

**NLWJC - KAGAN**

**EMAILS RECEIVED**

**ARMS - BOX 052 - FOLDER -011**

**[06/16/1999]**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Peter Rundlet ( CN=Peter Rundlet/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:16-JUN-1999 18:44:10.00

SUBJECT: Re: NCAA brief

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TEXT:

No, the first "correctly" is necessary for the point made in the footnote and it does not appear to raise the same concerns that we are endorsing a finding that the cutoff score violated Title VI. This is the point, i.e., that Title VII standards provide guidance on Title VI, that the NCAA does not dispute.



THE WHITE HOUSE

Office of the Press Secretary

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For Immediate Release

June 16, 1999

**DRAFT: STATEMENT BY THE PRESIDENT**

Nearly a year ago, I committed to working with Senators' Jeffords and Kennedy to pass the Work Incentives Improvement Act. In January, in my State of the Union Address, I urged the Congress make this historic, bipartisan legislation a top priority and fully funded it in the budget I sent to Congress. And on June 4th, I challenged the Congress to send the Work Incentives bill to me by July 26<sup>th</sup>, so I could sign this legislation into law on the 9<sup>th</sup> anniversary of the enactment of the Americans with Disabilities Act (ADA).

Today, in an overwhelming 9x to x vote, the Senate passed the Work Incentives bill. This impressive vote sends a strong signal that all Americans, including people with disabilities, should have the opportunity to work. Americans with disabilities can and do bring tremendous energy and talent to the American workforce, but the unemployment rate for all working-age adults with disabilities is nearly 75 percent. One of the most glaring problems is that people with disabilities frequently become ineligible for Medicaid or Medicare if they go back to work. This puts people with disabilities in the untenable position of choosing between health care coverage and work. The Work Incentives Improvement Act would improve job opportunities for people with disabilities by increasing access to health care and employment services.

Senators Jeffords, Kennedy, Roth, and Moynihan deserve special recognition for their leadership on this historic legislation. I urge the House to follow their lead. Under the leadership of Congressmen Bliley, Dingell, Waxman, and Lazio, I am confident that it will. I also hope and expect the Senate and House to find offsets for this bill that are acceptable to all parties. This bill will provide critical work opportunities to people with disabilities, and I look forward to signing this groundbreaking legislation.

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Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cathy R. Mays ( CN=Cathy R. Mays/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 17:26:05.00

SUBJECT: Weekly Strategy Meeting

TO: Jonathan M. Young ( CN=Jonathan M. Young/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Michael Waldman ( CN=Michael Waldman/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Barry J. Toiv ( CN=Barry J. Toiv/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Mary E. Cahill ( CN=Mary E. Cahill/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Devorah R. Adler ( CN=Devorah R. Adler/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Sarah A. Bianchi ( CN=Sarah A. Bianchi/O=OVP@OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Daniel N. Mendelson ( CN=Daniel N. Mendelson/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: David W. Beier ( CN=David W. Beier/O=OVP@OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Barbara D. Woolley ( CN=Barbara D. Woolley/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Neera Tanden ( CN=Neera Tanden/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Jeanne Lambrew ( CN=Jeanne Lambrew/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Christopher C. Jennings ( CN=Christopher C. Jennings/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

CC: Jason H. Schechter ( CN=Jason H. Schechter/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Gina C. Mooers ( CN=Gina C. Mooers/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

CC: Rhonda Melton ( CN=Rhonda Melton/O=OVP@OVP [ UNKNOWN ] )  
READ:UNKNOWN

CC: Teresa M. Jones ( CN=Teresa M. Jones/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

CC: Andrew F. Schneider ( CN=Andrew F. Schneider/O=OVP@OVP [ UNKNOWN ] )

READ:UNKNOWN

CC: Joseph D. Ratner ( CN=Joseph D. Ratner/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Courtney O. Gregoire ( CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

We will be having the weekly Health Care Strategy Meeting tomorrow,  
Thursday, June 17, at 4:00 p.m. in Bruce Reed's office.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 09:56:59.00

SUBJECT: DOJ letter on juvenile crime bill for clearance ASAP

TO: Courtney O. Gregoire ( CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

Here's the DOJ letter...jc3

----- Forwarded by Jose Cerda III/OPD/EOP on 06/16/99  
09:55 AM -----

Ronald E. Jones  
06/16/99 09:28:23 AM  
Record Type: Record

To: See the distribution list at the bottom of this message  
cc: Richard E. Green/OMB/EOP@EOP, James J. Jukes/OMB/EOP@EOP  
Subject: DOJ letter on juvenile crime bill for clearance ASAP

The attached letter raises Constitutional questions about a provision of HR 2037 which is expected to be offered as an amendment to the juvenile crime bill that is on the floor today.

Justice has asked for comments by 1:00 PM. If I receive a read receipt and do not hear otherwise, I will assume you have no objection to the proposed letter.

Message Sent

To: \_\_\_\_\_  
Michelle Peterson/WHO/EOP@EOP  
Jose Cerda III/OPD/EOP@EOP  
Leanne A. Shimabukuro/OPD/EOP@EOP  
Robert G. Damus/OMB/EOP@EOP  
Steven D. Aitken/OMB/EOP@EOP  
Elizabeth Gore/OMB/EOP@EOP  
Broderick Johnson/WHO/EOP@EOP  
James Boden/OMB/EOP@EOP  
David J. Haun/OMB/EOP@EOP  
Kenneth L. Schwartz/OMB/EOP@EOP

===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D32]ARMS227364472.136 to ASCII,  
The following is a HEX DUMP:

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U.S. Department of Justice

Office of Legislative Affairs

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Washington, D.C. 20530

The Honorable Henry J. Hyde  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

We are writing to provide an important comment concerning Title I of H.R. 2037, the Child Safety and Youth Violence Prevention Act of 1999. Although we have other observations concerning these juvenile justice provisions, the comments in this letter are confined to certain constitutional concerns relating to this bill.

Section 101 of the bill would amend 18 U.S.C. § 5032 to establish, in § 5032(a)(2), expanded authority for juveniles to be “proceeded against as a juvenile in a court of the United States” in many circumstances, including where the Attorney General certifies to the court that “there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction” (proposed § 5032(a)(2)(B)(ii)). Section 106 of the bill in turn would, *inter alia*, amend 18 U.S.C. § 5037(c) to provide that:

[t]he term for which official detention may be ordered for a juvenile found to be a juvenile delinquent [under § 5032] may not extend beyond the lesser of —

(1) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult;

(2) ten years; or

(3) the date when the juvenile becomes twenty-six years old.

While these proposed provisions may not, standing alone, raise constitutional concerns, their inclusion in the bill might make it more likely that other important aspects of the juvenile justice system — such as the fact that juvenile delinquency is subject to nonjury

adjudication — would be held unconstitutional. In McKeiver v. Pennsylvania, 403 U.S. 528 (1971), the Supreme Court indicated that the more closely the consequences of an adjudication of delinquency resemble the consequences of a criminal conviction, the more likely it is that the Constitution would require certain procedural protections in that adjudication, such as a jury trial. In McKeiver itself, the Court held that a juvenile was not entitled to a jury trial under the State's juvenile justice system. The McKeiver plurality made clear, however, that it would have reached a different result had it been convinced that the juvenile system ultimately did not differ in purpose and effect from the adult criminal system, explaining that those who equated the juvenile and adult systems had chosen "to ignore, it seems to us, every aspect of fairness, of concern, of sympathy, and of paternal attention that the juvenile courts system contemplates." Id. at 545.

The state system at issue in McKeiver did not permit adjudicated delinquents to be incarcerated with adult convicts. That would not, however, necessarily be true of adjudicated delinquents in the federal system with respect to terms of detention between their twenty-first and twenty-sixth birthdays. 18 U.S.C. § 5039 provides that "[n]o juvenile committed, whether pursuant to an adjudication of delinquency or conviction for an offense, to the custody of the Attorney General may be placed or retained in an adult jail or correctional institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges," and further provides that "[w]henver possible, the Attorney General shall commit a juvenile to a foster home or community-based facility located in or near his home community." These directives only apply, however, to a person while he remains a "juvenile," which is defined in 18 U.S.C. § 5031 (for the purpose of proceedings and disposition for an alleged act of juvenile delinquency) as a person who has not attained his twenty-first birthday. Title I of H.R. 2037 would provide that persons who, having been adjudged delinquent as a juvenile in a nonjury proceeding, could be detained beyond their twenty-first birthday; and § 5039 apparently would not prohibit the transfer of such a person, after his twenty-first birthday, to "an adult jail or correctional institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges."

