to develop their plans.

(5) Assurances that the state(s) has involved counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation or improvement of correctional facilities designed to ensure the incarceration of violent offenders and that the state(s) will share funds received with counties and other units of local government, taking into account the burden placed on these units of government when they are required to confine sentenced prisoners because of overcrowding in state prison facilities.

(6) Assurances that funds received under this section will be used to supplement, not supplant, other federal, state, and local funds.

(7) Assurances that the state(s) has implemented, or will implement within 18 months after the date of the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (September 13, 1994), policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled.

(8) Assurances that correctional facilities will be made accessible to persons conducting investigations under the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. 1997.

(9) If applicable, documentation of the multi-state compact agreement that specifies the construction, development, expansion, modification, operation, or improvement of correctional facilities.

(10) If applicable, a description of the eligibility criteria for participation in any boot camp that is to be funded.

(c) States, and states organized as multi-state compacts, which can demonstrate affirmative responses to the assurances outlined above will be eligible to receive funds.

(d) Each state application for such funds must be accompanied by a comprehensive correctional plan. The plan shall be developed in consultation with representatives of appropriate state and local units of government, shall include both the adult and juvenile correctional systems, and shall provide an assessment of the state and local correctional needs, and a long-range implementation strategy for addressing those needs.

(e) Local units of government, i.e., any city, county, town, township, borough, parish, village or other general purpose subdivision of a state, or Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, are in turn eligible to receive subgrants from a participating state(s). Such subgrants shall be made for the purpose(s) of carrying out the implementation strategy, consistent with state(s)' comprehensive correctional plan.

(f) In awarding grants, consideration shall be given to the special burden placed on states which incarcerate a substantial number of inmates who are in the United States illegally. States will not be required to submit additional information on numbers of criminal aliens.

The Bureau of Justice Assistance (BJA) and the Immigration and Naturalization Service (INS) are currently working together to implement the State Criminal Alien Assistance Program (SCAAP) to assist the states with the costs of incarcerating criminal aliens. The Office of Justice Programs will

coordinate with the SCAAP program to obtain the relevant information.

§ 91.4 Truth in Sentencing Incentive Grants.

(a) Half of the total amount of funds appropriated to carry out Subtitle A for each of the fiscal years 1996, 1997, 1998, 1999 and 2000 will be made available for Truth in Sentencing Incentive Grants.

(b) Eligibility. To be eligible to receive such a grant, a state, or states organized as multi-state compacts, must meet the requirements of section 91.3 and must demonstrate that the state(s) —

(1) has in effect laws which require that persons convicted of violent crimes serve not less than 85% of the sentence imposed; or

(2) Since 1993 —

(i) has increased the percentage of convicted violent offenders sentenced to prison;

(ii) has increased the average prison time which will be served in prison by convicted violent offenders sentenced to prison;

(iii) has increased the percentage of sentence which will be served in prison by violent offenders sentenced to prison; and

(iv) has in effect at the time of application laws requiring that a person who is convicted of a violent crime shall serve not less than 85% of the sentence imposed if —

(A) the person has been convicted on 1 or more prior occasions in a court of the United States or of a state of a violent crime or a serious drug offense; and

(B) each violent crime or serious drug offense was committed after the defendant's conviction of the preceding violent crime or serious drug offense.

(c) **Formula Allocation.** The amount available to carry out this section for any fiscal year will be allocated to each eligible state in the ratio that the number of Part 1 violent crimes reported by such state to the Federal Bureau of Investigation for 1993 bears to the number of Part 1 violent crimes reported by all states to the Federal Bureau of Investigation for 1993.

(d) **Transfer of Unused Funds.** On September 30 of each fiscal years 1996, 1998, 1999 and 2000, the Attorney General will transfer to the funds to be allocated under the Violent Offender Incarceration Grant formula allocation (section 91.5) any funds made available to carry out this section that are not allocated to an eligible state under paragraph (b) of this section.

§ 91.5 Violent Offender Incarceration Grants.

(a) Half of the total amount of funds appropriated to carry out this subtitle for each of fiscal years 1996, 1997, 1998, 1999 and 2000 will be made available for Violent Offender Incarceration Grants.

(b) **Eligibility.** To be eligible to receive such a grant, a state, or states organized as multi-state compacts, must meet the requirements of section 91.3(b).

(c) **Allocation of Violent Offender Incarceration Funds —**

(1) **Formula Allocation.** 85% of the sum of the amount available for grants under this section for any fiscal year and any amount transferred as described in section 91.4(c) for that fiscal year will be allocated as follows:

(i) 0.25% will be allocated to each eligible state except that the United States Virgin Islands, American Samoa, Guam and the Northern Mariana Islands shall each be allocated 0.05%.

(ii) The amount remaining after application of paragraph (c)(1)(i) of this section will be allocated to each eligible state in the ratio that the number of Part 1 violent crimes reported by

such state to the Federal Bureau of Investigation for 1993 bears to the number of Part 1 violent crimes reported by all states to the Federal Bureau of Investigation for 1993.

(2) **Discretionary Allocation.** Fifteen percent of the sum of the amount available for Violent Offender Incarceration Grants for any fiscal year under this subsection and any amount transferred as described in section 91.4(c) for that fiscal will be allocated at the discretion of the Assistant Attorney General for OJP to states that have demonstrated:

(i) the greatest need for such grants, and

(ii) the ability to best utilize the funds to meet the objectives of the grant program and ensure that secure cell space is available for the confinement of violent offenders.

(d) **Transfer of Unused Funds.** On September 30 of each fiscal years 1996, 1997, 1998, 1999 and 2000, the Assistant Attorney General will transfer to the discretionary program under paragraph (c)(2) of this section any funds made available under paragraph (c)(1) of this section that are not allocated to an eligible state under paragraph (c)(1) of this section.

§ 91.6 Matching Requirement.

(a) The federal share of a grant received under this subtitle may not exceed 75 percent of the costs of a proposal described in an application approved under this subtitle. The matching requirement can only be met through a hard cash match, and must be satisfied by the end of the project period. A certification to that effect will be required of each recipient of grant funds and must be submitted to the Office of Justice Programs with the application.

Subpart B — FY 1995 Correctional Boot Camp Initiative

§ 91.10 General.

(a) Scope of Boot Camp Program. Funding is appropriated in fiscal year 1995 to provide grants to states and multi-state compacts to plan, develop, construct and expand correctional boot camps for adults and juveniles.

(b) Adult and juvenile boot camps, referred to as "correctional boot camps," are programs that "provide a structured environment for delivering non-traditional corrections programs to criminal offenders."

(c) With respect to this program, the mandates of the Juvenile Justice and Delinquency Prevention Act (42 U.S.C. Sec. 5601 et seq.) shall apply.

(d) Eligibility.

(1) Funding is available for both adult and juvenile boot camps. To be eligible for the funding of boot camps, states must comply with the general assurances in 91.3(b) or demonstrate steps taken toward compliance. While the majority of assurances are applicable to the adult correctional system, those states applying for grants for juvenile boot camps must include the juvenile system in the state comprehensive correctional plan and demonstrate how construction of the boot camp will make secure space available to house violent juvenile offenders.

(2) For purposes of the FY '95 boot camp program, a "violent felony" means any crime punishable by imprisonment for a term exceeding one year, or an act of juvenile delinquency that would be punishable by imprisonment for such term if committed by an adult, that:

(i) involves the use or attempted use of a firearm or other dangerous weapon against another person, or

(ii) results in death or serious bodily injury to another person.

(3) States must document that the boot camp program does not involve more than six-months confinement (not including confinement prior to assignment to the boot camp) and includes:

(i) assignment for participation in the program, in conformity with state law, by prisoners other than prisoners who have been convicted at any time of a violent felony;

(ii) adherence by inmates to a highly regimented schedule that involves strict discipline, physical training and work;

(iii) participation by inmates in appropriate education, job training, and substance abuse counseling or treatment; and

(iv) post-incarceration aftercare services for participants that are coordinated with the program carried out during the period of imprisonment.

(4) States must provide assurances that boot camp construction will free up secure institutional bed space for violent offenders.

(e) Evaluation.

(1) Recipients will be required to cooperate with a national evaluation team throughout the planning and implementation process. Recipients are also strongly encouraged to provide for an independent evaluation of the impact and effectiveness of the funded program.

(2) Jurisdictions are strongly encouraged to engage in systematic planning activities and to develop and evaluate boot camps as part of a comprehensive and integrated correctional plan.

(f) Limitation on funds. Grant funds cannot be used for operating costs. States will be required to show how operating expenses will be provided.

(g) Matching Requirement. The federal share of a grant received may not exceed 75 percent of the costs of the proposed boot camp program described in the approved application. The matching requirement can only be met through a hard cash match, and must be satisfied by the end of the project period; facility operating expenses may not be used to meet the match requirement for the construction project supported. Match may be made

through grantee contribution of construction-related costs. A certification to that effect will be required of each recipient of grant funds.

(h) Innovative Boot Camp Programs. Jurisdictions are encouraged to explore the development of "innovative" boot camp programs which incorporate principles based on the accumulation of research and practical experience, and reflect sound and effective correctional practice.

Comtex/NewsGrid

03:09 PM, Sunday, August 25, 1996

Dole Campaign Statement on Proposed Handgun Ban on Domestic Abusers Hot News

Keywords: DOLE; CAMPAIGN; CLINTON

Dole Campaign Statement on Proposed Handgun Ban on Domestic Abusers
WASHINGTON, Aug. 25 /U.S. Newswire/ -- Dole/Kemp '96 Deputy Press Secretary
Christina Martin released the following statement today:

Bob Dole believes all guns, not just handguns, should be kept out of the hands of domestic abusers. That's why the Dole instant check initiative would prevent anyone under a court order for stalking or harassing their spouse from purchasing any gun -- rifle, shotgun or handgun.

If Bill Clinton is as serious about domestic abuse as he would like for us to believe, why has his Justice Department prosecuted only 18 individuals under the Violence Against Women Act which Bob Dole ushered through the Senate? As long as he is explaining his shortcomings on this issue, Bill Clinton might also explain why, as of last month, his administration had released just \$473,000 of the \$175 million appropriated by Congress for the Department of Justice's Violence Against Women program?

Dealing with America's epidemic of domestic violence will take tough laws and tough prosecutors, not more empty rhetoric.

Categories: !community !crime !federal !government congress epidemic news
newsgrid senate
usa usn women

Retrieval: dole campaign statement proposed handgun ban domestic abusers
washington aug
dole kemp deputy press secretary christina martin bob dole bill clinton
justice department violence against women act department
justice's violence against women dealing america

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Date: 08/26/96 Time: 17:15

CClinton's Convention Opens With a Focus on Crime And The GOP

CHICAGO (AP) Democrats opened their 42nd national convention Monday with a forceful anti-crime message that echoed from President Clinton's campaign train through the festive hall where his party launched its case for a second term in the White House and a return to power in Congress.

"Four More Years," was the party's Chicago credo, and as Clinton made a whistlestop journey to his convention city, allies moved from meeting to meeting spreading a simple gospel: keep the heat on the GOP.

"Early to bed, early to rise, work like hell and organize," Vice President Al Gore told New York delegates in a morning pep talk.

As Clinton's train rolled across Ohio, Hillary Rodham Clinton visited several delegations and offered a straightforward pitch for her husband's re-election: "It's been a good four years for the people of this country."

Like the Republican convention before it, the Democrats' gathering was a carefully drawn, made-for-TV affair this one designed to praise Clinton's record as president and portray the Republicans as more conservative than the image presented in San Diego.

The convention convened after delegates danced the Macarena to a latin beat. Clinton enjoyed a lead in the pre-convention polls over Republican Bob Dole and Reform Party nominee Ross Perot.

Dozens of Democratic speakers designed to reflect the party's diversity and occasional dissent were asked to keep remarks short and crisp. Giant video monitors were ready to bring delegates updates from Clinton's rail journey, and 150,000 balloons waited in the rafters to be dropped on Thursday's finale.

There was tight security around Chicago's United Center, and a giant police presence throughout the city where the 1968 Democratic convention was marred by anti-Vietnam war protests and violence.

"The world is watching," chanted some protesters who got into a small scuffle with police while denouncing Clinton for signing a Republican welfare reform bill.

Many of the delegates were unhappy with administration welfare policy, too, but most were eager to set that difference aside in hopes of making Clinton the first Democratic president elected to a second term in since Franklin Roosevelt more than 60 years ago. Not since 1980 have Democrats convened with an incumbent president; unlike Jimmy Carter then, Clinton escaped a primary challenge.

The opening-day program went from predictable to unorthodox.

The early sessions included slots for House Minority leader Richard Gephardt and Senate Democratic leader Tom Daschle to make their case that Democrats deserved another chance to control both the legislative and executive branches. "Failure is not an option," Gephardt told Illinois delegates a few hours before the convention was gaveled to order.

