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Crime Control: Federal Initiatives IP 310C

In response to public alarm over the increasing incidence of crime and violence in the United States, Congress has in recent decades passed legislation addressing the varied components of this national problem, including four omnibus crime control bills in the past decade alone. This Info Pack looks at the increasing Federal role in what was once considered to be primarily a State and local area of responsibility, surveys the content of recent major Federal enactments, and provides information on President Clinton's anti-crime proposals and other comprehensive measures being considered in the 103d Congress.

Members of Congress who want further information on this topic may contact CRS at 7-5700. Additional CRS Reports may be identified by looking in the current *Guide to CRS Products* (for congressional use only) and in the latest *Update* under "Criminal justice."

Constituents may find additional information on this topic in a local library through the use of printed and electronic indexes, such as *Readers' Guide to Periodical Literature*, Public Affairs Information Service *Bulletin* (PAIS), and various newspaper indexes. Books on this subject may be identified through the library's catalog or the most recent edition of *Subject Guide to Books in Print*.

Other Info Packs on this and related subjects are: IP 15C, "Capital Punishment"; IP 30D, "Drug Abuse and Control"; and IP 51G, "Gun Control."

We hope this information will be helpful.

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Issue: Crime.

Synopsis: The Senate stole the anti-crime spotlight in the waning days of the 1993 session, passing a sweeping overhaul bill that would cost \$22.3 billion over five years. Nevertheless, the year was something of a disappointment for President Clinton and Democratic lawmakers who had hoped to see a new law enacted in 1993.

In a game of anti-crime one-upmanship, the Senate deliberated for two weeks in mid-November over how to slow the sale of weapons, crack down on criminals, protect women, treat drug addicts, combat prejudice, impose the death penalty and put more police on the streets. The result was the 95-4 vote Nov. 19 in support of an omnibus bill that touches on all those issues and more.

Crafted by Senate Judiciary Committee Chairman Joseph R. Biden Jr., D-Del., the bill embraces competing goals from both sides of the political spectrum. For liberals, the legislation includes gun control measures and rehabilitation programs; for conservatives, more jails and more jail time. The Senate version allocates money for new federal prisons, state boot camps, shelters and services for battered women, 100,000 new police officers, prison drug treatment centers and youth crime prevention projects.

The Senate bill would impose harsh penalties on perpetrators of hate crimes, juveniles who commit serious federal crimes and criminals who use a weapon. Under the bill, the federal death penalty would be extended to about 50 new crimes, and prisoners would be barred from receiving Pell grants for education. The legislation also includes an amendment by Dianne Feinstein, D-Calif., to ban the sale, manufacture and possession of 19 assault weapons.

The one issue senators failed to address was how to treat death penalty appeals, known as habeas corpus petitions. Once a staple of any GOP crime initiative, limiting the number of appeals was abandoned for lack of a consensus.

The House took a different approach. After months of slow progress and finger-pointing over who was stalling its omnibus bill, House Judiciary Committee Chairman Jack Brooks, D-Texas, moved a series of smaller bills. On Nov. 3, House members passed four pieces of the omnibus package, including a \$3.5 billion grants program to hire more police to walk the beat and additional money for drug treatment programs. A day after the Senate adopted its anti-crime bill, the House passed several additional small measures.

Bills: HR 3355 (formerly S 1607): Senate omnibus bill; .
S 1441: habeas corpus;
HR 3350 — H Rept 103-320 (drug treatment);
HR 3351 — H Rept 103-321 (prison alternatives);
HR 3353 — H Rept 103-322 (youth gangs);
HR 3354 — H Rept 103-323 (state drug treatment);
HR 3355 — H Rept 103-324 (more cops on the beat);
HR 3098 — H Rept 103-389 (youth handgun ban);
HR 1133 — H Rept 103-395 (violence against women).

House status: On Nov. 3, the House passed four bills: HR 3350, HR 3353, HR 3354 and HR 3355. On Nov. 19, the House passed HR 3351, 336-82. On Nov. 20, HR 3098 passed by a vote of 422-0 and HR 1133 by a vote of 421-0.

Senate status: The Senate passed its omnibus package, 95-4, on Nov. 19.

What to watch for: Despite overwhelming support in the Senate, passage of a comprehensive anti-crime bill could

still be far off. A large gulf separates the Senate version and the House's piecemeal approach. Even senators who voted for the bill disagree on what the final legislation should look like. Biden has vowed to fight in conference to knock out "the wacko amendments" — a handful of the most stringent measures involving life imprisonment without parole and penalties for gang members. And Senate Republicans say they will not support final legislation that omits law-and-order items such as strict federal minimum mandatory sentences and life in prison for offenders convicted of three or more felonies.

The fight over gun control is likely to continue. Several conservative gun control opponents in the Senate are looking for help from House conferees to eliminate or narrow the ban on assault weapons. But the Clinton administration is pushing forcefully for the assault weapons ban and other gun control measures — particularly after the December slaying of five New Yorkers on a commuter train.

In the House, Brooks is under pressure from members of all ideological stripes to continue work on the remaining crime-related bills. Some members fear that without specific floor votes, House negotiators could be at a disadvantage in a conference with the Senate over its far more comprehensive package. And, they add, that would leave Brooks free to cut his own deals with little guidance from the chamber. Brooks has said he expects his committee to tackle several more components of the crime package, but he has made no promise to be as sweeping as the Senate.

Related stories: House votes, *Weekly Report*, p. 3273; Senate passage, p. 3199; more House votes, p. 3047; background, p. 2814.

LAW/JUDICIARY

House Passes Anti-Crime Bills; More Debate in the Offing

Working in the shadow of a massive anti-crime bill (HR 3355, formerly S 1607) approved by the Senate on Nov. 19, the House passed several smaller crime-fighting proposals before members departed for the year.

The House on Nov. 20 approved a bill to ban minors from possessing handguns (HR 3098 — H Rept 103-389) and another aimed at combating violence against women (HR 1133 — H Rept 103-395).

Both bills parallel similar proposals in the Senate-passed bill and likely will form part of a broad debate on anti-crime initiatives next year. The House measures passed easily despite some Republican complaints that the House should have been acting on a broader crime bill. (*Weekly Report*, p. 3199)

The House earlier had approved several other pieces of an anti-crime package, such as grants to help communities hire more police officers.

House Judiciary Committee Chairman Jack Brooks, D-Texas, predicted his panel would take up additional crime proposals next year, including some regarding the death penalty, though not necessarily the full range of matters addressed in the Senate bill.

The youth handgun bill, sponsored by Rep. Dan Glickman, D-Kan., has won support from gun control and gun rights advocates alike. It would make it a federal crime to sell or transfer a handgun to a person under 18, or for the minor to possess the gun. The bill includes some exceptions, such as allowing minors to use guns under limited circumstances with proper parental supervision. It passed 422-0. (*Vote* 592, p. 3286)

The Violence Against Women Act, sponsored by Rep. Patricia Schroeder, D-Colo., would prod states to toughen laws against domestic violence, provide grants for law enforcement efforts to prosecute and prevent crimes such as rape, and make interstate stalking and domestic violence a federal crime. The House passed that bill 421-0. (*Vote* 593, p. 3286)

In other action on judiciary matters in the final days of the session:

Crimes Against Children

The House passed a bill (HR 324 —

By Holly Idelson and Thomas H. Moore

THE BILLS

- HR 3098** — Youth handgun ban
- HR 1133** — Violence against women
- HR 324** — Crimes against children
- HR 3378** — Kidnapping by parents
- HR 1237** — Child-care providers
- HR 783** — Citizenship laws
- HR 1926** — Drug Control Office
- HR 3216** — Ephedrine sales

H Rept 103-392) by voice vote Nov. 20 that would require those convicted of state crimes against children to register their addresses with state law enforcement agencies for 10 years after they are released from prison or are placed on parole or probation.

The bill, sponsored by Rep. Jim Ramstad, R-Minn., includes penalties for states that do not create such registries within three years.

The House Judiciary Committee approved the bill Nov. 17. (*Weekly Report*, p. 3209)

Kidnapping by Parents

Congress cleared a bill Nov. 20 that would make it a federal crime for parents to kidnap their children and take them out of the United States. Both chambers passed the bill by voice vote.

The bill (HR 3378 — H Rept 103-390), sponsored by Rep. George W. Gekas, R-Pa., would allow the federal government to have parents who kidnap their children extradited to the United States for prosecution. The House Judiciary Committee approved the bill Nov. 17. (*Weekly Report*, p. 3209)

Child-Care Providers

The Senate cleared a bill (HR 1237 — H Rept 103-393) on Nov. 20 that would establish a national system for performing criminal background checks on child-care providers. The House also passed the bill Nov. 20.

Schroeder sponsored the bill, which was approved Nov. 17 by the House Judiciary Committee. (*Weekly Report*, p. 3209)

Citizenship Requirements

The House and Senate passed a bill Nov. 20 by voice vote that would make it easier for certain people to become U.S. citizens. The bill (HR 783 — H Rept 103-387), sponsored by Romano L. Mazzoli, D-Ky., would exempt two categories of people from passing the government's citizenship test: people over 65 who have been in the United States more than 20 years and people who cannot be expected to pass the test because of a physical, mental or developmental disability.

The bill also would make it easier for U.S. citizens to confer citizenship upon their children born outside the United States. And it makes retroactive a 1934 change in the law that allows children born abroad of a non-citizen father and a citizen mother to receive citizenship through the mother. The 1934 law covered only those born abroad after 1934.

The Senate's version of HR 783 includes the text of S 1197, which the Senate passed July 1. The House and Senate are headed for a conference to reconcile minor differences.

Office of Drug Control Policy

The House passed by voice vote a bill (HR 1926) on Nov. 21 that would reauthorize the Office of National Drug Control Policy for one year and strengthen the hand of its director.

Under the bill, sponsored by Rep. John Conyers Jr., D-Mich., the office's director would become a member of the National Security Council and would have more leverage when dealing with interagency disputes.

Ephedrine Sales

The Senate cleared a bill (HR 3216) by voice vote Nov. 24 aimed at stopping the spread of an illegal drug called methcathinone, known as CAT, a relatively new, cheap amphetamine that is easy to manufacture. The House passed the bill by voice vote Nov. 21.

The main ingredient in CAT is a pure form of the drug ephedrine. A less potent form of ephedrine is used in many over-the-counter asthma drugs, making it difficult for the Drug Enforcement Administration (DEA) to trace.

Under the House bill, sponsored by Bart Stupak, D-Mich., companies that manufacture the pure form of ephedrine would be required to register with the DEA and submit records of the drug's sales. That information would be used to track those who buy the drug. (*Weekly Report*, p. 3208)

Source: *New York Times*, November 20, 1993, p. A1, A8.

SENATE APPROVES BROAD CRIME BILL; SPLITS OVER GUNS

G.O.P. STALLS BRADY PLAN

Wider Package Would Provide
\$23 Billion Over 5 Years for
More Police and Prisons

By CLIFFORD KRAUSS

Special to The New York Times

WASHINGTON, Nov. 19 — The Senate today overwhelmingly passed a broad and expensive anticrime package whose leading provisions would add 100,000 police officers to the nation's streets, build a network of high-security regional prisons and create more boot camps for young offenders.

But a related and more contentious piece of legislation, the Brady gun control bill, had far rougher going.

Senate Democratic leaders had hoped for a vote today on that measure, which would require every buyer of a handgun to wait five business days before taking possession of it. But the Republicans mounted a filibuster, and this afternoon the bill's supporters failed by three votes to cut off debate. Another cloture vote was scheduled for late tonight.

\$23 Billion Package

The broader anticrime package, a product of lawmakers' new sense of urgency stemming from a public outcry over violence, would cost \$23 billion over five years. That would amount to a sixfold increase in the annual subsidy that Washington now gives to state and local governments to fight crime.

It is unclear how much of this new assistance would flow to New York, New Jersey and Connecticut. Even the smallest of the 50 states would receive millions of dollars, but the bulk of the package would be disbursed by the Justice Department on review of applications filed by the states and on the basis of crime rates and other barometers of need.

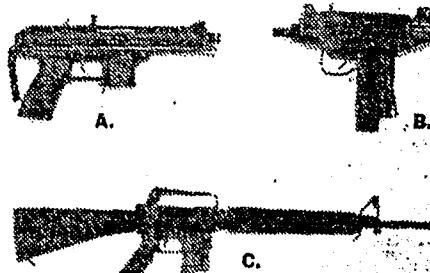
Still, New York State officials said they hoped to obtain \$1 billion of the aid, and New York City has said it hopes to add 5,000 police officers over the next five years as a result of the bill.

The legislation's passage, by a vote of 95 to 4, came after years of gridlock that had killed less ambitious anti-

Major Provisions of the Crime Bill

- Bans the manufacture, sale and possession of 19 semiautomatic assault weapons and clips designed to feed more than 10 rounds of ammunition. Specifically exempts more than 650 hunting weapons, in addition to assault weapons that have already been manufactured.

SOME EXAMPLES



A. TEC-9 9-mm assault pistol manufactured by Intratec in the United States.

B. UZI 9-mm assault pistol manufactured in Israel.

C. AR-15 Assault Rifle manufactured in the United States by Colt Industries.

OTHER IMPORTANT PROVISIONS

- Authorizes \$8.9 billion to put 100,000 new police officers on the nation's streets over the next five years.
- Authorizes \$3 billion for construction of regional high-security prisons and another \$3 billion for boot camps for young offenders and other innovative correctional programs.
- Prohibits the sale or transfer of guns to minors.
- Authorizes \$1.8 billion to combat violence against women. Strengthens Federal laws against battery and other abuse; sets up a special phone line to report domestic violence and toughens Federal sentences for sex crimes.
- Makes certain gang activities Federal offenses, ranging from conspiring to join a criminal street gang to committing murder for that gang.
- Expands the Federal death penalty to cover 52 offenses, including the slaying of Federal law-enforcement officers and drive-by shootings.
- Authorizes \$1.2 billion for programs providing drug treatment, alternative punishments, job training and other preventive measures for nonviolent drug offenders who are sentenced to probation.
- Authorizes \$100 million in grants to schools for metal detectors and other security measures.
- Authorizes \$40 million to develop a national criminal background check on those who provide care to children, the elderly or the disabled.

Continued on Page 8, Column 3

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Senate Endorses \$23 Billion Bill To Fight Crime

Continued From Page 1

crime measures. Senate leaders were able to avoid an impasse this time by stitching together a variety of provisions that allowed conservatives and liberals alike to claim victory.

"This is the finest anticrime package in history," said Senator Orrin G. Hatch of Utah, the ranking Republican on the Senate Judiciary Committee. "It has the right combination of tough-on-crime provisions and prevention."

On the Democratic side, Senator Joseph R. Biden Jr. of Delaware, the committee's chairman, said: "Conscience and convenience have crossed paths. We're finally beginning to listen to the American people. People are prisoners in their neighborhoods, prisoners in their houses."

Headed for Conference

The bill was opposed by only two Democrats and two Republicans, and now heads with significant momentum for a conference early next year between the Senate and the House of Representatives, which two weeks ago passed a series of far more modest anticrime measures. Congressional leaders expect that the compromise that emerges from the conference committee will be taken up by both houses promptly and be ready for President Clinton's signature by spring.

House Democratic leaders, who allowed the Senate to assume chief responsibility for drafting the crime package, hope that the final version will closely resemble the Senate bill.

But those same leaders doubt that it will include a Senate provision that would prohibit the further manufacture of 19 kinds of military-style firearms. Largely because of Western and Southern lawmakers from rural districts who are particularly sensitive to the demands of hunting interests, the House has repeatedly turned back similar curbs on long-barrel weapons.

Intense Debate on Brady Bill

By contrast, the Brady bill cleared the House with relative ease last week. But it then ran into Republican opposition in the Senate, where it had been killed twice in past years and where the vote this afternoon to cut off debate was 57 in favor — 3 fewer than the number needed — and 42 opposed.

That debate was intense. Senator Barbara Boxer, Democrat of California, said that if the bill was not passed, "we will have blood on our hands." Senator Ted Stevens, Republican of Alaska, countered by citing the Second Amendment's guarantee of citizens' right to bear arms. "An armed citizenry," he said, "is not going to become an oppressed citizenry."

The Brady bill is named for one of its chief advocates, James S. Brady, the White House press secretary who was disabled by gunfire in the assassination attempt on President Ronald Reagan in 1981. The five-day waiting period that the bill would require is intended to give law-enforcement authorities time to check the background of every handgun buyer for evidence of a criminal or mentally unstable past.

The waiting-period requirement in the Senate bill, as in the House version, would expire after five years. It would ultimately be replaced by a computerized system enabling instant background checks, and the legislation would authorize \$200 million to create such a system.

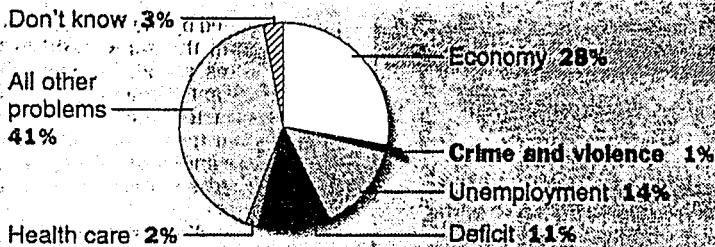
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The New York Times/CBS NEWS Poll

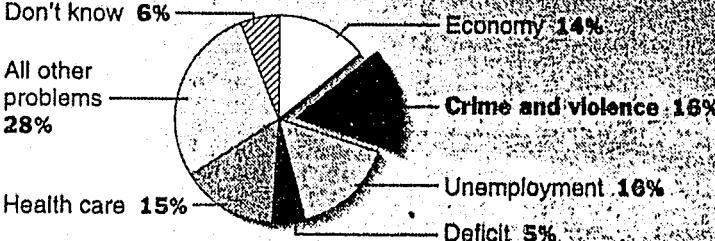
Shifting Public Concerns

What do you think is the most important problem facing the country today?

JANUARY



NOVEMBER



Based on nationwide telephone polls conducted with 1,179 adults in January and 1,334 adults Thursday through Sunday.

The New York Times

(continued from previous page)

Victory for Clinton

Debate on the Brady bill, whose supporters hope to have it on the President's desk by Thanksgiving, began today immediately after approval of the broader anticrime legislation. That measure's passage was a victory for Mr. Clinton, who campaigned for the Presidency last year on a promise of one of the bill's central provisions: pouring 100,000 new police officers over the next five years into state and local efforts against crime.

And it was an easy victory, at that. Given public pressure on lawmakers to do something about violence — pressure that became all the more evident during a number of election campaigns this fall, when crime emerged as a defining issue — Mr. Clinton did not have to engage in much lobbying on behalf of the bill. And he had virtually nothing to do with the compromises that made its passage possible.

It was those compromises that allowed lawmakers of every stripe to find at least something about the legislation that pleased them.

Elements of Grandstanding

Liberals won the ban on an array of assault weapons, as well as programs that would provide treatment for drug-abusing prisoners and members of youth gangs. Conservatives won a provision that would broaden the death penalty so that it applied to a total of 52 Federal crimes, and they also achieved a mandate requiring states that accept Federal money for construction of the new regional prisons to insure that violent offenders serve at least 85 percent of the prison terms to which they are sentenced.

Along the way, divisive provisions that had stalled earlier crime packages — for instance, conservatives' insistence on a strict limit on appeals by death-row inmates — were dropped from the new legislation.

To be sure, some parts of the anti-crime package are little more than symbolism, a result of political grandstanding at a time when voters are demanding action against street violence. There is, for instance, a provision that would apply the death penalty

After years of gridlock, a sweeping crime bill gains.

to cases of genocide, and another that would loosen rules of admissibility of evidence in cases of child molestation, an offense that is rarely adjudicated in the Federal courts.

Further, the view of law-enforcement experts is that even legislation this vast is unlikely to have a significant effect on crime unless it is parlayed with programs that focus on stemming the breakup of families and other causes of social disintegration that produce violent criminals.

Nonetheless, the bill does reflect a surge in Federal resources earmarked to fight gang violence, prison overcrowding and such offenses as rape and hate crimes.

The \$23 billion that the bill would authorize in spending over five years amounts, on an annual basis, to roughly six times the \$756 million a year that the Government now provides for state and local law enforcement. In real terms — that is, when inflation is taken into account — that current level is only a third of what Washington provided in such help two decades ago.

Criminals In Control

The source of all the new billions in spending would be the Federal workforce reductions, so far unspecified, that have emerged as a central part of Vice President Al Gore's campaign to streamline the Government.

To make sure that the new money would be spent in the way that the bill envisions, the legislation specifies that state and local governments would not

be permitted to use it to replace money that they divert from crime-fighting to other programs.

Approval of the package came after two weeks of emotional debate in which one senator after another recited alarming crime statistics and recounted grim anecdotes to the effect that criminals were seizing control of neighborhoods all over the country.

"In late September, my two children witnessed the murder of a young woman at an automatic teller machine," Senator Jim Sasser, Democrat of Tennessee, told a hushed chamber. "It did not happen in a blighted inner city; it happened right across from the campus of Vanderbilt University."

Senator Kent Conrad, Democrat of North Dakota, recalled that after his wife was mugged eight blocks from the Capitol two years ago, she called the 911 emergency number and got a busy signal. "There is a breakdown of social order," he concluded.

To fight that breakdown, the crime bill takes a two-front approach.

The first, the one with the greatest emphasis, is law enforcement and punishment. About a third of the \$23 billion, the biggest single chunk of the package, would pay for the training and hiring of the new police officers. In addition, the legislation would provide the states \$3 billion to finance construction of the 10 new regional prisons, the aim being to ease prison overcrowding that frequently forces the release of violent offenders.

There are a variety of other enforcement provisions as well, one of which would provide \$200 million in college scholarships to students who commit themselves to serve as police officers for four years after graduation.

But in addition to enforcement and punishment, the legislation provides financing aimed at crime prevention. The biggest such provision would authorize \$3 billion for boot camps and other programs intended to reform young offenders before they become hardened criminals.

Making It a Federal Case

Maybe bigger than the pervasive problem of crime itself, questions of jurisdiction and crime control are becoming important rallying points for state sovereignty.

Jon Felde and Donna Hunzeker

On Sept. 8, 1992, a Maryland mother was dragged to her death in a gruesome "carjacking" that jolted the nation. Such random violence in a typically safe Washington, D.C., suburb was particularly shocking to area residents. Capitol Hill was quick to respond: By Oct. 5, Congress had passed legislation making carjacking a federal offense punishable by up to life in prison. The bill had been introduced earlier that year by Congressman Charles Schumer of New York as part of broader legislation to curb auto theft.

But was congressional action necessary? While Congress was busy creating a new federal crime, Maryland officials

charged and prosecuted two young men who had been arrested within hours of the carjacking. One defendant, a minor who was convicted as an adult, was sentenced to life in prison; the other, an adult, awaits trial in state court and if convicted faces a possible death sentence.