There is a split in authority regarding whether juveniles may be adjudicated delinquent without a right to a jury trial if such adjudication may result in their being incarcerated with, and on the same terms as, adults. Shortly after McKeiver was decided, the United States Court of Appeals for the Second Circuit held that committing a fifteen-year-old delinquent to an adult facility on the basis of a family court adjudication rather than a jury trial did not violate the juvenile's right to due process. United States ex rel. Murray v. Owens, 465 F.2d 289 (2d Cir. 1972). However, more recently, as the States have begun revising their own juvenile justice systems to allow delinquents to be held longer and in adult facilities, some state courts have questioned whether the revised statutes are consistent with McKeiver and whether it remains permissible to deny jury trials to juveniles who potentially face incarceration with adults. Just last year, the highest courts of Wisconsin and Louisiana held that non-jury adjudications under revised state laws that resulted in delinquents being subject to incarceration

with adults amounted to criminal prosecutions, and therefore violated the juveniles' constitutional right to a jury trial. See In re Hezzie R., 580 N.W.2d 660, 673-74 (Wis. 1998), cert. denied, 119 S. Ct. 1051 (1999); In re C.B., 708 So.2d 391, 397-400 (La. 1998) (ruling as a matter of state law, but "adopt[ing]" the Supreme Court's analysis in McKeiver); see also Matter of O.H., 504 S.W.2d 269, 271-73 (Mo. App. 1973) (surveying cases; expressing constitutional concern with the holding in Murray; and granting relief to a juvenile on statutory grounds); Monroe v. Soliz, 939 P.2d 205, 208-09 (Wash. 1997) (juvenile had no right to jury trial where statute required juveniles transferred to adult facility to be segregated from adult convicts and "[t]he nature of incarceration remain[ed] juvenile regardless of the custody venue"). Indeed, the Wisconsin court held in Hezzie R. that, even if (as in the Federal system) there was no certainty that an adjudicated delinquent might eventually be transferred to an adult facility, the mere risk of such eventual treatment sufficiently transformed the delinquency adjudication into a criminal prosecution, so as to require a trial by jury.

Thus, Title I raises serious constitutional concerns to the extent that it would, in conjunction with existing law, permit a person to be adjudicated delinquent in a nonjury proceeding, while there is some chance that such person would, after the age of twenty-one, be incarcerated on the same terms as adult convicts in an adult prison. In order to avoid this constitutional problem, the bill could, for instance, amend § 5039 to provide that the protections prescribed in that section shall apply to any person committed to the custody of the Attorney General pursuant to an adjudication of delinquency, during the entire term of such person's detention (including any part of such detention that extends beyond the person's twenty-first birthday).

We thank you for the opportunity to express our concerns about this important issue. We stand ready to work with you on this and the other important issues the House will be considering this week. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

Jon P. Jennings  
Acting Assistant Attorney General

cc: The Honorable John Conyers, Jr.  
Ranking Minority Member

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 00:28:36.00

SUBJECT: Draft Rule/Amendments

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Courtney O. Gregoire ( CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Cathy R. Mays ( CN=Cathy R. Mays/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TEXT:

BR/EK:

The rule/list of amendments is finally out. It seems reasonably fair to me, but includes more "culture" amendments than we anticipated. There are a total of 55 amendments -- 11 to HR 2122, Hyde's problematic gun bill, and 44 to HR 1501, the bipartisan juvie block grant bill. Below are some of the highlights. I'll leave a copy of the complete list by your desks tonight. We'll need to write/clear a SAP first thing in the morning, so let's discuss. I expect to be up on the Hill by 10am.

GUN AMENDMENTS (Thursday/Friday votes)

Gun Shows. Dingell's NRA alternative will be the first amendment up to the gun bill, immediately followed by the McCarthy/Roukema amendment with our gun shows language.

18-21. Hyde will offer an amendment to raise the handgun purchase age from 18 to 21. It will not include long guns, and will not ban possession.

Assaults/Clips. Hyde will have an amendment to ban juveniles under the age of 18 from possessing grandfathered assault weapons and high-capacity ammo clips. He'll also have an amendment to ban the importation of grandfathered clips.

Safety Locks. Davis (R-VA) will have a safety locks amendment that we think is a bit problematic.

Concealed Weapons. Several Rs and Trafficant will have an amendment to allow current and retired police officers to carry concealed weapons across state lines. This is very big for FOP and NAPO, but opposed by some of the Chiefs.

Pawnshops. Sessions and Frost will have a bipartisan amendment to make sure guns in hoc for more than year aren't returned w/out a background check.

DC Gun Laws. Two Rs will offer amendments to overturn the DC ban on handguns.

Juvenile Brady. Rogan (R-CA) will offer a juvenile Brady provision that, while not as strong as our own proposal, is an improvement over the Senate's version.

#### JUVIE AMENDMENTS (Wednesday/Thursday votes)

Tough Juvie/HR 3. McCollum will offer an amendment to include many of his tougher juvenile provisions (many of which we supported), including: making it easier to try juveniles as adults in the federal system; new mandatory penalties for youth gun and drug crimes; access to juvenile records; \$50 million to take Project Exile nationwide; background checks for explosives; and numerous other criminal provisions.

Juvie Lite. Waters and Scott will have amendments to strike most of the tougher provisions in McCollum's amendment.

Sex Offenders. Five Rs will offer amendment to increase penalties for sex offenses and crimes against children, including "Aimee's Law," which passed the Senate and is supported by Mark Klaas.

Religion/Prayer in Schools. Several Rs will offer amendments on this controversial issue, including ones to allow religious memorials (as in the Senate bill), clarify that voluntary school prayer is not prohibited, allow display of the 10 commandments in schools, and ensure that students expressing their first amendment rights to freedom of religious expression are not government entities in violation of the Establishment Clause.

Culture. Hyde will offer a mega-culture amendment that prohibits the distribution of any game, book, movie, CD, etc., to a minor that contains "explicit sexual or violent material that fails to qualify for First Amendment protection." (EK, I understand that, as written, DOJ/OLC is not overly concerned about this provision. Have you discussed w/Randy, Robert. Robert has already expressed to Julian that we might not be of much help on this.) This amendment also expresses the Sense of the Congress that adults should be able to review copies of lyrics that are packaged w/sound recordings; authorizes NIH to study the effects of video violence on child development; grants the entertainment industry a 3-year anti-trust exemption to develop a code of conduct; and authorizes \$5 million for each of the next 5 year for the AG to fund a prevention demo in 9 cities.

Additional culture amendments to be offered include: Sense of the Congress condemning the entertainment industry for its gratuitous violence; a study on the gun industry's marketing practices; a Surgeon General's study on media violence; and the creation of a mandatory violence labeling system for all media.

Zero Tolerance. Related amendments here include: applying the Gun-Free Schools Act to students otherwise protected by IDEA (this is what Harkin fought in the Senate); mandating expulsion for certain serious drug offenses; suspending drivers' licenses until the age of 21 for kids who carry a gun; and limiting teachers' liability for "reasonably" disciplining a student.

Prevention, etc. Various amendments will be offered by Rs and Ds to allow

block grant funds to be used for additional purposes, but mostly prevention. Also, Goodling will offer an amendment to consolidate discretionary juvenile justice programs into a flexible block grant.

Democratic Substitute. The final amendment in order to the juvie bill will be Conyers' Democratic substitute, which includes: HR 1501, the bipartisan block grant; HR 1150, the bipartisan reauthorization of the Office of Juvenile Justice and Delinquency Prevention (with the "core protections" intact); and a COPS reauthorization.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sandra Yamin ( CN=Sandra Yamin/OU=OMB/O=EOP [ OMB ] )

CREATION DATE/TIME:16-JUN-1999 19:39:22.00

SUBJECT: FINAL Draft House Rules SAP for H.R. 2084 -- Transportation and Related Ag

TO: Karen Tramontano ( CN=Karen Tramontano/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Steve Ricchetti ( CN=Steve Ricchetti/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: George T. Frampton ( CN=George T. Frampton/OU=CEQ/O=EOP@EOP [ CEQ ] )  
READ:UNKNOWN

TO: Maria Echaveste ( CN=Maria Echaveste/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Todd Stern ( CN=Todd Stern/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Wesley P. Warren ( CN=Wesley P. Warren/OU=CEQ/O=EOP@EOP [ CEQ ] )  
READ:UNKNOWN

TO: Ron Klain ( CN=Ron Klain/O=OVP@OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Gene B. Sperling ( CN=Gene B. Sperling/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Lynn G. Cutler ( CN=Lynn G. Cutler/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Ann F. Lewis ( CN=Ann F. Lewis/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Miles M. Lackey ( CN=Miles M. Lackey/OU=NSC/O=EOP@EOP [ NSC ] )  
READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Michelle Peterson ( CN=Michelle Peterson/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Jeffrey M. Smith ( CN=Jeffrey M. Smith/OU=OSTP/O=EOP@EOP [ OSTP ] )  
READ:UNKNOWN