But there were no elected officials in prominent roles for the evening's final hour when the mainstay television networks were tuning in.

Instead, the starring roles went to actor Christopher Reeve, confined to a wheelchair because of an equestrian accident, and gun-control activist Sarah Brady, a former Republican operative whose husband was wounded in the 1981 assassination attempt on President Reagan. Other evening speakers included Mike Robbins, a Chicago police officer who was shot 11 times in a 1994 on-duty incident and is now a gun-control advocate.

For Robbins and Mrs. Brady, the mission was to echo Clinton's claim that his gun-control efforts have saved lives. James Brady, who was Reagan's press secretary, was on hand as well and the Clinton campaign sought to make the most of its support from two former Republicans.

Clinton led the anti-GOP chorus, painting Republicans as so captive to the National Rifle Association that they would not pass proposals to ban ``cop-killer bullets'' or to outlaw guns near schools. Clinton also proposed expanding the Brady handgun control law to deny guns to those convicted of domestic violence and abuse. Many of those offenses are classified as misdemeanors, and not covered by laws blocking people convicted from felonies from purchasing firearms.

``If you're stalking or harassing women or children, you shouldn't have a gun,'' Clinton said in Columbus, Ohio, surrounded by police officers who greeted his ``21st Century Express'' campaign train. ``And if you commit an act of violence against your spouse or your child, you shouldn't have a gun.''

The anti-gun message has proven appeal to suburban moderate voters, a crucial bloc in most big battleground states, and it has helped Clinton erase the traditional Republican advantage on the crime issue.

More appeals to swing voters were scheduled for Tuesday and Wednesday train stops: first a new education and literacy initiative, then an environmental cleanup proposal. If that wasn't enough proof the campaign was in high gear, consider this: Clinton has never formally declared his candidacy for re-election, but took time during the train ride Monday to sign the papers necessary for him to accept the Democratic nomination.

At the start of his Columbus speech, Clinton was heckled by a Dole supporter, and eagerly returned fire. ``You've got to feel sorry for these people,'' the president said. ``They don't want you to know my record. If the American people find out the truth, they don't have a chance.''

Gore and Daschle took supporting roles in the day's anti-crime theme.

``They do whatever the NRA tells them to do,'' Gore said of the GOP. ``America's neighborhoods should not be battlefields,'' Daschle said.

This was just one avenue of Democratic attack as Clinton's team tried to erase the kinder, gentler image Republicans projected from their San Diego convention, where the prime-time programming was dominated by moderates.

Gore said Dole and House Speaker Newt Gingrich had tried to ``slice and dice'' Medicare, education and environmental programs. Top administration officials echoed that message as they fanned across Chicago for state delegation meetings.

Given that, party chairman Christopher Dodd predicted the party would leave Chicago on Friday ``focused, organized and united,''

Dole was on vacation in California, where he planned to watch some of the Democratic proceedings. Eager to keep Clinton from getting a big convention boost in the polls, Dole's campaign launched a new TV ad accusing Clinton of presiding over a doubling of the rate of drug use by young Americans.

APNP-08-26-96 1724EDT



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

FAX COVER SHEET

DATE: 8-26-96

TO:

Dennis Burke

FAX NO.

456-7028

FROM:

PAM SMITH

PHONE NO.

514-2078

FAX NO.

514-9149

NO. OF PAGES:

2

(EXCLUDING COVER)

COMMENTS:

These are proposed fixes to the Lautenberg
gun bill - We are meeting with
Lautenberg's L.O. on Thursday

SEC. GUN BAN FOR INDIVIDUALS COMMITTING DOMESTIC VIOLENCE

(a) ~~DEFINITIONS. Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph.~~

~~"(22) The term 'crime involving domestic violence' means a felony or misdemeanor crime of violence, regardless of length, term, or manner of punishment, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, guardian of the victim under the domestic or family violence law of the jurisdiction in which such felony or misdemeanor was committed."~~

~~(b) UNLAWFUL ACTS. - Section 922 of title 18, United States Code, is amended -~~

~~(1) in subsection (d) -~~

~~(A) by striking "or" at the end of paragraph (7);~~

~~(B) by striking the period at the end of paragraph (8) and inserting ";or"; and~~

~~(C) by inserting after paragraph (8) the following new paragraph:~~

~~"(9) has been convicted in any court of any crime involving domestic violence - a misdemeanor offense in which an intimate partner, or a child of an intimate partner, or a child of the offender was the victim or complainant and where the individual has been represented by counsel or knowingly and intelligently waived the right to counsel"; and~~

~~(2) in subsection (g) -~~

~~(A) by striking "or" at the end of paragraph (7);~~

~~(B) in paragraph (8), by striking the comma and inserting ";or"; and~~

~~(C) by inserting after paragraph (8) the following new paragraph:~~

~~"(9) who has been convicted in any court of any crime involving domestic violence - a misdemeanor offense in which an intimate partner, or child of an intimate partner, or a child of the offender was the victim or complainant and where the individual has been represented by counsel or knowingly and intelligently waived the right to counsel," and~~

~~(3) in subsection (3)(3)(B)(i), by inserting before the semicolon the following, "and has not been convicted in any court of any crime involving domestic violence where the individual has been represented by counsel or knowingly and intelligently waived the right to counsel".~~

~~(e) RULES AND REGULATIONS. Section 926(a) of title 18, United States Code, is amended -~~

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

1 ~~(2) by striking the period at the end of paragraph (3) and inserting~~
2 ~~"and", and~~

3 ~~(3) by inserting after paragraph (3) the following new paragraph:~~

4 ~~"(4) regulations providing for the effective receipt and secure storage~~
5 ~~of firearms relinquished by or seized from persons described in subsection~~
6 ~~(d) (9) or (g) (9) of section 922."~~

FAX FROM THE LOS ANGELES CITY ATTORNEY'S OFFICE
1600 CITY HALL EAST 200 NORTH MAIN STREET LOS ANGELES, CALIFORNIA 90012
213-237-0023
FX 213-485-8267

FROM: ALANA BOWMAN
SPECIAL ASSISTANT TO THE CITY ATTORNEY
FOR DOMESTIC VIOLENCE ISSUES

TO: DENNIS BURK

DATE: 8/26/96

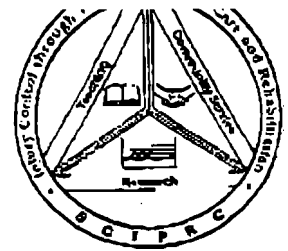
RE: Info for extension of Brady Bill to Misdemeanor DV crimes

Apparently the FAX I sent Friday didn't reach Christa Robinson; here it is again.

The critical info is on the last page: of 48 DV murder-suicides in LA county in 1993 and 1994, a gun was used in 89.6% of the deaths. Please credit UCLA Injury Prevention Research Center and the LA County Coroner's Office. Corrie Peek-Asa can answer any further questions at 310-206-4115.

**Southern California
Injury Prevention
Research Center**

**UCLA School of Public Health
10833 Le Conte Avenue
Los Angeles, CA 90095-1772
Phone: (310) 206-4115
Fax: (310) 794-7989**



To: Members of the Domestic Violence Death Review Team

From: Corrie Peek-Asa

Date: August 19, 1996

Re: Data from the Los Angeles County Office of the Coroner

The following statistics are based on preliminary data from an incomplete review of the 1993 and 1994 Murder/Suicide records from the Los Angeles County Coroner's Office. The sample includes 13 events in 1993 and 9 events in 1994; there are at least 8 cases that we have not yet completed. I thought that perhaps these numbers would help provide a reference when individual cases are reviewed. If there is other information you would like, please let me know. I would like to thank Dr. Lakshmanan and Joe Muto of the LA County Coroner's Office for their assistance in accessing this data.

Type of Event

Murder/Suicide	N = 18	
Adult Couple	N = 16	
Adult/Child	N = 2	
Double Murder/Suicide	N = 2	(husband shot wife and mother-in-law; husband shot wife and child)
Triple Murder/Suicide	N = 1	(ex-husband shot ex-wife, son, and ex-wife's new boyfriend)
Double Murder	N = 1	(husband killed wife then was shot by police)

Total N = 22

- * 10 (45%) of the records mentioned that the couple had recently separated or that there had been talk of ending relationship.
- * 9 (40.9%) of the records mentioned a history of abuse, but the other records had no history mentioned.

Autopsy reports will probably not be the best source of information on relationship history because this information is rarely needed for autopsy reporting and therefore not routinely collected.

Gender

- In all cases (100%) the perpetrators were male.
- Of the total 26 victims, 21 (80.8%) were female and 5 (19.1%) were male. Of these 5 male victims, 4 were children.
- Females were the primary intended victim in 20 (91%) of the 22 events
- Males were the primary victim in 2 of the cases - in both of these the male victim was the child of the male perpetrator
- In the double murder, the female was killed by her male partner and the male partner was killed by others.
- None of the events occurred among same-sex couples.

Average Age

Average age of adult Victims = 35.4

Average age of Perpetrators = 45.2

Average age difference of couples: Perpetrators (males) were an average of 9.82 years older than their partner/victim (female in all cases)

Ethnicity of primary victim and perpetrator:

<u>Victim</u>	<u>Perpetrator</u>	<u>Number</u>
White	White	6
Hispanic	White	1
Hispanic	Hispanic	8
Hispanic	Iranian	1
African Am	Hispanic	1
African Am	African Am	3
African Am	Asian	1
Asian	Asian	4

Children

- 15 of the 20 adult victims had children (75%).
- 12 of these shared children with perpetrator (60%)
- 7 of these children witnessed the event (35%)

Toxicology

<u>Victim</u>			
	Negative	18	(82%)
	Positive	4	(18%)
	Alcohol	3	
	Cocaine	1	

Perpetrator

Negative	11	(50%)
Positive	11	(50%)

Alcohol	8
Amphetamine	1
Phencyclidine	1
Desipramine	1

Weapons

<u>Victim Killed with</u>	<u>Perpetrator killed with</u>	<u>Number</u>	<u>Percent</u>
Blunt Object	Gun	1	4.5%
Hammer	Knife/Bag for Asphyxiation	1	4.5%
Machete	Fire	1	4.5%
Hands/feet and Gun	Gun	1	4.5%
Gun	Gun	18	81.8%

*Guns were used in 43 (89.6%) of the 48 total deaths (including multiple victims).

Clinton: Ban gun sales to those convicted of domestic violence

By Bill Nichols
USA TODAY

COLUMBUS, Ohio — President Clinton, in the second day of his four-day railroad tour, focused on his record on crime — and on gun control in particular.

As aides had promised, the president had the first of a series of convention week proposals ready: passing legislation to extend the Brady Law to cover anyone convicted of domestic violence.

"Those who threaten the safety of others do not deserve our trust," Clinton said. The Brady Law, according to the White House, has kept 60,000 felons from purchasing handguns since its 1993 passage.

The importance of Clinton's proposal is that "four out of five crimes are misdemeanors not felonies, so the vast majority of domestic violence convictions don't get covered," said White House domestic policy adviser Bruce Reed.

Such legislation passed the Senate but has been blocked in the

House "under strict orders from the gun lobby," claims a release from the Clinton/Gore campaign.

Dole's campaign said his proposal for instant background checks on all gun purchases would be more effective in keeping guns from domestic abusers. He has also proposed preventing anyone under a court order for stalking or harassing a spouse from buying handguns, rifles or shotguns.

Dole spokeswoman Christina Martin noted the Clinton administration has prosecuted only 18 individuals under the 2-year-old Violence Against Women Act and has released only \$473,000 of the \$175 million appropriated for it.

Dole voted against the Brady Law. He had promised to lead an effort to repeal the ban on some assault weapons, but in July reversed that position.

Clinton also highlighted other anti-crime proposals that he has submitted to Congress without results, such as a bill to ban so-called "cop-killer" bullets.

"I have never seen a deer in a Kevlar (bullet-proof) vest," Clinton said, using a line he often employs to counter the argument that hunters and amateur gun enthusiasts would be affected by such a law.

Other Clinton proposals:

► Fixing a Supreme Court decision that invalidated a 1990 law making it illegal to possess a gun within 1,000 feet of a school.

► Negating another high court decision with a bill that would let prosecutors punish possession of a firearm when committing a drug felony, rather than using gun in such an act.

Monday's emphasis on crime — Clinton will focus on education today and the environment Wednesday — was timed to coincide with Sarah Brady's address to the convention in Chicago. In her speech, she said the Brady Law has stopped more than 100,000 convicted felons and other prohibited gun purchasers from buying guns.

Contributing: Judy Keen



By Michael Keating, Cincinnati Enquirer

Ridin' the rails: During a rally in Arlington, Ohio, on Monday as part of his four-day railroad tour, a sun-burned President Clinton stopped to sign an autograph.