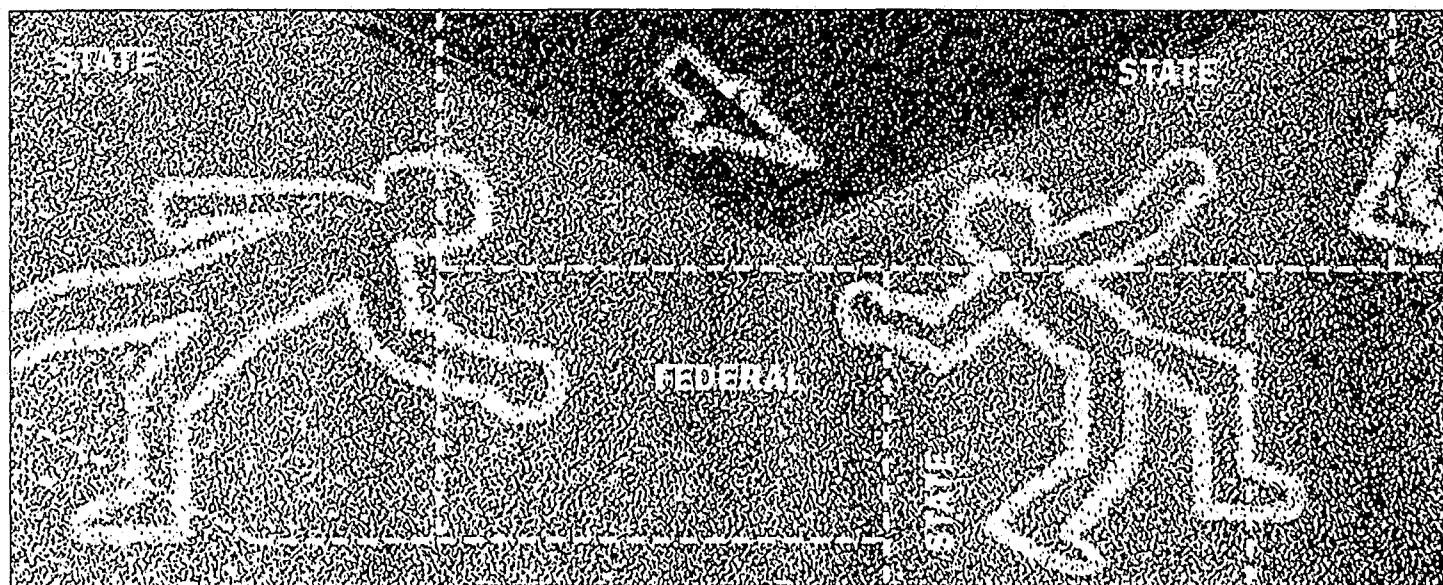
Making carjacking a federal offense exemplifies the contradictory national response to crime. The same Congress that cut poverty-related grants to state and local governments by more than 15 percent in the last decade finds it irresistible to be "tough on crime" by creating harsh penalties for a variety of crimes traditionally handled by states. Typically, this does little more than provide tougher sentences for what are already state crimes. It also tends to create great expectations in the public about

government response to crime, and as such puts political pressure on states to mimic get-tough federal action.

Congressman Schumer, a principal apostle of federalization of crime, also has introduced legislation making it a federal offense to interfere with abortion facilities. This after filing of state charges against the accused murderer of physician David Gunn outside a Pensacola, Fla., abortion clinic. Congress is considering laws to make federal crimes of drive-by shootings and stalking and other domestic violence offenses. In recent years, it has become a federal crime to flee the state to avoid paying child support and to steal laboratory animals. To date, Congress has created laws covering more than 3,000 crimes.

The rationale for choosing crimes for federal jurisdiction seems to be the headlines and public fears rather than any recognizable void in state criminal codes. Virtually all states have laws that can be used to prosecute carjacking. Several states are considering and eight states have passed laws that fine-tune criminal codes to include carjacking or armed robbery of a motor vehicle. Similarly, almost all states now have specific

Jon Felde handles law and justice issues in NCSL's Washington, D.C., office. Donna Hunzeker handles criminal justice in NCSL's Denver office.



laws against stalking.

Despite congressional enthusiasm for jurisdiction over "street crimes," states are still responsible for adjudicating about 95 percent of all such crimes. Federal action, therefore, tends to have greater rhetorical impact than practical effect. But these congressional actions also show skepticism in Washington of the ability of state legislatures to respond adequately to crime.

Although many would agree that providing for public safety requires a vigorous response at all levels of government, some observers express concern that frequent application of criminal law in federal courts results not only in impotence of state criminal codes, but could perhaps eliminate distinctions between the laws of the states. Professor Daniel J. Meador of the University of Virginia School of Law suggests that "through a series of ad hoc decisions," we may be drifting toward federalization without making conscious policy choices about the appropriate degree of federal criminal jurisdiction. He warns that these incremental choices could be taking us in the direction of German federalism, where virtually all law is national, leaving only the administration to the local level.

The Constitution gives Congress power over offenses against the law of nations, crimes committed on the high seas, and crimes of counterfeiting and treason. Over the years, Congress has relied upon the "necessary and proper" clause of the Constitution to extend the

reach of federal criminal jurisdiction. The mail fraud statutes, the Travel Act prohibiting bribery and extortion through interstate means, the Hobbs Act governing extortion and robbery, the anti-racketeering RICO Act and other federal laws have the broad effect of taking state crime cases and shifting them to the federal system.

Historically, the debate over the reach of a federal criminal code has included discussion of whether a federal law would be needed to prosecute crimes that occur on federal reservations, installations or properties. The

Tough federal minimum mandatory sentences for drug crimes have had little apparent impact on use, and many federal judges are outspoken in their opposition to them.

Assimilation of Crimes Act provides that an offense committed on federal land can be prosecuted under state criminal law even if the offense is not a crime under federal law. The act was passed to avoid the necessity of a full federal criminal code, and to ensure that people committing offenses within the boundaries of a state are treated the same.

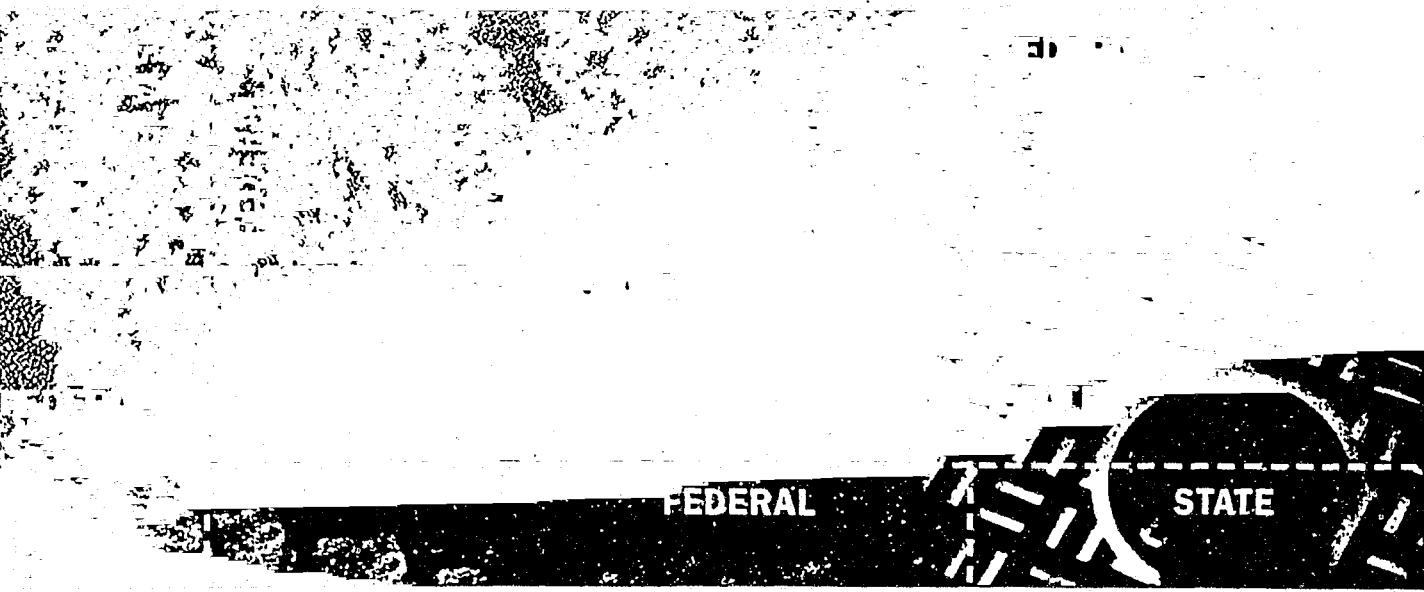
One of the most sweeping recent proposals in Washington would have federalized gun offenses and imposed the federal death penalty for homicides involving firearms. Although

the amendments to the omnibus crime bill were later killed in conference committee, Senator Alfonse D'Amato of New York had overwhelming Senate support for them in the last session of Congress. Federal jurisdiction was justified by the presumption that the gun must have traveled in interstate commerce, which would apply to the vast majority of firearms and mean that nearly all gun-related offenses now handled by states could be prosecuted in federal court.

The Commerce Clause has been used to justify a number of federal crime actions, even though in 1971 the Supreme Court in Perez vs. United States laid aside any suggestion that jurisdiction of federal courts requires direct interstate activity. Most recently, the fact that automobiles involved in carjackings are transported in interstate commerce was discussed on Capitol Hill in passing last year's auto theft legislation.

The proposals to allow for federal prosecution of gun crimes sparked a strong reaction from U.S. Chief Justice William Rehnquist. He wrote: "This federalization of virtually all murders would have been inconsistent with long-accepted concepts of federalism. It would have swamped federal prosecutors, thus interfering with other federal criminal prosecution, and would have ensured that the already overburdened federal courts could not provide a timely forum for civil cases."

Attorney General Janet Reno also has



expressed concern that unchecked federalization of crime could hurt the ability of federal courts to carry out their traditional role of protecting constitutional and civil rights. Senator Joseph Biden, chair of the Senate Judiciary Committee, is similarly keen on that distinction. He recently told federal judges that the federalization debate should not focus on practicalities of court and prison burdens, but on principles defining federal interests. He said that the practice of "bootstrapping" federal jurisdiction simply on a showing that the mail or telephone is used in a crime "is a weak claim of federal jurisdiction."

But Biden justifies "violence against women" legislation that would create a federal civil rights cause of action for violent crimes "motivated by the victim's gender," which could include a variety of domestic violence cases. Federal courts are the appropriate forum, Biden says, "for enforcing national principles of equality." Biden further asserts that his proposal fills a gap left by states where "violence against women has been, and remains, marked by prejudice rather than reason." Similarly, Reno has defended proposals to make a federal offense of interference with abortion facilities, saying the anti-abortion movement is organized nationally and that its actions sometimes infringe on constitutional rights.

Congress has tended to have a broader national interest in crime. Former U.S. Attorney Jay Stephens, who has been both a local and a federal prosecutor, is among those who applaud aggressive federal intervention in drug crimes. Drug laws passed in 1965 and 1970 created considerable federal jurisdiction for drug-related crime, including possession, manufacture and distribution. Those laws were directly linked to a sense that the states had failed to arrest drug abuse.

By the 1980s, however, illegal drug use escalated so much that the president declared a "war on drugs," and the feds found their drug-crime jurisdiction becoming costly. Federal drug prosecutions have tripled over the past decade, and the number of assistant U.S. attorneys has more than doubled. And, largely because of mandatory minimum sentences under federal drug laws, federal prison populations have quadrupled since 1980. Federal criminal dockets continue to strangle the civil docket. U.S. District Judge Stanley Marcus says 85 percent of federal court trial time in South Florida is devoted to criminal cases, mostly involving drug crimes. The criminal docket for the federal district court for the District of Columbia has increased 50 percent in the last six years.

Tough federal minimum mandatory

"The debate must include a close examination of how the federal role can harmonize with state interests rather than erode state control."

sentences for drug crimes have had little apparent impact on use, and many federal judges are outspoken in their opposition to them. In New York, senior U.S. District Judge Jack Weinstein, who has declined to take more drug cases, expresses dismay at what he sees as often harsh mandatory sentences. He cites, for example, a 46-month sentence he reluctantly imposed on a West African peasant woman and the devastating effect that will have on her children. "I need a rest from the oppressive sense of futility that these drug cases leave," he said.

Federalizing crimes is just not the most efficient contribution to the drug-and weapon-laden crime fight, according to Representative Jeffrey Teitz of Rhode Island. He says the federal government's job is to reduce the flow of illegal drugs and firearms into the country and across state lines. "By diverting federal criminal justice resources from this responsibility to efforts traditionally handled by state and local government, Washington both weakens efforts at effective law enforcement and tramples traditional principles of federalism," Teitz says.

Indeed, tough-minded federal drug enforcement has entrapped more small-time dealers than it has drug kingpins, and drug policy experts note that street supplies of drugs like cocaine remain plentiful.

Drug laws illustrate of how actions at the federal level reverberate in states, which also have passed costly mandatory minimum drug sentences. Federal

lawmakers are taking a closer look at the impact of mandatory minimum sentences on federal courts and prisons. U.S. Senator Orin Hatch of Utah recently questioned their use in a law review article, and the White House has signaled interest by reducing budgeting for prison construction. Indeed, a growing concern about federal encroachment in crime is being pushed mostly by fiscal considerations. As Richard Van Duizend of the State Justice Institute said, "The shortage of money has caused convergence of principle and pragmatism."

Even so, the impulse to find a federal interest in criminal acts is not an easy one to resist. Proposals like D'Amato's federal death penalty find support even among some state legislators who, frustrated by the absence of a capital punishment statute in their state, may accept federalization even at the expense of diminishing the power of their institution. Other lawmakers would be appalled that federal, concurrent jurisdiction means that the choice could be made by state and local prosecutors whether to seek federal prosecution, and therefore capital punishment, where there is no state-sanctioned death penalty.

Even for crimes without death-penalty implications, the options for prosecution created by federal, concurrent jurisdiction generally give considerable discretion to local prosecutors and police to defer to federal prosecutors if they choose. In doing so, they bypass state legislative authority for crime and justice. Taking cases to federal court also removes the community from the adjudication process. It shifts that responsibility from elected state prosecutors and state trial court judges, also elected or appointed from communities, to U.S. prosecutors who are appointed by the president of the United States. Federal prosecutors usually have more than a million people in their jurisdictions.

"By turning more and more prosecutions over to appointive federal prosecutors and lifetime appointed federal judges, prosecutors no longer have to answer to the public the way locally elected prosecutors and judges do," says Representative Mike Box of Alabama.

New York Senator Stephen Saland concurs. "Generally, crime is best fought at the local level, with local police who

know the community, with local judges who reflect the standards of the community and with local understanding of which crimes most need the focus and resources of the community," he said.

Federal asset forfeiture law offers further incentives for state and local law enforcement to look to federal prosecution. A law passed in 1986 provides that proceeds from asset forfeiture claims initiated by the federal government are apportioned among the law enforcement agencies that assisted in the prosecution. Local law enforcement, therefore, has an incentive to turn over the case to federal prosecutors in order to get a direct subsidy for their operations without any oversight, and in spite of any state laws that might impose a different distribution scheme for seized assets.

To a certain extent, local prosecutors are becoming more sophisticated. For instance, a recent conflict between federal and state prosecutors resulted in the Manhattan district attorney winning the right to prosecute Washington, D.C., lawyers Robert Altman and Clark Clifford in the Bank of Commerce and Credit International (BCCI) scandal. In describing the Department of Justice's decision to drop charges in deference to the local New York prosecutor, The Washington Post said: "One lesson of the long-running BCCI scandal may be that the federal government has difficulty in investigating a complex, international banking scandal." A recent report of the National Institute of Justice concludes local prosecutors are taking on a heavier load of corporate crime.

Adding to resources for local prosecutors is one way to forestall further federal intervention in crimes traditionally handled by states and localities. Others would add that states need to give undivided attention to improving their court systems. Stephens notes that the federal courts have in recent years made significant advances in more efficient administration of justice. One of the most significant judicial improvements in the federal criminal system has been the passage of the Speedy Trial Act and the provisions that tighten pretrial release. Defendants who are detained "are not motivated to string out the case, and early resolution helps clear out the docket." And the Armed Career Criminal Act adopted by Congress offers broad powers to detain

defendants with previous state records and upon conviction to apply a mandatory 15-year term in federal prison.

But while the stature of state judicial systems may be deemed subpar by some, law enforcement may in fact seek federal prosecution of street crime to skirt state laws that have been created to offer additional protections to defendants. U.S. Attorney General Reno, a former state prosecutor in Florida, has explained that she took cases to federal prosecutors in order to obtain the advantages of less restrictive federal rules of evidence.

"Crime is best fought at the local level, with local police who know the community, with local judges who reflect the standards of the community and with local understanding of which crimes most need the focus and resources of the community."

Alabama's Box points out that the criminal defendant does not have the opportunity to choose forums for trial. "The existence of federal concurrent jurisdiction allows prosecutors to do a little forum shopping. It's unfair where the defendant does not have a similar tool."

Another consequence of expanding the number of concurrent federal crimes is the effect that double prosecution has on defendants' protection against double jeopardy. In 1959, the Supreme Court let stand a robbery conviction in state court that had been brought after the defendant in a bank robbery was acquitted in federal court. The legal basis for the Court's decision, which still prevails, is that the offender has offended two sovereigns. The debate over double jeopardy resurfaced recently with the trial of the Los Angeles police officers convicted of violating the rights of Rodney King. This case provoked particular difficulty for civil libertarians, who endorsed retrying the police defendants acquitted by the state court, but who generally oppose the concept of dual sovereignty in criminal cases.

Defining the federal interest is perhaps the first step in determining how and where to draw the line on federalization of crime. "The debate must include a close examination of how the federal role can harmonize with state interests rather

than erode state control," says Representative Teitz of Rhode Island.

Biden and others have favored the approach taken in U.S. Senator William Cohen's 1992 law that directs the National Institute of Justice to assist states by drafting model stalking legislation, rather than claiming jurisdiction for those crimes. As a result of Cohen's legislation, a consortium of organizations is examining state stalking laws, monitoring case law, and preparing model legislation and recommendations for states to ensure that their stalking laws are constitutional and therefore enforceable.

Determining what the federal interest in crime should be will require distinguishing if uniformity of treatment is more important than permitting or encouraging diversity as a strength of federalism. States will have to persuade Congress that a mere substitution of its judgment for their judgment is an inadequate rationale for expanding the federal role, according to Senator Saland. "I would urge [federal policymakers] to utilize great care and an extraordinary prudence in determining exactly what criminal justice-related matters call out for proper involvement and action at the federal level," he says.

In order to improve crime control without causing state powers to atrophy, state legislatures and Congress need to communicate, as do state and federal judiciaries. States may be surprised to find common ground with federal courts that have mandated state action in everything from prison conditions to school desegregation. This state-federal dialogue requires overcoming reluctance, especially that of the federal judiciary, to test the limits of that great divide we call separation of powers. Federalism has as its core the division of power to preserve liberty and self-determination.

Oklahoma Senator Vicki Miles-LaGrange says that despite federal encroachment, national interest in suppressing crime requires a grassroots effort. "Ultimately, it is action at the community level that will make a difference in the fight against crime," she says. State legislatures should see criminal justice as an opportunity to be responsive to local needs, and as a rallying point in their principled stand for state sovereignty.

CRS Report for Congress

Violent Crime Control and Enforcement Act: Summary of S.1607 (H.R. 3355)

Keith Bea
Suzanne Cavanagh
David Teasley
Elizabeth Bazan
Charles Doyle
Coordinator

December 23, 1993



**VIOLENT CRIME CONTROL AND ENFORCEMENT ACT:
SUMMARY OF S.1607 (H.R. 3355)**

SUMMARY

On November 18, 1993, the Senate passed S.1607, the Violent Crime Control and Enforcement Act. The next day, the Senate substituted the language of S.1607 as passed for that of the House passed H.R.3355. The text of the bill summarized in this report, S.1607 (H.R.3355), is reprinted in the *Congressional Record* for November 24, 1993, 139 Cong.Rec. S17095-S17199.

Selected highlights of the bill may be found in *Violent Crime Control and Enforcement Act: Selected Highlights of the Senate Bill (S.1607/H.R.3355)*, CRS Rep.No. 93-1044 (December 12, 1993), and accordingly, are not replicated here.

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VIOLENT CRIME CONTROL AND ENFORCEMENT ACT: SUMMARY OF S.1607(H.R.3355)

POLICE

"Cop on the Beat"

S.1607 (H.R.3355) establishes new authority ("Cop on the Beat Act") for the Attorney General to provide grants to units of State and local government and "community groups" for projects that increase the police presence in communities by hiring additional law enforcement officers. Officers laid off because of budget constraints may be rehired "for deployment in community-oriented policing" and funds may be used to hire "new, additional career law enforcement officers" for similar deployment and to hire former members of the Armed Services as career law enforcement officers (preference is given to applicants who hire former members of the Armed Forces), §§101-103.

Grants may also be used to enhance police-community cooperation, for training and technical assistance activities, for new technologies associated with preventing crime, for programs that minimize the time officers spend in courts, for citizens police academies, to build satellite criminal court facilities for the convenience of crime victims, and to develop administrative systems to facilitate the transition to community-oriented policing, §103.

States must provide at least 25 percent of the funding for community policing programs (preference is given to grantees who exceed the 25 percent match) and must submit plans for assuming the full costs of increased police hiring after Federal assistance ends in fiscal year 1998. Grants to State and local governments must be used to *supplement* existing State and local funding of law enforcement activities. Each State must receive at least 0.6 percent of the amount appropriated, and 85 percent of funds must be used to hire or rehire officers, §103.

Indian tribal governments, as defined by the bill, may apply to the Attorney General for "Cop on the Beat" grants, any funds received must supplement those provided by the Department of the Interior, and "an appropriate amount of funds" must be provided to tribal applicants grantees. Indian tribes to may use Federal funds for the matching requirements of Federal justice system improvement grants, §§103, 5128, 5130.

The Act restricts Federal administrative costs to five percent of appropriated funds, establishes a 5 year limit on grant awards, establishes reporting and evaluation requirements, and authorizes appropriations total of almost \$9 billion as follows: \$1.035 billion for fiscal year 1994, \$1.72 billion for

fiscal year 1995, \$2.07 billion for fiscal year 1996, \$2.27 billion for fiscal year 1997, and \$1.9 billion for fiscal year 1998, §103.

The bill expresses a sense of the Senate that law enforcement officers laid off because of State and local budget cutbacks are to be rehired, that local law enforcement "must remain the sole prerogative of local government," and that resolving the issue of "unfunded mandates" is one method of providing more funds to local governments, §5141. It also includes an expression of gratitude from the Congress to law enforcement personnel, §5127.