TO: Joshua Gotbaum ( CN=Joshua Gotbaum/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Martha Foley ( CN=Martha Foley/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Sally Katzen ( CN=Sally Katzen/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: John Podesta ( CN=John Podesta/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Linda Lance ( CN=Linda Lance/OU=CEQ/O=EOP@EOP [ CEQ ] )

READ:UNKNOWN

CC: Wendy E. Gray ( CN=Wendy E. Gray/OU=NSC/O=EOP@EOP [ NSC ] )

READ:UNKNOWN

CC: Courtney O. Gregoire ( CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: James J. Jukes ( CN=James J. Jukes/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: Sandra Yamin ( CN=Sandra Yamin/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: William G. Dauster ( CN=William G. Dauster/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Dawn L. Smalls ( CN=Dawn L. Smalls/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Linda Ricci ( CN=Linda Ricci/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: Rebecca L. Walldorff ( CN=Rebecca L. Walldorff/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Robert L. Nabors ( CN=Robert L. Nabors/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: Paul J. Weinstein Jr. ( CN=Paul J. Weinstein Jr./OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Lisa Zweig ( CN=Lisa Zweig/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: Shannon Mason ( CN=Shannon Mason/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Mindy E. Myers ( CN=Mindy E. Myers/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Scott R. Hynes ( CN=Scott R. Hynes/O=OVP@OVP [ UNKNOWN ] )

READ:UNKNOWN

CC: Michele Ballantyne ( CN=Michele Ballantyne/OU=WHO/O=EOP@EOP [ UNKNOWN ] )

READ:UNKNOWN

CC: Mara E. Rudman ( CN=Mara E. Rudman/OU=NSC/O=EOP@EOP [ UNKNOWN ] )

READ:UNKNOWN

CC: Adrienne C. Erbach ( CN=Adrienne C. Erbach/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: Carolyn T. Wu ( CN=Carolyn T. Wu/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Leslie Bernstein ( CN=Leslie Bernstein/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Lisa M. Kountoupes ( CN=Lisa M. Kountoupes/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Mark J. Tavlarides ( CN=Mark J. Tavlarides/OU=NSC/O=EOP@EOP [ NSC ] )  
READ:UNKNOWN

CC: Victoria A. Wachino ( CN=Victoria A. Wachino/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

CC: Peter A. Weissman ( CN=Peter A. Weissman/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

CC: Judy Jablow ( CN=Judy Jablow/OU=CEQ/O=EOP@EOP [ CEQ ] )  
READ:UNKNOWN

CC: Elizabeth Gore ( CN=Elizabeth Gore/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

CC: Melissa G. Green ( CN=Melissa G. Green/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

CC: Charles E. Kieffer ( CN=Charles E. Kieffer/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TEXT:

Attached for your clearance is a draft House Rules SAP for H.R. 2084 --  
Transportation and Related Agencies Appropriations Bill, FY00. H.R. 2084  
is scheduled for House Rules on Thurs, June 17. Please provide your  
sign-off and/or comments to me no later than 10:00AM Thurs morning. Thank  
you!

Draft 7:40PM

June \_\_, 1999

(House Rules)

H.R. 2084, DEPARTMENT OF TRANSPORTATION  
AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2000  
(Sponsors: Young (R), Florida; Wolf (R), Virginia)

This Statement of Administration Policy provides the  
Administration's views on the Transportation and Related Agencies  
Appropriations Bill, FY 2000, as reported by the House Appropriations  
Committee. Your consideration of the Administration's views would be  
appreciated.

The Administration appreciates the Committee's efforts to  
accommodate many of the Administration's priorities within its 302(b)  
allocation, particularly the funding provided for Amtrak. However, the  
Administration is concerned about some of the choices made necessary by

this allocation.

The President's FY 2000 Budget proposes levels of discretionary spending that meet important national needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance vital spending needs. Congress has approved and the President has signed into law nearly \$29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals as the FY 2000 appropriations process moves forward.

The Administration proposes to meet important transportation safety, mobility, and environmental requirements by reallocating a portion of the increased spending permitted by higher-than-anticipated highway excise taxes. Under this proposal, every State would receive at least as much funding as was assumed when the Transportation Equity Act for the 21st Century was enacted. Last year, Congress chose to reallocate limited funding within the highway "guarantee." The House is encouraged to build upon this by enacting the Administration's proposal as a means to fund these important priorities.

The Administration is concerned that the Committee bill could compromise the Federal Aviation Administration's (FAA's) operations and modernization programs, reduce highway and motor carrier safety, and under-fund other important programs. The House could partially accommodate the funding increases recommended below by adhering more closely to the President's request for the Airport Improvement Program, High Speed Rail, Coast Guard Alteration of Bridges, Coast Guard capital improvements, and other programs.

The Committee is commended for permitting transit discretionary grants to be allocated according to the needs-based formula agreed to in the Transportation Equity Act for the 21st Century, instead of arbitrarily restricting individual States' funding. The Committee is commended for not prematurely encouraging the closure of Coast Guard training facilities without regard to the results of the ongoing Coast Guard review as to the best use of those facilities.

The following highlights our specific concerns with the Committee bill.

#### Aviation Safety and Modernization

The Administration strongly urges the House to fully fund the Administration's request for FAA Operations. The \$114 million, or two-percent, reduction made by the Committee would force the FAA to close low-level towers, defer hiring of safety and security personnel needed to meet the demands of increased air travel, and possibly slow air travel. The Administration is concerned with the Committee's reduction of \$6.6 million in FAA's request for rental payments to the General Services Administration. Since rent is a mandatory payment, FAA would have to reduce operating spending further to absorb this reduction.

The House is also urged to restore the \$119 million, or five-percent, reduction to the FAA Facilities and Equipment account. The Committee's funding level could undermine our National Airspace System modernization program. Safety projects as well as critically-needed capacity enhancing projects would be delayed, increasing future air travel delays. For example, the Administration urges the House to provide the

requested \$17 million in critically-needed funding to ensure timely implementation of a Global Positioning System (GPS) modernization plan that will help enable transition to a more efficient, GPS-based air navigation system.

The Administration supports the Committee's decision to eliminate the General Fund subsidy for FAA Operations but urges the Congress to enact a user fee system to finance the agency. Such a system would improve the FAA's efficiency and effectiveness by creating new incentives for it to operate in a business-like manner.

#### Motor Carrier Safety

The Secretary of Transportation recently announced a comprehensive Motor Carrier Safety Action Plan to implement much-needed improvements in truck safety. The need for these improvements has been recognized by the Appropriations Subcommittee and Congress overall, the Department of Transportation Inspector General, and an independent assessment conducted by former Congressman Mineta. The House is urged to provide the additional \$50 million for the National Motor Carrier Safety Grant program to undertake the improvements in enforcement, research, and data activities designed to increase safety on our Nation's roads and highways.

#### Highway Safety

The Administration is concerned that the Committee has provided \$36 million less than the President has requested for the National Highway Traffic Safety Administration's Operations and Research account. This funding reduction would limit important research activities on advanced air bags, crash worthiness, and the enhanced testing proposed in the New Car Assessment program to make better car safety information available to the public.

#### CAFE Standards

The Administration strongly opposes, and urges the House to drop, the prohibition on technical work on the corporate average fuel economy (CAFE) standards. This provision would compromise important information that directly influences the Nation's environment and safety.

#### Amtrak

The Committee is commended for funding Amtrak at \$571 million, the President's requested level and the level called for in Amtrak's "glidepath" to self-sufficiency, and providing Amtrak with the flexibility to spend capital funds wisely by adopting for Amtrak the same definition of capital as used by transit grantees. The Administration would oppose efforts to fund Amtrak below this level because lower levels would jeopardize Amtrak's ability to achieve self-sufficiency by 2003 and could delay introduction of high-speed rail service in the Northeast Corridor and force other service reductions and route closures.

#### Livability Programs

The Administration is disappointed that the Committee bill funds transit formula grants at \$212 million below the President's request and the Transportation Community and Preservation Pilot program (TCSP) at \$25 million, or 50 percent, below the request. Further, the earmarking of the

TCSP program would hinder the goal of improving land use by not permitting the development and identification of innovative new approaches. Finally, the Administration is disappointed that the Committee bill does not direct additional funding to the Congestion Mitigation and Air Quality Improvement program. These livability programs are important components of an Administration effort to provide communities with the tools and resources they need to combat congestion and sprawl.

#### Job Access and Reverse Commute

The Administration is disappointed that the Committee has provided only \$75 million -- half of the amount authorized and requested -- for the Job Access and Reverse Commute program. This program is a critical component of the Administration's welfare-to-work effort and is significantly over-subscribed at present. Demand is expected to increase as more communities around the country begin to see how effective the program can be in helping individuals make a successful transition from welfare to work.