USA TODAY

TUESDAY, AUGUST 27, 1996

Democrats play the averages

Hoping to connect with voters, party avoids politicians on convention's opening night and puts ordinary and extraordinary Americans on display

By William M. Welch
USA TODAY

CHICAGO — Democrats turned over much of the prime-time portion of their first convention night to voices from outside Washington, both the well-known and "average citizens."

Following a script every bit as closely timed as the one Republicans stuck with two weeks ago in San Diego, the Democratic National Convention's first night was intended to spotlight people that voters at home could identify with.

With topics touching on crime and responsibility, the message they intended to send home was how President Clinton's policies have helped average Americans like them.

And again and again they tried to tell viewers that the Democrats in the White House and in Congress are advocates of moderation — in contrast to what they called the extremism of Republicans and their House leader, Newt Gingrich.

"Newt, get a heart, get a soul and get another job in Georgia," Anne MacKenzie, co-chairwoman of the party's rules committee, declared from the podium in the first hour.

Democrats also paid an emotional tribute to the late Commerce Secretary Ron Brown, who four years ago helped steer Clinton to the White House as national chairman of the party. His widow, Alma, spoke after a video recalled his life.

The broadcast networks all skipped the Brown tribute and Alma Brown's brief remarks, though it was carried on CNN. "While Ron may not be with us," she said, "I know he's looking down on us ... and he's mapping out a winning campaign strategy."

Like the Republicans, Democrats spotlighted average folks and celebrated their di-



Actor and activist Christopher Reeve, paralyzed in an equestrian accident, is an activist for spinal-cord injury research. He said the nation has to raise its expectations, not taxes, to help the disabled.

versity, turning over much of the hour to unelected voices.

Among them was actor Christopher Reeve, now an activist from his wheelchair for spinal-cord injury research. "We have a moral and an economic responsibility" to ease the suffering of the disabled, Reeve was expected to say, according to his prepared re-

marks. "To do that, we don't need to raise taxes. We just need to raise our expectations."

Also speaking were Michael Collins, a Chicago police officer shot 11 times with an assault weapon and now a gun-control advocate; Marilyn Concepcion, a former Ameri-

Corps volunteer worker from Providence, R.I.; and Toledo auto worker Todd Clancy.

"They're average citizens who have done some rather remarkable things," said Sen. Christopher Dodd, D-Conn., general chairman of the Democratic National Committee.

Also given a prime-time microphone was Sarah Brady, wife of James Brady, the press



By John Gaps III, AP
Brady: 'This battle is not about guns. It's about families.'

secretary of Republican President Ronald Reagan who was grievously wounded along with Reagan in an assassination attempt 15 years ago.

In that time she has become a leading advocate of gun control, and her husband's name synonymous with the law requiring a waiting period and background check for handgun purchases. Her appearance meshed with one of the Democrats' main issues of this fall: guns and the ban on assault weapons that Republicans want to repeal.

"To the hunters and sportsmen of America we say, keep your guns. Just give us the laws that we need to keep guns out of the hands of criminals and out of the hands of our children," she was expected to say in prepared remarks.

Democrats say their polling shows overwhelming majorities support the assault-weapons ban and that the issue works for their congressional candidates. On the convention's opening day Clinton announced a series of initiatives to limit guns, including a ban on "cop-killer" armor-piercing bullets. He also proposed making it illegal for people convicted of misdemeanor domestic abuse to possess a firearm.

Alma Brown urges Dems to move forward

A poignant tribute to man who helped energize party

By Jessica Lee
USA TODAY

CHICAGO — On Monday evening Alma Brown faced the spotlight her husband once basked in.

She did not go alone as she stepped onto the podium of the Democratic National Convention. Instead, she stood as she had last April at the funeral of her husband, Commerce Secretary Ron Brown, flanked by her two children, Michael and Tracey.



USA TODAY
Brown: Died in Croatian plane crash

"Ron may not be with us," she told the convention. "But I know he's looking down with that little smile of his ... and he's mapping out a winning campaign strategy" to get the Clinton-Gore team re-elected.

It was a moment of both celebration and sad tribute.

Ron Brown had looked forward to this week in Chicago: It was during his energetic tenure as national chairman



By Tim Dillon, USA TODAY
Honorary co-chair: Alma Brown, flanked by her son, Michael, and her daughter, Tracey, told delegates that Ron Brown is 'mapping out a winning campaign strategy.'

that the demoralized party was politically and financially rebuilt.

By 1992, Brown was the person Bill Clinton most credited with helping him win the White House. And in 1996, he planned to be part of Clinton's re-election effort.

Symbolically Monday night, Brown encouraged Democrats to focus on something beyond their pain and confu-

sion at her husband's loss.

After a video featuring snapshots of Brown's life from boyhood to Cabinet officer status, Alma Brown accepted a Democratic Party gavel given to her as the convention's honorary co-chair.

Saxophonist Kenny G — one of Ron Brown's favorite musicians — played as many in the audience wept. And Brown urged delegates to campaign for the

ticket.

Speaking of her husband, she said, "He's going to make sure he's doing whatever he can up there to make sure that President Clinton and Vice President Gore are re-elected in November, as I know each of you will do."

Clinton-Gore spokeswoman Ann Lewis summed up what many delegates felt after the standing ovation: "There are moments at a convention when the family comes together. This is in many ways, the family expressing to the Browns our appreciation and joy at Ron's life and accomplishments."

Brown's elegant reserve and courage in the days after her husband's death made it easy for the public to understand why both her family and friends call her "a rock."

Working beside her husband, she played host to generals, lawyers, civil rights workers, political leaders, diplomats and revolutionaries.

She spent years as the on-site parent while her ambitious husband worked his way through law school, the Urban League, the Senate staff, a law firm partnership, DNC chairmanship, and finally, Commerce secretary.

Yet, she built her own career as a Washington radio executive and community affairs officer for a bank.

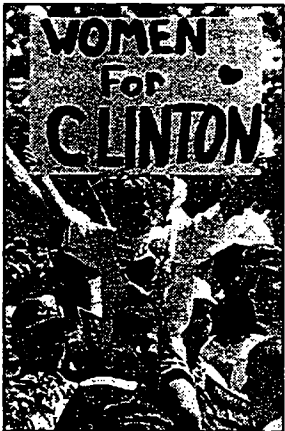
Son Michael says the days since his father's death have been tough. But he adds, "My mother has been a rock. She's given us a lot of direction and focus to understand that he's always with us."

Clinton back on campaign track



By Michael Keating, The Cincinnati Enquirer

First stop: With his '21st Century Express' train as a backdrop, President Clinton rallies supporters Sunday in Ashland, Ky. Clinton's four-day journey will wind through six states en route to Chicago.



By Al Behrman, AP

In Huntington, W.Va.: A young, beaming girl holds a sign at the kickoff rally Sunday, which had an estimated crowd of 10,000.

Boards train for Chicago via heartland

By Bill Nichols
USA TODAY

ASHLAND, Ky. — President Clinton, wrapping himself tightly in the traditional patriotism and political trappings of small-town America, began a four-day train trip to Chicago Sunday by urging voters to "stay on the right track."

"Would you take a U-turn if you were going in the right direction?" Clinton asked a crowd of about 10,000 in Huntington, W.Va., where the so-called "21st Century Express" began its four-day, six-state journey through the electoral heartland Clinton hopes to dominate in November.

"I'm on my way to Chicago ... and I'm going on a train," Clinton shouted with the cadence of a country preacher. "Because I want to see people like you that I've been working for and fighting for for four years."

Some in the Clinton camp feared this train trip, put together by Hollywood producers and Clinton pals Mort Engberg and Harry Thomason, would seem false and manufactured when compared with the genuine excitement of Clinton's 1992 bus trips.

But while the logistics are almost overwhelming, particularly compared with the relative spontaneity of Clinton's make-it-up-as-you-go bus tours, Clinton was clearly energized by the sort of hand-to-hand political combat he loves.

The kickoff speech in Huntington, as passionate as any speech Clinton has given in recent memory, set a tone the White House hopes to maintain all week — portraying the president as a man of the people and a can-do problem solv-

er while almost ignoring his Republican opponents.

In Ashland, not even Clinton's decision last week to sign on to plans by the Federal Drug Administration to regulate tobacco products, which enraged tobacco-state Democrats, was enough to dim the pro-Clinton enthusiasm.

"We might disagree every once in a while," Gov. Paul Patton said in introducing Clinton. "There's many of us who disagree with you on tobacco, but we love you, we love you, we're supporting you and we're going to carry Kentucky for you."

Clinton did take a few direct shots at Republicans in Ashland, referring to Republican nominee Bob Dole's 15% tax-cut proposal as "a pretty song" with gruesome consequences.

But mostly, Clinton will take the high road and let others do the dirty work on Dole, running mate Jack Kemp and, most of all, House Speaker Newt Gingrich, R-Ga.

Sunday, Sen. Jay Rockefeller, D-W.Va., did the honors, telling his home-state crowd in Huntington that allowing Gingrich loose in Congress is like letting a baby sling a hammer.

"I want to know whether West Virginians are ready to take the hammer away from that fat, GOP baby," he said.

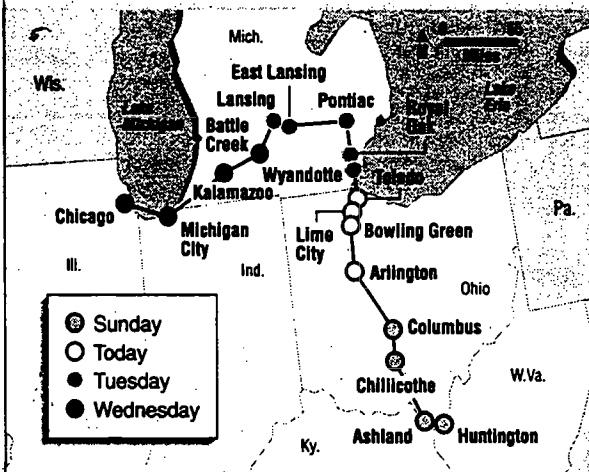
Sunday's itinerary took the train mainly through small towns and trailer parks dotted with Clinton supporters.

Clinton is traveling in a 66-year-old, armor-plated three-bedroom car owned by Jack Heard, a funeral director and locomotive aficionado of Ferdinand Beach, Fla. The Clinton/Gore campaign is spending \$113,000 on the trip. The bulk of the costs are borne by taxpayers for security and by media for access for coverage.

First lady Hillary Rodham Clinton spoke at the Huntington kickoff, then flew to Chicago. Daughter Chelsea is with her father for several days, but will go to Chicago to hear her mother speak Tuesday night.

Clinton's 'express' to Chicago

President Clinton on Sunday embarked on his '21st Century Express,' a four-day, six-state journey through key battleground states. The 13-car, three-locomotive special train will cover 559 miles before Clinton arrives in Chicago Wednesday. Stops en route to Chicago:



Source: The White House

USA TODAY

Character issue hasn't lost Clinton support

While voters don't always trust Clinton, many say he's a leader who understands most of their problems.

By Susan Page
USA TODAY

In 1992, the Democratic National Convention was a kind of first date between Bill Clinton and millions of voters. They were seeing him for the first time and didn't know much about him.

Four years later, some of them may think they know all too much: His preference for briefs over boxers, his love of food of all sorts and in substantial quantities, his sometimes-explosive temper and his tendency to talk. And talk.

The impressions that were being shaped then are firmly set now, and they form the foundation for both Clinton's strengths and vulnerabilities as he runs for re-election.

How do voters view Clinton?

In national polls and interviews, they tend to describe the president in complicated and ambivalent ways. They see him as a compassionate man, but not necessarily an honest one.

They believe he's a leader who understands their problems, but until recently not one who could be counted on to do much about them.

They also see him as intensely political. In a new USA TODAY/CNN/Gallup Poll, 49% of respondents say he puts his own political interests ahead of the country's interests; 44% say he puts the country's interests first.

In some ways, Clinton finds himself in the opposite situation of the one President Bush faced four years ago. Then, many voters respected Bush personally but worried that he didn't understand their concerns.

When the 1992 election became a referendum on his effectiveness in tackling the nation's problems, he lost.

Democrats want the referendum this time to focus on Clinton's empathy with voters and vision for the nation's future.

But some Republican strategists hope to spotlight the so-called character issue. In that case, they theorize, voters inclined to support Clinton now may reconsider.

That's one reason Clinton strategists now try to turn the character issue from Clinton's personal behavior to his political willingness to tackle tough opponents such as the tobacco lobby and the National Rifle Association. "That's how I define character," says Clinton campaign manager Peter Knight.

He acknowledges that voters unhappy with Bush "took a little bit of a risk" on Clinton in 1992, when they didn't know him well.