Byrne Memorial Program

S.1607(H.R.3355) contains new authority for the Attorney General to provide grants to State and local law enforcement units for computerized automation and technological improvements. It includes requirement that a model "intelligent information system" be developed with no more than 10 participating cities. Authorizes a total of \$150 million for fiscal year 1994, §1031.

The bill also authorizes grantees to use Byrne formula grant funding for programs relating to gangs or to youth who are involved or at risk of involvement in gangs, §619. And it exempts multijurisdictional gang task forces from 4-year funding limitation from which only drug task forces are now exempt, §624.

Effective Oct. 1, 1993, the discretionary grant provision is restricted to funding to non-Federal entities, §§2951-52, and block grant authority's 75/25 Federal-State match requirement is extended through FY93 [sic], §623. (But see, section 109 of P.L.102-140 permanently extending 75/25 match).

DNA Analysis

The use of Byrne program funds is authorized for the development or improvement of DNA testing laboratories and standards to be met by funded laboratories specified. The bill authorizes an additional \$5 million for each year, FY94-98, for State grants for DNA analysis. It requires appointment of an advisory board on DNA quality assurance methods to recommend standards and requires the Director of the FBI to consider those recommendations in issuing standards, and authorizes the Director of the FBI to establish an index of DNA identification records. The Director must certify blind proficiency testing for the quality of analysis has been established, is available, or is not feasible.

It demands that FBI personnel performing DNA analyses undergo proficiency testing at regular intervals and that reports be provided on the results of those tests. There are explicit standards for privacy protection and criminal penalties (fine of no more than \$100,000) for the willful disclosure of information in the DNA index to unauthorized persons. The bill authorizes \$4.5

million for each year, FY94-99 for the administration of these provisions by the FBI, §1001-1006.

Community Substance Abuse Prevention

S.1607(H.R.3355) provides new authority for the Attorney General, through the Bureau of Justice Assistance, to provide grants to community coalitions that operate substance abuse prevention programs. It authorizes \$15 million for FY94, \$20 million for FY95, and \$25 million FY96, §§1011-1012.

Bias Study Grants

The Attorney General, through the Bureau of Justice Assistance, may provide grants to States for the purpose of analyzing the role of race in State criminal justice systems and for making recommendations to correct racial and ethnic bias found to exist. The State plan must expressly call for an examination of the role of race in the State's procedures for jury selection. S.1607 (H.R.3355) authorizes \$2 million for each fiscal year from FY95 through FY99 for these purposes, §1021.

Family Support

The bill provides new authority for the Director of the Bureau of Justice Assistance to provide grants to State and local law enforcement agencies and to police organizations for family support services such as counseling, child care, stress reduction, and technical assistance. Optional activities may include post-shooting debriefing, family crisis telephone services, substance abuse, and other support activities. Grants are limited to \$100,000 to an agency for a five year period, and \$5 million is authorized for each fiscal year from FY95 through FY99, §1101.

Police Pattern or Practice Regarding Individual Rights

The bill prohibits any government authority or agent from engaging in a pattern or practice of conduct that deprives incarcerated juveniles of federally protected rights. The Attorney General may obtain relief through civil action "to eliminate the pattern or practice," must acquire non-identifying data on police use of excessive force through victimization surveys conducted by the Department of Justice and publish such data annually, §§1111-1112.

Police Corps

S.1607 (H.R.3355) establishes a new Office of Police Corps and Law Enforcement Education in the Department of Justice and requires that the

States administer the program. It limits scholarships to \$7,500 or the costs of educational expenses, or \$10,000 per calendar year, and caps total assistance provided to each participant at \$30,000. Payments are made to educational institutions, or participants may be reimbursed directly if they agree to work for 4 years on a police force and satisfactorily complete the course of study. Entitles dependent children of slain officers to scholarships. The bill sets forth selection criteria, limits graduating classes to 20,000, and requires that the States make special efforts to recruit minority candidates. It demands that the Director establish or contract for 2 eight-week training programs for participants, ensures that participants have the rights and responsibilities of other officers once they are sworn in, sets forth State plan requirements, and provides \$10,000 to jurisdictions for each employed participant under specified conditions. The Director must supply an annual report. The legislation authorizes appropriations of \$100 million for fiscal year 1995, a total of \$250 million for fiscal year 1996, and such sums as necessary for fiscal years 1997-1999, §§1121-1133.

Scholarships for Police Officers

The Director of the Bureau of Justice Assistance may provide grants to the States for scholarships for in-service law enforcement officers seeking further education (80% of funds) and for employment opportunities for youth interested in law enforcement careers (20%). Funds are to be allocated among (and administered by) the States as follows: 80 percent based on existing law enforcement personnel and 20 percent on the basis of shortages of such personnel. Federal share limited to 60 percent. Each scholarship is provided for one year to individuals employed in law enforcement for at least 2 years. The bill sets forth requirements for State applications. Individuals must apply to the State, with priority given to minority applicants seeking undergraduate degrees, and sets forth requirements for scholarship agreements. It authorizes \$30 million for each fiscal year, FY94-97 and requires reports from Attorney General, §§1141-1150.

Other

The bill authorizes the appropriation of \$1.5 million for grants to State and local law enforcement agencies to take greater advantage of automation and advances in technology, §1031; and requires that the FBI report by June 1994 on improvements to the Nation's automatic fingerprint systems, §5138.

CRIMES AGAINST WOMEN AND CHILDREN

Offenses

Children: S.1607 (H.R.3355) makes international parental kidnapping a Federal crime, punishable by imprisonment for not more than 3 years and a fine, §2702,

and authorizes an appropriation of \$250,000 to carry out under the State Justice Institute Act of 1984 (42 U.S.C. 10701-10713) national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction, §2703. It also extends the Federal kidnapping statute to cover those whose parental rights have been terminated by a final court order, §5114.

For purposes of Federal child pornography laws, the bill defines a sexual act -- where the victim is below the age of 16 years -- as the intentional touching, not through the clothing, of the genitalia of another person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, §801 (duplicated in §3702), and asserts that (1) Congress intended to define sexually explicit conduct for purposes of those offenses to include the lascivious exhibition of any person's nude or covered genitals or pubic area; (2) Congress intended the proscribed visual depiction of minors to include any photographs exhibiting a child in a lascivious manner; and (3) it is accordingly the sense of Congress that the brief initially filed on behalf of the United States in pending Supreme Court case of *United States v. Knox* does not accurately reflect the intent of Congress, §2410.

It proscribes the production of child pornography for importation into the U.S. with violations punishable by imprisonment for not more than 10 years for the first conviction and not more than 20 years for subsequent convictions and/or a fine of not more than \$250,000; adds the offense to the list of RICO predicate offenses, §824; and notes the sense of Congress that the States should make child pornography a felony and subject to related property to confiscation, §825.

It increases penalties for employing children under the age of 18 to distribute drugs or to assist in avoiding detection or apprehension for a drug offense, §615; and adds Federal offenses punishable by more than 1 year and involving a minor to those constituting racketeering activity under RICO, §612.

Sexual Abuse: The maximum term of imprisonment for repeat sexual offenders is increased to up to twice that otherwise authorized, §3211.

The Sentencing Commission is instructed to review and recommend amendments to the sentencing guidelines with respect to aggravated sexual abuse or sexual abuse, recidivism in sex offenses, multiple participants in same sexual offense and other facets of sexual offenses, §3211, and the Sentencing Commission is required to submit a report to Congress within 180 days regarding Federal rape sentencing, §3212.

S.1607 (H.R.3355) also requires restitution in Federal sex offense cases, §3213, and extends and strengthens restitution in cases of violations of Federal sexual abuse and child pornography laws, and provides for enforcement of restitution orders through suspension of federal benefits, §§3704, 3705 (§902 makes many of the same adjustments but not limited to sex offenses cases).

The bill creates new Federal offenses for traveling across a state line to commit spousal abuse; for injuring a spouse or intimate partner in course of or as a result of causing him or her to cross a state line by force, coercion, duress, or fraud; and for interstate violation of protection orders; prosecution requires neither prior state prosecution nor conviction; nor need the specific intent to violate State law or a protection order be shown; requires the victim be given an opportunity to be heard at the pretrial release hearings of such offenders; mandates restitution; and requires full faith and credit for protection orders issued by one State in a court of another State, §3321.

It amends 18 U.S.C. 3561 to redesignate current subsection (b) as (c) and create new subsection (b) requiring that a first time domestic violence offender be sentenced to probation if not sentenced to imprisonment; and amends 18 U.S.C. 3563 to require, as a mandatory condition of probation, that those convicted for first time of domestic violence crime attend court-approved program authorized by State Coalition Against Domestic Violence designed to rehabilitate such offenders, if an approved program is readily available within 50 miles of defendant's residence. Further, it amends 18 U.S.C. 3583 to mandate imposition of a term of supervised release after imprisonment for such offenders and requires, as an explicit condition of supervised release, that such offenders attend such a court-approved program, §5154.

Procedural Amendments

The bill calls for pretrial detention in sex offense cases involving any felony under Federal sexual abuse and child pornography laws, §3701, and creates a right of allocution for the victim during sentencing in cases involving crimes of violence or sexual abuse, §3264 (§901 seems to afford the same allocution rights). A related section expresses the sense of the Senate that the law of a State should allow for the right of a victim of a violent crime or sexual abuse to speak at an offender's sentencing hearing and any parole hearing, §903.

It makes several adjustments in the Federal Rules of Evidence (FRE), including:

- An amendment making reputation or opinion evidence of past sexual behavior of an alleged victim inadmissible in a criminal case other than a sex offense case governed by FRE 412; other evidence of alleged victim's past sexual behavior is admissible in a criminal case other than a sex offense case if probative value of evidence outweighs the danger of unfair prejudice and prescribed procedures are followed, §3251;
- A new FRE 412B regarding sexual history evidence in civil cases; makes reputation or opinion evidence of plaintiff's past sexual behavior inadmissible in a civil case in which a defendant is accused of actionable sexual misconduct; sets standard and procedures for

other evidence of plaintiff's past sexual behavior to be admitted in such a case, §3252;

- Amends the Federal rape shield law, FRE 412, permitting interlocutory appeal by government or alleged victim of evidentiary rulings under this rule. Permits victim to waive provisions of rule if prosecution seeks to offer evidence of prior sexual history; amends subdivision (c)(3) of rule regarding defendant's motion to offer evidence of specific instances of alleged victim's past sexual behavior, to require court in its order to consider chain of reasoning leading to its finding of relevance; and why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of evidence to humiliate and embarrass alleged victim and result in unfair or biased jury inferences, §3253;
- A new FRE 413 making evidence of victim's clothing inadmissible in criminal case involving sex offense to show that victim incited or invited offense charged, §3254;
- A new FRE 414, making inadmissible evidence to show invitation or provocation by victim in sexual abuse cases, §3706;
- A new FRE 413 addressing admissibility, in criminal cases, of evidence of similar crimes in sexual assault cases, §831;
- A new FRE 414 addressing admissibility, in criminal cases, of evidence of similar crimes in child molestation cases, §831; and
- A new FRE 415 addressing evidence of similar act in civil cases concerning sexual assault or child molestation, §831.

Grant Programs

S.1607 (H.R.3355) creates a grant program, available to units of State and local government in rural states, and to other private and public entities in such States, to establish, expand and implement cooperative efforts between law enforcement, prosecutors, victim advocacy groups and others, to investigate and prosecute incidents of domestic violence and child abuse, to provide treatment and counseling for victims of same, and to develop education and prevention strategies directed toward these issues. It authorizes appropriations of \$10 million for each of FY95-FY97, and permits law enforcement agencies to also use funds received under Sec. 103 (Community Policing; "Cops on the Beat"), §1421.

It also authorizes several other grant programs to deal with various aspects of domestic violence:

- To assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent

crimes against women, which authorizes for each of FY94, FY95 and FY96, \$100 million for grants to combat such crimes in high intensity crime areas; \$190 million for other grants to the States to combat such crimes against women; and \$10 million for general grants to Indian tribes to combat violent crimes against women in Indian country, §3221;

- For capital improvements to prevent crime in public transportation and for capital improvements to prevent crime in national parks, §§3231-3233;
- For prevention of sexual abuse and exploitation, and authorizes \$10 million per year for FY94, FY95, and FY96 for this purpose, §3263;
- To establish national domestic violence hotlines, authorizing \$500,000 per year for FY94, FY95, and FY96 for this purpose, §3311;
- To encourage States, Indian tribes and localities to treat spousal violence seriously and to encourage arrest policies; authorizes not more than \$25 million each fiscal year for this purpose and requires Secretary to delegate Secretary's responsibilities under this program to the Attorney General, §3381;
- For rape prevention and educational programs; authorizes appropriations of \$65 million for each of fiscal years 1994, 1995, and 1996, §3261;
- For domestic violence and family support, which authorizes \$100 million per year for FY94, FY95, and FY96 and such sums as are necessary thereafter; authorizes appropriations for Family Violence Prevention and Services Act, Sec. 310(a), 42 U.S.C. 10409(a), as amended, in amount of \$85 million for FY94, \$100 million for FY95 and \$125 million for FY96; amends that Act regarding grantee reporting requirements and model programs for education of youth about domestic violence; and authorizes \$400,000 for FY94 for that program, §3841;
- For child abuse prevention and treatment grants under the Child Abuse Prevention and Treatment Act; authorizes appropriations for \$4.5 million a year from the Crime Victims Fund, §911.
- For education and training of State court judges and court personnel in cases involving rape, sexual assault, domestic violence, and other crimes of violence motivated by gender; also authorizes circuit studies, education, and study and training grants for judges and court personnel in Federal courts on issues related to gender bias, and authorizes appropriations therefore, §§3601-3622;

- For the establishment of law enforcement and child and family services partnership programs. Programs established from funds received under grants awarded are to be collaborative in nature, provide responses to crisis situations 24 hours a day, be able to provide adequate resources for training of law enforcement officers and for support of professional consultation services for children and families, and be able to respond to community needs in a manner reflecting sensitivity to the cultural diversity of the community. Priority is to be given to programs offering mentoring and conflict resolution services. The Federal share of a grant would be 80 percent for the first fiscal year, 70 percent for the second, and 60 percent of the third. Authorizes an appropriation of \$20 million for fiscal year 1994, and such sums as may be necessary for each of fiscal years 1995 through 1998, of which not more than 10 percent shall be used for mentoring and conflict resolution services, §§4801-4809.
- To establish projects in local communities involving many sectors of each community to coordinate intervention and prevention of domestic violence. Authorizes \$20 million for FY95, and such sums as are necessary for FY96-FY98. Requires Secretary to publish proposed regulations implementing this section within 60 days of enactment, §5140 (apparently replicated without regulation requirement in §5122);
- To double the amount of the appropriations authorized for grants for campus sexual offenses education to \$20 million for fiscal year 1994 and for such sums as are necessary for the following 3 fiscal years, §3501.

The bill also reauthorizes the following programs: the Court-Appointed Special Advocate Program at \$7 million for fiscal years 1995 and \$10 million for each of the fiscal years 1996 through 1998; the Child Abuse Training Program for Judicial Personnel and Practitioners at \$7 million for fiscal year 1995 and \$10 million for each of fiscal years 1996 through 1998; and Grants for Televised Testimony at \$3.5 million for fiscal year 1995, and \$5 million for fiscal years 1996 through 1998, §5126.

Grantees under the Violence Against Women Act (title 32 of the bill) must assume the costs of medical examination of sexual assault victims, §3262

The States must report information concerning child abuse to the FBI, such information to be available for background checks by child care organizations and organizations which care for the elderly and disabled. Appropriations totaling \$40 million for 3 years for grants are authorized to assist States. States

not in compliance with timetable may lose 10% of their Federal crime control funds, §§811-816]¹

The Attorney General must establish guidelines for State programs requiring registration, for 10 years following release, of those convicted of crimes against children. Requires central data collection and transmission of the information to FBI and local authorities. States that after 3 years have elected not to comply lose 10% of the formula grant funds for which they are eligible under Byrne program, §§822,823.

The Secretary of Health and Human Services may award demonstration grants and enter into contracts and cooperative agreements to establish and operate supervised visitation centers, to address situations where there is a history of child abuse or domestic violence. For approval, the applicants for such grants must demonstrate that they have recognized expertise in the field of family violence and a record of high quality service to victims of such violence, and that the application has been submitted from an entity located in a State where State law requires courts to consider evidence of violence in custody decisions. The Secretary is also authorized to award special grants to study the effect of supervised visitation on sexually abused or severely physically abused children. Annual evaluation of demonstration projects and of such special grants is required. In addition, reports, including recommendation concerning whether supervised visitation center demonstration and clinical data programs should be authorized, must be made by the Secretary to the appropriate committees of Congress, beginning 18 months after enactment of the Act, and continuing annually thereafter. Appropriations of \$15 million in FY94, \$20 million in FY95, and \$25 million in FY96 are authorized, 80% of which per year is to be used for establishment and operation of supervised visitation centers, and 20% for special grants to study the effect of supervised visitation on sexually abused or severely physically abused children, §§4001-4009.

The bill also establishes the "Morgan P. Hardiman Task Force on Missing and Exploited Children," made up of representatives from Federal law enforcement agencies, to work with the National Center for Missing and Exploited Children, §§4301-4304.

And it provides supplementary grants for States adopting effective laws relating to sexual abuse as such levels of appropriations as are necessary, §3713.

¹ Note the separate passage, by both Senate and House, of an amended version of S. 1607's National Child Protection Act of 1993, §§881-816 (H.R.1237, cleared for the White House on Nov. 20, 1993).

Other Provisions

The bill creates a civil rights cause of action against a person who commits a crime of violence motivated by gender, thereby depriving another of the right to be free from such violence; authorizes compensatory and punitive damages, injunctive and declaratory relief and such other relief as a court shall deem appropriate; and authorizes attorneys fees available in other civil rights cases, §§3401-3403.

The Attorney General must establish guidelines for State programs to require that "sexually violent predators" register a current address with a designated State law enforcement agency upon release from prison, being placed on parole, or being placed on supervised release. Attorney General is to approve each such State program. States which do not implement such a program within three years of enactment of this Act and maintain same are ineligible for 10% of funds which would otherwise be allocated to that State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3756). Permits reallocation of the funds not allocated because of non-compliance. Requires advance notification to person anticipated to be released, paroled, or put on supervised release, of duty to register. Registration information goes to both State law enforcement record system and FBI Identification Division. Requires quarterly verification of information, and notification to local law enforcement of any changes in address. Failure to register and keep information current could subject person required to register to State criminal penalties. It is the sense of Congress expressed that such penalties should include imprisonment for not less than 180 days. The bill permits community notification of registered information to protect public, and provides immunity to law enforcement agencies and employees, and State officials for good faith conduct under this section, §844.

It also demands that:

- The Judicial Conference of the United States to provide reports on fair treatment in legal proceedings in Federal cases involving sexual misconduct, and on FRE 404, §3712;
- The Postal Service, within 90 days, to promulgate regulations to secure confidentiality of domestic violence shelters and abused person's addresses and sets guidelines therefore, §3371;
- The Secretary of HHS, through the Centers for Disease Control Injury Control Division, to study incidence and cost of injuries resulting from domestic violence and recommend health care strategies to deal with same, §3393;

With respect to the Department of Justice, it:

- Authorizes \$1.5 million for FY94 for U.S. Attorneys for appointment of Victim/Witness Counselors for prosecution of sex crimes and domestic violence crimes, §3214;
- Establishes a Justice Department Task Force on Violence Against Women and directs the Attorney General to authorize Director of Office of Victims of Crime to provide for payment of up to two HIV tests during 12 months following serious assault, with a counseling session on accuracy of test and risk of transmission of HIV, §3703;
- Directs the Director of National Institute of Justice to request the National Academy of Sciences, through its National Research Council to enter into a contract to develop a research agenda to increase understanding and control of violence against women; and, with BJS, to study and report to the States and Congress on how States may collect centralized databases on incidence of domestic violence, §§3391-3393;
- Mandates provision of a national baseline study on campus sexual assault, a report on battered women's syndrome, a report on confidentiality of addresses for victims of domestic violence, and a report on record keeping relating to domestic violence, all to be provided or prepared by the Attorney General, §§3707-3714.

Finally, the bill expresses the sense of the Senate concerning protection of privacy of rape victims, §3404, and that HHS should study the rate and causes of the increase in out-of-wedlock birth and report to Congress on possible remedial action, §5148.

FIREARMS, YOUTHS & VIOLENCE

Firearms Regulation

"Assault Weapons" S.1607 (H.R.3355) proscribes the manufacture, transfer or possession of "semiautomatic assault weapons," except for those lawfully possessed before enactment, those used by public agencies, and for purposes of experimentation or export. Provisions sunset in ten years. Definition includes:

- (1) those rifles specified by make and model, SWD and INTRATEC handguns, and shotguns with ammunition in a revolving cylinder;
- (2) any semiautomatic rifle that can accept a detachable ammunition magazine and has at least two "military-style" components;
- (3) any semiautomatic pistol that can accept a detachable ammunition magazine and has at least two of five listed components or characteristics;
- (4) any semiautomatic shotgun that has at least two of four specified components or characteristics; and

(5) any "types, replicas, or duplicates in any caliber" of these firearms.

A list of exempted rifles and shotguns, specifically by make and model, is contained in an appendix. Persons who knowingly violate this prohibition may be fined up to \$5,000, imprisoned for up to five years, or subject to both penalties. Criminal offenders who use such firearms in crime may receive an enhanced penalty of ten years imprisonment. The bill also requires that persons possessing, selling and buying "assault weapons" record the possession or transaction on Form 4473 (Department of Treasury) and retain a copy of the form. Persons who knowingly violate the record keeping requirement must be fined no more than \$1,000, imprisoned for no more than six months, or both, and, under the disability provision of the Code, will be prohibited from receiving, transferring or possessing any firearm or ammunition shipped in interstate commerce.

It likewise prohibits the possession or transfer of "large capacity ammunition feeding devices" that hold more than ten rounds. As for "assault weapons," exceptions are made for those devices lawfully possessed prior to effective date, for public agencies, and for experimentation purposes. It includes such devices in the Gun Control Act definition of firearm and, as for "assault weapons," assesses the penalty for violators of a fine of up to \$5,000, imprisonment for up to five years, or both, and requires marking of feeding devices manufactured after the effective date.

The Attorney General must study the effect of the prohibitions on violent and drug trafficking crime. The study must begin six and a half years after enactment, be conducted for the next 18 months, and a report must be submitted to Congress no later than 8 years after enactment, §§4501-4510.