#### Coast Guard

The Administration is concerned about the Committee's earmarks to continue operations of the Long Island, New York, and Muskegon, Michigan, air facilities and to establish an additional air facility at Waukegan, Illinois. The Coast Guard has concluded, based on careful review, that none of these facilities are necessary to meet its search and rescue coverage standards. By forcing the Coast Guard to spend nearly \$9 million on these facilities, the House is effectively reducing funding for higher priority Coast Guard activities, such as improving boat station readiness nationwide.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 17:05:50.00

SUBJECT: Re: Education letter re: IDEA and House Juvenile Bill

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TEXT:

EK:

I guess since we've already sent this letter to the Senate, it doesn't make much difference if we send it to the House as well. However, let's make sure this doesn't become a "recommend veto" letter.

Personally, of course, I support the amendment.

jc3

Elena Kagan

06/16/99 04:55:31 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Jose Cerda III/OPD/EOP@EOP

cc:

Subject: Education letter re: IDEA and House Juvenile Bill

what do you think?

----- Forwarded by Elena Kagan/OPD/EOP on 06/16/99 05:00 PM -----

Ronald E. Jones

06/16/99 04:18:15 PM

Record Type: Record

To: Barbara Chow/OMB/EOP, Jonathan H. Schnur/OPD/EOP, Tanya E. Martin/OPD/EOP, Elena Kagan/OPD/EOP

cc: Richard E. Green/OMB/EOP, David Rowe/OMB/EOP

Subject: Education letter re: IDEA and House Juvenile Bill

Education asked to send the attached letter to the House objecting to a proposed amendment to the House juvenile crime bill that is on the floor now. I understand that Education policy officials have discussed this with Barbara Chow or were planning to discuss it before it was sent.

The position taken is identical to the two letters cleared for the Senate on the Ashcroft amendment to S. 254, the Senate counterpart. However, b

ecause the Norwood amendment would apply to all weapons, not just to firearms this draft refers to "weapons" throughout and a paragraph has been added on page two relating to the IDEA's definition of "weapon". There are also a few editorial changes. (The changes from the Senate letter, other than the obvious changes to the bill number and the sponsor of the amendment, are shown below in red. )

Given that floor action has started and that the letter is basically a restatement of a previous position, we initially cleared the letter without recirculating it. However, Education has agreed to hold the letter to give more time for a review.

If you have any comments on this letter please forward them to me, Richard Green, and David Rowe.

-----  
Education letter follows:

I am writing to express my strong opposition to an amendment that Representative Norwood has offered to H.R. 1501, the juvenile crime bill that the House is now considering. This amendment would allow school personnel to suspend or expel children with disabilities from their schools for unlimited periods of time, without any educational services, including behavioral intervention services, and without the impartial hearing now required by the Individuals with Disabilities Education Act (IDEA), for carrying or possessing a weapon to, or at, a school function.

The Congress need not address the particular issue that is the subject of the Norwood amendment, because it amended the IDEA just two years ago to give school officials new tools to address the precise issue of children with disabilities bringing weapons to school or otherwise threatening teachers and other students. For example, school officials may remove, for up to 45 days, a child with a disability who takes a weapon to school, and may request a hearing officer to similarly remove a child who is substantially likely to injure himself or others, if the child's parents object to a change in the child's placement. Furthermore, the IDEA allows hearing officers to keep these students out of the regular educational environment beyond 45 days if they continue to pose a threat to the rest of the student body. Finally, the 1997 amendments to the IDEA help prevent dangerous situations from arising, by encouraging schools to address misbehavior before it becomes serious, through the provision of behavioral interventions and other appropriate services. I am convinced that these new tools will be effective if given a chance to work.

I am firmly committed to ensuring that all our schools are safe and disciplined environments where all our children, including children with disabilities, can learn without fear of violence. But we should not let the tragic school shootings in Littleton, Colorado, and other communities lead us to responses, such as the Norwood amendment, that will harm children with disabilities, and that will not make our schools and communities safer.

First, the Norwood amendment would deny vital educational services to children with disabilities who are removed from school, including behavioral interventions that are designed to prevent dangerous behavior from recurring. Continued provision of educational services, including these behavioral interventions, offers the best chance for improving the

long-term prospects for these children. Discontinuing educational services is the wrong decision in the short run and, in the long run, will result in significant costs in terms of increased crime, dependency on public assistance, unemployment, and alienation from society. We cannot afford to throw away a single child.

Second, the Norwood amendment would undo vital protections in the IDEA that were included to protect children with disabilities from widespread abuses of their civil rights. Under this amendment, for example, the IDEA would no longer require schools to determine, when suspending or expelling a child with a disability, whether the behavior of the child in carrying or possessing a weapon is related to the child's disability. Such a determination, which can currently be made while the child has been removed from school, is needed to ensure that children are not unjustly denied educational services during their removal without considering the effects of the child's disability on their behavior. The manifestation determination required by the IDEA is an important tool schools use to appropriately understand the relationship between a child's behavior and their disability in order to best implement behavior intervention strategies.

[NEW PARAGRAPH; SEE NOTE AT END OF DOCUMENT] Finally, the applicable definition of "weapon" (current section 615(k)(10)(D) of the IDEA) is very broad and open to subjective application, covering anything, such as a rock, a roll of coins, or a baseball bat for an after-school pick-up game, that is "readily capable of causing death or serious bodily injury", whether or not it is designed as a weapon and without regard to the student's intention in bringing it to school. Thus, a school could exploit the Norwood amendment to expel children with disabilities who are difficult or expensive to serve, but who pose no danger to others at school.

We should be making every effort to appropriately reach out to our children and help prevent them from endangering themselves and others. It is equally important that we appropriately address the needs of children who have gone astray, violated the rules, and put others at risk. The exclusion of children with disabilities from school -- without the impartial due-process hearing and the continued services that the IDEA now requires -- is the wrong response.

I urge you to vote against the Norwood amendment.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Yours sincerely,

Richard W. Riley

[Note to reviewers: Current section 615(k)(10)(D) of the IDEA (20 U.S.C. 1415(k)(10)(D)), which would apply to the term "weapon" as used in the Norwood amendment, says that "the term 'weapon' has the meaning given the term 'dangerous weapon' under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code". [There's actually only one subsection (g) of 18 USC 930 now, because the second (g) was redesignated as (h) by P.L. 104-294, sec. 603(u), on Oct. 11, 1996.]

18 USC 930(g), in turn, defines "dangerous weapon" as "a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length".]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 17:14:08.00

SUBJECT: Re: Education letter re: IDEA and House Juvenile Bill

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TEXT:

fine, I guess

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Peter Rundlet ( CN=Peter Rundlet/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:16-JUN-1999 18:16:24.00

SUBJECT: NCAA brief

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Charles F. Ruff ( CN=Charles F. Ruff/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TEXT:

Elena,

Justice agreed to your word change in the first paragraph of the section in dispute. Education and Justice objected to taking out the second paragraph, however, because of the need for clarity regarding the correct legal standards that apply, as explained in the footnote, which you did not receive on the last version. It is copied below. To address your concerns, though, Chuck suggested that we take out the language suggesting that the court "correctly held that a recipient can use a cutoff score . . . ." and instead simply state that the court "applied" the legal standards and then cite to this footnote. I hope that this compromise works for everyone.

1/ The district court mentioned, but did not apply to Title VI, the 1991 amendments to Title VII that require a defendant to bear both a burden of production and persuasion on its business necessity justification. 37 F. Supp. 2d at 697. See 42 U.S.C. 2000e(m), 2000e-2k(1)(A). Although the alleged discrimination in this case occurred after 1991, the court appears to have applied the previous standard, set out in *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989), that the defendant bears only a burden of producing evidence that the challenged employment practice has a legitimate business justification. If this Court agrees with the district court's ruling that the NCAA failed to meet its burden under *Wards Cove* because it has not produced any evidence demonstrating that the cutoff score used in Proposition 16 serves, in a significant way, the goal of raising student-athlete graduation rates (37 F. Supp. at 712), it will be unnecessary for the Court to determine whether the district court erred in failing to require the NCAA to satisfy the heavier burden imposed by the Civil Rights Act of 1991. Cf. *Elston v. Talladega County Bd. of Educ.*, 997 F.2d 1394, 1407 n.14 (11th Cir. 1993). In any event, this Court should not resolve this important issue without the benefit of full briefing from the parties (see NCAA Br. at 47 n.19, Cureton Br. at 36 n.19).