"I didn't know too much other than he was from Arkansas and was a governor then," recalls Nick Scholz, 79, a Air Force retiree from New Bern, N.C., who participated in a USA TODAY survey this month.

"I wasn't sure about Clinton," says Judy Fleshman, a 34-year-old homemaker and mother of an infant and toddler from Columbus, Ohio. "My feeling was my vote

went toward Clinton to maybe try to change things."

When the Pew Research Center asked in a survey last month for the "one best word" that describes Clinton, the 10 most frequent responses mirrored voters' split opinion: Four were positive ("good," "trying," "intelligent" and "great"), two were neutral ("OK" and "fair") and four were negative ("wishy-washy," "dishonest," "liar" and "slick.")

"He tries hard and he has good ideas, and I think he does care, or at least he comes across that way," says Alexander Ingram, a 73-year-old retired accountant in Greenwood, Ind.

"But is he honest?" Ingram pauses. "I'd like to think that he is, but I'm not 100% sure." Even so, Ingram, who supported independent Ross Perot in 1992, says he's likely to vote for Clinton in November.

Among many voters, Clinton generates unequivocal opinions: utter contempt from his harshest critics and an equally fierce defense from his staunchest supporters.

"He has the American people fooled," says Billy Sharpston, 59, pastor of the Heritage Temple Free Will Baptist Church in Columbus, Ohio. "He has that boyish, innocent-looking face but beyond it... he is an immoral person."

But for most voters, the picture is neither black nor white. USA TODAY polls taken over the past four years show:

► From the start, voters believed

Clinton understands and cares about their concerns. That sense of compassion has been on display as he expressed the nation's grief in the wake of such tragedies as the Oklahoma City bombing and the crash of TWA Flight 800.

"I was very impressed with how he's handled the terrorist situation," says Fleshman. "He and his wife going and giving their condolences to the families... looked to me like the correct thing to do."

► After early fumbles in office, some voters questioned his competence. But, ironically, since the Republican takeover of Congress in 1994, he increasingly has been seen as someone with firm beliefs who

can get things done. In fact, in the budget stalemate that shut down the federal government twice last winter, polls showed the public saw

Clinton as the more responsible party.

"Standing up to the Republicans has given him a voice," says Andrew Kohut, executive director of the Pew center. "He seems to have found himself as 'Bill-at-the-bridge,' holding off the barbarians before they enter the city."

Last week's spate of bill signings — raising the minimum wage, setting new health insurance rules and overhauling welfare — are likely to reinforce the sense he has been effective in office. This despite protests from Republicans that they passed the bills that he gets credit for.

► But a parade of scandals and controversies has taken a toll on his reputation. Fewer than half the electorate now say the words "honest" and "trustworthy" apply to Clinton. When it comes to the Whitewater affair, neither he nor first lady Hillary Rodham Clinton has much credibility.

"On the integrity issue, Bob Dole comes out far ahead," says Donna

Farrell, 33, an osteopath from Cheltenham, Pa., who voted for Clinton last time but probably won't do so again. "Bob Dole has been under the spotlight for a long, long time, and there are no Whitewaters in Bob Dole's closet."

Despite skepticism about his honesty, however, Clinton has maintained a respectable favorable-unfavorable rating (now 57-41% in the USA TODAY poll) and a 12-point lead over his Republican rival.

That is the source of tremendous frustration for the GOP.

"It's a Jekyll-and-Hyde thing. Voters don't trust him, yet they still give him a good favorability rating," says Republican pollster Frank Luntz.

Efforts to target Clinton's character don't seem to have chipped away at his support. "Direct attacks on Clinton's character do not work because the public knows it already," Luntz says.

Democratic pollster Peter Hart agrees. "At this stage, they've seen him and all of his warts," he says.

• USA TODAY

MONDAY, AUGUST 26, 1996

Reducing Gun Violence in America
Questions and Answers
August 26, 1996

1. Prohibit domestic violence offenders from having firearms

Q: What are you proposing to do?

A. President Clinton is urging Congress to pass legislation that would make it unlawful for a person convicted of a crime of domestic violence to possess a firearm. A version proposed by Senator Lautenberg passed the Senate right before the Congressional summer recess and Congress should pass such a prohibition before they conclude their work for the year.

Q: Didn't the Brady Bill already cover this crime?

A. No. In 1993, President Clinton signed the Brady Law and it has prevented over 60,000 felons, fugitives and others prohibited purchasers buying handguns. The 1994 Clinton Crime Bill effectively extended the Brady Law to stalkers and harassers under restraining orders. That provision is beginning to take hold. In Kentucky alone, over 300 stalkers were prohibited from buying firearms in one year.

But many spouse abusers are not covered by this law. Because of plea bargaining or the downgrading of an offense, the overwhelming majority of domestic violence cases are misdemeanors not felonies. The result is that these offenders are still free under federal law to possess a firearm.

Q: How many crimes will this impact?

A. Domestic violence is a major public health and public safety threat. In 1994, there were 88,500 incidents of domestic violence where a firearm was present. Responding to these calls is deadly business for law enforcement. From 1985 to 1994, there were 65 law enforcement officers killed when they responded to family quarrels and 9 out of 10 of those deaths resulted from firearms.

In addition, in 1994 nearly a third of the women who experienced violence at the hand of intimates were victimized again within six months. And one in five females victimized by their spouse or ex-spouse reported that they had been a victim of three or more assaults in the last six months.

Q: Is it really enforceable or is this just a symbolic political gesture?

A. Fourteen states and territories currently have specific domestic violence misdemeanors. To help States in enforcing this measure, President Clinton's 1994 Crime Bill is providing funding to improve their criminal history record-keeping abilities and in 1996 specifically instituted a "National Stalker and Domestic Violence" record-keeping program

Q: Isn't this non-controversial? If the Senate passed this law by unanimous consent, then why would the House not act upon it when they get back?

A. Senator Lautenberg's version was stalled in the Senate for some time and the Senate only acted upon it because of the efforts of Senator Lautenberg. There are only a few weeks left in this session of Congress and since this bill impacts guns the House Republican Leadership will not allow it to come to a Floor vote on their own accord.

Q: How is this bill different than the provision in the 1994 Crime Bill?

A. The 1994 Crime Bill made it unlawful for any person subject to a court order restraining that person from harassing, stalking, or threatening an intimate partner or child of an intimate partner, to possess, transport, ship, or receive a firearm or ammunition. Many states are moving forward on enforcing this provision. Indeed, Kentucky developed a automated registry of domestic violence protection orders and in 1995 alone they denied over 300 handgun purchases because the prospective purchaser was the subject of a disqualifying restraining order.

As important as that provision is, it unfortunately would not cover a spouse abuser convicted of a misdemeanor and who was not currently subject to a restraining order. That is why President Clinton is calling on Congress to close this loophole in the law.

Q: Are you doing this for political reasons? Why is this law needed?

A. This is another important step in President Clinton's ongoing effort to reduce violence against women in this country. Congress has an opportunity to make this provision the law of the land and there is absolutely no reason whatsoever why Congress go home for the year without passing this measure.

Q: Are you going to just keep adding crimes that require Brady Background checks and fulfill the gun lobby's prophecy?

A. No. Domestic violence is a serious public health issue that deserves special attention. In 1994, there were 88,500 incidents of domestic violence where a firearm was present. Responding to these calls is deadly business for law enforcement. From 1985 to 1994, there were 65 law enforcement officers killed when they responded to family quarrels and 9 out of 10 of those deaths resulted from firearms.

In addition, in 1994 nearly a third of the women who experienced violence at the hand

of intimates were victimized again within six months. And one in five females victimized by their spouse or ex-spouse reported that they had been a victim of three or more assaults in the last six months.

2. Ban "Cop Killer" Bullets

Q: Didn't Congress already ban these bullets in the 1980s?

A. No. Congress passed a law that provides limits on ammunition based on the specific materials from which it is made. Unfortunately, that law did not address the problem of excessively powerful ammunition based on its performance.

President Clinton's legislation directs the Secretary of Treasury to promulgate regulations that will prohibit the manufacture, importation, and distribution of handgun ammunition that can pierce standard bullet-proof vests.

In developing these regulations, the Secretary will consult with law enforcement, body armor and ammunition manufactures, sporting groups, and the academic research community. In addition, Congress is provided a 45-day opportunity to review the regulations and disapprove of them.

This legislation would limit the availability of this ammunition without affecting the needs of legitimate sporting enthusiasts. Most importantly, it will save police officers' lives.

Q: Isn't this a meaningless and symbolic law?

A. No. A manufacture can easily circumscribe current law by making ammunition with material that is not specifically covered under current law -- ammunition that could rip through a police officer's bullet proof vest.

This bill is very important to law enforcement -- they are the ones who have to go out every day risking their lives and living with the fear that the next criminal who shoots at them might have these type of bullets.

As Dewey Stokes, the former President of the National Fraternal Order of Police so forcefully stated when President Clinton proposed this legislation:

"This is the bill we've been waiting for. One that requires law enforcement, the firearms industry and the Congress to work together to close the book on cop-killer bullets -- and special interests be damned."

Q: How many officers are killed in the line of duty by "cop killer" bullets?

A. This bill prevents the future manufacture of bullets that would not meet a performance

standard that would be developed by the Secretary of Treasury. It would prevent law enforcement officers from being killed in the future by bullets that can rip through a bullet proof vest.

In addition, on average 143 law enforcement officers are killed in the line of duty -- many of those by firearms. We have a duty to provide the safest environment for law enforcement who risk their lives for us every day.

3. Provide stiffer sentences for criminals who use guns

Q: What did the Supreme Court rule in Bailey?

A. The Court considered the current statute, 18 USC 924(c) which provides a mandatory 5-year sentencing enhancement if a defendant uses a firearm during a crime of violence or drug trafficking crime. The Court interpreted the word "use" to require that the defendant must have "actively employed" the firearm in connection with the crime.

Q. What impact does this case have on law enforcement?

A. The Clinton Administration believes that sentencing enhancement should also reach situations in which the defendant has a firearm present or available to him/her in the course of the criminal activity.

Left to stand, the strict interpretation in Bailey will result in lighter sentences for these criminals. Over the last 5 years, the provision in question in Bailey was used 13,424 times by federal prosecutors.

Q. How does this bill rectify the Bailey case?

A. The Clinton Administration has responded to the Supreme Court's restrictive ruling by proposing the "Enhanced Prosecution and Punishment of Armed Dangerous Felons Act of 1996." This bill would legislatively overrule the Bailey decision and return an important prosecutorial tool to law enforcement.

The bill would punish "possession" of a firearm, rather than "use." This would expand the scope of the 5-year sentencing enhancement to reach situations in which the defendant has a firearm present or available to him/her.

We also propose that if the firearm is discharged or is otherwise employed to inflict serious bodily injury, the mandatory sentencing enhancement should be for 10 years.

Q. When was this bill transmitted to the Congress?

A. On June 10, 1996.

4. **Gun Free School Zones -- United States v. Lopez**

Q. **What is the Gun Free Schools Zones Act?**

A. This statute, enacted in 1990, prohibits possession of a firearm in a school zone.

Q. **What did the Supreme Court hold in United States v. Lopez?**

A. The Court held that the Congress had exceeded its authority under the Commerce Clause by enacting the Gun Free School Zones Act of 1990. The Court found that the Act did not contain the jurisdictional element that would ensure that the firearms possession in question has the requisite nexus with interstate commerce.

Q. **How do you propose to fix the Gun Free School Zones Statute in response to Lopez?**

A. In May 1995, we transmitted to Congress a legislative proposal to revise the statute to require that the government prove in each possession that the firearm in question has moved in or otherwise affects interstate or foreign commerce. The addition of this jurisdictional element ensures that the statute will meet the constitutional standards established by the Supreme Court.

To : Dennis
67028

ASAP

FRANK R. LAUTENBERG
NEW JERSEY

COMMITTEES:
APPROPRIATIONS
BUDGET
ENVIRONMENT AND PUBLIC WORKS
SMALL BUSINESS
HELSINKI COMMISSION

United States Senate

WASHINGTON, DC 20510-3002

September 13, 1996

The Honorable Robert Dole
Dole/Kemp '96
810 First Street, NE, Suite 300
Washington, DC 20002

Dear Bob:

We are writing to seek your assistance in securing the enactment of legislation to prohibit any person convicted of a crime of domestic violence from possessing a firearm.

As you may know, the Senate has twice approved a proposal by Senator Lautenberg that would keep guns away from wife beaters and child abusers. This proposal was first added as an amendment to an anti-stalking bill, H.R. 2980, which remains stalled in the House of Representatives. Yesterday, the proposal also was approved as an amendment to the Treasury, Postal Service and General Government Appropriations Bill by a vote of 97-2.