Other Regulatory Matters: Moreover, it prohibits the sale or transfer of a handgun or handgun ammunition to a juvenile without parental consent, subject imprisonment for up to 5 years, a fine of up to \$5,000, or both (10 years, up to \$250,000, or both, if the gun is transferred for consideration and with the knowledge that the juvenile intends to use it to commit a violent crime) §663; and prohibits handgun or ammunition possession by juvenile or private transfers to a juvenile except under specified circumstances for specified purposes. Violation of the possession offense by a juvenile with any criminal record would be subject to a penalty of up to one year in prison, a fine of up to \$100,000 (\$250,000 if death results) or both; a transfer violation, up to 1 year in prison (up to 10 years if knowing that the juvenile intended to use the gun to commit a violent crime), a fine of up to \$100,000, or both. Also requires parents or legal guardians of any juvenile charged with any violation of Federal law attend all court proceedings involving the juvenile under penalty of contempt, §662.

And it outlaws the sale or transfer of a handgun or handgun ammunition to a juvenile without parental consent, subject imprisonment for up to 5 years, a fine of up to \$5,000, or both (10 years, up to \$250,000, or both, if the gun is

transferred for consideration and with the knowledge that the juvenile intends to use it to commit a violent crime), §663.

It creates a new offense for:

- smuggling firearms into the United States for the purpose of drug trafficking or violence, punishable by no more than ten years imprisonment and/or fines, §403;
- stealing firearms or explosives moving in interstate commerce, punishable by up to 10 years imprisonment and/or fines, §404.
- stealing a firearm or explosive materials from a licensee or permittee, (10 years/\$250,000 fine) §417;
- possession of explosives materials by convicted felons and other high-risk individuals with respect to explosive materials(10 years/\$250,000), §408;
- possession or receipt of a stolen firearm (current law forbids concealment or storage of such firearms)(10 years/\$250,000), §411;
- any non-licensee to receive a firearm if he is not a resident of any State of the United States unless such receipt is for lawful sporting purposes, §414;
- firearm or ammunition possession by, or transfer to, a person subject to a restraining order, or convicted of domestic abuse, §4203 (duplicated to some extent in §301);
- *any one* to transfer explosives to a felon or other prohibited person (current law forbids such a transfer by licensees)(10 years/\$250,000), §418; and
- interstate travel conducted for the purpose of unlicensed gun dealing (10 years/\$250,000), §420.

The bill increases penalties for conspiracy to violate the explosives and firearms law to a maximum of 20 years for the first offense and to life for subsequent offenses, §415; and for knowingly making false material statement in connection with the acquisition of a firearm from a licensed dealer, from a 5 to a 10 year maximum, §407.

The Secretary of the Treasury must conduct a study of incendiary ammunition to determine, and report to Congress, whether it has a reasonable sporting or law enforcement use, §416.

The bill strengthens Federal standards for licensing firearms dealers, including the requirement that the applicant be in full compliance with all State

or local laws and notification of the application to the chief law enforcement officer of the locality in which the business premises are located; and adds to licensee reporting requirements, including the report -- within 48 hours after discovery -- of theft or loss of a firearm from inventory or a collection, §§311-317.

The definition of "armor piercing ammunition" under 18 U.S.C. chap. 44 is enlarged to include any "jacketed projectile larger than .22 caliber and designed for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile," §5168.

Street Gangs

S.1607 (H.R.3355) proscribes criminal street gang activity, i.e., 2 or more firearm, drug or serious violent felonies involving the concerted action of 5 or more individuals. Coconspirators are tried in a single district court unless the interest of justice require a transfer; the U.S. Sentencing Commission is instructed to raise the base offense level by 4 levels for a crime committed to gain, maintain or enhance status in a criminal street gang; and penalties for the offense include the forfeiture of property derived from or used to facilitate a violation and imprisonment for:

- Up to 5 years for the use of communications facilities in furtherance of the activities of a criminal street gang;
- Not less than 5 nor more than 10 years for inducing or coercing another to participate in criminal street gang activities; the penalty is 10 years if the subject of persuasion is under 18 years of age;
- Not less than 10 years or more than life for committing a criminal street gang predicate offense; not less than 20 years or more than life if the predicate offense is punishable by life imprisonment or if the offender has a prior street gang predicate offense conviction;
- Death or life imprisonment if the predicate gang offense involves murder or conspiracy to commit murder, resulting in the taking of a life, and committed, commanded or caused by the offender;
- Not less than 20 years or more than life if the predicate gang offense involves murder or conspiracy to commit murder;
- Not less than 15 years or more than life for the leaders of a criminal street gang, §611.

The bill also authorizes grants for programs to curb the formation or continuation of juvenile gangs and the use and sale of illegal drugs by juveniles. Also authorizes grants for public and non-profit private organizations to identify new juvenile drug reduction and enforcement programs, as well as programs to address the unique crime, drug, and alcohol-related challenges faced by juveniles

living at or near international ports of entry and in other international border communities, including rural areas. It gives authority to Administrator of OJJDP in the Department of Justice to make grants and reserves 20 percent of funds for discretionary grants for specified projects; and authorizes an appropriation of \$100 million for fiscal year 1995 and such sums as necessary for fiscal year 1996, §611.

New Crimes and Penalty Enhancements

Juveniles: Armed, violent offenders, 13 years of age or older, may be prosecuted as adults, §651. S.1607 (H.R.3355) generally expands the category of serious Federal drug offenses for which juvenile offenders may be prosecuted as adults. Makes clear that the court should consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities involving the use and distribution of drugs or firearms; and further directs that if such factors are found to exist, they should weigh heavily in favor of transfer of the juvenile to adult status, §614.

It adds serious drug offenses to the acts of juvenile delinquency which constitute Armed Career Criminal predicates, §613.

Firearms: S.1607 (H.R.3355) makes murder, committed with a gun during the course of another Federal crime or committed with a firearm which has been shipped or transported across a State line, a Federal offense punishable by death, or imprisonment for life or any terms of years, §2406.

It provides for a mandatory Federal prison term--in addition to whatever term may be imposed for the underlying offense--for use, possession, or carrying of a firearm or destructive device (having moved at any time in interstate or foreign commerce) during a State crime of violence or State drug trafficking crime, and the death penalty for murders involving firearms as follows:

(1) First-time: knowing possession -- 10 years; discharging with intent to injure -- 20 years; knowing possession of a machinegun or destructive device or any other firearm equipped with a silencer or muffler -- 30 years.

(2) Second-time: knowing possession -- 20 years; discharging with intent to injure -- 30 years; knowing possession of a machinegun or destructive device or a firearm equipped with a silencer or muffler -- life.

(3) Third or subsequent: life, §2405. (§2408 calls for a mandatory minimum term of life imprisonment upon a drug felony or crime of violence conviction of a defendant with 2 or more prior similar convictions; §5111 calls for a mandatory minimum term of life imprisonment upon a violent crime conviction of a defendant with 2 or more prior similar convictions; neither imposes mandatory minimums prior to the 3d offense).

The bill also requires the U.S. Sentencing Commission to provide an appropriate penalty enhancement for using or carrying a firearm in a Federal crime of violence or drug trafficking crime if the firearm is semiautomatic, §401; to provide an appropriate penalty enhancement for a second conviction of using or carrying an explosive in committing a Federal felony (current enhancement: 10 years), §402; or for the use or carrying of a firearm during or in relation to felony counterfeiting or forgery, §412; and to provide appropriate penalty enhancements (depending on number of prior convictions) for possession of a firearm by a felon who is disqualified from such possession and who has a previous conviction of a violent felony or serious drug offense, §413.

It also increases the penalties for damage or destruction of property by fire or explosives:

(a) in the course of committing another Federal offense (from a 5 year maximum to a 10 year maximum for a first offense and from 10 to 20 years for others);

(b) involving the property of the United States, or of those receiving Federal financial assistance (for the first offense from a ten year/\$250,000 maximum to a term of not less than 5 nor more than 20 years and/or a fine not more than the greater of \$100,000 or the cost for repair or replacement of the property destroyed or damaged; the maximums for subsequent offenses are increased to 40 years and \$200,000 or the amount of the loss);

(c) involving property used in or in an activity affecting commerce (from maximums of 10 years and \$250,000 to a term of not less than 5 nor more than 20 years and/or a fine of not more than the greater of \$100,000 or the cost of repair or replacement of damages or destroyed property, for a 1st offense; the maximums for subsequent offenses are increased to 40 years and \$200,000 or the amount of the loss), §2907.

And it makes unlawful to knowingly and intentionally obstruct, impede, or otherwise interfere with a lawful hunt (as defined) on Federal lands or to engage in various specified activities designed to achieve such an outcome--subject to special mandatory minimum civil penalties, §§4601-4608.

Violence: S.1607 (H.R.3355) provides for a mandatory life sentence for those persons convicted of a Federal violent felony or serious drug offense if they have been convicted of a violent felony or a serious drug offense on two or more prior occasions, either in a State or Federal court, §2408; calls for a mandatory life sentence for those persons convicted of a Federal violent felony if they have been convicted of a violent felony on two or more prior occasions, either in a State or Federal court, §§5111; and calls for a series of mandatory penalties including life imprisonment for carrying a firearm during the commission of a crime of violence or a drug felony with 2 prior similar convictions, §2405.

On the other hand, it permits flexibility of sentencing in less serious drug offenses when a statutory provision calls for a mandatory minimum term of imprisonment, but the defendant has a minimal criminal history and marginal,

non-violent involvement in the offense which would otherwise be punishable by the mandatory minimum, §2404.

Within the general 3 years and/or \$250,000 fine maximum penalty for assaults impeding Federal law enforcement officers, the bill creates a 1 year and/or \$100,000 maximum penalty level for simple assault; adds assaults inflicting bodily injury to the 10 year and/or \$250,000 fine level of the same section and the section outlaws assaults on foreign dignitaries; adds assaults with a dangerous weapon to the 10 year and/or \$250,000 fine level of the Congressional and Presidential assault statutes; and increases the maximum imprisonment penalty for assaults with such a weapon committed within U.S special maritime & territorial jurisdiction from 5 to 10 years; for simple assaults committed there from 3 to 6 months, §2901.

The bill also increases the maximum term of imprisonment for involuntary manslaughter committed within U.S. special maritime & territorial jurisdiction from 3 to 6 years, §2902; and makes clear that the increased penalties authorized when bodily injury or death results during the course of various civil rights violations apply when the injury or death occurs as a result of rape, sexual abuse, kidnapping, or arson, §2903.

The bill expands the prohibition against interstate travel for purposes of committing a murder for hire to include conspiracies thereby increasing the maximum term of imprisonment from 5 years (the maximum penalty under the now applicable general Federal conspiracy statute) to 10 years, 20 years, life, or death depending on the extent of injury resulting from the offense, §2905; also increases the maximum term of imprisonment for Travel Act violations related to crimes of violence from 5 to 20 years and to life or any term of years if death results, §2906 (identical features in §617 which also expands the Travel Act to cover conspiracies resulting in a similar increase for conspiracies involving Travel Act violence).

The bill outlaws receipt of kidnap proceeds, transported in interstate commerce, or property extorted in violation of several of the minor Federal extortion statutes; penalties: imprisonment for not more than 10 years and/or a fine of not more than \$250,000 (kidnap proceeds) and imprisonment for not more than 3 years and/or a fine of not more than \$250,000 (extortion), §2941; and it proscribes receipt of property stolen during the robbery of the mail or U.S. property; penalty: imprisonment for not more than 10 years and/or a fine of not more than \$250,000, §2942.

Robbery of Federally insured S&L's is brought within the Federal bank robbery statute, §2945.

The U.S. Sentencing Commission is instructed to ensure that the applicable guideline range for a defendant convicted of a crime of violence against an elderly victim (age 65 and over) is sufficiently stringent to deter such a crime, to protect the public from additional crimes of such a defendant, and to adequately reflect the heinous nature of such an offense, §2002; the Commission

is also directed to promulgate guidelines or amend existing guidelines to provide sentencing enhancements of not less than three offense levels for hate crimes, §2409. A related section amends the "Hate Crime Statistics Act" by requiring the acquisition and publication of statistics of data about crimes that manifest prejudice based on disability, §5123.

Procedure

Supervised release is subject to revocation and a prison term may be instituted for possession of drugs or a firearm in violation of a condition of supervised release, §405; in like manner probation may be revoked for possession of drugs or firearms or for a refusal to cooperate in a drug test, §406.

Confiscated explosives may be summarily destroyed when removal or storage is either impracticable or unsafe, §409.

The Secretary of the Treasury must conduct a study of incendiary ammunition to determine, and report to Congress, whether it has a reasonable sporting or law enforcement use, §416.

"Burglary" is broadly defined for purposes of the Armed Career Criminal section (18 U.S.C. 924(e)) of Title I of the Gun Control Act, §419.

It also states new findings with respect to the gun-free school zone provisions of the Crime Control Act of 1990, designed to identify the nexus between the power of Congress to regulate interstate commerce and the activities prohibited under the Act, §2972.

It directs the court to fingerprint and photograph a juvenile who has been found guilty of a crime of violence in violation of specified provisions of Federal drug trafficking laws and to transmit to the FBI fingerprints and photographs along with information concerning the adjudication. Provides that when the law of a State in which a Federal juvenile proceeding takes place permits or requires the reporting, retention, disclosure or availability of records in certain circumstances, such reporting, retention, disclosure or availability is permitted under this section whenever the same circumstances permit, §618.

Parents are encouraged to assume greater responsibility for preventing their children from engaging in illegal activity, and parents or legal guardians of a juvenile who has been convicted of a criminal offense under any Federal law may be liable to the United States for a civil penalty of not more than \$10,000, or to perform community service in lieu of the civil remedy, §5116.

The Attorney General in consultation with the Secretary of the Treasury is to develop a national strategy to coordinate Federal gang-related law enforcement efforts, and reporting requirements, and the appropriation of \$1 million for FY94 is authorized, §622.

The Secretary of Health and Human Services must enter into an agreement with the Attorney General under which the services of the Parent Locator Service will be made available to the Office of Juvenile Justice and Delinquency Prevention for the purpose of locating any parent or child, §5129. They must also study and make recommendations for improvement of mental health assessment, diagnosis, and treatment within the juvenile system, §631.

The bill expands the statute of limitations for certain explosives offenses from 5 to 10 years, §2971.

Grants

S.1607 (H.R. 3355) authorizes grants for bindover systems for the prosecution of 16- and 17-year olds as adults for certain violent crimes, §641, and modifies the proposed Juvenile Drug Trafficking and Gang Prevention Grants program by authorizing the Administrator to award additional discretionary grants to States that enact laws that would withhold or revoke the driver's licenses of individuals possessing handguns on school grounds, §5147.

It authorizes \$20 million each year from FY94 through FY98 to hire additional Federal prosecutors to focus on violent youth gangs, §621; and authorizes funds for the establishment of at least 50 additional gang resistance education and training projects by the Secretary of the Treasury; authorizes an additional \$30 million for BATF (200 fte agent positions to investigate gun trafficking to juveniles and gangs, and 100 inspectors for firearm compliance and dealer policing; and authorizes an additional \$6 million for the Secret Service), §5163.

The bill expresses the sense of the Senate that executive branch agencies make properties and resources available for outdoor programs for youth, §5145.

The Bureau of Justice Assistance (in consultation with the Secretary of Education) may provide grants to local educational agencies to assist those agencies most severely affected by school crime and violence. Federal administrative costs are limited to five percent of appropriated funds; appropriations for \$100 million for each fiscal year from FY94 through FY96 are authorized, §§2801-2802.

The Secretary of Education may award grants to State educational agencies to support efforts to disseminate and coordinate school violence prevention programs, for which purpose appropriations of \$10 million have been authorized for each fiscal year 1995 and 1996, §2803.

S.1607 (H.R.3355) also establishes new authority for the Bureau of Justice Assistance (in consultation with the Secretary of Education) to provide grants to local educational agencies to assist those agencies most severely affected by school crime and violence. It sets forth purposes for which funds may be used, requires that the BJA develop a written model in English and any other

appropriate language, establishes application and reporting requirements, limits Federal administrative costs to five percent of appropriated funds, limits grants to three years, sets criteria for award of grants and authorizes \$100 million for each fiscal year from FY94 through FY96, §§2801-2802.

It amends the Juvenile Justice and Delinquency Prevention Act of 1975 (42 U.S.C. 5631 et seq.) by adding a new program of block grants for Juvenile Drug Trafficking and Gang Prevention Grants; and authorizes the Administrator of OJJDP to make grants to assist the States in planning, establishing, operating, coordinating, and evaluating programs directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile justice. It provides that programs funded by these Youth Violence Prevention grants address issues identified as contributing to youth violence, which may include conflict resolution programs in schools, alternatives to school suspension, juvenile court diversion programs, and other innovative projects; and authorizes an appropriation of \$25 million for each of fiscal years 1995 and 1996, §633.

It provides that grants authorized in this Act to reduce or prevent juvenile drug and gang-related activity in "public housing" may be used for such purposes in federally assisted low income housing, §5167.

It also authorizes allocation of \$75 million of the Violent Crime Reduction Trust Fund (see **Funding**) to the "Ounce of Prevention Fund" to help youths avoid substance abuse and a criminal life, §103(c); and establishes a Community Schools Youth Services and Supervision Grant Program to be administered by an Ounce of Prevention Council made up of Cabinet officials. It authorizes a program of grants to community based organizations to provide youth services and activities that include supervised sports programs, and extracurricular and academic programs that are offered after school and on weekends and holidays during the school years and as daily full-day programs or as part-time programs during the summer months. The programs are to be operated by a consortium of service providers, consisting of representatives of 5 or more of the following categories of persons: residents of the community; religious organizations; law enforcement agencies; public housing agencies; State governments; other public agencies; and other interested parties. Children between the ages of 5 and 18 would be eligible to participate. It authorizes an appropriation of \$100 million from the amounts in the Violent Crime Reduction Trust Fund for each of the fiscal years 1994 through 1997, §5142.

The Ounce of Prevention Council may make grants to the United States Olympic Committee for the purpose of establishing Olympic Youth Development Centers and carrying out programs through 6 of these centers. The Committee is directed to use funds made available through the grant to provide supervised sports and recreation programs, and not more than 10 percent of such funds may be used to pay for the administrative costs of the program. The bill authorizes an appropriation of \$25 million from the amounts in the Violent Crime Reduction Trust Fund for each of fiscal years 1994 through 1997, §5143.

S.1607 (H.R.3355) authorizes the use of juvenile drug and gang prevention grants to be used for parenting classes for parents of juveniles at risk, to train the schools in juvenile dispute resolution, and to prevent and reduce juvenile drug and gang related activity in rural areas; and establishes a \$100 million grant program under the Office of Juvenile Justice and Delinquency Prevention to States and non-profit organizations for enforcement programs to reduce the participation of juveniles in drug related crimes, §631.

The bill creates a National Community Economic Partnership program under which the Secretary of HHS may (1) extend a line of credit up to \$2 million per community development corporation to stimulate business and employment opportunities for low-income, unemployed and underemployed individuals; and (2) make grants to community development corporations to upgrade their business management and development skills and to make capital investments. It authorizes \$40 million for the program for FY94 and such funds as are necessary for FY95 and FY96, §§4901-4923.

And it authorizes the Director of the BJA to provide grants to States, localities, and private agencies or individuals to increase resources for judicial activities. Authorizes \$100 million for each fiscal year 1994 to 1998, and provides that funds may be appropriated from the Violent Crime Reduction Trust Fund, §5137.

DRUG CONTROL

Precursor Chemicals²

S.1607 (H.R.3355) amends the Chemical Diversion and Trafficking Act of 1988 to extend controls designed to reduce diversion from legal commerce of certain chemicals used in illicit production of controlled substances ("precursor and essential chemicals") and to provide greater flexibility in the application of regulatory controls on the international commerce in such chemicals.

Specifically, it: (1) provides greater flexibility in regulating export from or import to this country of controlled chemicals, as well as extends such controls to international transactions between third countries arranged by brokers or traders in the United States; (2) closes a number of regulatory omissions and modifies existing exemptions, including in the latter case a removal of the exemption for products in which ephedrine is the only active medicinal ingredient in therapeutic amounts; (3) establishes a system of registration for distributors, importers, and exporters of precursor ("List I") chemicals; (4) revises key terminology to comport with international usage; (5) subjects listed chemicals to the same forfeiture provisions as apply to controlled substances; (6)

² Note the separate passage, by both Senate and House, of an amended version of S. 1607's provisions for relating to control of precursor and essential chemicals (H.R. 3216, cleared for the White House on Nov. 22, 1993).

makes convicted drug laboratory owners and operators responsible for cleanup of environmental pollution brought about by their illicit drug production activities, §§1511-1523.

Drug Testing of Arrestees

The Director of the Bureau of Justice Assistance is empowered to provide grants to the States for developing or continuing drug testing programs for arrestees. Local governments apply for funding to the States. The Federal share is limited to 75 percent. Appropriations are authorized in the amount of \$100 million for each fiscal year, FY95-97, §§1201-1202.

Drug Court

The Attorney General is authorized to develop a unified process ("Drug Court Programs") for grantees to apply for three types of assistance. The first, described above in **Drug Testing of Arrestees**, provides funding to develop or continue drug testing programs for arrestees. In the second, the Director may provide grants to the States to develop alternative methods of punishment for young offenders to traditional forms of incarceration and probation. The methods should ensure certainty of punishment and promote reduced recidivism. Authorizes \$200 million for each of fiscal years 1994, 1995, and 1996. Under the third, the Director may provide grants to the States for residential substance abuse treatment programs in State facilities. Funds cannot be used for land acquisition or construction, nor may violent offenders (those over 25 years of age who have been involved in serious crimes or who have used force against other persons) participate in the programs. The Federal share is limited to 75 percent, a GAO study and report on program effectiveness is due by 1997, and preference is given to States with aftercare programs. Appropriations of \$100 million for each of fiscal years 1995, 1996, and 1997 are authorized, §§1201-1204.

Rural Task Forces

Appropriations of \$50 million for each fiscal year from 1994 through 1998 are authorized for the rural drug enforcement program called for by the Crime Control Act of 1990, Title VIII, P.L. 101-647. A base amount of \$250,000 must be allocated to non-rural States for non-metropolitan areas (currently \$100,000), and the Attorney General, after consultation with specified organizations, must establish, within each Federal judicial district, a Rural Drug Enforcement Task Force in areas that consist of "significant rural lands." The Attorney General must, subject to the availability of appropriations, cross-designate up to 100 Federal law enforcement officers from each of the Park Police, Forest Service, Bureau of Land Management, DEA, FBI, INS, Customs Service, and U.S. Marshals Service, and similar agencies to enforce the Controlled Substances Act on rural non-Federal lands in number sufficient to adequately staff the task forces. A course of instruction must be developed to train rural law enforcement officers in drug trafficking investigation and authorizes \$1 million for each fiscal

year 1994 to 1998 for this purpose; and an additional appropriations of \$20 million for fiscal years 1994 to 1998 for additional DEA agents is authorized, §§1401-1405.