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ronald E. Jones ( CN=Ronald E. Jones/OU=OMB/O=EOP [ OMB ] )

CREATION DATE/TIME:16-JUN-1999 13:59:09.00

SUBJECT: Last call for comments on DOJ Q&As on Hate Crimes

TO: Susan M. Carr ( CN=Susan M. Carr/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Lowell A. Weiss ( CN=Lowell A. Weiss/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Edward W. Correia ( CN=Edward W. Correia/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Joel K. Wiginton ( CN=Joel K. Wiginton/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Eric R. Anderson ( CN=Eric R. Anderson/O=OVP@OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Fred DuVal ( CN=Fred DuVal/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Sandra Yamin ( CN=Sandra Yamin/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Caroline R. Fredrickson ( CN=Caroline R. Fredrickson/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Richard Socarides ( CN=Richard Socarides/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Nicole R. Rabner ( CN=Nicole R. Rabner/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Mary L. Smith ( CN=Mary L. Smith/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

Unless I hear otherwise by Noon tomorrow, Thursday, June 17th, I will assume you have no objection to the proposed Q&As.

If you (1) need another copy of the LRM, (2) intend to comment but need more time, or (3) have provided comments that I may have overlooked, please let me know by answering this E-mail.

Thanks,

Ron Jones (53386)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jonathan H. Schnur ( CN=Jonathan H. Schnur/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 19:20:02.00

SUBJECT: Re: Education letter re: IDEA and House Juvenile Bill

TO: Tanya E. Martin ( CN=Tanya E. Martin/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Bethany Little ( CN=Bethany Little/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

I recommend deleting or changing the following newly added language in the text "and that will not make our schools and communities safer."  
I see 3 alternatives.

- 1) Delete it.
- 2) Replace it with language such as "and that is not the best way to make our schools and communities safer." Seems like it's a difficult argument to say that expelling kids with guns will make our schools safer, but that expelling kids with disabilities won't do the same. Instead, our argument seems more focused on ensuring services for children with disabilities and not leaving them on the street without services.
- 3) At the very least, we could delete the words "schools and." This would at least reflect the argument is that kids with disabilities expelled from school because of gun possession -- without appropriate services -- will be dangerous to the community (even if the school is safer).

What do you think?

Ronald E. Jones  
06/16/99 04:18:15 PM  
Record Type: Record

To: Barbara Chow/OMB/EOP@EOP, Jonathan H. Schnur/OPD/EOP@EOP, Tanya E. Martin/OPD/EOP@EOP, Elena Kagan/OPD/EOP@EOP  
cc: Richard E. Green/OMB/EOP@EOP, David Rowe/OMB/EOP@EOP  
Subject: Education letter re: IDEA and House Juvenile Bill

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The position taken is identical to the two letters cleared for the Senate on the Ashcroft amendment to S. 254, the Senate counterpart. However, because the Norwood amendment would apply to all weapons, not just to firearms this draft refers to "weapons" throughout and a paragraph has been added on page two relating to the IDEA's definition of "weapon". There are also a few editorial changes. (The changes from the Senate letter, other than the obvious changes to the bill number and the sponsor of the amendment, are shown below in red. )

Given that floor action has started and that the letter is basically a restatement of a previous position, we initially cleared the letter without recirculating it. However, Education has agreed to hold the letter to give more time for a review.

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-----  
Education letter follows:

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The Congress need not address the particular issue that is the subject of the Norwood amendment, because it amended the IDEA just two years ago to give school officials new tools to address the precise issue of children with disabilities bringing weapons to school or otherwise threatening teachers and other students. For example, school officials may remove, for up to 45 days, a child with a disability who takes a weapon to school, and may request a hearing officer to similarly remove a child who is substantially likely to injure himself or others, if the child's parents object to a change in the child's placement. Furthermore, the IDEA allows hearing officers to keep these students out of the regular educational environment beyond 45 days if they continue to pose a threat to the rest of the student body. Finally, the 1997 amendments to the IDEA help prevent dangerous situations from arising, by encouraging schools to address misbehavior before it becomes serious, through the provision of behavioral interventions and other appropriate services. I am convinced that these new tools will be effective if given a chance to work.

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communities safer.

First, the Norwood amendment would deny vital educational services to children with disabilities who are removed from school, including behavioral interventions that are designed to prevent dangerous behavior from recurring. Continued provision of educational services, including these behavioral interventions, offers the best chance for improving the long-term prospects for these children. Discontinuing educational services is the wrong decision in the short run and, in the long run, will result in significant costs in terms of increased crime, dependency on public assistance, unemployment, and alienation from society. We cannot afford to throw away a single child.

Second, the Norwood amendment would undo vital protections in the IDEA that were included to protect children with disabilities from widespread abuses of their civil rights. Under this amendment, for example, the IDEA would no longer require schools to determine, when suspending or expelling a child with a disability, whether the behavior of the child in carrying or possessing a weapon is related to the child's disability. Such a determination, which can currently be made while the child has been removed from school, is needed to ensure that children are not unjustly denied educational services during their removal without considering the effects of the child's disability on their behavior. The manifestation determination required by the IDEA is an important tool schools use to appropriately understand the relationship between a child's behavior and their disability in order to best implement behavior intervention strategies.

[NEW PARAGRAPH; SEE NOTE AT END OF DOCUMENT] Finally, the applicable definition of "weapon" (current section 615(k)(10)(D) of the IDEA) is very broad and open to subjective application, covering anything, such as a rock, a roll of coins, or a baseball bat for an after-school pick-up game, that is "readily capable of causing death or serious bodily injury", whether or not it is designed as a weapon and without regard to the student's intention in bringing it to school. Thus, a school could exploit the Norwood amendment to expel children with disabilities who are difficult or expensive to serve, but who pose no danger to others at school.

We should be making every effort to appropriately reach out to our children and help prevent them from endangering themselves and others. It is equally important that we appropriately address the needs of children who have gone astray, violated the rules, and put others at risk. The exclusion of children with disabilities from school -- without the impartial due-process hearing and the continued services that the IDEA now requires -- is the wrong response.

I urge you to vote against the Norwood amendment.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Yours sincerely,

Richard W. Riley

[Note to reviewers: Current section 615(k)(10)(D) of the IDEA (20 U.S.C.

1415(k)(10)(D)), which would apply to the term "weapon" as used in the Norwood amendment, says that "the term 'weapon' has the meaning given the term 'dangerous weapon' under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code". [There's actually only one subsection (g) of 18 USC 930 now, because the second (g) was redesignated as (h) by P.L. 104-294, sec. 603(u), on Oct. 11, 1996.]

18 USC 930(g), in turn, defines "dangerous weapon" as "a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length".]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Tanya E. Martin ( CN=Tanya E. Martin/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 11:32:43.00

SUBJECT: .High Stakes Testing

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Jonathan H. Schnur ( CN=Jonathan H. Schnur/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TEXT:

Pete Hoekstra has invited Norma Cantu (ED-OCR) to testify at a hearing next Tuesday. According to Counsel's office, Cantu will be asked to discuss:

- OCR's high states testing guide
- Charter schools/desegregation
- Title IX /athletics
- Conflicts between Title I and voting rights laws (i.e. takeovers of elected school boards)

Yesterday, during the civil rights enforcement meeting, Maria Echaveste and Chuck Ruff asked Counsel staff to talk to OCR and make sure that draft testimony is submitted to OMB by cob on Thursday to ensure adequate review time.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sandra Yamin ( CN=Sandra Yamin/OU=OMB/O=EOP [ OMB ] )

CREATION DATE/TIME:16-JUN-1999 10:09:09.00

SUBJECT: Draft Juvenile Justice SAP

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Courtney O. Gregoire ( CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TEXT:

last night's draft.

----- Forwarded by Sandra Yamin/OMB/EOP on 06/16/99 10:07 AM -----

James Boden  
06/16/99 02:32:51 AM

Record Type: Record

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

cc:

Subject: Draft Juvenile Justice SAP

Attached is a draft Juvenile Justice SAP. The SAP incorporates likely amendments and addresses administration concerns with H.R. 1501 and H.R. 2122. It is our expectation that the House will begin floor debate on H.R. 1501 at noon today. Therefore, please get your comments to Sandra Yamin before 11:00 a.m. (I have a copy of the floor amendments, if anyone would like a copy)

Message Sent

To:

---

Michael Deich/OMB/EOP@EOP  
Kenneth L. Schwartz/OMB/EOP@EOP  
David J. Haun/OMB/EOP@EOP  
Theodore Wartell/OMB/EOP@EOP  
Sherron Duncan/OMB/EOP@EOP  
David W. Beier/OVP@OVP  
Eric R. Anderson/OVP@OVP  
Broderick Johnson/WHO/EOP@EOP  
Charles M. Brain/WHO/EOP@EOP  
Charles A. Blanchard/ONDCP/EOP@EOP  
Jon E. Rice/ONDCP/EOP@EOP  
John T. Carnevale/ONDCP/EOP@EOP  
Ronald E. Jones/OMB/EOP@EOP  
James J. Jukes/OMB/EOP@EOP  
Richard E. Green/OMB/EOP@EOP  
Mark J. Schwartz/OMB/EOP@EOP  
Joanne Chow/OMB/EOP@EOP



DRAFT STATEMENT OF ADMINISTRATION POLICY

Automated Records Management System  
Hex-Dump Conversion

H.R. 1501 Consequences for Juvenile Offenders Act of 1999

H.R. 2122 Mandatory Gun Show Background Check Act of 1999

The Administration supports a comprehensive approach to addressing the problem of youth crime and violence. The President has taken the lead to address youth violence on all fronts – from the media to the gun industry to parental responsibility. Most importantly, the Administration supports common sense gun legislation to help keep guns out of the hands of children and criminals. Specifically, the Administration supports measures to strengthen the successful Brady Law to require Brady background checks at gun shows and flea markets, and to raise the age of handgun ownership from 18 to 21. In addition, the Administration supports other life-saving measures already passed by the Senate to: require mandatory child safety devices with every new handgun sold; ban the importation of large capacity ammunition clips; prohibit violent juveniles from buying guns as adults; and bar juvenile possession of assault rifles.