The surest way to ensure that wife beaters and child abusers do not get guns is for the House to approve the Senate version of the anti-stalking bill. Unfortunately, Speaker Gingrich has refused even to bring that bill up for a vote. Meanwhile, Majority Leader Lott has pulled the Treasury, Postal bill from the Senate floor.

Without your direct intervention, it now seems unlikely that the Republican congressional leadership will protect battered wives and abused children from gun violence. We therefore urge you to get involved, as you did in your successful effort to block a vote on the Chemical Weapons Convention. You are in a unique position to persuade Speaker Gingrich to approve the stalking bill with the domestic violence provisions intact. We are confident that your personal involvement would ensure the enactment of this critically important legislation, and save the lives of many women and children.

Thank you in advance for any assistance you could provide on this matter.

Sincerely,

Frank R. Lautenberg

Christopher J. Dodd

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WASHINGTON, DC 20510-3002
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BARRINGTON, NJ 08007-1322
(609) 757-5383

TO: Dennis Burke
FROM: David Fein
RE: Lautenberg Amendment
DATE: December 5, 1996

Attached please find copies of ATF's open letters to law enforcement agencies, federal firearms licensees and the general public concerning implementation of the Lautenberg Amendment. Would you be able to coordinate, if desirable, White House efforts to inform interested parties about these implementation plans. We're told that Joyce Carrier, Deputy Assistant Secretary for Public Liaison at Treasury, is available to help on this matter. Thanks.



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

**OPEN LETTER TO ALL STATE AND LOCAL
LAW ENFORCEMENT OFFICIALS**

The purpose of this letter is to provide information to all State and local law enforcement agencies regarding one specific aspect of the recently enacted Omnibus Consolidated Appropriations Act of 1997 (the Act). One part of the Act amended the Gun Control Act of 1968 (GCA) to make it unlawful for any person convicted of a "misdemeanor crime of domestic violence" to ship, transport, possess, or receive firearms or ammunition. It also makes it unlawful for any person to sell or otherwise dispose of a firearm or ammunition to any person knowing or having reasonable cause to believe that the recipient has been convicted of such a misdemeanor. This new prohibition does apply to all law enforcement officers.

Act adds new firearms disability

As defined in the GCA, a "misdemeanor crime of domestic violence" means an offense that:

- (1) is a misdemeanor under Federal or State law; and
- (2) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

This definition includes all misdemeanors that involve the use or attempted use of physical force (e.g., simple assault, assault and battery) if the offense is committed by one of the defined parties. This is true whether or not the State statute or local ordinance specifically defines the offense as a domestic violence misdemeanor. For example, a person convicted of misdemeanor assault against his or her

spouse would be prohibited from receiving or possessing firearms or ammunition. Moreover, the prohibition applies to persons convicted of such misdemeanors at any time, even if the conviction occurred prior to the new law's effective date, September 30, 1996. As of the effective date of the new law, such a person may no longer possess a firearm or ammunition. However, with respect to all persons, a conviction would not be disabling if it has been expunged, set aside, pardoned, or the person has had his or her civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) AND the person is not otherwise prohibited from possessing firearms or ammunition.

New disability applies to law enforcement officers

In addition, the Act amended the GCA so that employees of government agencies convicted of qualifying misdemeanors would not be exempt from this new disability with respect to their receipt or possession of firearms or ammunition. Thus, law enforcement officers and other government officials who have been convicted of a qualifying misdemeanor will not be able to lawfully possess or receive firearms or ammunition for any purpose, including performing their official duties. This disability applies to firearms and ammunition issued by government agencies, firearms and ammunition purchased by officials for use in performing their official duties, and personal firearms and ammunition possessed by such officials.

In view of this amendment's effect on law enforcement officers, your department may want to determine if any employee who is authorized to carry a firearm is subject to this disability and what appropriate action should be taken. Employees subject to this disability must immediately dispose of all firearms and ammunition in their possession. The continued possession of firearms and ammunition by persons under this disability is a violation of law and may subject the possessor to criminal penalties. In addition, such firearms and ammunition are subject to seizure and forfeiture.

In cases where your agency becomes aware of individuals subject to this disability, we recommend that such persons be encouraged to relinquish all firearms and ammunition in their possession immediately to a third party, such as their attorney, their local police agency, or a firearms dealer.

If such person refuses to relinquish the firearm or ammunition, and your agency is without authority to retain or seize the firearm or ammunition, you should contact the local ATF office.

Brady Act

In the so-called "Brady States" Chief Law Enforcement Officers (CLEOs) "shall make a reasonable effort" to determine whether a prospective buyer's receipt of a handgun would be in violation of the law. CLEOs have five business days in which to make that reasonable effort. What constitutes a "reasonable effort" is to be determined by each law enforcement agency based on its own circumstances, e.g., the availability of resources, access to records, and the law enforcement priorities of the jurisdiction.

This "reasonable effort" standard is not altered by the addition of this new disqualifying category. It remains fully within the discretion of the CLEO to determine what effort is reasonable. For example, even if the CLEO determines that a misdemeanor assault conviction has occurred, it remains fully within the CLEO's discretion to determine whether to make further inquiry.

ATF forms are being revised to reflect the new category of prohibited persons.

If you have any questions concerning these new provisions, contact your local ATF office or the Firearms and Explosives Regulatory Division at 202-927-8300.


John W. Magaw
Director

**QUESTIONS AND ANSWERS REGARDING
MISDEMEANOR CRIME OF DOMESTIC VIOLENCE**

Q. X was convicted of misdemeanor assault on October 10, 1996. The crime of assault does not make specific mention of domestic violence but the criminal complaint reflects that he assaulted his wife. May X still possess firearms or ammunition?

A. No. X may no longer possess firearms or ammunition.

Q. X was convicted of the same crime on September 20, 1996, 10 days before the effective date of the new statute. He possesses a firearm on October 10, 1996. May X lawfully possess firearms?

A. No. If a person was convicted of the crime at any time, he or she may not lawfully possess firearms or ammunition on or after September 30, 1996.

Q. Officer C was charged with felony assault on her child in 1989. She pled guilty to a misdemeanor and the felony charge was dismissed. She was suspended from the police force and ordered to undergo counseling. After successful completion of the counseling, she was reinstated. May Officer C lawfully possess firearms or ammunition?

A. No. Officer C may no longer lawfully possess firearms or ammunition either on or off duty.

Note: For one who has been convicted of a misdemeanor crime of domestic violence, the prohibition on the possession of firearms and ammunition does not apply if the individual has received a pardon for the crime, the conviction has been expunged or set-aside, or the person has had civil rights restored (if there was a loss of civil rights) AND the person is not otherwise prohibited from possessing firearms or ammunition.



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

OPEN LETTER FROM THE DIRECTOR
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

The purpose of this letter is to provide the public with information concerning a recent amendment to the Gun Control Act of 1968. This amendment makes it unlawful for any person convicted of a "misdemeanor crime of domestic violence" to ship, transport, possess, or receive firearms or ammunition. It also makes it unlawful for any person to sell or otherwise dispose of a firearm or ammunition to any person knowing or having reasonable cause to believe that the recipient has been convicted of such a misdemeanor.

As defined in the new law, a "misdemeanor crime of domestic violence" means an offense that:

- (1) is a misdemeanor under Federal or State law; and
- (2) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

This definition includes all misdemeanors that involve the use or attempted use of physical force (e.g., simple assault, assault and battery), if the offense is committed by one of the defined parties. This is true whether or not the State statute or local ordinance specifically defines the offense as a domestic violence misdemeanor. For example, a person convicted of misdemeanor assault against his or her spouse would be prohibited from receiving or possessing firearms. Moreover, the prohibition applies to persons convicted of such misdemeanors at any time, even if the conviction occurred prior to the new law's effective date, September 30, 1996. As of the effective date of the new law, such a person may no longer possess a firearm or

ammunition. However, a conviction would not be disabling if it has been expunged, set aside, pardoned, or the person has had his or her civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) AND the person is not otherwise prohibited from possessing firearms or ammunition.

Individuals subject to this disability should immediately lawfully dispose of their firearms and ammunition. We recommend that such persons relinquish their firearms and ammunition to a third party, such as their attorney, to their local police agency, or a Federal firearms dealer. The continued possession of firearms or ammunition by persons under this disability is a violation of law and may subject the possessor to criminal penalties. In addition, such firearms and ammunition are subject to seizure and forfeiture.

If you have questions regarding this matter, please contact your local ATF office.


John W. Magaw
Director



DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

OPEN LETTER TO ALL FEDERAL FIREARMS LICENSEES

The purpose of this letter is to provide you with information on the provisions of the recently enacted Omnibus Consolidated Appropriations Act of 1997 (the Act). This legislation made two amendments to the Gun Control Act of 1968 (GCA) that directly affect Federal firearms licensees. The amendments were effective on the date of enactment, September 30, 1996.

The following is a description of those two amendments of concern to Federal firearms licensees. Regulations explaining the requirements will be published shortly.

Sales of curio or relic firearms

The Act amended 18 U.S.C. § 923(j) to allow Federal firearms licensees to sell curio or relic firearms to other licensees away from their licensed premises. This amendment applies **only** to firearms that are classified as a curio or relic. Federal regulations define the term "curios or relics" as firearms that are of special interest to collectors by reason of some quality other than is associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms must fall within one of the following categories:

- (1) Firearms which were manufactured at least 50 years prior to the current date, but not including replicas thereof;
- (2) Firearms which are certified by the curator of a municipal, State, or Federal museum which exhibits firearms to be curios or relics of museum interest; or
- (3) Any other firearms which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm under this category may be established by evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less.

Licensees are still subject to all recordkeeping requirements in the regulations concerning their sale of curios or relics. In addition, it is suggested that licensees selling a curio or relic firearm away from their licensed premises indicate in their acquisition/disposition record where the sale took place.

Persons convicted of a misdemeanor crime of domestic violence

The Act also amended the GCA to make it unlawful for any person convicted of a "misdemeanor crime of domestic violence" to ship, transport, possess, or receive firearms or ammunition. It also made it unlawful for any person to sell or otherwise dispose of firearms or ammunition to any recipient knowing or having reasonable cause to believe that the person has been convicted of such a misdemeanor.

As defined in the GCA, a "misdemeanor crime of domestic violence" means an offense that:

- (1) is a misdemeanor under Federal or State law; and
- (2) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

This definition includes all misdemeanors that involve the use or attempted use of physical force (e.g., simple assault, assault and battery), if the offense is committed by one of the defined parties. This is true whether or not the State statute or local ordinance specifically defines the offense as a domestic violence misdemeanor. For example, a person convicted of misdemeanor assault against his or her spouse would be prohibited from receiving or possessing firearms or ammunition. Moreover, the prohibition applies to persons convicted of such misdemeanors at any time, even if the conviction occurred prior to the new law's effective date, September 30, 1996. As of the effective date of the new law, such a person may no longer possess a firearm or ammunition. However, a conviction would not be disabling if it has been expunged, set-aside, pardoned or the person has had his or her civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) AND the person is not otherwise prohibited from possessing firearms or ammunition.

The Act also amended the GCA so that employees of government agencies convicted of a qualifying misdemeanor would not be exempt from this new disability with respect to their receipt or possession of firearms or ammunition. Thus, law enforcement officers and other government officials who have been convicted of a qualifying misdemeanor will not be able to lawfully possess or receive firearms or ammunition for any purpose including performing their official duties. This disability applies to firearms and ammunition issued by government agencies, firearms and ammunition purchased by officials for use in performing their official duties, and personal firearms and ammunition possessed by such officials.

We are in the process of revising all applicable forms to reflect this new provision. These will be provided to you as soon as possible. In the meantime, you should inquire of your customers whether they have been convicted of a disqualifying domestic violence misdemeanor and avoid any firearm or ammunition transfers to such persons.

If you have any questions concerning these new requirements, contact your local ATF office or the Firearms and Explosives Regulatory Division at (202) 927-8300.


John W. Magaw
Director



Office of the Deputy Attorney General

Washington, D.C. 20530

FACSIMILE COVER SHEET

DATE:

12/5/96

TO:

Dennis Burke

FAX
NUMBER

456-7028

PHONE
NUMBER:

FROM:

Jonathan Schwartz
Counsel to the Deputy Attorney General

Tel. (202) 514-4375

Fax (202) 616-1239

ADDITIONAL INFORMATION:

NUMBER OF PAGES INCLUDING COVER SHEET: 8



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

December 5, 1996

MEMORANDUM FROM THE DEPUTY ATTORNEY GENERAL *JS*

To: Michael R. Bromwich
Inspector General

Stephen R. Colgate
Assistant Attorney General
Justice Management Division

Thomas A. Constantine
Administrator
Drug Enforcement Administration

Carol DiBattiste
Director
Executive Office for United States Attorneys

Louis J. Freeh
Director
Federal Bureau of Investigation

Eduardo Gonzalez
United States Marshals Service

Kathleen M. Hawk
Director
Bureau of Prisons

John C. Keeney
Acting Assistant Attorney General
Criminal Division

Doris Meissner
Commissioner
Immigration and Naturalization Service

Subject: Identifying Law Enforcement Agents Who Have
Misdemeanor Convictions for Domestic Violence

Timetable: As soon as possible

In passing the so-called Lautenberg Amendment, which added new subsection (9) to 18 U.S.C. § 922(g), Congress made it a felony for anyone who has been convicted of a misdemeanor crime of domestic violence to possess a firearm or ammunition. In so doing, Congress specifically stated that law enforcement agents are not exempted from this new provision (as they are from the

proscriptions contained within subsections (1)-(8) of § 922(g)).