New Crimes and Penalty Enhancements

Distribution of a controlled substance within 1000 feet of a truck stop or safety rest area is punishable by sanctions twice those which would ordinarily apply. Second and subsequent convictions are punishable by three times the ordinary sanctions, and the U.S. Sentencing Commission is directed to adjust the sentencing guidelines accordingly, §1411. The U.S. Sentencing Commission must also establish appropriate enhancement penalties for distributing or manufacturing drugs in a "drug-free" zone, §1505.

The bill extends the special anti-drug trafficking penalties covering schools and playgrounds to include public housing, §1503 (§616 is identical); prohibits physical trainers from persuading or inducing the use of anabolic steroids for unauthorized purposes, §1504; and proscribes the knowing publication of advertisements for Schedule I controlled substances, §1534.

It increases mandatory minimum imprisonment penalties for the sale of controlled substances to minors under 18 or for the use of such minors in a drug trafficking offense (to 10 years for a first offense and life for a second), §2407.

It also proscribes the offense of narcotics and public corruption, i.e., offer or acceptance of a bribe involving a Federal or State official, employee or juror in connection with illicit drug activities; violations are punishable by imprisonment for not more than 25 years and/or a fine of not more than \$250,000, §4404, and adds the crime to the list of RICO and wiretapping predicate offenses, §4404.

Sentences for possessing a controlled substance in a Federal prison must be served consecutively; the contraband statute is expanded to include controlled substances, §1501; and the U.S. Sentencing Commission is instructed to adjust the sentencing guidelines to appropriately enhance the penalties for controlled substance violations committed within Federal prisons, §1506.

The RICO statute is amended to replace the term "narcotic and other dangerous drugs" with the term "controlled substance or listed chemical as defined in section 102 of the Controlled Substances Act," thereby including precursor and essential chemicals under the definition, §1531.

Recidivist provisions of the Controlled Substances Act and the Controlled Substance Import and Export Act are changed so that the definition of "felony drug offense," as used to determine prior conviction, includes any drug offense punishable by more than one year imprisonment, §1532.

Administrative Adjustments

The Drug Czar's office is extended through fiscal year 1994; the personnel floor for the office is set at 75, §5150; and the National Narcotics Leadership Act is amended to require that an additional goal be added to the National Drug Control Strategy: "expanding the availability of treatment for drug addiction," §1535.

S.1607 (H.R.3355) authorizes the declaration of violent crime and drug emergency areas and provides for emergency Federal assistance (including personnel, equipment, supplies, facilities, financial assistance, and managerial, technical and advisory services), with or without reimbursement, for up to a year to protect lives, property, and public health and safety, §5118.

It establishes a civil penalty for violation of the drug paraphernalia provisions of the Controlled Substances Act, carrying the possibility of a fine of up to \$250,000, §1537; closes a loophole for illegal importation of small drug quantities, §1502; and provides for a program to promote public awareness of P.L. 101-516 that conditions portions of a State's enactment of legislation requiring revocation of the driver's license of convicted drug abusers, §1533.

The Attorney General must conduct a study of how the anti-loitering laws can be used to eradicate open-air drug markets and other criminal activity and to prepare a model statute and enforcement guidelines based on the study's conclusions, §5125; and the Federal Aviation Administration must issue regulations requiring employees to report to law enforcement authorities the discovery, in airport security screenings, of illegal drugs or large amounts of cash, §1536.

The Director of Administrative Office of U.S. Courts is authorized to establish a drug testing program for Federal offenders on post-conviction release. Drug testing requirements have been added for probationers, those under supervised release, and parolees. Judicial consideration may be given the availability of or offenders' participation in substance abuse treatment programs in considering action, including the revocation of probation, against those who fail the drug tests. Such funds as are needed are authorized to be appropriated, §1303.

The Attorney General is directed to consult with the Secretary of HHS to implement the drug abuse treatment and prevention features of the bill, §5166.

PRISONS

State Prisons

Prison Boot Camps and Regional Prisons: S.1607 (H.R./3355) provides new authority for the Attorney General to provide grants to States and to multi-State compacts for the construction or expansion of prison boot camps and

regional prisons. It sets forth application requirements, and limits Federal funding to 75% of costs and grant period to 4 years. The Secretary of Defense is directed to transfer closed military bases to the Attorney General who is directed to supply State and local officials with a list of military properties that might be used for prison boot camp or prisons for violent drug offenders. Evaluation components for each facility, reports and access to information are required of each grantee, but grantees may contract with the private sector for the design, construction or delivery of associated services. The bill authorizes \$3 billion in appropriations to be available until expended, but limits funding for regional prisons to 1/3 of amount appropriated, §1321.

The Attorney General may also construct ten regional prisons for violent criminals and criminal aliens. Consultation with State correctional administrators is required. The Attorney General is to operate the prisons, and contract with the private sector in designing, constructing, or the provision of services. She may also consider converting Federal correctional institutions in the planning or construction phases into regional prisons, and evaluate the utility of using closed or realigned military bases for such prisons. Before regional prisons are constructed, or if a decision is made not to use a military installation for such purpose, the Attorney General must report to Congress. The bill increases the portion of space dedicated to State prisoners to 75 percent, sets forth different "truth in sentencing" and other requirements for qualifying States, limits authority of the Attorney General to waive requirements to one year, and authorizes \$600 million for each fiscal year 1994 to 1998 (\$3 billion total), §1341.

State and Federal Concerns: The National Institute of Justice is directed to study the feasibility of establishing a clearinghouse to facilitate transfers of State inmates and report to Judiciary Committees within one year, §1322, and the recidivism rates of offenders participating in treatment programs and assess the impact of substance abuse on criminal activity, §1323.

The Bureau of Prisons must notify State and local law enforcement officials before releasing prisoners convicted of crimes of violence or drug trafficking, §1324.

The Director of the National Institute of Corrections is instructed to convene a task force on prison design and construction, §5107, and the Secretary of Education to convene and to consult with a panel of correctional education experts for specified purposes, and to use no more than five percent of appropriated funds for monitoring, technical assistance, and other activities, §5120.

The Director of the Bureau of Prisons may make grants to the States for family unity demonstration projects, although 10 percent of authorized funds must be used for Federal inmates, with \$8 million authorized for each fiscal year 1995 to 1999, §§4101-4122.

S.1607 (H.R.3355) also empowers the Bureau of Prisons to make grants to States and local governments to assist with establishment and operation of secure facilities for violent juvenile offenders; appropriations of \$100 million are authorized for each of fiscal years FY94-FY98, §1331.

The Attorney General, in consultation with the Secretary of Health and Human Services and the Director of the National Institute of Justice, must develop and disseminate guidelines regarding tuberculosis prevention, care and treatment in Federal and non-Federal prisons. The bill limits Federal grants to 50 percent of costs and authorizes \$20 million for the program, §5121.

The Attorney General must also encourage grantees to use low-cost construction and operation methods in expanding prison space and give priority to the use of surplus Federal property; assess, within one year, the effectiveness of using low-cost construction components and designs, §5112; review the capacity of Federal prisons and recommend initiatives to be taken to release space in those prisons for State inmates; reconsider the standards for construction and operation of State and local facilities; and report on the modification of standards, §5165.

Federal, State or local correctional facilities inmates are not eligible for higher education (Pell) grants, §5135.]

The Attorney General is directed to establish an Office of Correctional Job Training and Placement to assist in collecting information on and providing job opportunities to released prison inmates. [§§4701, 4702]

The authority of Federal courts to find that prison or jail overcrowding violates the eighth amendment of the Constitution is limited solely to individual claims; relief may extend beyond the minimum required; court authority to impose population ceilings on facilities, excluding medical or health care considerations, is restricted; and court orders must be revisited every two years -- under a section which sunsets in five years, §5139.

The time period for which a State prisoner's §1983, civil rights suit may be continued in order to exhaust administrative remedies is extended from 90 to 180 days; exhaustion is required even if the State is not in compliance with the minimum standards set by the Attorney General for a system's resolution of prisoner grievances as long as the State remedies are otherwise fair and effective. The failure to state a claim upon which relief can be given has been added to want of poverty, frivolity and maliciousness as grounds for dismissal of in forma pauperis petitions, §5103.

Federal Prisons

S.1607 (H.R.3355) prohibits the Bureau of Prisons from designating an offender's place of imprisonment on the basis of social or economic status, §1301, and requires that proposed legislation that could affect the size of the

Federal prison population be accompanied by a prison impact statement and that a report be prepared by the Attorney General and submitted to Congress. §1302.

It specifies that reference in current law to supervised release pertains to probation or parole, §1325; gives the Bureau of Prisons discretion to award good time credit to inmates for exemplary compliance with institutional regulations, §5101; and authorizes the promulgation of sentencing guidelines for the imposition of criminal fines which take into account the expected cost of imprisonment, supervised released and/or probation for the defendant, §1305.

The District of Columbia prison facilities in Lorton, Virginia may not be expanded without the approval of Congress following hearings on any planned expansion, §5149.

The bill also expresses the sense of the Senate that employment opportunities should be provided to Federal inmates and that the Attorney General recommend to Congress means of expanding job opportunities through Federal Prison Industries, Inc., §5153.

DEATH PENALTY

Offenses

S.1607 (H.R.3355) establishes procedures to make the death penalty available as a sentencing alternative for the following Federal crimes, §202(a), proposed 18 U.S.C. 3591-3598:

- Treason, §292(a);
- Attempted murder of the President, resulting in bodily injury to the President or coming dangerously close to causing the President's death. §§202(a), 203(a)(8);

It also establishes the death penalty as a sentencing alternative for:

- Murder involving a firearm, where the defendant caused the death of another person through the use of a firearm, intentionally, knowingly, through extreme indifference to human life, or through intentional infliction of serious bodily injury. Federal jurisdiction is based upon the fact that either the offense involved was a Federal offense, or the firearm involved moved in interstate or foreign commerce, §2406; and
- Certain drug kingpin offenses including
 - (1) major drug felony committed by a drug kingpin as part of a continuing criminal enterprise where either the quantity of controlled

substance is twice that described in (b)(2)(A) or where the gross receipts were twice that described in (b)(2)(B) of 21 U.S.C. §848;

(2) major drug felonies committed by a drug kingpin where the defendant, in order to obstruct the investigation or prosecution of the continuing criminal enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to kill any public officer, juror, witness, or member of the family or household of same; and

(3) felonies in violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, or the Maritime Drug Law Enforcement Act, where the defendant engages in such violation intending to cause death or acting with reckless disregard for human life, where death results.

It sets out aggravating factors to be considered in capital sentencing proceeding, and prohibits imposition of death penalty on anyone under 18 years of age, §202, proposed 18 U.S.C. 3591(b),(c).

Capital punishment is also a sentencing option for any other offense where the defendant intentionally killed the victim; inflicted serious bodily harm resulting in the death of the victim; intentionally participated in any act, intending that lethal force be used or contemplating that a person's life would be taken, where the victim died as a direct result of the act; or intentionally and specifically engaged in an act, with reckless disregard for human life, knowing that the act created a grave risk of death to someone other than the participants in the act, where the victim dies as a direct result of the act, §202(a). Presumably included in these offenses are:

- Destruction of aircraft, motor vehicles or their facilities where death results, §§203(a)(1), 202(a);
- Espionage (limits applicable espionage offenses to those involving nuclear weaponry, military spacecraft and satellites, early warning systems or other means of defense or retaliation against large scale attack, war plans, communications intelligence or cryptographic information, or other major weapons systems or major elements of defense strategy), §§203(a)(2), 202(a);
- Explosives offenses, §§203(a)(3)(A)-(C), 202(a);
- First degree murder within the special maritime and territorial jurisdiction of the United States, §§203(a)(4), 202(a);
- Killing of foreign officials, official guests, or internationally protected persons, §§203(a)(5), 202(a);
- Kidnapping, where death results, §§203(a)(6), 202(a);
- Mailing injurious articles where death results, §§203(a)(7), 202(a);
- Train wrecking where death results, §§203(a)(9), 202(a);

- Robbery of federally insured bank where death results, §§203(a)(10), 202(a);
- Hostage taking where death results, §§203(a)(11), 202(a);
- Murder for hire, §§203(a)(12), 202(a);
- Murder in aid of racketeering activity (this subsection also makes kidnapping in aid of racketeering activity punishable by imprisonment of any term of years or life, or a fine of not more than \$250,000, or both), §§203(a)(13), 202(a);
- Genocide, §§203(a)(14), 202(a);
- Carjacking where death results (S.1607 also expands the Federal carjacking offense by striking the existing requirement that the offender possess a firearm during the commission of the offense, making the death penalty available where death results from the commission of the expanded offense), §§203(a)(15), 202(a);
- Air piracy where death results (strikes death penalty sentencing procedures in 49 U.S.C. 1473(c)), §203(b), 202(a);
- Murder by a Federal prisoner (*see also*, Section 212, murder by escaped Federal prisoner who had been serving a life sentence), §§205, 202(a);
- Civil rights murder (*see also*, Section 2911, extending protection of 18 U.S.C. 241 and 242 to person in any State, Territory, or District; and Section 2903, increased penalties for civil rights violations), §§206, 202(a);
- Murder of Federal law enforcement officials (*see*, Section 504, which creates a new 18 U.S.C. 1120, providing for the death penalty for State or local officials or officers assisting Federal law enforcement), §§207, 202(a);
- Drive-by shootings where death results (would create a new 18 U.S.C. 36, providing the death penalty for first degree murder by a person firing a weapon into a group of 2 or more in furtherance or to escape detection of a major drug offense and with the intent to intimidate, harass, injure or maim; and provides for lesser penalties in absence of first degree murder), §§208, 202(a);
- Sexual abuse resulting in death (rape and child molestation), §§210, 202(a);
- Sexual exploitation of children resulting in death, §§211, 202(a);
- Murder by escaped Federal prisoners who had been serving a life sentence, §§212, 202(a);
- Gun murders during Federal crimes of violence or drug trafficking crimes, §§213, 202(a);
- Murder involving firearms in Federal facilities, §§214, 202(a);

- Murder of State or local officials assisting Federal law enforcement officials, §§504, 202(a);
- Murder of Federal witnesses, §§505, 202(a);
- Murder during commission of terrorist act; makes death penalty available for a number of new criminal offenses addressing specific terrorist acts [Title VII], including the following:
 - Engaging in intentional violence against maritime navigation where death results, §§701, proposed 18 U.S.C. 2280, 202(a);
 - Engaging in intentional violence against maritime platforms where death results, §§701, proposed 18 U.S.C. 2281, 202(a);
 - Use of weapons of mass destruction where death results, §§711, 202(a);
 - Torture where death results, §§716(a), 202(a);
 - Engaging in violence at international airports where death results (*see also*, Section 720, which makes it a crime to willfully violate Federal aviation security regulations), §§719, 202(a);
 - Foreign murder of U.S. national, §§209, 202(a) (seems to be replicated by §723);
 - Murder of court officers and jurors, §§501, 202(a);
 - Retaliatory killing of witnesses, victims and informants, §§502, 202(a);
 - Murder of alien in course of alien smuggling, §§215, 202(a).

Procedure

The bill makes new sections relating to death penalty sentencing procedures inapplicable to capital offenses under the Uniform Code of Military Justice, §204, and prohibits imposition of death penalty on person less than 18 at the time of the offense, §202(a).

It sets forth mitigating and aggravating factors to be considered in determining whether a death sentence is justified, including specified aggravating factors to be considered for espionage and treason, and second category of aggravating factors cover homicide and attempted murder of the President, §202(a).

Notice of Government's belief that circumstances warrant the death penalty and of the aggravating factors on which the Government will rely are required. Such factors may include victim impact statement where one is anticipated to

be submitted for consideration. It permits the court to allow amendment of notice for good cause shown; establishes hearing procedures, with bifurcated trial and sentencing hearing; and sets standards of proof, burden of proof to be applied, and procedures for return of special findings regarding mitigating and aggravating factors and findings concerning sentence of death. The jury must be instructed that consideration of the race, color, religion, national origin, or sex of the defendant or of any victim not be involved in reaching sentencing decision, and certification by each juror to this effect, §202(a).

The court may withhold the list of veniremen and witnesses from capital defendants if it finds, by a preponderance of the evidence, that providing such list may jeopardize life or safety of any person, §503.

The bill sets requirements for imposition of death sentence, life sentence without possibility of release, or other punishments specified by law; and permits a sentence of life imprisonment without possibility of release to be imposed for any crime for which the maximum penalty is a life sentence, §202(a).

It also contains an explicit standard for the admissibility of evidence at the sentencing hearing, but removes an earlier express provision that regardless of the existence of aggravating or mitigating circumstances the death penalty is never required and that the sentencing jury, if there is one, must be so informed, §202(a), proposed 18 U.S.C. 3593(e)(2).

Review

S.1607 (H.R.3355) provides for expedited appeal of a death sentence by a defendant, upon timely notice filed, which may be consolidated with appeal from conviction. Courts of appeal must review entire record, and must remand for reconsideration of sentence or imposition of a sentence other than death where the court of appeals finds that the sentence was imposed under influence of passion, prejudice, or other arbitrary factor; the evidence and information fail to support the special findings of the existence of required aggravating factor; or the proceedings involved any other legal error requiring reversal of sentence which was properly preserved for and raised on appeal. Reasons for disposition must be in writing. The court of appeals may not reverse or vacate a death sentence because of any error which can be harmless, including any erroneous special finding of an aggravating factor, where the government establishes beyond a reasonable doubt that the error was harmless, §202(a).

Implementation of Sentence

The bill also sets out procedures for implementation of a death sentence. It precludes execution of death sentence upon a pregnant woman, mentally retarded person or a person who lacks the mental capacity to understand the death penalty and why it was imposed on him, §202(a).

Appropriate State or local facilities may be used to carrying out the sentence, §202(a), but employees of a State department of corrections or Federal Bureau of Prisons, or contract employee thereof, may not be compelled to attend or participate in execution under this section if contrary to their moral or religious belief, §202(a)].

Application in Indian Country

The death sentence may not be imposed upon any person subject to criminal jurisdiction of an Indian tribe for any offense committed in Indian country, for which Federal jurisdiction is predicated solely upon Indian country as defined in 18 U.S.C. §1151, unless the governing body of the tribe has elected to make the new death penalty provisions applicable to the land and people subject to the tribe's criminal jurisdiction, §202(a).

Lesser Included Offenses

Several of the provisions which establish new capital offenses also proscribe less severely punished crimes. Thus,

- Discharge of firearm within a group of 2 or more with risk to life and intent to intimidate or injure while fleeing detection of major drug crime; penalties where 1st degree murder does not result: second degree murder, any term of years or life and/or a fine of not more than \$250,000; otherwise not more than 25 years imprisonment and/or a fine of not more than \$250,000, §208;
- An American's act of homicide or attempted homicide committed against an American overseas is punishable as if it occurred within U.S. special maritime & territorial jurisdiction, §209;
- The same is true of the offense of using a gun to kill or attempt to kill someone in a Federal facility, §214;
- Homicide by escaped Federal prisoners is punishable as if it occurred within U.S. special maritime & territorial jurisdiction, §212;
- The same can be said of homicides committed with firearms during the course of a crime of violence or drug trafficking, §213; and of homicides committed against Federal witnesses as part of an obstruction of justice, §505;
- Attempted homicides committed in retaliation against a Federal witness or informant is punishable by imprisonment for not more than 20 years and/or a fine of not more than \$250,000, §502.
- Obstruction of justice involving an assault against a Federal court official or juror is punishable (a) as murder or manslaughter

committed within the special maritime and territorial jurisdiction if a killing occurs; (b) by imprisonment for not more than 20 years and/or a fine of \$250,000 in the case of attempted killing or one in which the juror is sitting on an A or B felony case; and (c) not more than 10 years and/or a fine of not more than \$250,000 in all other instances, §501;

- Causing or risking serious injury of an alien during an alien smuggling offense is punishable in noncapital cases by imprisonment for not more than 20 years and/or a fine of not more than \$250,000, §215;
- S.1607 may expand the Federal carjacking offense by striking the existing requirement that the offender possess a firearm during the commission of the offense regardless of whether a death results, §203(a)(15)(the wording of the section leaves its intended impact uncertain).

FRAUD

Public Corruption

S.1607 (H.R.3355) prohibits public corruption when the mails or facilities in interstate commerce are used, or when interstate commerce is affected, or -- in the case of State or local election fraud -- when the officer deals in more than \$10,000 a year of Federal money. In such cases, it forbids: (1) defrauding State or local citizens of the honest services of a public official or employee, or (2) committing State or local election fraud. It also outlaws depriving citizens of the honest services of U.S. officials. Violations are punishable by imprisonment for not more than 10 years and/or a fine of not more than \$250,000, §4402. The crime is a predicate offense for purposes of RICO and of Federal wiretap statute, §4404.

United States or State officials who take personnel actions against other officials in order to carry out or conceal a violation are punishable by imprisonment for not more than 5 years and/or a fine of not more than \$250,000, and victims have a cause of action for reinstatement with seniority, triple back pay with interest, and special damages including costs and attorneys' fees, §4402.

The bill expands the Federal wire fraud statute to include frauds using any facility of interstate or foreign commerce, §4403.

Financial Institution Fraud Prosecutions

Obstructing the examination of a financial institution and engaging in monetary transactions in property derived from specified unlawful activity have

been added to the list of crimes which call for a minimum 10 year bar on employment with a Federally insured bank, §2202.

Similarly, those convicted of fraud and other crimes of dishonesty are barred from working in a Federally insured credit union for 10 years; violations are punishable by imprisonment for not more than 5 years and/or a fine of not more than \$1 million per day in violation, §2203.

The Attorney General is urged to establish a task force for the aggressive prosecution of criminal cases involving savings and loan institutions, and to report on the collapse of private deposit insurance corporations, §§2204, 2301.

The bill ensures that the Federal offense of impeding civil investigative demands (CID's) applies to RICO and bank fraud CID's as well as antitrust CID's, §2943; includes obstruction of a Federal audit and continuing financial crime enterprise within the list of offenses whose enforcement justifies rewards under the bank crimes reward program, §2944; and adds Federally insured S&L's to the Federal bank robbery statute, §2945.]

It also extends from 3 to 5 years the minimum civil statute of limitations for tort actions brought by the Resolution Trust Corporation, §5134.³

Fraud Affecting the Elderly

The bill creates a new Federal health care fraud offense which makes punishable by imprisonment for not more than 10 years and/or a fine under title 18 any scheme to defraud a health care plan; the maximum penalty is increased to life imprisonment if serious bodily injury results from the violation. It adds a subsection to the money laundering, criminal forfeiture statute permitting criminal forfeiture of property used or derived from a violation of any several Federal laws under which health care fraud can be prosecuted. And the same list of predicate offenses may be invoked to secure injunctive relief. Finally, it enlarges the Federal False Claims Act to imposition of civil penalties for fraud against a health care plan, §§3811-3831.