H.R. 2122 not only fails to close the gun show loophole, but also creates new dangerous loopholes in our gun laws. The bill contains a narrower definition of “gun show” that would not cover flea markets and other such commercial venues where hundreds of guns are regularly bought and sold. In addition, the bill creates a safe harbor for criminals by creating a new class of “instant check registrants” to do background checks at gun shows – undermining law enforcement efforts to trace firearms that are later used in crimes. We believe that the McCarthy/Roukema amendment is the only proposal under consideration that will close the gun show loophole once and for all.

In addition, the Administration supports comprehensive legislation to strengthen youth responsibility and accountability by juvenile offenders. While the Administration recognizes the importance of addressing juvenile crime, it is only through a comprehensive approach to crime -- including prevention, intervention, and punishment -- that we can continue to lower our crime rate, improve the safety of our communities, and deter children and adults from a life of crime.

To this end, the Administration supports H.R. 1501. However, the Administration is disappointed that the legislation fails to include one of the most significant contributions to our nation's safer streets -- the Community Oriented Policing Services (COPS) program. The President proposed nearly \$1.3 billion in his FY 2000 budget - and nearly \$6.4 billion over the next five years - for a new 21st Century Policing Initiative to help communities build on their efforts under the COPS program. This initiative will enable communities to continue to hire, redeploy, and retain police officers; to give law enforcement officers access to the latest crime-fighting technologies; to hire community prosecutors; and to foster community-wide prevention. These successful tools in the fight against crime must be an integral part of any legislation that seeks to make our streets safer, but they are not included in current House legislation.

Finally, the Administration supports efforts to address the issue of media violence and its effects on our young people. That is why the President has taken the lead by challenging the entertainment industry to live up to its responsibilities, and recently called for a study of the

industry's marketing practices, as well as a Surgeon General report on youth violence. However, serious constitutional concerns have been raised about an amendment to ban the distribution of violent materials to teenagers.

The Administration will work with the Congress throughout the legislative process to ensure passage of legislation that will have a meaningful impact on curbing youth violence and increasing public safety.

**Automated Records Management System  
Hex-Dump Conversion**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Tanya E. Martin ( CN=Tanya E. Martin/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 11:35:18.00

SUBJECT: NEC/DPC Education meeting

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Bethany Little ( CN=Bethany Little/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Jonathan H. Schnur ( CN=Jonathan H. Schnur/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TEXT:

NEC/Brian Kennedy and ED staff approached us about re-starting the regular education meetings we used to have with larger group of staff from ED, OMB, NEC and DPC to discuss some of the on-going issues that aren't part of your weekly strategy meeting -- and to generally keep up to date on department activities. We are planning to meet this afternoon and will send you a summary of any noteworthy discussions.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mary L. Smith ( CN=Mary L. Smith/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 20:39:15.00

SUBJECT: July event ideas

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Karin Kullman ( CN=Karin Kullman/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Courtney O. Gregoire ( CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TEXT:

Here are some July event ideas. I will be able to get more details tomorrow. Thanks, Mary===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D26]ARMS231365572.136 to ASCII,  
The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sean P. Maloney ( CN=Sean P. Maloney/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:16-JUN-1999 17:18:11.00

SUBJECT: Daily Report

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Janet L. Yellen ( CN=Janet L. Yellen/OU=CEA/O=EOP@EOP [ CEA ] )

READ:UNKNOWN

TO: Loretta M. Ucelli ( CN=Loretta M. Ucelli/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Todd Stern ( CN=Todd Stern/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Gene B. Sperling ( CN=Gene B. Sperling/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Minyon Moore ( CN=Minyon Moore/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Ann F. Lewis ( CN=Ann F. Lewis/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Ron Klain ( CN=Ron Klain/O=OVP@OVP [ UNKNOWN ] )

READ:UNKNOWN

TO: Mickey Ibarra ( CN=Mickey Ibarra/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Mary E. Cahill ( CN=Mary E. Cahill/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Glyn T. Davies ( CN=Glyn T. Davies/OU=NSC/O=EOP@EOP [ NSC ] )

READ:UNKNOWN

TO: Jacob J. Lew ( CN=Jacob J. Lew/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: Sylvia M. Mathews ( CN=Sylvia M. Mathews/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: Michael Waldman ( CN=Michael Waldman/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Stephanie S. Streett ( CN=Stephanie S. Streett/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Lawrence J. Stein ( CN=Lawrence J. Stein/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Charles F. Ruff ( CN=Charles F. Ruff/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Bob J. Nash ( CN=Bob J. Nash/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Thurgood Marshall Jr ( CN=Thurgood Marshall Jr/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Neal Lane ( CN=Neal Lane/OU=OSTP/O=EOP@EOP [ OSTP ] )  
READ:UNKNOWN

TO: Robert B. Johnson ( CN=Robert B. Johnson/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: George T. Frampton ( CN=George T. Frampton/OU=CEQ/O=EOP@EOP [ CEQ ] )  
READ:UNKNOWN

TO: Sidney Blumenthal ( CN=Sidney Blumenthal/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: KERRICK\_D@A1 ( KERRICK\_D@A1 @ CD @ VAXGTWY [ UNKNOWN ] ) (NSC)  
READ:UNKNOWN

TO: Maria Echaveste ( CN=Maria Echaveste/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Barbara A. Barclay ( CN=Barbara A. Barclay/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Edward A. Rice ( CN=Edward A. Rice/OU=NSC/O=EOP@EOP [ NSC ] )  
READ:UNKNOWN

CC: Leslie Bernstein ( CN=Leslie Bernstein/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Carolyn T. Wu ( CN=Carolyn T. Wu/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Lael Brainard ( CN=Lael Brainard/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

CC: Nina L. Hachigian ( CN=Nina L. Hachigian/OU=NSC/O=EOP@EOP [ NSC ] )  
READ:UNKNOWN

CC: Melissa G. Green ( CN=Melissa G. Green/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

CC: Carolyn E. Cleveland ( CN=Carolyn E. Cleveland/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Marjorie Tarmey ( CN=Marjorie Tarmey/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Rebecca L. Walldorff ( CN=Rebecca L. Walldorff/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Mindy E. Myers ( CN=Mindy E. Myers/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Kris M Balderston ( CN=Kris M Balderston/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Cathy R. Mays ( CN=Cathy R. Mays/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

CC: Sara M. Latham ( CN=Sara M. Latham/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

Sorry for the late notice, but John would like to pull together a daily report today for the President. He'll need to review it and may not be here much longer, so . . .