Since the Lautenberg Amendment was passed in late September, a working group led by the Office of Investigative Agency Polices (OIAP), and consisting of representatives from the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, United States Marshals Service, Bureau of Prisons, the Inspector General's Office, the Justice Management Division, the Criminal Division, the Executive Office for United States Attorneys, the Office of Intergovernmental Affairs, and the Office of Policy Development, has been meeting to consider the implications of this new law. One project has been to determine the best way to identify those law enforcement agents who have misdemeanor convictions for domestic violence, so that the agencies will be able to: (i) retrieve any agency-issued firearms and ammunition; and (ii) rescind any agency-issued authority to carry privately owned firearms and ammunition as part of an agent's official duties. I am grateful for the hard work that has been done on this difficult task.

Consistent with the recommendations made by the OIAP working group, within 45 days, please certify that you have identified those agents in your ranks who have misdemeanor convictions for domestic violence, and please describe the management steps you are taking (e.g., termination, reassignment) regarding the agents who have been so identified. I have attached the qualification inquiry and cover memorandum that has been approved for use in this effort by the OIAP working group. I recognize that agencies with unionized law enforcement agents will immediately commence negotiations with their union counterparts regarding the vital need for each agency to identify those agents who have misdemeanor convictions for domestic violence.

In addition, within 45 days, please certify that your agency has contacted the head of each state or local law enforcement agency whose officers have been deputized by your agency, to inform them of the requirements of the Lautenberg Amendment and to ask them to identify those deputized officers that are in compliance with the new law. I have attached the model letter that has been approved for use in this effort by the OIAP working group.

Thank you for your prompt attention to this matter.

cc: Eleanor D. Acheson
Assistant Attorney General
Office of Policy Development

Michael E. Shaheen
Counsel
Office of Professional Responsibility

Nicholas M. Gess
Director
Office of Intergovernmental Affairs

MEMORANDUM

TO: All Employees Authorized to Possess Government-Issued
Firearms and Ammunition

FROM: [Agency Heads]

There has been a recent change in the law pertaining to possession of firearms or ammunition. On September 30, 1996, Title 18, United States Code, Section 922(g)(9) took effect, making it illegal for anyone who has been convicted of a misdemeanor crime of domestic violence to possess any firearm or ammunition. "Misdemeanor crime of domestic violence" is generally defined as any offense--whether or not explicitly described in a statute as a crime of domestic violence--which has, as its factual basis, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by the victim's current or former domestic partner, parent, or guardian. The term "convicted" is generally defined in the statute as excluding anyone whose conviction has been expunged or been set aside, or has received a pardon. A copy of the statute is attached. Please carefully review it.

This provision applies to persons convicted at any time prior to or after the passage of the September 30, 1996 law. Moreover, there is no exemption for law enforcement officers and agents. If you have ever been convicted of a misdemeanor crime of domestic violence within the meaning of the statute, continued retention of any firearm or ammunition, whether Government-issued or privately owned, may subject you to felony criminal penalties, including a sentence of imprisonment of up to ten years and a fine of up to \$250,000, as well as administrative action.

If you are affected by this statute: (1) you may not possess any firearm or ammunition; and (2) you must return any Government-issued firearm or ammunition to [your immediate supervisor]. Furthermore, since the statute makes it illegal for you to possess any firearm or ammunition, any previously issued authorization to possess a firearm or ammunition is revoked.

Attached to this memorandum is a qualification inquiry, which you must complete and return to [your immediate supervisor] within ten (10) working days of receipt. If you have any questions, you may contact [your immediate supervisor, agency ethics officer, union representative], or private attorney.

QUALIFICATION INQUIRY

Within ten (10) working days of receipt, you are required to complete this Qualification Inquiry and provide it to [your immediate supervisor]. In completing this form, you are advised:

- (a) The purpose is to obtain information which will assist in the determination of whether personnel reassignment and/or administrative action are warranted.
- (b) You have a duty to complete this form. Agency disciplinary action, including dismissal, may be undertaken if you refuse to answer or if you fail to reply fully and truthfully.
- (c) Neither your answers nor any information or evidence gained by reason of your answers can be used against you in any criminal prosecution for a violation of Title 18, United States Code, Section 922(g)(9). However, the answers you furnish and any information or evidence resulting therefrom may be used against you in a prosecution for knowingly and willfully providing false statements or information, and in the course of agency disciplinary proceedings.

1. Have you ever been convicted of a misdemeanor crime of domestic violence within the meaning of the statute?

Initial and date: YES _____ NO _____

2. If you answered YES to the first question, provide the following information with respect to the conviction:

Court/Jurisdiction: _____

Docket/Case Number: _____

Statute/Charge: _____

Date sentenced: _____

I hereby certify that, to the best of my information and belief, all of the information provided by me is true, correct, complete, and made in good faith. I understand that false or fraudulent information provided herein may be grounds for adverse action, up to and including removal, and is also criminally punishable pursuant to federal law, including 18 U.S.C. §1001.

Name and Title: _____
[print or type]

Agency/Duty Station: _____

Signature

Date

MODEL LETTER TO STATE AND LOCAL AGENCIES

Dear [Salutation]:

We appreciate the cooperative efforts between our two agencies, as evidenced by the deputation of officers from your department as [TITLE(s)]. According to our records, the following officers are currently deputized [or see Attachment ____]:

<u>Name</u>	<u>DOB</u>	<u>SSN</u>
***	***	***

There has been a recent change in the law pertaining to possession of firearms and ammunition which affects all law enforcement officers. On September 30, 1996, Section 922(g)(9) of Title 18, United States Code, took effect, making it illegal for anyone who has previously been convicted of a misdemeanor crime of domestic violence (MCDV) to possess firearms or ammunition. The term "MCDV" means "any offense, whether or not explicitly described in a statute as a crime of domestic violence, which has, as its factual basis, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by the victim's current or former domestic partner, parent or guardian." The term, "convicted" is generally defined in the statute as excluding anyone whose conviction has been expunged or been set aside, or anyone who has received a pardon.

This provision applies to persons convicted at any time prior to or after the passage of the September 30, 1996, law. Moreover, there is no exemption for any law enforcement officer. Accordingly, any person who has previously been convicted of one or more MCDVs who possesses a firearm or ammunition commits a federal felony.¹

We are in the process of determining which Department of Justice law enforcement agents, and which deputized state and local officers, are subject to the prohibitions of Section 922(g)(9). We ask that you provide a letter containing a certification of those officers listed above who have not previously been convicted of a misdemeanor crime of domestic violence within the meaning of

¹ Also attached is a letter from John Magaw, Director of the Bureau of Alcohol, Tobacco and Firearms, to the heads of all state and local law enforcement agencies that discusses Section 922(g)(9) in greater detail.

Section 922(g)(9).² You need not provide any information as to officers whom you do not certify. However, the absence of a certification for a particular officer within 30 days from the date of this letter will result in the revocation of the officer's federal deputation.

The purpose of this letter is to assist this agency in complying with its obligation to assure that those authorized to carry firearms under its authority are in compliance with federal law. This letter does not and is not intended to cover any obligations which you independently may have under the law with respect to your employees who are authorized to possess firearms or ammunition in their official duties. As to all future deputations, the form requesting deputation will be amended to contain a certification under Section 922(g)(9).

These requirements are the result of an Act of Congress and we have absolutely no discretion in this matter. The requirements of this statute cannot be waived or extended other than by a new Act of Congress.

Once again, thank you for your participation in cooperative law enforcement. I look forward to working with you in the future. As always, please feel free to call me at [phone #] if you have any questions.

Sincerely,

[Signatory]

² The certification should recite or attach a list of officers that "have not previously been convicted of a misdemeanor crime of domestic violence within the meaning of Section 922(g)(9)."



NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.

Representing America's Finest

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LINDA LIPSETT

URGENT ALERT

TO: ALL NAPO Members
FROM: Robert T. Scully, Executive Director
DATE: November 27, 1996
RE: New Regulations Affecting Law Enforcement Officers

Please be advised that a new prohibition to the 1968 Gun Control Act was recently passed by Congress as an amendment to the Omnibus Consolidated Appropriations Act of 1997. The new firearms disability states that anyone, **including law enforcement officers**, convicted of a misdemeanor crime of domestic violence shall be prohibited from possessing a firearm. The new law is retroactive and will affect misdemeanors that occurred prior to the law's effective date of September 30, 1996. This is a departure from past gun control regulations which have always contained an exemption for law enforcement.

The original legislation, S. 1632, introduced by Senator Frank Lautenberg (D-NJ), did contain an exemption for law enforcement officers in its expansion of the class of persons prohibited from possessing a firearm to include domestic violence misdemeanors.

Unfortunately, on Saturday morning September 28, Representative Bob Barr (R-GA) insisted on deleting the exemption for law enforcement in the Lautenberg language which was adopted into the Appropriations Conference Report. NAPO staff were notified within minutes by Clinton Administration officials of its inclusion and then were told by House leadership that there would be no changes to the Conference Report. Congress voted immediately on the omnibus funding bill to keep the U.S. government running. (The federal government would have shut down again at 12:00 a.m. on October 1 if the Appropriations bill had not passed.)

NAPO is well aware of the drastic implications for law enforcement officers and is working to correct this disastrous problem through legislative and/or legal channels. Until we have determined our best course of action, please apprise the NAPO office of any action taken against law enforcement officers in your jurisdiction under this new law. If you or your legal counsel have any suggestions for a solution to this punitive and ill-conceived amendment, please contact Bill Johnson, NAPO General Counsel at (202) 842-4420.

DEC-03' 96 (TUE) 10:38 D/C ADMINISTRATION 640 1922 P. 004

TUESDAY

THE DENVER POST



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Gun law disarms 3 cops

By Peter G. Chronis
and Marilyn Robinson
Denver Post Staff Writers

Three Denver police officers were told to turn in their guns yesterday because a new federal law bans anybody with a misdemeanor domestic violence conviction from possessing firearms or ammunition.

The three were identified as Detective James A. Huff, a 44-year veteran officer; Alfred E. Kroeger, a 24-year veteran; and officer Alex Woods Jr., who has been on

New domestic violence rule invoked

the force four years. Police officials said the three would be reassigned to duties that don't require them to carry firearms at the time being. Ultimately, they could lose their jobs, officials said. In the meantime, other metro-area law enforcement agencies were checking their records to see if any of their officers might fall under the new federal ban, signed into

law Sept. 30. During a news conference at Denver Police Chief David Michaud's office, Deputy Chief Tom Sanchez and Lt. John Lamb, the police department's legal adviser, said the U.S. Bureau of Alcohol, Tobacco and Firearms late last week notified law enforcement agencies that provisions of the new law applied to law enforcement officers as

well as ordinary citizens.

The city has 1,428 police officers. More than 8,000 domestic violence cases are filed each year in Denver, so many ordinary citizens might have to surrender their firearms as well.

U.S. Attorney Henry Solano said the amendment to the Gun Control Act of 1968 applies to everybody convicted of misdemeanor domestic violence, including the

Please see DOMESTIC on 20A

Domestic-violence law disarms 3 cops

DOMESTIC from Page 1A

military and law enforcement, and failure to dispose of firearms could result in federal prosecution.

Solano said several other large-city police departments were holding similar news conferences on the issue yesterday.

Violation is a federal felony, with a penalty of up to 10 years in prison and a \$250,000 fine, Solano said.

So far, said Jerry Petrilli, agent in charge of the ATF Denver office, there are no active cases involving police officers.

Last week, ATF Director John McGaw sent an advisory letter to state and local law enforcement agencies saying the new provision does apply to all law enforcement officers.

The amendment prohibits the possession of firearms or ammunition by anybody convicted of a domestic-violence misdemeanor under state or federal law. The conviction must have involved the

use of a completed use of physical force or the threatened use of a deadly weapon.

The ATF also advised that those affected immediately relinquish guns and ammo to either a police agency, federally licensed firearms dealer or other third party who can legally possess firearms.

Lamb and Sanchez said the department is seeking clarification as to whether the ban applies to a half-dozen officers with city-ordinance domestic violence convictions, which are petty offenses. However, Solano said the ban doesn't apply to petty offenses.