The Sentencing Commission is instructed to examine the guidelines applicable to fraud against the elderly for adequacy, §3905, and the appropriation of \$6 million is authorized for the Department of Justice to establish research, development, and dissemination programs to assist in collaborative efforts to prevent crime against senior citizens, §§921-928.

The bill also regulates conduct by or affecting persons engaged in the insurance business by condemning:

- false statements to State insurance regulators; punishable by imprisonment for not more than 10 years and/or a fine of not more than

³ Note the separate passage, by both Senate and House, of an apparent variant of S. 714, cleared for the White House on Nov. 23, 1993.

\$250,000, increased to a maximum of 15 years if an insurer's soundness was jeopardized;

- embezzlement by insurance company officers or employees; same penalties;

- fraudulent record keeping entries by one in the business of insurance; same penalties;

- obstruction of justice with respect to insurance regulation; penalty of imprisonment for not more than 10 years and/or a fine of not more than \$250,000;

- engaging in the insurance business after a felony conviction; penalty of not more than 5 years and/or a fine of not more than \$250,000.

The Attorney General is authorized to impose a civil penalty of not more than \$50,000 for such violations and to seek to have them enjoined; and the Federal obstruction of justice provisions enlarged to include proceedings before State insurance regulators and criminal investigations in insurance business, §2101.

Federal credit card fraud provisions grow to include use to defraud of more than \$1,000, and trafficking in stolen credit cards, §2102 (also in §3909); and the mail fraud provision expand to include private mail or commercial interstate carriers, §2103 (also in §3908).

The bill establishes an additional 5 year term of imprisonment for violations of various Federal fraud laws when they involve telemarketing fraud; the additive is increased to 10 years if a significant number of persons over 55 years of age are victimized or if those 55 are the targets of the fraud; violations are also punishable by criminal forfeiture of any property derived from a violation, §§3903, 3904.

Rewards of up to \$10,000 for information leading to successful telemarketing frauds are permitted, §3906; and the Attorney General is instructed to establish a telemarketing fraud hotline and to work with the FTC to see that information from the line is followed by appropriate action, §3910.

Appropriations -- for the FBI to investigate telemarketing fraud (\$10 million), and for the Department of Justice to prosecute it (\$3.5 million) and to work with the States and local governments to stimulate public awareness of telemarketing fraud (\$10 million) -- are authorized, §3907.

Computer Fraud

Repeals the portion of the Federal computer fraud section which prohibits unauthorized access to a Federal interest computer resulting in damage or loss of information concerning medical records or involving a loss of \$1,000 or more; replaces the portion with prohibitions against knowingly or recklessly transmitting or causing a transmission that causes damage or loss of access in a computer used in interstate commerce; intentional violations are punishable by imprisonment for not more than 5 years and/or a fine of not more than

\$250,000, reckless violations by imprisonment for not more than 1 year and/or a fine of not more than \$100,000; intentional violations give rise to a private cause of action, §2601.

Bankruptcy Fraud

S.1607 (H.R.3355) expands the bankruptcy embezzlement offense to include employees and agents of trustees, custodians, marshals, attorneys and other officers of the court responsible for administering the estate; increases the maximum fine for conflicts of interest from \$500 to \$5000; makes it a Federal crime, punishable by imprisonment for not more than 1 year and/or a fine under the provision of title 18, to knowingly disregard a Federal bankruptcy rule or law; establishes bankruptcy fraud as a new Federal offense, punishable by imprisonment for not more than 5 years and/or a fine of not more than \$250,000; and excludes bankruptcy fraud from the list of RICO predicate offenses, §5146.

TERRORISM

When international conventions on fixed ocean platforms and on maritime anti-terrorism safety go into effect in the U.S., S.1607 (H.R.3355) prohibits — under certain jurisdictional circumstances —

- forcible seizure of a vessel,
- placing a destructive device on a ship,
- committing acts of violence or property destruction against or on board a vessel or against navigational facilities which endanger navigation or attempting to do so,
- injuring someone during the course of doing so or attempting to do so, or
- communicating a false alarm concerning such a violation.

The jurisdictional circumstances exist if

- the ship is American,
- the crime is committed within the U.S. but beyond the reach of any State,
- the crime is committed by an American,
- an American is threatened, seized, injured during the commission of the crime,
- the crime is committed to blackmail the U.S., or
- if offender is later found or brought to the U.S.

Threats are punishable by imprisonment for not more than 5 years and/or a fine of not more than \$250,000; other offenses carry a maximum prison term of 20 years and/or a fine of not more than \$250,000 unless a life is taken in which the case the penalty is death, imprisonment for any term of years or life. Outlaws similar crimes, with similar penalties, committed on or against fixed sea platforms if [(1) committed by terrorists], (2) committed by an American, (3) committed to blackmail the U.S., (4) if an American is threatened, seized, or injured, or (5) if the offender is later found or brought to the U.S. Felonies

punishable under State law and occurring during the course of a labor dispute are beyond the scope of this offense, §§701, 703.

The bill outlaws the use of weapons of mass destruction within the U.S., against Americans overseas, or against Federal property, with violations punishable by imprisonment for any term of years or life, unless death results in which case the penalty is death, any term of years or life imprisonment, §711.

When the U.S. becomes a party to the convention against torture, it prohibits governmental torture or attempted torture outside the U.S. by an American or by an offender later found in or brought into the U.S., with violations punishable by imprisonment for not more than 20 years and/or a fine of not more than \$250,000 unless death results, in which case the penalty is death, any term of years or life imprisonment, §716.

A 10 year statute of limitations replaces the former 5 year limitation (although capital offenses were formerly beyond any statute of limitations) for the prosecution of airplane and airport destruction, assaulting or killing a diplomat, crimes of violence against Members of Congress or the President, hostage taking, destruction of government property, crimes of violence against shipping and fixed ocean platforms mentioned above (§§701, 703), torture, use of weapons of mass destruction, terrorist acts against Americans overseas, and certain air piracy offenses, §717.

The bill amends counterintelligence-access-to-phone-records provisions to permit access in connection with international terrorism and to make clear that certification authority may not be delegated lower than the Deputy Assistant Director of the FBI, §718.⁴

When the protocol against violence in international airports becomes effective and the U.S. becomes a party, S.1607 (H.R.3355) proscribes acts of violence or property destruction at an international airport and makes violations punishable by capital punishment or any term of years or life if death results and a fine of not more than \$250,000 and/or imprisonment for not more than 20 years in other instances, §719.

Violations of the FAA airport security and airplane operator security regulations are punishable by imprisonment for not more than 1 year and/or a fine of not more than \$100,000, §720, and counterfeiting obligations and securities of the U.S. overseas by imprisonment for not more than 15 years and/or a fine of not more than \$250,000, §721.

The U.S. Sentencing Commission is directed to enhance the penalty range for any felony involving international terrorism unless involvement is already an element of the felony, §724.

⁴ Note the separate passage, of a version of S. 1607's §718, FBI Access to Telephone Subscriber Information, enacted as Pub.L.No. 103-142 (1993).

The Attorney General is authorized to classify up to 100 alien witnesses and their families a year as non-immigrant aliens for up to three years; to waive the grounds for their exclusion; to admit them to permanent resident alien status, but subject to deportation if convicted of a crime of moral turpitude with a 10 rather than a 5 year period, §725; and, in conjunction with the Secretary of State, to extend a similar program to aliens eligible for the counter terrorism reward program, with a program limit of 25 aliens a year, §5117.

The bill outlaws providing material support, within the United States, for the crimes of hostage taking, killing an American overseas, assassination of the President or Members of Congress, destruction of transportation facilities, certain explosive offenses, killing Federal law enforcement officers or foreign dignitaries, damage to Federal property or property within Federal enclaves, and maritime destruction, and makes violations punishable by a fine of not more than \$250,000 and/or imprisonment for not more than 10 years, §726.

It calls for penalty increases for:

- various immigration documents offenses by raising the maximum penalties for unauthorized issuance from 1 year and \$100,000 to 5 years and \$250,000; for various document frauds from 5 years to 10 years; and for safe conduct violations from 3 to 10 years;
- violations associated with the International Emergency Economic Powers Act by raising the maximum civil and criminal penalties from \$10,000 and \$50,000 respectively to \$1 million, §712.

The bill also declares an extension of territorial sea to 12 miles and makes the Assimilated Crimes Act applicable there. It likewise expands the reach of the U.S. criminal law to include crimes committed by or against Americans on board a vessel scheduled to come to or leave a U.S. port, §§713-715.

Fugitives sought for committing crimes of violence against Americans overseas may be extradited from the U.S. notwithstanding the absence of applicable extradition treaty authority, §5157.

IMMIGRATION

S.1607 (H.R.3355) authorizes special terrorist deportation courts with procedures for dealing with confidential evidence, §5110; and permits court ordered disclosure of information, for law enforcement purposes or to identify a corpse, contained in applications for legalization of long term illegal aliens, §5144.

It denies aliens in this country illegally eligibility for various federal assistance benefits, §5102; and requires State law enforcement officials to provide INS with information concerning illegal aliens, provisions of State law to the contrary notwithstanding; State or local governments or agencies

identified by the Attorney General as noncooperative are precluded from receiving funds authorized under the crime bill, §5119.

The bill increases the amounts of the civil penalties for immigration document fraud from not less than \$250 nor more \$2,000 to not less than \$1,000 nor more than \$5,000 for the 1st offenses; and from \$2,000 - \$5,000 to \$5,000 - \$10,000 for subsequent offenses; it also increases the maximum criminal penalties for fraudulently acquiring or using visas or immigration documents from 5 to 10 years and from 2 to 5 years respectively and adds a mandatory minimum fine of \$10,000 for fraudulent acquisition and of \$5,000 for misuse, §5124.

The appropriations necessary to increase Border Patrol apprehension of aliens surreptitiously or fraudulently entering the U.S. are authorized, §5159.

The bill authorizes the Attorney General to provide for the expeditious deportation of aliens whose asylum petitions are denied and authorizes the necessary appropriations for 5 years, §5158.

It calls for expedited deportation of aliens, convicted of aggravated felonies, upon their release and authorizes the necessary appropriations, §5160; it supplements the definition of aggravated felony with various serious but not necessarily violent crimes such as commercial bribery, child pornography, counterfeiting, forgery, smuggling aliens, fraud involving more than \$100,000, theft or perjury for which a sentence of 5 years imprisonment or more might be imposed; and authorizes expeditious deportation of such aliens upon their release from imprisonment and authorizes the necessary appropriations for 4 years beginning in FY95, §5001; and it calls for expedited deportation proceedings for aliens convicted of an aggravated felony who are not permanent residents, §5002.

It also authorizes judicial deportation upon petition of the U.S. following conviction of an aggravated felony, §5003; eliminates exclusion and deportation defenses, based on 7 years of continuous domicile and persecution, for aliens convicted of aggravated felonies; §5004; and increases the maximum penalty for reentry following deportation from 15 to 20 years for those convicted of aggravated felonies and from 5 to 10 years for those convicted of any other felony or three misdemeanors, §5005.

INS must establish a criminal alien tracking center, for which appropriations of \$5 million for FY94 and \$2 million for each of the fiscal years thereafter are authorized, §5007; and the appropriations for FY95 and FY96 necessary for the construction of 2 INS service processing centers for criminal aliens are similarly authorized, §5161.

The Attorney General may transfer certain criminal aliens to Federal custody or to reimburse States or localities for the costs of incarcerating such individuals, §5136; and it is the sense of Congress that Federal asylum laws

should be streamlined, those eligible be encouraged to apply and granted asylum, and those seeking fraudulent admission promptly excluded, §5131.

GENERAL PROVISIONS

Commissions

National Commission on Crime and Violence in America: The National Commission on Crime and Violence in America is a 25 member body created to develop a comprehensive and effective crime control plan which will serve as a blueprint for the 1990s. Directs the Commission to be responsible for reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence; examining the impact that changes to State and Federal law have had in controlling crime and violence; examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth; examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime; examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America; convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate; and reviewing all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, and corrections components in developing the crime control plan, §§1701-1703.

National Commission to Study the Causes of the Demand for Drugs in the United States: The National Commission to Study the Causes of the Demand for Drugs in the United States is a 15 member established by the bill which sets forth the duties of the Commission and the issues to be explored; identifies its composition, and authorizes staffing and administrative positions for the Commission. It must issue monthly activity reports, and an interim report not later than one year before its termination and final report not later than the date of termination, which occurs 2 years after the day upon which the Members have met and designated a Chairman and Vice-Chairman, §§1711-1718.

National Commission to Support Law Enforcement: The 29 member National Commission to Support Law Enforcement is chartered to study and recommend changes regarding Federal, State, and local law enforcement agencies. The bill sets forth the issues to be explored by the Commission, identifies the composition of the members, and authorizes staffing and administrative positions for the Commission. The Commission must report to Congress within 18 months of the appointment of its members and terminates 60 days following release of the report. Similar provisions enacted by the 101st Congress are repealed, §§1721-1730.

The 25 member National Commission Violence in America's Schools is vested with the authority to report to Congress and the President on the extent and causes of violence in schools following a 2 year period of study using staff and consultants, §§1733-1749.

The 12 member National Commission on Violence Against Women is empowered to recommend strategies to prevent and punish violent crime against women, §§3241-3249.

The President is urged to convene a National Summit on Violence in America, §§1731-1732.

An Economic Terrorism Task Force is established to study and make recommendations concerning U.S. exposure to economic terrorism, §722.

Motor Vehicles

Theft Prevention: The Attorney General must devise a voluntary vehicle theft-prevention program under which owners may sign a consent form and display a decal on a vehicle which State and local authorities may stop to verify ownership under certain circumstances. The conditions under which a decaled vehicle may be stopped may not be based on race, creed, national origin, gender, or age. Altering or removing motor vehicle identification numbers with the intent to further the theft of a vehicle should be a State offense punishable by a fine or imprisonment, §§1901-1903.

Privacy: S.1607 (H.R.3355) also proscribes the disclosure, other than for routine use, of information from State department of motor vehicle records; willful individual offenders are punishable by imprisonment for not more than 1 year and/or a fine of not more than \$100,000, willful organizational offenders are subject to a fine of not more than \$200,000, willful violations by state agencies are punishable by a civil penalty of \$5,000 a day, §§3101-3103.

Drunk Driving: The bill adds imprisonment for not more than 1 year and/or a fine of not more than \$1,000 to the State penalties assessed for drunk driving on Federal reservations when there is a child in the vehicle during the commission of the offense; the additional term of imprisonment is increased to not more than 5 years if the child is seriously injured and not more than 10 years if the child is killed, §1602; and declares it the sense of Congress that courts consider history of drunk driving in making child custody and visitation determinations, §1603.

It also permits the States to use Federal law enforcement assistance funds for the prosecution of drunk driving charges and for the enforcement of others laws relating to motor vehicles and alcoholic beverages, §5115.

Crime Victims

S.1607 (H.R.3355) provides for purposes of the Crime Victims Fund that if the compensation paid to an eligible crime victim would cover costs that a Federal program -- or a federally financed State or local program -- would otherwise pay, that the crime victim compensation program shall not pay that compensation, and that the other program shall make its payments without regard to the existence of the crime victim compensation program, §912; administrative expenditures for State crime victim compensation programs and crime victim assistance programs are limited to not more than 5 percent of the total grant, §§913, 916. And each entity receiving funds available under the Act for administrative purposes is required to certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of funds that would, in the absence of Federal funds, be available for these purposes, §917.

The Director may use amounts available in the Crime Victims' Fund for the purpose of awarding grants for crime victims' compensation, §914, and may award grants for demonstration projects. §915.

The bill also recasts restitution, and permits a court to order restitution of any person (in addition to the victim) who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by the unlawful conduct of the defendant during the course of a scheme, conspiracy, or pattern of unlawful conduct relating to the offense; sets forth conditions and procedures, §902 (§3213 replicates many of these features but limited to the victims of sex offenses).

The Attorney General is instructed to award a grant to an eligible organization to assist in paying for the design, establishment, and operation of a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias. Appropriations of \$1 million for each of FY95-97 are authorized, §2001.

Gambling

S.1607 (H.R.3355) repeals the proscriptions against gambling ships hovering or otherwise operating beyond the territorial waters of the U.S., §2932; authorizes disclosure of FBI criminal records for licensing purposes to State gambling regulators located within a State Attorney General's office, §2931; and expands the Federal statute prohibiting the interstate transportation of lottery tickets to include a proscription against engaging in the business of acquiring out of State lottery tickets for others, §5109.

Federal Law Enforcement

To accommodate increased workload on Federal judges, prosecutors and agents attributable to the Act, authorizes additional appropriations of \$20 million in FY94 and \$70 million for each of the four subsequent fiscal years for the judiciary; of \$25 million for FY94, \$125 million for FY95, and \$150 million for each of the three subsequent fiscal years for the Department of Justice; of \$20 million, \$50 million, \$60 million for FY94, FY95 and FY96-FY98 respectively for the FBI; and of \$10 million for FY94 and \$35 million for each of the four fiscal years thereafter to employee additional assistant U.S. Attorneys, §5132; and expresses the sense of the Senate that Federal law enforcement officers should be exempt from E.O.12839 and other initiatives for reduction of the Federal workforce, §5164.

It extends the expiration date for Supreme Court police authority to protect the Justices, officers and employees of the Court from the end of 1992 to the end of 1993, §5151⁵; eases the residence requirement for assistant U.S. Attorneys to permit them to live within 50 miles of the district for which they have been appointed, §5162; and extends the term of full time members of the U.S. Sentencing Commission from 6 to 7 years, §5152.

The bill also permits the Attorney General to pay State and local real property taxes, claimed for the time between the commission of the crime giving rise to forfeiture and the order of forfeiture, out of the Department of Justice Asset Forfeiture Fund, §5155.

It extends from 3 to 5 years the minimum civil statute of limitations for tort actions brought by the Resolution Trust Corporation, §5134⁶; and permits the payment of attorneys' fees for Department of Justice and public defenders office supervisors who are subject to criminal investigations or disciplinary inquiries which do not result in adverse action against the employee, §5104.

It requires annual audits of State and Department of Justice asset forfeiture funds and reports to Congress on the results and Justice's administrative and contracting expenses for the fund, §§2921, 2922; and not later than 6 months after enactment of the Act, the Attorney General, in concert with the Director of the FBI, the Administrator of the DEA, the Commissioner of INS, and the Commissioner of the Customs Service, is directed to report to Congress and the President on the efforts made and the success of such efforts to recruit and hire former Royal Hong Kong Police officers into Federal law enforcement positions, §5108.

⁵ Note the separate passage of a version of this provision, as S.1764 which passed both Houses and was sent to the President on November 22, 1993.

⁶ Note the separate passage, by both Senate and House, of an apparent variant of S. 714, cleared for the White House on Nov. 23, 1993.

Federal Crimes

S.1607 (H.R.3355) expands civil rights coverage to include "persons" rather than mere "inhabitants," §2911; defines stolen or counterfeit property to generally include property associated with a "sting" in which the defendants believed official representations that the property was stolen or counterfeit, §2962]; and proscribes disclosure, with the intent to obstruct an investigation, of the results of an authorized wiretap; violations are punishable by imprisonment for not more than 5 years and/or a fine of not more than \$250,000, §2965].

It makes theft of a major art work from an American museum punishable by imprisonment for not more than 10 years and/or a fine of not more than \$250,000, and by civil or criminal forfeiture of any proceeds, with a 20 year statute of limitations, §2966; and adds DEA to the list of agency names which may not be subject to unauthorized commercial exploitation, §2968.

It forbids attempts to violate various Federal statutes outlawing robbery, burglary, kidnapping, smuggling, and malicious mischief; penalties are the same as those imposed for the completed offense, §2969.

The bill defines livestock for purposes of the prohibitions against interstate theft or receipt of stolen livestock to include horses, pigs, goats, fowl, sheep, cattle, and any other domestic animal raised for home use, consumption or profit, and the carcasses of such animals, §2970; and proscribes the mailing of nonmailable animals, plants, fish and wildlife, makes violations punishable by imprisonment for not more than 1 year and/or a fine under title 18, and authorizes the creation of task force of Federal and Hawaiian law enforcement officers for implementation, §5105.

It increases the maximum prison term for trademark counterfeiting from 5 to 10 years and for repeat offenders from 15 to 20 years; adds trademark counterfeiting to the list of money laundering predicates, while it reduces the maximum fine for organizations for first and subsequent offenses from \$1 million and \$5 million, respectively, to the greater of \$500,000 or twice the loss or gain, in any case; and reduces the \$1 million maximum fine of second time individual offenders to the greater of \$250,000 or twice the loss or gain, §2904.

Federal Criminal Procedure

The bill makes it clear that courts imposing sentence for failure to comply with the terms of probation or supervised release should consider the appropriate sentencing guidelines and policies, §2401; and increases from 3 to 5 years the term that may be imposed for failure to comply with the terms of supervised release under a Class A felony, §2403.

It authorizes a term of probation for petty offenses when the defendant has been sentenced to imprisonment for another offence, §2501; withdraws the right

of juveniles, tried as adults, to be tried before a district court judge rather than a magistrate, §2502; and defines "court of the United States" to include the district courts of Guam, the Northern Marianas, and the Virgin Islands for purposes of the title 18 of the United States Code, §5156.

Federal and State criminal court clerks are required to notify IRS and Federal and State prosecutors when a defendant, charged with a drug offense, racketeering, or money laundering, posts bail in cash (over \$10,000), §1802.

Venue options in the District of Columbia in espionage cases committed outside of any State are enlarged, §2961.

The bill declares the sense of the Senate encouraging the development of a United Nations Convention on Organized Crime and urging the United Nations to provide additional authority and resources to the U.N. Commission on Crime Prevention and Criminal Justice, §5106.

And social security disability benefits may not be extended to those confined to public institutions under a court order based on a verdict of guilty but insane, not guilty by reason of insanity, or similar finding, §5113.

FUNDING

To fund the various appropriations authorized in S.1607, it establishes a Violent Crime Reduction Trust Fund into which are to be transferred, at the beginning of the fiscal year:

- \$720 million (FY94);
- \$2.423 billion (FY95);
- \$4.267 billion (FY96);
- \$6.313 billion (FY97); and
- \$8.545 billion (FY98)

which amounts it is anticipated will be realized (1) by limiting the total full time equivalent positions in all Federal agencies to:

- 2,095,182 in FY94;
- 2,044,100 in FY95;
- 2,003,846 in FY96;
- 1,963,593 in FY97; and
- 1,923,339 in FY98,

and by a reduction in discretionary spending authority amounting to:

- \$720 million in new budget authority and
- \$314 million in outlays in FY94;
- \$2.423 billion in new budget authority and
- \$2.33 billion in outlays in FY95;
- \$4.267 billion in new budget authority and
- \$4.184 billion in outlays in FY96;
- \$6.313 billion in new budget authority and
- \$6.221 billion in outlays in FY97;

\$8.545 billion in new budget authority and
\$8.443 billion in outlays in FY98.