Please submit bullet points to Catie Pacific (with a cc: to me) ASAP.  
Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cathy R. Mays ( CN=Cathy R. Mays/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 17:27:09.00

SUBJECT: Weekly Education Strategy Meeting

TO: Mike\_Cohen@ed.gov@inet ( Mike\_Cohen@ed.gov@inet [ UNKNOWN ] )  
READ:UNKNOWN

TO: Paul D. Glastris ( CN=Paul D. Glastris/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Tanya E. Martin ( CN=Tanya E. Martin/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Bethany Little ( CN=Bethany Little/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: LYNCH\_V@A1@CD@VAXGTWY@VAXGTWY ( LYNCH\_V@A1@CD@VAXGTWY@VAXGTWY [ UNKNOWN ] )  
READ:UNKNOWN

TO: Shirley S. Sagawa ( CN=Shirley S. Sagawa/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Lisa M. Towne ( CN=Lisa M. Towne/OU=OSTP/O=EOP@EOP [ OSTP ] )  
READ:UNKNOWN

TO: Broderick Johnson ( CN=Broderick Johnson/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Emma\_Harrell@ed.gov@inet ( Emma\_Harrell@ed.gov@inet [ UNKNOWN ] )  
READ:UNKNOWN

TO: Vicky\_Stroud@ed.gov@inet ( Vicky\_Stroud@ed.gov@inet [ UNKNOWN ] )  
READ:UNKNOWN

TO: Jonathan M. Young ( CN=Jonathan M. Young/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Mary E. Cahill ( CN=Mary E. Cahill/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Jennifer M. Palmieri ( CN=Jennifer M. Palmieri/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Jonathan H. Schnur ( CN=Jonathan H. Schnur/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Barry J. Toiv ( CN=Barry J. Toiv/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Peter Rundlet ( CN=Peter Rundlet/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Janet Murguia ( CN=Janet Murguia/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Barbara Chow ( CN=Barbara Chow/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: MaryEllen C. McGuire ( CN=MaryEllen C. McGuire/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Jason H. Schechter ( CN=Jason H. Schechter/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Jennifer E. McGee ( CN=Jennifer E. McGee/OU=OMB/O=EOP@EOP [ UNKNOWN ] )

READ:UNKNOWN

CC: Joseph D. Ratner ( CN=Joseph D. Ratner/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Iratha H. Waters ( CN=Iratha H. Waters/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: Mindy E. Myers ( CN=Mindy E. Myers/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Courtney O. Gregoire ( CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TEXT:

We will be having the weekly Education Strategy Meeting tomorrow, Thursday, June 17, at 5:15 p.m. in Bruce Reed's office.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ronald E. Jones ( CN=Ronald E. Jones/OU=OMB/O=EOP [ OMB ] )

CREATION DATE/TIME:16-JUN-1999 16:18:19.00

SUBJECT: Education letter re: IDEA and House Juvenile Bill

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Jonathan H. Schnur ( CN=Jonathan H. Schnur/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Tanya E. Martin ( CN=Tanya E. Martin/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Barbara Chow ( CN=Barbara Chow/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: David Rowe ( CN=David Rowe/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: Richard E. Green ( CN=Richard E. Green/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TEXT:

Education asked to send the attached letter to the House objecting to a proposed amendment to the House juvenile crime bill that is on the floor now. I understand that Education policy officials have discussed this with Barbara Chow or were planning to discuss it before it was sent.

The position taken is identical to the two letters cleared for the Senate on the Ashcroft amendment to S. 254, the Senate counterpart. However, because the Norwood amendment would apply to all weapons, not just to firearms this draft refers to "weapons" throughout and a paragraph has been added on page two relating to the IDEA's definition of "weapon". There are also a few editorial changes. (The changes from the Senate letter, other than the obvious changes to the bill number and the sponsor of the amendment, are shown below in red. )

Given that floor action has started and that the letter is basically a restatement of a previous position, we initially cleared the letter without recirculating it. However, Education has agreed to hold the letter to give more time for a review.

If you have any comments on this letter please forward them to me, Richard Green, and David Rowe.

-----  
Education letter follows:

I am writing to express my strong opposition to an amendment that Representative Norwood has offered to H.R. 1501, the juvenile crime bill that the House is now considering. This amendment would allow school personnel to suspend or expel children with disabilities from their schools for unlimited periods of time, without any educational services,

including behavioral intervention services, and without the impartial hearing now required by the Individuals with Disabilities Education Act (IDEA), for carrying or possessing a weapon to, or at, a school function.

The Congress need not address the particular issue that is the subject of the Norwood amendment, because it amended the IDEA just two years ago to give school officials new tools to address the precise issue of children with disabilities bringing weapons to school or otherwise threatening teachers and other students. For example, school officials may remove, for up to 45 days, a child with a disability who takes a weapon to school, and may request a hearing officer to similarly remove a child who is substantially likely to injure himself or others, if the child's parents object to a change in the child's placement. Furthermore, the IDEA allows hearing officers to keep these students out of the regular educational environment beyond 45 days if they continue to pose a threat to the rest of the student body. Finally, the 1997 amendments to the IDEA help prevent dangerous situations from arising, by encouraging schools to address misbehavior before it becomes serious, through the provision of behavioral interventions and other appropriate services. I am convinced that these new tools will be effective if given a chance to work.

I am firmly committed to ensuring that all our schools are safe and disciplined environments where all our children, including children with disabilities, can learn without fear of violence. But we should not let the tragic school shootings in Littleton, Colorado, and other communities lead us to responses, such as the Norwood amendment, that will harm children with disabilities, and that will not make our schools and communities safer.

First, the Norwood amendment would deny vital educational services to children with disabilities who are removed from school, including behavioral interventions that are designed to prevent dangerous behavior from recurring. Continued provision of educational services, including these behavioral interventions, offers the best chance for improving the long-term prospects for these children. Discontinuing educational services is the wrong decision in the short run and, in the long run, will result in significant costs in terms of increased crime, dependency on public assistance, unemployment, and alienation from society. We cannot afford to throw away a single child.

Second, the Norwood amendment would undo vital protections in the IDEA that were included to protect children with disabilities from widespread abuses of their civil rights. Under this amendment, for example, the IDEA would no longer require schools to determine, when suspending or expelling a child with a disability, whether the behavior of the child in carrying or possessing a weapon is related to the child's disability. Such a determination, which can currently be made while the child has been removed from school, is needed to ensure that children are not unjustly denied educational services during their removal without considering the effects of the child's disability on their behavior. The manifestation determination required by the IDEA is an important tool schools use to appropriately understand the relationship between a child's behavior and their disability in order to best implement behavior intervention strategies.

[NEW PARAGRAPH; SEE NOTE AT END OF DOCUMENT] Finally, the applicable definition of "weapon" (current section 615(k)(10)(D) of the IDEA) is very broad and open to subjective application, covering anything, such as a rock, a roll of coins, or a baseball bat for an after-school pick-up game, that is "readily capable of causing death or serious bodily injury",

whether or not it is designed as a weapon and without regard to the student's intention in bringing it to school. Thus, a school could exploit the Norwood amendment to expel children with disabilities who are difficult or expensive to serve, but who pose no danger to others at school.

We should be making every effort to appropriately reach out to our children and help prevent them from endangering themselves and others. It is equally important that we appropriately address the needs of children who have gone astray, violated the rules, and put others at risk. The exclusion of children with disabilities from school -- without the impartial due-process hearing and the continued services that the IDEA now requires -- is the wrong response.

I urge you to vote against the Norwood amendment.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Yours sincerely,

Richard W. Riley

[Note to reviewers: Current section 615(k)(10)(D) of the IDEA (20 U.S.C. 1415(k)(10)(D)), which would apply to the term "weapon" as used in the Norwood amendment, says that "the term 'weapon' has the meaning given the term 'dangerous weapon' under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code". [There's actually only one subsection (g) of 18 USC 930 now, because the second (g) was redesignated as (h) by P.L. 104-294, sec. 603(u), on Oct. 11, 1996.]

18 USC 930(g), in turn, defines "dangerous weapon" as "a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length".]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 16:58:52.00

SUBJECT: FYI -- Brady Arrests

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TEXT:

BR/EK:

Today in Florida, ATF indicted 17 Brady Law violators (yes, false claims cases) and arrested 15 of them. What timing, eh?!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karin Kullman ( CN=Karin Kullman/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 16:17:58.00

SUBJECT: Message Outlook Document

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Paul J. Weinstein Jr. ( CN=Paul J. Weinstein Jr./OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TEXT:

----- Forwarded by Karin Kullman/OPD/EOP on 06/16/99  
04:17 PM -----

Loretta M. Ucelli

06/16/99 02:47:06 PM

Record Type: Record

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

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

Subject: Message Outlook Document

Message Sent

To: \_\_\_\_\_

Douglas B. Sosnik/WHO/EOP@EOP

Steve Ricchetti/WHO/EOP@EOP

Maria Echaveste/WHO/EOP@EOP

Ann F. Lewis/WHO/EOP@EOP

Joseph P. Lockhart/WHO/EOP@EOP

Kris M Balderston/WHO/EOP@EOP

Thurgood Marshall Jr/WHO/EOP@EOP

Mary E. Cahill/WHO/EOP@EOP

Laura M. Quinn/OVP@OVP

Jonathan A. Kaplan/OPD/EOP@EOP

Michael Waldman/WHO/EOP@EOP

Stephanie S. Streett/WHO/EOP@EOP

Minyon Moore/WHO/EOP@EOP

Joel Johnson/WHO/EOP@EOP

Mickey Ibarra/WHO/EOP@EOP

Tomasz P. Malinowski/NSC/EOP@EOP

Glyn T. Davies/NSC/EOP@EOP

Karen Tramontano/WHO/EOP@EOP

Jennifer M. Palmieri/WHO/EOP@EOP

Beverly J. Barnes/WHO/EOP@EOP

William H. White Jr./WHO/EOP@EOP

Melissa B. Ratcliff/OVP@OVP  
 Thomas D. Janenda/WHO/EOP@EOP  
 Douglas J. Band/WHO/EOP@EOP  
 Dan K. Rosenthal/WHO/EOP@EOP  
 Sharon K. Gill/WHO/EOP@EOP  
 Laura D. Schwartz/WHO/EOP@EOP  
 Kim B. Widdess/WHO/EOP@EOP  
 Matt Gobush/NSC/EOP@EOP  
 Lindsey E. Huff/NSC/EOP@EOP  
 Christine A. Stanek/WHO/EOP@EOP  
 Michele Ballantyne/WHO/EOP@EOP  
 Stephanie A. Cutter/WHO/EOP@EOP  
 Richard L. Siewert/WHO/EOP@EOP