Meantime, Deputy Aurora Police Chief Mike Stiers said that in checking internal affairs records back to 1993, the suburban department has found five officers charged with domestic violence.

Stiers said he didn't know the outcome of those cases.

"Without going back and reading every report, I'm not sure whether it's applicable," he said.

Two of the officers are no longer on the force, he noted.

Arapahoe County Sheriff Pat Sullivan said his department would check all 360 sworn officers with the National Crime Information Center criminal history records system to see if there have been any misdemeanor convictions among the staff "that we're not aware of."

Sullivan said that as chairman of the congressional affairs committee of the National Sheriffs Association, he would fax information on the new law to sheriffs in Colorado, as well as mail a packet to 3,000 sheriffs nationwide.

"We would have to look at it on a case-by-case basis," said Deputy Jim Parr, spokesman for the Jefferson County Sheriff's Department, "and if the law applied to a particular situation, we would be bound by it."

"We're going to take a look at it," said Janet Young, legal adviser to the Lakewood Police Department. "We'll get a copy of the actual bill and decide what our policy is going to be."

Greater Denver

Deborah Goeken, Metro Editor — 892-5201 • e-mail — metro@denver-rmn.com

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ountain News



Federal gun law stops 3 cops

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Ensslin

tain News Staff Writer

Denver police officers with
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Alex Woods Jr.

and Firearms sent a memo to big
city police departments that Den-
ver police commanders acted

The memo pointed out that the
new law does not exempt law en-
forcement officers or the military
personnel.

"It's going to have far-reaching
effects for all citizens, but we'll

domestic violence
offenses.

The new law —
an extension of
the 1968 Gun
Control Act —
took effect Sept.
30. But it wasn't
until the Bureau of
Alcohol, Tobacco

department's civil liabilities unit.

The president of a union repre-
senting Denver's 1,426 police offi-
cers said his group and other na-
tional police organizations will
challenge the new law in court.

"We're totally against it. We're
angry and we're shocked," said
Alex Woods Sr., president of the
Police Protective Association.
"It's ludicrous that they would
come out with a bill like this."

Woods' son, Alex Jr., a patrol-
man with four years on the force,
is one of three Denver officers
affected. The others are Detective
James A. Huff, a 26-year-veteran,
and patrolman Alfred E. Koger, a
24-year veteran.

A Denver jury convicted Ale
Woods Jr. in May 1995 of assault-
ing his girlfriend by choking and
hitting her in an upstairs bedroom
during a Christmas party.

He was sentenced to one year
probation and 36 weeks of domes-
tic violence counseling.

"He just thinks it's unfair," his
father said. "He paid his dues. He
was suspended, and he did the coun-
seling that the court mandated."

The other two officers' convic-
tions involved domestic violence
offenses against a 14-year-old
child and a wife, police said.

Woods Sr. said he expects the
new law to be overturned on
grounds that it adds penalties to pa-

Rocky Mountain News, Tues., Dec. 3, 1996

Critics say law illegally adds penalties

GUN LAW from 4A

Many defendants would not have agreed to plea agreements or declined to appeal domestic-violence convictions if they had known then that the charge would someday bar them from possessing weapons.

Denver police Chief David Michaud said he'll wait and see what happens at the national level before deciding what to do with the three officers.

"Their worst-case scenario is, if there is no reversal, they'll lose their jobs," Michaud said.

Denver police also have questions about how the law affects six

other officers convicted of domestic violence offenses under city ordinance.

These are generally lesser charges than a third-degree assault and are not classified as misdemeanors. No action has been directed toward those six officers, pending clarification from ATF officials.

What the ATF memo does state is that the weapons ban applies to anyone convicted of a misdemeanor or under federal or state law. The memo urges law enforcement officials to encourage any such person to relinquish a firearm or ammunition to a third party, such as a police agency, lawyer or gun dealer. Police agencies Monday were still unsure how the law will be

enforced.

Aurora Deputy Chief Mike Stiers said his department has three officers who might be affected.

"We've decided to seek more information," Stiers said. "We won't be, as of right now, modifying anybody's job, until we get a more defined clarification."

Arapahoe County Sheriff Pat Sullivan said his department is still checking records but has not found anyone who is affected. Spokesmen for Fort Carson and the U.S. Air Force Academy said they are still discussing the issue with their attorneys.

Staff Writer Tillie Fong contributed to this report.

new gun law hard to enforce

seizure of firearms not likely

12/14

Rocky Mountain News



G'enn Asakawa/Rocky Mountain News

A Denver law enforcement officer draws his gun during a practice session at the Denver police firing range Tuesday. A law aimed at curbing domestic violence will disarm some police officers.

sweeping enforcement either.

"Some of the extremists say, 'This is just a ruse so you can come take all our guns.' I say, who's going to do this? The cops I know aren't going door-to-door, saying, 'Hand over all your guns, we're here to get them.'"

"I don't see how this is going to be applied to the average citizen unless there's some kind of incident where the officer is there for something else, and learns this person

has a domestic violence conviction, and sees these guns sitting out."

There is no such thing as a state or federal registry or permitting system for gun ownership. Even the Brady Bill law, which requires handgun buyers to be screened for criminal convictions, doesn't create such a record.

"We are required to destroy the records of people who are permitted to purchase a handgun under the Brady insta-check system,"

Ahlstrom said. "We destroy those records. We *do* keep records of those who are denied."

No record is kept, however, by category of criminal conviction, that would show how many denials there have been under Brady in Colorado for domestic violence convictions since the law took effect Feb. 28, 1994.

Even with all the questions about enforcement, victims of handgun violence Tuesday ap-

plauded the measure, flaws and all.

"It's unrealistic to think this is going to be the answer to all of our problems, but it's a major policy step forward," said Denver attorney Jeanne Elliott, who was left paraplegic when she was shot by an Arapahoe District courtroom by off-duty Aurora police officer Gerald Lee Utesch.

"It's a major step forward, particularly because it covers every body."

She said she was heartened to see it being applied to police officers "because I think that some times we forget that people who use weapons in their daily work are probably the most lethal."

"I'm living proof of it. Barely living proof, but joyously living proof."

Denver courts processed about 8,800 felony and misdemeanor domestic assault cases in 1995.

Many believe that the volume of domestic abuse cases statewide combined with the loose regulation of gun ownership, combine to create a sobering enforcement challenge.

"What's going to happen?" to those not in compliance, asked Larson.

"Is this big lightning rod from the sky going to come down and strike you? I think a lot of work needs to be done as far as fine-tuning this legislation. I'm not sure a lot of thought was put into this process to begin with."

National Rifle Association spokeswoman Mary Sue Faulkner sees the law as "ill-conceived."

"You don't protect victims by denying civil rights," she said. "You protect victims by incapacitating the assailant, and often-times the way you incapacitate the assailant is by locking them up."

DEC-94 96 (WED) 09:47 DENVER PPA

303 477 3166

P.003

and Marilyn Robinson
Denver Post Staff Writers

A police union plans to meet with its attorneys today to see what can be done about a new federal law that forced at least three Denver officers to turn in their guns because of misdemeanor domestic-violence convictions.

And Defense Department and other government officials said yesterday they were unsure what impact the law will have on the nation's 1.49 million active-duty military personnel.

The law, an amendment to the Gun Control Act of 1968, bans possession of guns and ammunition by anybody with a misdemeanor domestic-violence conviction.

Yesterday, one of the three Denver officers, 24-year-veteran Alfred Koger, was restored to full duty after his attorneys proved he satisfied a 12-month deferred judgment in his case.

The issue came to the fore on Monday, when Denver Police Chief David Michaud and other officials announced that the new federal law forced three officers to relinquish their guns and be reassigned to duties not requiring a firearm.

U.S. Attorney Henry Solano said the new law, which took effect on Sept. 30, applies to everyone, including military and law enforcement personnel.

Yesterday, Fort Carson spokesman Capt. Larry George said the Army wasn't sure yet what the impact would be on soldiers with misdemeanor domestic-violence convictions.

"We'll have to wait for (the Department of Defense) to give us guidance on that," George said.

Defense spokeswoman Maj. Monica Aloisio said yesterday the Pentagon was "aware of (the new law) . . . We are working with the Department of Justice to determine how it applies to the military."

She added it's uncertain when the department will get an answer from Justice.

"That's unresolved," said Kent Markus, counselor to Attorney General Janet Reno, "because there's all kinds of very complicated questions of the intersection of military law and active military personnel on military bases and civil law."

Denver Detective John Wyckoff, a board member of the Police Protective Association, said the PPA board will meet today with its attorneys and also confer with the National Association of Police Officers to see what action can be taken.

Sgt. Bill Clayton, another PPA board member, said the national organization "may take the lead in challenging the constitutionality of this law, (which) can be applied to

came an adult. There are other police organizations around the country that are obviously in the same predicament as us."

"There's nobody else in the coun-

this type of conviction," Wyckoff said. "If any one of these officers was a bricklayer, they could get up tomorrow morning and use the tools of their trade."

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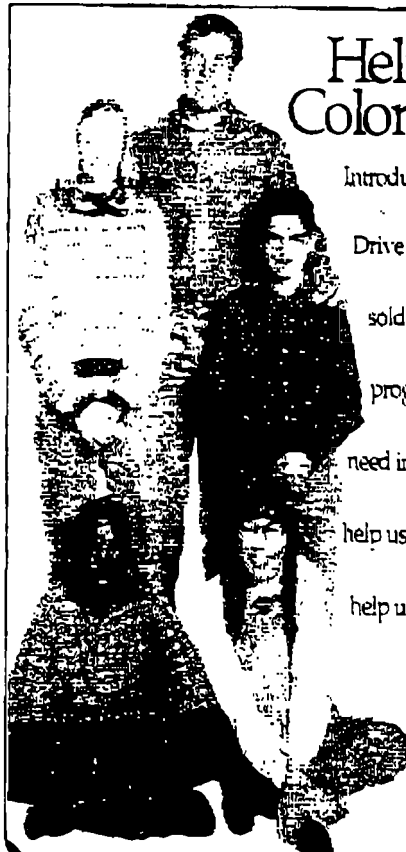
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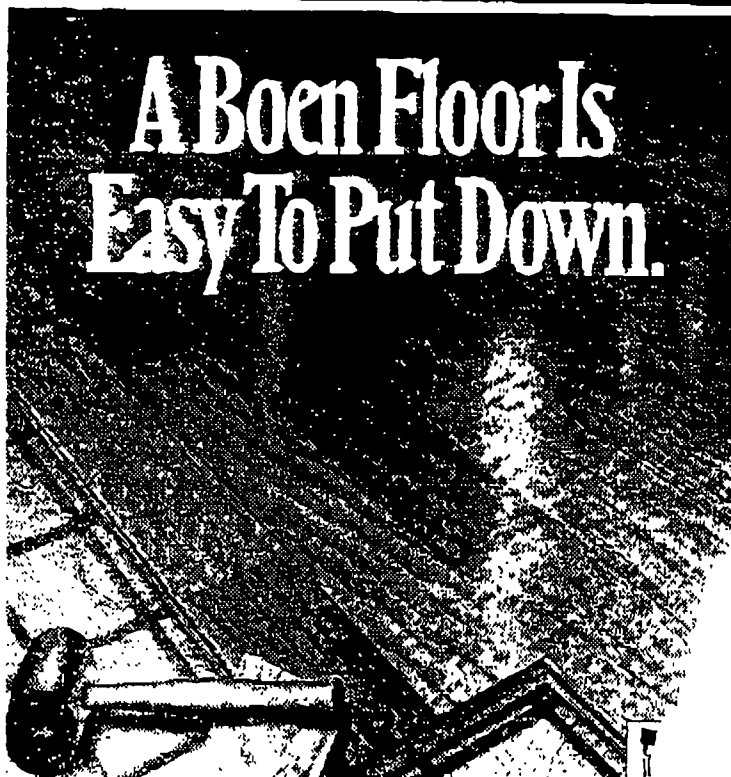
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P.002

in C. Ensslin
Mountain News Staff Writer

ly a handful of metro-area officers will be affected by new law that takes guns out of hands of people convicted of domestic violence. Rocky Mountain News survey of enforcement agencies found two police officers and possible deputies directly affected by law. All are in Denver. Most local agencies were only aware of the law until Monday when Denver police disarmed officers believed to have had misdemeanor domestic violence convictions.

Records check wrongly snared officer

Denver police commanders returned an officer to regular duty Tuesday after conceding they had been mistaken about his record. Alfred E. Koger, a traffic operations officer with 24 years on the force, was ordered to a desk job Monday. But Koger received a deferred judgment six years ago and has no misdemeanor conviction, said police spokesman John Wyckoff. "He got roped in by a records check," Wyckoff said. The check found only Koger's arrest, not the disposition of the case. Koger declined comment Tuesday.