Amounts in the Fund and appropriations of moneys available from it are not taken into account for purposes of the enforcement provisions of the Congressional Budget Act or the Balanced Budget and Emergency Deficit Control Act, §§1351-1354.

CRS Issue Brief

Crime Control: The Federal Response

Updated February 7, 1994

by
Suzanne Cavanagh
Government Division



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Crime Control: The Federal Response

SUMMARY

Crime control efforts at the Federal level traditionally have been concerned with problems of national scope transcending State boundaries or with the maintenance of law and order in areas subject exclusively to Federal jurisdiction. However, in the mid-1960s Congress established the Law Enforcement Assistance Administration (LEAA) to make grants to State and local governments for law enforcement assistance. The creation of LEAA ushered in a new era of Federal involvement in crime control. Although the program was phased out after a 12-year life and an expenditure of roughly \$7.5 billion, the concept of direct Federal aid for local law enforcement has in recent years enjoyed renewed support in Congress.

Congress has passed four omnibus crime control bills in the last decade. The Comprehensive Crime Control Act of 1984 (P.L. 98-473) overhauled the Federal sentencing system and revised bail and forfeiture procedures along with other Federal practices. Anti-drug abuse statutes passed in 1986 (P.L. 99-570) and in 1988 (P.L. 100-690) included enhanced penalties for drug-related crimes and provisions for funding of State and local drug enforcement. The most recent measure, the Crime Control Act of 1990 (P.L. 101-647), authorized \$900 million for the Federal Drug Control Grant Program, codified a Crime Victims' Bill of Rights in the Federal justice system, and expanded coverage under the Public Safety Officers' Death Benefits Program.

In the 102nd Congress, the Senate passed an omnibus anti-crime proposal on July 11, 1991. The House passed its own anti-crime legislation on Oct. 22, 1991. A House-Senate conference committee reached agreement, and the House passed the compromise measure on Nov. 27, 1991. On the same day, a Senate vote on cloture failed, and the bill was carried over. A second cloture motion failed on Mar. 19, 1992. A third motion failed on Oct. 2, 1992, and the 102nd Congress adjourned without passing major anti-crime legislation.

In the 103rd Congress, Senators Hatch and Dole and Representative McCollum have introduced omnibus bills; Democratic measures were introduced Sept. 23, 1993 by Senator Biden and Representative Brooks.

On Oct. 26, 1993, the House Judiciary Committee endorsed six separate criminal justice bills related to community policing, drug treatment, and youthful offenders that were drawn from H.R. 3131, the Violent Crime Control and Law Enforcement Act of 1993. The House passed four of those bills on Nov. 3, 1993, and a fifth on November 19. On November 3, the Senate began debate on S. 1607, a measure offered by Senator Biden as a substitute for his earlier proposal, S. 1488. On November 20, the Senate passed H.R. 3355, after striking all after the enacting clause and inserting in lieu thereof the text of S. 1607, as amended.

MOST RECENT DEVELOPMENTS

In his State of the Union message on January 25, President Clinton called for the enactment of "three strikes, you're out" mandatory sentencing legislation. On Oct. 26, 1993, the House Judiciary Committee endorsed six separate criminal justice bills related to community policing, drug treatment, and youthful offenders that were drawn from H.R. 3131, the Violent Crime Control and Law Enforcement Act of 1993. The House passed four of those bills on Nov. 3, 1993, and a fifth on November 19. On November 3, the Senate began debate on S. 1607, a measure offered by Senator Biden as a substitute for his earlier proposal, S. 1488. On November 20, the Senate passed H.R. 3355, after striking all after the enacting clause and inserting in lieu thereof the text of S. 1607, as amended.

BACKGROUND AND ANALYSIS

Federal v. State Responsibility for Law Enforcement

Under the Federal system in the United States, the States and localities traditionally have held the major responsibility for prevention and control of crime and maintenance of order. For most of the Republic's history, "police powers" in the broad sense were reserved to the States under the Tenth Amendment to the Constitution. Many still hold that view, but others see a string of court decisions in recent decades as providing the basis for a far more active Federal role.

Perhaps the most significant factor behind the growth of Federal police powers has been a broader interpretation of the Constitution's "commerce clause" (U.S. Constitution, Art. I, Sec. 8, Cl. 2), which explicitly gives Congress power to regulate interstate and foreign commerce. A series of court decisions in this century has established that the impact of *intrastate* commerce on *interstate* commerce may justify a more inclusive approach. In addition, both Congress and the Court have shown an apparent willingness to view certain kinds of crime, or disorder on a large scale, as threats to commerce in and of themselves.

Since the 1960s, the law and order issues that most often have generated debate over the appropriate limits of the Federal role are financial assistance for State and local law enforcement and regulation of firearms. (For a discussion of firearm regulation, see CRS Issue Brief 89093, *Gun Control*.) In considering legislation that established the grant program administered by the Law Enforcement Assistance Administration (P.L. 90-351) and its forerunner, the Office of Enforcement Assistance (P.L. 89-197), some Members of Congress and analysts expressed concern that the Federal "power of the purse" would lead to a national police force.

The lack of significant opposition to local law enforcement assistance provisions in 1986 and 1988 anti-drug measures and the 1990 Crime Control Act suggests that such concern has diminished. This change in attitude might be explained by a widespread perception that the illicit traffic in dangerous drugs has become a national problem of overriding concern.

One indication of growth in Federal involvement in crime control is the trend in annual spending under the budget category "administration of justice." Since 1965, it

has risen from \$535 million to an estimated \$11.7 billion in FY1992, an increase of 2,087%. The Bush Administration requested \$15.7 billion for that category for FY1993.

Federal Assistance to State and Local Governments

During the 1960s the FBI Uniform Crime Reports showed that crime rates in the United States were increasing rapidly, and "law and order" and "crime in the streets" were key issues in the 1964 Presidential campaign. President Lyndon Johnson, in his first message to Congress in 1965, called for the establishment of a blue ribbon panel to probe "fully and deeply into the problems of crime in our nation." Johnson's requests led to the creation of the President's Commission on Law Enforcement and the Administration of Justice and to passage of the Law Enforcement Assistance Act of 1965 (P.L. 89-197; 79 Stat. 828). The latter established an Office of Law Enforcement Assistance in the Department of Justice and charged it with funding demonstration projects for the development of new methods of crime control and law enforcement.

In February 1967, the President's Commission issued its report, *The Challenge of Crime in a Free Society*, and recommended that the Federal Government provide more financial assistance to State and local governments for law enforcement purposes. The Commission found that "crime is a national, as well as a State and local phenomenon." Subsequently, President Johnson proposed an expanded program of grants to State and local governments, to be administered by the Department of Justice. In urging the passage of such legislation, he warned that "the Federal Government must never assume the role of the Nation's policeman. True, the Federal Government has certain direct law enforcement responsibilities. But these are carefully limited to such matters as treason, espionage, counterfeiting, tax evasion and certain interstate crimes."

Congress responded in June of 1968 by passing the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351; 82 Stat. 197). Title I of the Act established a Law Enforcement Assistance Administration (LEAA) to make grants to State and local governments for planning, recruitment, and training of law enforcement personnel; public education relating to crime prevention; building construction; education and training of special law enforcement units to combat organized crime; and the organization, education, and training of regular law enforcement officers, special units, and law enforcement reserve units for the prevention and detection of riots and other civil disorders. The Act also established a National Institute of Law Enforcement and Criminal Justice to make grants for training, education, research, and demonstration for the purpose of improving law enforcement and developing new methods for the prevention and reduction of crime.

The enactment of the Safe Streets Act and the creation of LEAA ushered in a new era of Federal assistance to State and local governments for crime control. The grant programs significantly expanded the central government's involvement in local law enforcement. Although the program was criticized and ultimately phased out after a 12-year life and an expenditure of roughly \$7.5 billion, support for the concept of direct Federal aid for law enforcement and crime control resurfaced and grew during the 1980s as Congress sought solutions to the Nation's drug problems.

LEAA's history is controversial. The block grant funding mechanism was criticized because it prevented the agency from exercising tight controls over the money sent to the States. Critics charged that funds were misused and that the program had

no visible impact on crime. With the exception of one downturn in crime statistics in 1972, the reported violent crime rate continued to rise throughout the 1970s and 1980s. Although the program had been authorized through FY1983, budget reductions beginning in 1980 resulted in its virtual elimination. Four of its highly specialized functions remained to be administered by a successor agency, the Office of Justice Assistance, Research, and Statistics (OJARS).

Broader Federal assistance was restored when the Reagan Administration requested authority, in 1983, to establish a more modest grant program. Since then, additional expansion of the Federal role occurred with congressional passage of four omnibus crime control bills. First was Chapter IV (the Justice Assistance Act) of the Comprehensive Crime Control Act of 1984 (P.L. 98-473). It created the Office of Justice Programs, headed by an assistant Attorney General, to coordinate the activities of the Bureau of Justice Assistance, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Prevention. The Anti-Drug Abuse Act of 1986 (P.L. 99-570) established a program of matching formula grants to State and local law enforcement agencies; the Anti-Drug Abuse Act of 1988 expanded this program, the "Edward Byrne Memorial State and Local Law Enforcement Assistance Programs." Despite Reagan Administration opposition to such expansion, Congress appropriated \$150 million for FY1989 for these programs. The Crime Control Act of 1990 (P.L. 101-647), authorized \$900 million. The FY1994 appropriation is \$420 million.

Recent Major Enactments

Comprehensive Crime Control Act of 1984

In 1966, Congress created the National Commission on Reform of the Criminal Laws. Headed by California Governor Edmund G. Brown, Sr., the Commission issued a report that took the form of a new draft of the Federal Criminal Code. The Comprehensive Crime Control Act of 1984 was the culmination of a bipartisan effort to implement this report. The bill finally approved was somewhat limited, a compromise that overhauled the Federal sentencing system, revised the bail statutes to permit pretrial detention of those considered dangerous to the community, tightened the legal definition of insanity, required mandatory minimum sentences for career criminals, increased the maximum fines for serious drug offenses, gave Federal prosecutors new authority to seize the assets of drug traffickers, and established a victim compensation program in the Department of Justice. Controversial provisions related to the death penalty, Federal exclusionary rule modification, and *habeas corpus* revision ultimately were dropped. Similar proposals have been reintroduced several times but continue to be a source of contention.

Anti-Drug Abuse Act of 1986

The Anti-Drug Abuse Act of 1986 (P.L. 99-570) was a far-ranging measure containing 15 titles and relating to almost every aspect of Federal efforts to prevent and control the abuse of drugs. It stiffened penalties for violations of the Controlled Substances Act (P.L. 91-513), providing for mandatory minimum sentences in certain cases. It also contained provisions aimed at money laundering and expanded authority for seizure and forfeiture of assets derived from criminal activities. Other provisions

related to international narcotics control and demand reduction efforts. It authorized \$230 million annually for 3 years for State and local drug enforcement assistance. Overall, it raised existing authorization ceilings by \$1.7 billion; final FY1987 appropriations for drug control were over \$4 billion.

Anti-Drug Abuse Act of 1988

The Anti-Drug Abuse Act of 1988 (P.L. 100-690) was signed into law on Nov. 18, 1988. This legislation built on the Anti-Drug Abuse Act of 1986 and, like its predecessor, contained provisions relating to virtually every facet of the Federal effort to curb the abuse of narcotics and other dangerous drugs. The 10 main titles concerned (1) new and increased penalties for drug trafficking offenses (including the death penalty for killings committed by drug "kingpins" and for the drug-related killing of a law enforcement officer), and general increases in funding for drug law enforcement; (2) the organization and coordination of Federal anti-drug efforts, including the creation of a new agency headed by a cabinet-level director (a so-called "drug czar"), subject to Senate confirmation; (3) the reduction of drug demand through increased treatment and prevention efforts; (4) the reduction of drug production abroad and of international trafficking in illicit drugs; and (5) sanctions designed to put added pressure on drug users ("user accountability"). The Act raised FY1989 authorization ceilings by \$2.7 billion; actual appropriations brought the total Federal anti-drug budget for FY1989 to approximately \$6.5 billion.

Crime Control Act of 1990

The Crime Control Act of 1990 (P.L. 101-647) was an omnibus measure that, like some previous anti-crime proposals, was stripped of several of its more controversial provisions such as those pertaining to the Federal death penalty, *habeas corpus* revision, Federal exclusionary rule application, and firearms control. The legislation authorized \$220 million in Federal matching grants to assist States in establishing more effective prison programs, including alternatives to traditional incarceration. It established a grant program to develop and implement multidisciplinary child abuse investigation and prosecution programs and permitted alternatives to live-in-court testimony in a proceeding involving an alleged offense against a minor. The measure contained child pornography provisions requiring more stringent recordkeeping and enhanced penalties. It codified a Crime Victims' Bill of Rights in the Federal justice system, and increased the funding level for victim compensation and assistance. Other provisions authorized a \$20 million rural drug initiative, expanded the Public Safety Officers' Death Benefits program to include a one-time benefit for officers permanently disabled in the line of duty, authorized the hiring of additional FBI and Drug Enforcement Administration (DEA) agents, added 12 new chemicals to the list of precursor chemicals regulated under the Chemical Diversion and Trafficking Act, created a National Commission To Support Law Enforcement, and raised the authorization for the Federal drug enforcement grant program to \$900 million.

Recent Legislative Action

Legislative Background

103rd Congress. Senator Hatch, on behalf of the Republicans, introduced an omnibus bill (S. 8) on Jan. 21, 1993. Senator Dole also introduced anti-crime legislation (S. 1356) on August 4. Democratic measures (H.R. 3131 and S. 1488) were introduced on Sept. 23, 1993, by Representative Brooks and Senator Biden, respectively.

On Nov. 3, 1993, the House Judiciary Committee endorsed six separate bills drawn from H.R. 3131, the Violent Crime Control and Law Enforcement Act of 1993, and referred other titles separately to the appropriate subcommittees. On the same day, the House passed H.R. 3355, the Public Safety and Community Policing: Cops on the Beat Act; H.R. 3350, the Substance Abuse Treatment in Federal Prisons Act; H.R. 3353, the Juvenile Drug Trafficking and Gang Prevention Act; and H.R. 3354, the Residential Substance Treatment for State Prisoners Act. On November 19, the House approved H.R. 3351, the Alternative Punishment for Young Offenders Act. The Senate began consideration of S. 1606, a measure offered by Senator Biden as a substitute for his earlier proposal, S. 1488, on November 3. On Nov. 20, 1993, the Senate passed H.R. 3355, after striking all after the enacting clause and inserting in lieu thereof the text of S. 1607, as amended.

102nd Congress. On Mar. 12, 1991, Senator Joseph Biden, Chairman of the Senate Judiciary Committee, introduced the Violent Crime Control Act of 1991 (S. 618). Biden's bill would impose the death penalty for a number of new offenses, limit *habeas corpus* petitions, codify existing law pertaining to the exclusionary rule, and increase penalties for criminals who commit firearm offenses. The measure would authorize \$1 billion in aid to State and local law enforcement agencies. It also contains provisions relating to terrorism, drive-by shootings, violent drug-crime regional prisons, youth violence, rural crime and drugs, drunk driving, and victims of crime. On June 6, 1991, Senator Biden offered a new bill, S. 1241, which he characterized as being substantially the same as S. 618 except for the addition of a new version of the "Brady Handgun Bill," a measure that passed the House on May 8, 1991 (see Issue Brief 89093, *Gun Control*).

The Bush Administration's proposal, the Comprehensive Violent Crime Control Act of 1991 (H.R. 1400 Michel /S. 635 Thurmond, Dole), was introduced in the House and Senate respectively on March 12 and 13, 1991. This legislation would restore the death penalty for certain crimes already on the books and would authorize it for new crimes, such as those involving drug kingpins and terrorist murders of American nationals. The measure would revise Federal *habeas corpus* procedures, create a "good faith" exemption to the Federal exclusionary rule, and increase penalties for certain Federal firearms offenses. Also, it includes provisions relating to juvenile offenders, gangs, terrorism, victims' rights, sexual violence, and child abuse.

Senate debate on the anti-crime bills began on June 20, 1991. A motion to substitute the Bush Administration's proposal for the Biden bill was defeated, and an amended S. 1241 passed the Senate on July 11, 1991. The House Judiciary Committee reported its bill, H.R. 3371, on Oct. 7, 1991. This measure was passed, as amended, on Oct. 22, 1991. A House-Senate conference agreed to a compromise that passed the House on November 27. On the same day, with the threat of a veto by President Bush looming, a Senate vote for cloture failed, and the measure was carried over to the

second session of the 102nd Congress. A subsequent cloture motion failed on Mar. 19, 1992. A third cloture motion failed to secure passage on Oct. 2, 1992, and the 102nd Congress adjourned without enacting major anti-crime legislation.

Analysis

Three policy issues of continuing congressional interest are the application of the death penalty, *habeas corpus* procedures, and the Fourth Amendment exclusionary rule. All three were initially addressed in code revision bills dating back at least to 1973 when the first recodification effort began. Because they are controversial, provisions related to the three have been dropped from succeeding anti-crime packages, including the one passed in the 101st Congress. Similar proposals were introduced once again in the 102nd Congress, but they were not enacted.

Death penalty proposals that were under consideration would have permitted its imposition for certain crimes and according to specified procedures. Some of the proposed procedural changes were designed to eliminate current constitutional frailties in certain existing Federal death penalty provisions. Proponents of procedural requirements limiting the use of capital punishment argued that they were necessary to ensure due process of law and to prevent the imposition of the death penalty in a racially discriminatory pattern. Opponents responded that such limitations created unnecessary burdens on the operation of the criminal justice system.

Federal *habeas corpus* provides a statutory procedure for State and Federal prisoners to challenge the constitutionality of their incarceration. Federal *habeas corpus* has traditionally been considered a safeguard of fundamental rights. However, many criticize the current breadth of these protections, arguing that they cause delay in the administration of justice and blur the connection between the crime and the punishment. Measures dealing with *habeas corpus* differed with respect to the scope of the modification of this protection. Some of the proposals would have established special procedures for Federal *habeas corpus* petitions applicable in State capital punishment cases. Others would have abolished Federal *habeas* for State prisoners.

The Federal exclusionary rule is a judicially created rule that prohibits the use of evidence gained in violation of Fourth Amendment protections against unreasonable searches and seizures in criminal proceedings. Proponents of the exclusionary rule suggest that in a constitutional system the police, as well as the citizenry, are obliged to obey the law. Opponents argue that the rule rewards the criminal at society's expense. A corollary issue concerns proposals for the modification of the exclusionary rule. Some proposals would have codified or extended the "good faith" exception ruled constitutional by the Supreme Court. Others would have required a more rigid application of the rule.

In addition, some proposals urged an increased Federal preemption of law enforcement activities previously within the domain of State Governments. For example, a Senate amendment to the Violent Crime Control Act of 1991 (S. 1241) would have made it a potential Federal offense to use, possess, or carry a firearm or destructive device during a crime of violence or drug trafficking punishable under *State* law if the weapon had ever crossed State boundaries. (This amendment was omitted from the conference agreement on the bill, H.R. 3371). In contrast, other proposals,

such as those involving *habeas corpus* and exclusionary rule revision, would have limited the Federal courts' authority to review State procedures.

(For further information, see CRS Issue Briefs 93030, *Drug Supply Control Issues: 103rd Congress*; 89093, *Gun Control*; and 92061, *Prisons: Policy Options for Congress*.)

LEGISLATION

P.L. 103-159, H.R. 1025/S. 414

Brady Handgun Violence Prevention Act. Prohibits licensed firearm dealers from transferring a handgun -- except in specified circumstances -- unless they notify appropriate local law enforcement authorities and provide them the opportunity of checking (authorities would be required to "make a reasonable effort") the transferee's background to determine whether that person may legally own firearm. Transfer could be delayed as much as 5 business days from the time notice is provided to the law enforcement authorities. Provides for eventual development of a national "instant criminal background check system" that any licensee could contact for information on whether receipt of a firearm by a prospective buyer would violate Federal law. Once an adequate national system is in place, the waiting period would be dropped and the checking requirement would apply to *all* firearms. To facilitate establishment of such a national system, requires the Attorney General to take steps leading to incorporation of State records into the Federal system. Amends Safe Streets Act to allow use of Byrne Memorial Program funds for improvement of State criminal record systems and also establishes an additional program of discretionary grants to the States -- to be administered by the Attorney General -- for the improvement and automation of those systems. At the risk of losing certain Federal funding, States would have to achieve, within 5 years after enactment, an 80% level of currency of case dispositions, in computerized criminal history files, for all cases in which there has been activity within the past 5 years. H.R. 1025 introduced Feb. 22, 1993; referred to Committee on Judiciary. Reported, amended, Nov. 10 (H.Rept. 103-344). Passed House, amended, Nov. 10. Approved House floor amendments (1) require local law enforcement officials to specify, when requested, the reason for denying an application for a handgun within 20 business days, and (2) stipulate that the national system of instant background checks on handgun purchasers shall automatically replace the proposed 5-day waiting period on handgun purchases within 5 years after enactment. Passed House, amended, Nov. 10. Passed Senate, amended, with the language of S. 414 as amended substituted, Nov. 20. House disagreed to the Senate amendment and agreed to a conference, Nov. 22. As reported by conference committee, included new or altered provisions that (1) increase Federal firearms license fees (in a dealer's case, to \$200 for a 3-year license); (2) require multiple handgun purchases to be reported to local law enforcement authorities; and (3) further clarify protections of purchaser privacy and requirements for police destruction of records generated in connection with a gun purchase. Conference report (H.Rept. 103-412) passed House Nov. 23; passed Senate Nov. 24. Signed into law Nov. 30, 1993.

H.R. 688 (Molinari)/S. 6 (Dole)

Sexual Assault Prevention Act of 1993. Increases penalties for sexual violence and strengthens the rights and remedies available to victims of sexual violence. Changes the rules of evidence to facilitate effective prosecution of violent sex offenders. Directs the Attorney General to provide for a national baseline study to examine the scope of

the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. Authorizes the Attorney General, through the Bureau of Justice Assistance, the Office of Victims of Crime, and the Bureau of Justice Statistics, to make grants to support projects and programs relating to sexual violence. Enhances Federal penalties for domestic violence and stalking. Requires reports on a number of issues pertaining to protecting the victims of domestic violence. Establishes a National Task Force on Violence Against Women to recommend Federal, State, and local strategies aimed at protecting women against violent crime, punishing persons who commit such crimes, and enhancing the rights of victims of such crimes. Introduced Jan. 21, 1993; referred to Committee on Judiciary.