— John Ensslin

After determining that one officer was wrongly included, two Denver officers are now on desk duty until the department decides how to comply with the law. Denver officer Alex Woods

Jr. and Detective James A. Huff both have domestic violence convictions. The law, which amended the Gun Control Act of 1968, affects all Americans with domestic violence convictions. The union representing the Denver officers has vowed to challenge the law's constitutionality. "If you've already paid your dues for what occurred, it isn't fair," said Denver officer Randy Martin. "It's unfair if somebody's done their time, and all of a sudden this comes back to haunt them." Denver corrections chief John Simonet said he is aware of two deputies who may have misdemeanor

domestic violence convictions. Several Denver officers and deputies have records of municipal code violations, a lesser charge that applies to cases with no serious bodily injury. The new law does not apply to those cases, said Jerry Petrilli, a spokesman for the Bureau of Alcohol, Tobacco and Firearms. Aurora police initially believed three officers might be affected. But a further check determined that two received deferred judgments and a third was never charged, said deputy chief Mike Stiers. Staff writers John Sanko and Mike O'Keeffe contributed to this report.

DENVER AND THE WEST

Thursday, December 5, 1996

SECTION B ★

Police may seek gun-ban b

By Peter G. Chronis
and Marilyn Robinson
Denver Post Staff Writers

A Denver police union, representing two officers who had to turn in their guns, said yesterday it may seek a federal court injunction to block a new federal law that bans people convicted of domestic violence misdemeanors from possessing firearms or ammunition.

Meantime, the office of Rep. Bob Barr,

Retroactive aspect of law challenged

R-Georgia, who helped draft the amendment to the Gun Control Act of 1968, made it clear that the new law wasn't intended to be retroactive.

But the U.S. Bureau of Alcohol, Tobacco and Firearms said in a Nov. 27 letter sent

to law enforcement agencies that the ban would apply even on convictions that occurred before the law was enacted Sept. 30.

Several Denver-area lawyers said the ex-post-facto ban may be a constitutional

problem.

At least two Denver officers — Detective James A. Huff and Officer Alex Woods Jr. — had to surrender their guns Monday because they have domestic-violence convictions.

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Police union may seek block on gun-ban law

GUNS from Page 1B

A congressional aide said Barr re-wrote Democratic New Jersey Sen. Frank Lautenberg's original version of the amendment because it was "on its face unconstitutional, it was so broadly written." The version passed requires an actual act of violence against a victim or a threat with a deadly weapon, the aide said.

Barr said in an Oct. 8 letter to Treasury Secretary Robert Rubin that "we fully expect that the administration will apply this law prospectively, rather than retroactively, in furtherance of congressional expression and faithful to congressional safeguards."

'Double Jeopardy' concerns

And some Denver-area lawyers expressed concerns about the impact of the new law.

"I think it's got serious double jeopardy problems with the retroactivity," said Denver defense attorney David A. Lane. "They cannot impose punishments on you that did not exist at the time that you allegedly committed your crime."

Lane added that he thinks the retroactivity aspect probably would be tossed out.

"We've had several law enforcement officers that we've represented over the years," said defense attorney Craig Truman, "and yesterday and today, they're all calling in to make sure they're safe."

"I'm getting calls," said Englewood lawyer Frank McKibben, "from guys saying 'I've got to give away thousands of dollars worth of guns, and there was no violence, and I don't know how to prove it.'"

More cases likely to trial

The new law "presents some interesting questions," he said. "I'm sure there will be litigation. Is it ex-post-facto additional punishment and so forth?" Because of the potential impact on gun ownership, more domestic violence cases are likely to go to trial, he predicted.

Although several metro-area police and sheriff's departments have been checking to see if their officers have domestic violence convictions, Pueblo Police Chief Ruben Archuleta said yesterday he will not check the backgrounds of his 184 sworn officers to see if they have been involved in domestic violence situations until the constitutionality of the law has been tested.

Denver Post correspondent Jim Mallory contributed to this report.

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Date: 12/06/96 Time: 17:41

DThousands of Police, Military Troops May Be Federal Law Violators

Law officers and military personnel who have been convicted of domestic violence are breaking a new federal law every time they pick up a gun.

With federal, state and local law officers totaling about 700,000, and with 1.2 million Americans serving in the military, some criminal justice experts say the law breakers could number in the thousands.

The new law, tucked into a federal spending bill that went into effect Sept. 30, applies to anyone convicted of a misdemeanor for using or attempting to use physical force on an intimate partner or a family member.

It gives no exemption to the military or law officers, for most of whom a gun is a job requirement. In most states, crimes of domestic violence are prosecuted as misdemeanors.

The law applies equally to private citizens and to FBI and Treasury agents, the Secret Service and U.S. marshals, jail guards and state troopers, housing police and campus security, and every local police officer from chiefs to cops on the beat.

Spot checks by The Associated Press found many law enforcement agencies still unaware of the law this week. This, despite an open letter to all local and state law enforcement officials on Nov. 26 from John Magaw, director of the federal Bureau of Alcohol, Tobacco and Firearms.

Officers convicted of a domestic violence misdemeanor, Magaw advised, ``must immediately dispose of all firearms and ammunition in their possession.''

On Friday, the Justice Department ordered all federal government employees authorized to possess firearms to immediately return their weapons to their supervisor if they have a conviction.

All federal agents will be required to sign a document within 10 days stating they were never convicted of a misdemeanor crime of domestic violence, said Gregory King, a Justice Department spokesman. Lying on that form would be a federal crime.

Few agencies, it seems, know how many of their employees have been found guilty of domestic violence misdemeanors.

``It isn't something you can just look up. Often, misdemeanor convictions are not listed on rap sheets,' ' King said.

Air Force Maj. Monica Aloisio, a Defense Department spokesperson, said, ``We are not in compliance with the law, and we know we're not in compliance with the law.''

Some law enforcement agencies are simply hoping the guilty will come forward and turn in their weapons. In others, a few officers have already been disarmed.

In Denver, Officer Alex Woods Jr., convicted last year of assaulting his girlfriend, was one of two officers who surrendered their guns Monday.

Woods, 25, turned his three handguns and a shotgun over to his father, homicide Detective Alex Woods Sr., and was temporarily assigned to working with equipment.

The young officer didn't return a reporter's phone call. His father said victims will be fearful of reporting domestic violence when it might cost their spouses their jobs.

The younger Woods's former girlfriend, Mary Taylor, 28, said from her home in Aurora, Colo., she's glad the law was enacted.

``It's a step in the right direction for domestic violence,' ' she said. ``It's not going to stop it, but it's going to prevent people at least from being shot.''

Around the country, other police departments say they are

beginning to act. In Los Angeles, five sheriff's deputies have been disarmed and in Nashville, Tenn., one officer's case is being reviewed.

Other agencies, including the Chicago Police Department and the Texas Department of Public Safety, said none of their officers would be affected.

One unanswered question is what will happen to law enforcement officers and soldiers who can no longer carry guns.

The Pentagon says it is waiting for advice from the Justice Department on how to apply the law.

Michigan State University Professor David Carter, an expert on police and a former patrolman in Kansas City, Mo., said he has talked about the new law with police chiefs around the country.

"Most of them were saying, 'If we only have two or three people, we can reassign them, but if I have more than that, I don't know what I'll do,'" Carter said.

Victor Kappeler, head of the Criminal Justice Graduate Program at Eastern Kentucky University and an expert on police, estimates 7,000 law enforcement officials would be affected. Carter called the estimate "conservative, but safe."

Police interviewed disagree about the new law. Some see it as unfair; other see it as the right thing to do.

Pete Brodie, president of the Association for Los Angeles Deputy Sheriffs:

"You don't see them going after butchers and taking their knives away when they have some type of dispute, or plumbers taking their wrenches away. It seems like they're targeting us."

Miami Police Maj. Bill O'Brien:

"Domestic violence is obviously an incredible problem in our country. It's a strong act that's called for. ... It's not the first time police officers are held to a higher standard, and I don't feel it's totally inappropriate."

Meanwhile, the congressman who ensured that the new law made no exceptions for police and the military says he is unhappy with one part of it.

Rep. Bob Barr, R-Ga., still thinks no one convicted of domestic violence should have a gun, but he doesn't think it is fair to apply the law to people who committed their crimes before it was passed.

"I don't think that any police officer, or any citizen, ought to be subjected to retroactive penalties," he said.

APNP-12-06-96 1745EST

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1996-SE-009696BOB BARR
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PHONE (202) 225-2331
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CHAIRMAN**Congress of the United States**
House of Representatives
Washington, DC 20515

October 8, 1996

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The Honorable Robert Rubin
Secretary
U.S. Treasury Department
15th Pennsylvania Avenue
Washington, D.C. 20220

IN RE: APPLICATION OF LAUTENBERG AMENDMENT

Dear Secretary Rubin:

As you know, the Congress has passed legislation to curb domestic violence by denying gun ownership to certain new categories of offenders. The legislation, which has been signed by the President as part of the Fiscal year 1997 omnibus appropriations bill, requires that the Bureau of Alcohol, Tobacco and Firearms promulgate implementing regulations promptly.

I believe it is incumbent that the BATF, in coordination with the Department of Justice, consult with the Administrative Office of the U. S. Courts, the federal and state court systems, and the firearms industry, to develop a constitutionally sound, and practical approach to the new law's implementation.

It is patently obvious, for example, that citizens need to be fairly put on notice as to the law's implications. This not only follows from the Constitutional requirement prohibiting ex post facto application of criminal laws -- e.g. *Weaver v. Graham*, 450 U.S. 24 (1981); and *Miller v. Florida*, 482 U.S. 423 (1987) -- but also from the practicalities of equitable enforcement. In *Weaver v. Graham* the Court set forth the critical question to be asked in evaluating an ex post facto claim: "whether the law changes the legal consequences of acts completed before its effective date." The retroactive application of the firearms disability provision of the Lautenberg Amendment does just this, since defendants previously convicted or convicted immediately prior to the implementation of this statute, of misdemeanor offenses which meet the definition of a misdemeanor crime.

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ROME
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ROME, GA 30161
(706) 290-1778
FAX: (706) 232-7864

The Honorable Robert Rubin
October 8, 1996
Page Two

"involving domestic violence," would be faced with a permanent loss of a civil right without receiving any reasonable notice of or hearing on this constitutional deprivation.

Similarly, in *Miller v. Florida*, concerning a state statute altering sentencing guidelines, the Supreme Court found that petitioner was "substantially disadvantaged" by a new law since he could receive a penalty prohibited under an old law. *Id.*

As in these cases, this new restriction on the right to possession of firearms operates as an impermissible punishment and not merely as an additional regulatory measure. Insofar as the misdemeanor laws of the states vary widely, with many such violations adjudicated by non-courts of record, it is imperative that the law be applied prospectively only. Otherwise, scores of citizens could be subject to prosecution as felons for unwittingly filling out a Form 4473, Federal Firearm Transaction Form, incorrectly.

I know there may have been instances in the past where the courts have upheld retroactive application of provisions that disable citizens from their Second Amendment rights. Under the Lautenberg misdemeanor provisions, however, it is critical that the mechanics of fair and equitable enforcement be properly put in place before the liberties of citizens are put in jeopardy. In these circumstances, both the Constitution and sound administrative practice compel a soundly crafted prospective application of the law's requirements.

As the regulatory process unfolds, I along with many of my colleagues, will closely monitor the manner in which the BATF addresses the new law. We fully expect the Administration will apply this law prospectively, rather than retroactively, in furtherance of Congressional expression and faithful to Constitutional safeguards.

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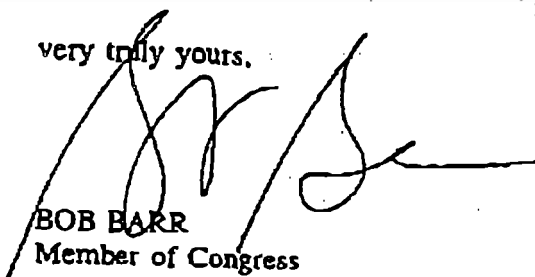
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The Honorable Robert Rubin
October 8, 1996
Page Three

I look forward to hearing from you on this matter.

With warm regards, I am,

very truly yours,



BOB BARR
Member of Congress

BB:gs

cc: The Honorable Newt Gingrich
The Honorable Dick Armey
The Honorable Tom DeLay
The Honorable John Boehner
The Honorable Chris Cox

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Date: 12/6/96

Page 1 of _____

TO: Dennis BurkeFAX: 456-7028FROM: Elisabeth BreenSUBJECT: Barr Letter

MESSAGE: As I said, the same
exact letter was sent to the
Attorney General and to
Director Magaw. No response
sent yet.

Thank for the press
release.