H.R. 1133 (Schroeder) / S. 11 (Biden)

Violence Against Women Act of 1993. Creates new penalties for sex offenders, and increases restitution for the victims of sex crimes. Requires States to pay for rape examinations. Authorizes \$300 million for law enforcement efforts to combat violence against women. Authorizes \$65 million for rape education, starting in junior high. Establishes a National Commission on Violent Crime Against Women to develop a strategy for combatting violence against women. Creates Federal penalties for spouse abusers who cross State lines to continue their abuse. Increases funding for battered women's shelters and provides funding for a national domestic violence hotline. Makes gender-based assaults a violation of Federal civil rights laws. Increases funding for campus rape education and prevention programs in neediest colleges. Establishes training programs for State and Federal judges to raise awareness and increase sensitivity about crimes against women. H.R. 1133 introduced Feb. 24, 1993; referred to Committee on Judiciary. Reported to House, amended (H.Rept. 103-395), Nov. 20, 1993; passed House, as amended, same day. S. 11 introduced Jan. 11, referred to Committee on Judiciary. Ordered reported favorably May 27 with an amendment in the nature of a substitute. Reported to Senate, amended (S.Rept. 103-138), Sept. 10, 1993.

H.R. 2872 (McCollum)

Crime Control Act of 1993. Omnibus measure. Safe schools provisions increase penalties for drug trafficking near schools and provide funding for enhanced school security in Federal safe school districts. Authorizes appropriations of \$330 million for each of the fiscal years 1994 through 1998 for grants to local units of government for "Cops on the Streets" grants. Enhances penalties for participation in criminal street gangs and gang crime. Increases penalties for drug trafficking near public housing. Permits imposition of the death penalty for murder during the sexual exploitation of children. Allows for adult prosecution of serious juvenile offenders. Guarantees the right of victims of crime to fair treatment in legal proceedings. Extends and strengthens the Federal rape victim shield law. Makes interstate stalking a Federal crime. Provides civil remedies for victims of sexual violence. Permits the imposition of the death penalty for rape and child molestation murders, and increases penalties for recidivist sex offenders. Enhances controls on entry into the U.S. to further prevent terrorism. Provides for the deportation of alien terrorists. Contains procedures to expedite the deportation of criminal aliens. Expands prison capacity through the use of private activity bonds and Federal-State partnerships for regional prisons. Provides new procedures for enforcing the death penalty. Strengthens the Armed Career Criminal Act. Enhances penalties for use of a semi-automatic firearm during a crime of violence or drug trafficking offense. Provides mandatory minimum sentences for certain firearm possession offenses. Establishes State instant check system for handgun purchases. Increases penalties for interstate gun trafficking. Contains provisions

pertaining to *habeas corpus* and public corruption. Introduced Aug. 4, 1993; referred to Committee on Judiciary. (Similar bills: H.R. 3131, S. 1356, S. 1488.)

H.R. 3098 (Glickman)

Youth Handgun Safety Act of 1993. Amends the Federal criminal code to prohibit (1) the sale, delivery, or transfer to a juvenile of a handgun or ammunition that is suitable for use only in a handgun; and (2) the possession by a juvenile of a handgun or such ammunition. Makes exceptions with respect to a transfer to, or possession by, a juvenile (1) when the handgun is used in target practice under adult supervision, under specified conditions; (2) the transfer occurs with the permission of a parent or legal guardian of the juvenile; and (3) in accordance with State and local law. Introduced Sept. 21; referred to Committee on Judiciary. Passed House Nov. 20, 1993.

H.R. 3131 (Brooks)

Violent Crime Control and Law Enforcement Act of 1993. Omnibus 31-title bill. Authorizes the Attorney General to make grants to State and local governments to increase police presence, enhance police-community cooperation in addressing crime, and otherwise to enhance public safety. Establishes the death penalty for over 60 offenses and provides procedures for the constitutional imposition of the death penalty. Contains a provision pertaining to *habeas corpus* reform. Identifies the appropriate harmless error standard for criminal proceedings in Federal courts. Establishes an interim waiting period of up to 5 days before a licensed dealer, importer, or manufacturer may sell, deliver, or transfer a handgun to a private purchaser (*Brady Handgun Violence Prevention Act*). Enhances penalties for certain gun offenses. Increases penalties for employing children under the age of 18 to distribute drugs or to assist in avoiding apprehension for a drug offense. Provides for a term of imprisonment of not more than 10 years for a gang member or person acting on behalf of a criminal street gang who commits a Federal drug or violent crime offense and who has had a prior drug or crime of violence conviction. Authorizes grants for programs to curb the formation of juvenile gangs and the use and sale of illegal drugs by juveniles. Contains provisions pertaining to terrorism. Prohibits and penalizes the intentional touching of the naked genitalia of a person under the age of 16 years with an intent to abuse, humiliate, degrade, or arouse or gratify the sexual desire of any person. Establishes a national background check system whereby child care organizations can determine whether prospective employees have histories of child abuse or other serious crimes. Encourages States to establish registration systems for persons convicted of crimes against minors. Specifies the amount available for grants under certain sections of the Victims of Crime Act of 1984. Ensures that the funding formula for Federal-State grants is continued. Establishes a national DNA quality control system for the identification of criminals. Requires the Bureau of Justice Assistance to establish guidelines to implement family-friendly policies in law enforcement divisions of the Justice Department. Authorizes up to 10 Community Police Corps Programs and provides scholarships for in-service law enforcement personnel who seek further education. Authorizes grants for residential substance abuse programs in State prisons. Contains several provisions pertaining to Federal prisons. Requires the Attorney General to establish rural drug enforcement task forces in each Federal judicial district that includes significant rural lands. Permits the President to declare a State, or part thereof, a drug emergency area, and to make grants aggregating \$25 million for any single major drug-related emergency. Prohibits and penalizes drug dealing in or near public housing facilities. Establishes a *National Commission on Crime and Violence*, a *National Commission to Study the Causes of the Demand for Drugs*, and a *National*

Commission to Support Law Enforcement. Directs the Attorney General to develop a voluntary motor vehicle theft prevention program. Other titles include protection for the elderly, consumer protection, sentencing provisions, computer crime, international parental kidnapping, safe schools, financial institutions fraud prosecutions, white-collar crime amendments, gambling, bail posting reporting, and general increased penalties provisions. Introduced Sept. 23, 1993; referred to Committee on Judiciary. Broken into smaller bills: see H.R. 3350, H.R. 3351, H.R. 3353, H.R. 3354, and H.R. 3355. (Similar bills: H.R. 2872, S. 1356, S. 1488.)

H.R. 3350 (Brooks)

Substance Abuse Treatment in Federal Prisons. Amends the Federal criminal code to direct the Bureau of Prisons to provide residential substance abuse treatment for not less than 50% of eligible prisoners by the end of FY1995, for not less than 75% by the end of FY1996, and for all eligible prisoners by the end of 1997 and thereafter. Permits sentence reductions of up to a year for a prisoner's successful completion of a residential substance abuse treatment program. Introduced Oct. 26; referred to Committee on Judiciary. Passed House, amended, Nov. 3, 1993.

H.R. 3351 (Brooks)

Alternative Punishments for Young Offenders. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to States, for the use by States' local units of government, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation. Introduced Oct. 26; referred to Committee on Judiciary. Passed House, Nov. 19, 1993.

H.R. 3353 (Brooks)

Juvenile Drug Trafficking and Gang Prevention Grants. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to States and local units of government to develop more effective programs to reduce juvenile gang participation and juvenile drug trafficking. Introduced Oct. 26, 1993; referred to Committee on Judiciary. Passed House Nov. 3, 1993.

H.R. 3354 (Brooks)

Substance Abuse Treatment for State Prisoners. Amends the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing and implementing residential substance abuse treatment programs within State correctional facilities, as well as within local correctional facilities in which inmates are incarcerated for a period of time sufficient to permit substance abuse treatment. Introduced Oct. 26, 1993; referred to Committee on Judiciary. Passed House Nov. 3, 1993.

H.R. 3355 (Brooks)

Community Policing: "Cops on the Beat." Amends the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants to increase police presence, expand and improve cooperative efforts between law enforcement agencies and members of the community to address crime and disorder problems, and otherwise enhance public safety. Provides for the hiring of 100,000 new police officers. Introduced Oct. 26, 1993; referred to Committee on Judiciary. Passed House Nov. 3, 1993.. Passed Senate, as amended, in lieu of S. 1607, Nov. 19, 1993.

S. 8 (Hatch)

Crime Control Act of 1993. Omnibus, 17-title bill. Establishes procedures necessary to carry out the Federal death penalty for crimes that already allow it and to extend the possibility of the penalty to murder committed in violation of certain Federal statutes other than the drug control statutes that currently permit it; also allows the penalty for certain offenses even when death has not occurred. Authorizes capital punishment for murders in the District of Columbia. Contains provisions designed to ensure equal justice in the application of the death penalty. Creates restrictions on the use of Federal *habeas corpus* petitions by State prisoners and requires deference in Federal proceedings to the results of full and fair State court determinations. Narrows the application in Federal criminal proceedings of the Federal exclusionary rule, extending the underlying principle of *U.S. v. Leon*. Authorizes an additional \$50 million in grants for rural States to help them in their fight against drug trafficking and violent crime. Contains various provisions related to firearms, including one to enhance penalties for smuggling firearms in furtherance of drug trafficking. Broadens the option of adult prosecution for serious juvenile offenders and gang leaders; enlarges the scope of Armed Career Criminal Act to include certain offenders. Requires the Attorney General to develop a national strategy aimed at coordinating Federal gang-related investigations. Establishes a \$100 million grant program for efforts at the State and local levels, and by private not-for-profit anti-crime organizations, to assist in prevention and enforcement programs aimed at fighting juvenile gangs. Contains other provisions designed to expand victims' rights, curb sexual violence and child abuse, deter terrorism, fund Federal law enforcement, and strengthen Federal laws against public corruption. Introduced Jan. 21, 1993; referred to Committee on Judiciary.

S. 1356 (Dole)

Neighborhood Security Act of 1993. Omnibus, 13-title bill. Authorizes the Federal Government to pay salaries for up to 1 year for members of the Armed Forces who are hired by State and local police forces to perform neighborhood patrol services. Provides Federal assistance for community policing. Establishes a Police Corp Program. Directs the Attorney General to construct 10 regional prisons throughout the United States to house violent offenders. Authorizes the Attorney General to enter into agreements with qualifying States to provide construction grants or operating grants for new prisons. Amends Title 18 to provide that a Federal court shall not hold prison overcrowding to be unconstitutional under the Eighth Amendment except to the extent that an individual plaintiff inmate proves that the overcrowding inflicted is cruel and unusual punishment on particular identified prisoners. Authorizes the Secretary of Education, in consultation with the Secretary of Defense, to enter into an agreement with the local educational agency, to pay, for up to 6 years, the salaries of former members of the Armed Services who are hired within 5 years as teachers assigned to public elementary and secondary schools. Provides deportation procedures for a criminal alien convicted of an aggravated felon. Authorizes funding for 1,000 additional Border Patrol Agents, 1,000 INS Criminal Investigators, and for a Criminal Alien Tracking Center. Makes it a separate criminal offense to commit or attempt to commit a "predicate gang crime" with intent to promote or further the activities of a "criminal street gang." Treats certain serious drug offenses by juveniles as armed career criminal predicate offenses. Increases penalties for employing children to distribute drugs near schools and playgrounds, and for drug trafficking near public housing. Directs the Attorney General to develop a national strategy aimed at coordinating Federal gang-related investigations. Authorizes an additional \$250 million for grants to fight drug

trafficking in rural areas. Authorizes the death penalty for 18 existing and 28 new crimes. Establishes safeguards against racial bias in the administration of capital punishment and other penalties. Increases penalties for smuggling firearms in furtherance of drug trafficking. Amends the Federal exclusionary rule to conform to the principle of *U.S. v. Leon*. Amends *habeas corpus* procedures to eliminate delays in carrying out Federal and State sentences. Establishes penalties for providing material support to terrorists. Provides crime victims with mandatory restitution. Directs the Attorney General to establish a national system through which child care organizations may obtain national criminal history information about child care providers. Requires the Attorney General to establish guidelines for State programs requiring any person who is convicted of a crime against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release. Establishes maximum penalties for certain crimes including assault, manslaughter, and carjacking. Requires a mandatory minimum sentence of life imprisonment for a person convicted of a third crime of violence. Creates a 24-member National Commission to Support Law Enforcement. Increases the maximum penalties for serious violent acts in violation of criminal civil rights statutes. Strengthens Federal laws against public corruption. Provides for funding by reducing the overhead expenses identified and reduced by the President in Executive Order 12837 by an additional 5%. Introduced August 4, 1993; referred to Committee on Judiciary.

S. 1488 (Biden)

See S. 1607.

S. 1607 (Biden)

Violent Crime Control and Law Enforcement Act of 1993. Substitute for S. 1488. Omnibus 30-title measure as introduced; 51 titles as passed the Senate. Authorizes almost \$9 million for new "Cop on the Beat" program to put 100,000 new police officers in communities. Enacts new capital punishment statutes covering several offenses, e.g., civil rights murders, murder committed as part of a drive-by shooting, and murder of Federal witnesses. Prohibits manufacture, transfer, or possession of "semi-automatic assault weapons" with exceptions. Proscribes transfer to or possession of a handgun by a juvenile without parental consent. Establishes more stringent requirements for licensees, including photo and fingerprint identification, and compliance with non-Federal laws. Authorizes adult prosecution of armed, violent offenders 13 years of age or older. Punishes use, possession, or carrying of firearm during a State crime of violence or State drug-trafficking crime with a mandatory term of imprisonment if the firearm has been carried or transported across a State line. Creates other new crimes or increases existing penalties for smuggling or stealing firearm; possession of stolen firearms; fraudulent acquisition of a firearm; and interstate gun running. Contains new penalties for employing children under 18 to distribute drugs or to assist in avoiding apprehension for a drug offense. Provides for a term of imprisonment of not more than 10 years for a gang member or person acting on behalf of a criminal street gang who commits a Federal drug or violent crime offense and who has had a prior drug or crime of violence conviction. Authorizes grants for programs to curb the formation of juvenile gangs and the use and sale of illegal drugs by juveniles. Increases penalties for sex offenses committed against victims below the age of 16. Authorizes appropriations of \$60 million for the Secretary of Health and Human Services to award demonstration grants and enter into contracts and cooperative agreements to establish and operate supervised visitation centers, to address situations where there is a history

of child abuse or domestic violence. Establishes a national background check system whereby child care organizations can determine whether prospective employees have histories of child abuse or other serious crimes. Encourages States to establish registration systems for persons convicted of crimes against minors. Gives victims of violent crimes and sexual abuse the right to address the court concerning the sentence to be imposed or convicted offenders. Establishes a national DNA quality control system for the identification of criminals. Requires the Bureau of Justice Assistance to establish guidelines to implement family-friendly policies in law enforcement divisions of the Justice Department. Authorizes \$300 million for testing offenders for drug use upon arrest, \$600 million for alternative punishments for young nonviolent offenders, and \$300 million for substance abuse treatment programs for inmates. Requires periodic drug testing of Federal prisoners on post conviction release. Authorizes the Attorney General to make grants to States for the development and operation of boot camps and regional prisons for violent drug-abusing offenders. Requires the Attorney General to establish rural drug enforcement task forces in each Federal judicial district that includes significant rural lands. Enhances penalties for drug trafficking in prisons, and increases penalties for drug dealing near "drug free" zones. Prohibits and penalizes drug dealing in or near public housing facilities. Establishes a *National Commission on Crime and Violence, a National Commission to Study the Causes of the Demand for Drugs, and a National Commission to Support Law Enforcement*, and calls for a *Presidential Summit on Violence*. Increases the term of imprisonment for repeat sexual offenders to up to twice that otherwise authorized. Creates a civil rights cause of action against a person who commits a crime of violence motivated by gender; authorizes compensatory and punitive damages, injunctive and declaratory relief and attorneys' fee. Authorizes appropriations of \$100 million for each of FY1994, FY1995, and FY1996 for grants to reduce the rate of crime in areas of high intensity crime against women; \$190 million for other grants to increase the arrest and prosecution for violent crimes committed against women; and \$10 million to Indian tribes to reduce the rate of violent crime against women in Indian country. Directs the Attorney General to develop a voluntary motor vehicle theft prevention program. Other provisions pertain to protection for the elderly, consumer protection, savings and loan prosecution task force, sentencing computer crime, international parental kidnapping, safe schools, financial institutions fraud prosecutions, bail posting reporting, and general increased penalties provisions. Introduced Nov. 1, 1993; placed on Senate calendar. Text of S. 1607, as amended, inserted into H.R. 3355; passed Senate on Nov. 20, 1993.

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

U.S. Congress. Committee of Conference. *Violent Crime Control and Law Enforcement Act of 1991*; report to accompany H.R. 3371. Washington, U.S. Govt. Print. Off., 1991. 211 p. (102nd Congress, 1st session. House. Report No. 102-405.)

U.S. Congress. House. Committee on the Judiciary. *Hate Crimes Statistics Act*; report with additional and dissenting views to accompany H.R. 1048, including cost estimate of the Congressional Budget Office. Washington, U.S. Govt. Print. Off., 1989. 10 p. (101st Congress, 1st session. House. Report No. 101-109.)

----- *Omnibus Crime Control Act of 1991*; report with additional and dissenting views to accompany H.R. 3371, including cost estimate of the Congressional Budget Office. Washington, U.S. Govt. Print. Off., 1991. 406 p. (102nd Congress, 1st session. House. Report No. 102-242, Part I.)

U.S. Congress. House. Committee on the Judiciary. Subcommittee on Criminal Justice. *Organized Criminal Activity by Youth Gangs*. Hearings, 100th Congress, 2nd session. Washington, U.S. Govt. Print. Off., 1989. 299 p.

----- *Oversight Hearings on Organized Crime Strike Forces*. Hearings, 101st Congress, 1st session. June 20, 1989. Washington, U.S. Govt. Print. Off., 1989. 269 p.

U.S. Congress. Senate. Committee on Governmental Affairs. Subcommittees on General Services and Federalism and the District of Columbia. *Federal-State-Local Solutions to Crime and Drug Abuse*. Hearings, 101st Congress, 1st session. Washington, U.S. Govt. Print. Off., 1989. 371 p.

U.S. Congress. Senate. Committee on the Judiciary. *Comprehensive Crime Control Act of 1983*; report on S. 1762. Washington, U.S. Govt. Print. Off., 1983. 797 p. (98th Congress, 1st session. Senate. Report No. 98-225.)

----- *Criminal Code Reform Act of 1981*; report to accompany S. 1630. Washington, U.S. Govt. Print. Off., 1981. 1569 p. (97th Congress, 1st session. Senate. Report No. 97-307.)

----- *Criminal Code Reform Act of 1979*; report to accompany S. 1722. Washington, U.S. Govt. Print. Off., 1979. 1507 p. (96th Congress, 2nd session. Senate. Report No. 96-533.)

----- *Criminal Code Reform Act of 1977*; report to accompany S. 1437. Washington, U.S. Govt. Print. Off., 1977. 1203 p. (95th Congress, 1st session. Senate. Report No. 95-605, Part I.)

CHRONOLOGY

01/25/94 --- In his State of the Union message, President Clinton called for the enactment of "three strikes, you're out" mandatory sentencing legislation.

09/07/93 --- Vice President Albert Gore released the Report of the National Performance Review, which calls for merging the drug enforcement functions of the DEA with those of the FBI, and dividing and merging the responsibilities of the Bureau of Alcohol, Tobacco, and Firearms into the FBI and the IRS.

02/10/92 --- Senator Joseph Biden, Jr. released an "alternative" anti-drug proposal that would provide for \$100 million more for law enforcement than the Bush Administration's proposal.

- 01/27/92** --- The Bush Administration released its new National Drug Control Strategy that called for a funding increase to \$12.7 billion in 1993.
- 11/20/91** --- The nomination of Acting Attorney General William P. Barr to Attorney General was confirmed by the Senate.
- 03/03/91** --- Attorney General Richard Thornburgh hosted a Summit Conference on Violent Crime.
- 02/06/91** --- Senator Joseph Biden, Jr. subsequently released a strategy alternative.
- 01/31/91** --- The President released an updated National Drug Control Strategy that called for a \$1.2 billion increase in spending on the war against drugs.
- 11/29/90** --- The Crime Control Act of 1990, S. 3266, was signed into law (P.L. 101-647).
- 01/25/90** --- The President released an expanded \$10.6 billion national drug control strategy.
- 09/05/89** --- President Bush announced the release of the first National Drug Control Strategy to be developed by the new Office of Drug Control Policy.
- 05/15/89** --- President Bush announced his proposed comprehensive plan to combat violent crime, a four-part program to strengthen current laws, enhance enforcement and apprehension of criminals, facilitate prosecution, and expand Federal prison capacity (subsequently S. 1225 and H.R. 2709).
- 11/18/88** --- The Anti-Drug Abuse Act of 1988 (P.L. 100-690) was signed into law.
- 10/27/86** --- President Reagan signed an omnibus drug control bill, the Anti-Drug Abuse Act of 1986 (P.L. 99-570), passed late in the 99th Congress.
- 10/12/84** --- President Reagan signed H.J.Res. 648, the Comprehensive Crime Control Act of 1984, the culmination of more than a decade's effort to make changes in parts of the Criminal Code.
- 04/15/82** --- The Law Enforcement Assistance Administration was terminated; its remaining programs placed under the direction of the Attorney General.
- 08/17/81** --- The Attorney General's Task Force on Violent Crime issued its final report, which contained 64 recommendations to the Attorney General on ways in which the Federal Government could combat violent crime.
- 01/04/73** --- The Criminal Justice Codification, Revision, and Reform Act (S. 1), a measure based on the recommendations of the Brown Commission, was introduced in the Senate. (Code revision measures were reintroduced in subsequent Congresses.)
- 01/07/71** --- The National Commission on Reform of Federal Criminal Laws (Brown Commission) submitted its Final Report to Congress and the President.

06/19/68 --- The Omnibus Crime Control and Safe Streets Act of 1968 was signed into law (P.L. 90-351).

11/08/66 --- The bill creating the National Commission on Reform of Federal Criminal Laws, known as the Brown Commission, was signed into law (P.L. 89-801).

FOR ADDITIONAL READING

Cronin, Thomas E., Tania Z. Cronin, and Michael E. Milakovich. *U.S. v. Crime in the Streets*. Bloomington (IN), Indiana University press, 1981. 212 p.

President's Commission on Organized Crime; report to the President and the Attorney General. *The Impact: Organized Crime Today*. Washington, April 1986.

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