Message Copied

To:

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Dominique L. Cano/WHO/EOP@EOP  
 Rebecca L. Walldorff/WHO/EOP@EOP  
 Leslie Bernstein/WHO/EOP@EOP  
 Elliot J. Diringer/CEQ/EOP@EOP  
 Mark D. Neschis/WHO/EOP@EOP  
 Adriene K. Elrod/ONDCP/EOP@EOP  
 Dario J. Gomez/WHO/EOP@EOP  
 Charles J. Payson/WHO/EOP@EOP  
 Justin L. Coleman/WHO/EOP@EOP  
 Courtney M. Manning/WHO/EOP@EOP  
 Matt Gobush/NSC/EOP@EOP  
 Shanna P. Singh/OVP@OVP  
 Aprill N. Springfield/WHO/EOP@EOP  
 Marjorie Tarmey/WHO/EOP@EOP  
 Heather M. Riley/WHO/EOP@EOP  
 Heather L. Davis/WHO/EOP@EOP  
 Rachel A. Redington/WHO/EOP@EOP  
 June G. Turner/WHO/EOP@EOP  
 Cathy R. Mays/OPD/EOP@EOP  
 Shannon Mason/OPD/EOP@EOP  
 Peter A. Weissman/OPD/EOP@EOP  
 Melissa G. Green/OPD/EOP@EOP  
 Sean P. O'Shea/WHO/EOP@EOP  
 Mary Morrison/WHO/EOP@EOP  
 Karin Kullman/OPD/EOP@EOP  
 Joseph D. Ratner/WHO/EOP@EOP  
 Joshua S. Gottheimer/WHO/EOP@EOP  
 Anne Whitworth/WHO/EOP@EOP  
 Jocelyn A. Bucaro/WHO/EOP@EOP  
 Maria E. Soto/WHO/EOP@EOP  
 Wendy E. Gray/NSC/EOP@EOP  
 Carolyn T. Wu/WHO/EOP@EOP  
 Sara M. Latham/WHO/EOP@EOP  
 Cathy L. Millison/NSC/EOP@EOP  
 Carolyn E. Cleveland/WHO/EOP@EOP  
 June G. Turner/WHO/EOP@EOP  
 Mindy E. Myers/WHO/EOP@EOP  
 Lindsey E. Huff/NSC/EOP@EOP  
 Mckenzie K. Davis/WHO/EOP@EOP

===== ATTACHMENT 1 =====  
 ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D28]ARMS20589257S.136 to ASCII,

The following is a HEX DUMP:

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-JUN-1999 10:03:27.00

SUBJECT: DOJ letter on juvenile crime bill for clearance ASAP

TO: Courtney O. Gregoire ( CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TEXT:  
Elena:

This is not on the Hyde violence provisions -- my mistake this is on McCollum. Interestingly, it's also in our bill -- go figure...jc3  
----- Forwarded by Jose Cerda III/OPD/EOP on 06/16/99  
10:00 AM -----

Jose Cerda III  
06/16/99 09:56:43 AM  
Record Type: Record

To: Elena Kagan/OPD/EOP@EOP, Courtney O. Gregoire/OPD/EOP@EOP  
cc:  
Subject: DOJ letter on juvenile crime bill for clearance ASAP

Here's the DOJ letter...jc3  
----- Forwarded by Jose Cerda III/OPD/EOP on 06/16/99  
09:55 AM -----

Ronald E. Jones  
06/16/99 09:28:23 AM  
Record Type: Record

To: See the distribution list at the bottom of this message  
cc: Richard E. Green/OMB/EOP@EOP, James J. Jukes/OMB/EOP@EOP  
Subject: DOJ letter on juvenile crime bill for clearance ASAP

The attached letter raises Constitutional questions about a provision of HR 2037 which is expected to be offered as an amendment to the juvenile crime bill that is on the floor today.

Justice has asked for comments by 1:00 PM. If I receive a read receipt and do not hear otherwise, I will assume you have no objection to the proposed letter.

Message Sent

To:

- 
- Michelle Peterson/WHO/EOP@EOP
  - Jose Cerda III/OPD/EOP@EOP
  - Leanne A. Shimabukuro/OPD/EOP@EOP
  - Robert G. Damus/OMB/EOP@EOP
  - Steven D. Aitken/OMB/EOP@EOP
  - Elizabeth Gore/OMB/EOP@EOP
  - Broderick Johnson/WHO/EOP@EOP
  - James Boden/OMB/EOP@EOP
  - David J. Haun/OMB/EOP@EOP
  - Kenneth L. Schwartz/OMB/EOP@EOP

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT: [ATTACH.D9]ARMS25037447E.136 to ASCII,  
The following is a HEX DUMP:

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Washington, D.C. 20530

The Honorable Henry J. Hyde  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

We are writing to provide an important comment concerning Title I of H.R. 2037, the Child Safety and Youth Violence Prevention Act of 1999. Although we have other observations concerning these juvenile justice provisions, the comments in this letter are confined to certain constitutional concerns relating to this bill.

Section 101 of the bill would amend 18 U.S.C. § 5032 to establish, in § 5032(a)(2), expanded authority for juveniles to be “proceeded against as a juvenile in a court of the United States” in many circumstances, including where the Attorney General certifies to the court that “there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction” (proposed § 5032(a)(2)(B)(ii)). Section 106 of the bill in turn would, *inter alia*, amend 18 U.S.C. § 5037(c) to provide that:

[t]he term for which official detention may be ordered for a juvenile found to be a juvenile delinquent [under § 5032] may not extend beyond the lesser of —

(1) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult;

(2) ten years; or

(3) the date when the juvenile becomes twenty-six years old.

While these proposed provisions may not, standing alone, raise constitutional concerns, their inclusion in the bill might make it more likely that other important aspects of the juvenile justice system — such as the fact that juvenile delinquency is subject to nonjury

adjudication — would be held unconstitutional. In McKeiver v. Pennsylvania, 403 U.S. 528 (1971), the Supreme Court indicated that the more closely the consequences of an adjudication of delinquency resemble the consequences of a criminal conviction, the more likely it is that the Constitution would require certain procedural protections in that adjudication, such as a jury trial. In McKeiver itself, the Court held that a juvenile was not entitled to a jury trial under the State's juvenile justice system. The McKeiver plurality made clear, however, that it would have reached a different result had it been convinced that the juvenile system ultimately did not differ in purpose and effect from the adult criminal system, explaining that those who equated the juvenile and adult systems had chosen "to ignore, it seems to us, every aspect of fairness, of concern, of sympathy, and of paternal attention that the juvenile courts system contemplates." Id. at 545.

The state system at issue in McKeiver did not permit adjudicated delinquents to be incarcerated with adult convicts. That would not, however, necessarily be true of adjudicated delinquents in the federal system with respect to terms of detention between their twenty-first and twenty-sixth birthdays. 18 U.S.C. § 5039 provides that "[n]o juvenile committed, whether pursuant to an adjudication of delinquency or conviction for an offense, to the custody of the Attorney General may be placed or retained in an adult jail or correctional institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges," and further provides that "[w]henver possible, the Attorney General shall commit a juvenile to a foster home or community-based facility located in or near his home community." These directives only apply, however, to a person while he remains a "juvenile," which is defined in 18 U.S.C. § 5031 (for the purpose of proceedings and disposition for an alleged act of juvenile delinquency) as a person who has not attained his twenty-first birthday. Title I of H.R. 2037 would provide that persons who, having been adjudged delinquent as a juvenile in a nonjury proceeding, could be detained beyond their twenty-first birthday; and § 5039 apparently would not prohibit the transfer of such a person, after his twenty-first birthday, to "an adult jail or correctional institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges."

There is a split in authority regarding whether juveniles may be adjudicated delinquent without a right to a jury trial if such adjudication may result in their being incarcerated with, and on the same terms as, adults. Shortly after McKeiver was decided, the United States Court of Appeals for the Second Circuit held that committing a fifteen-year-old delinquent to an adult facility on the basis of a family court adjudication rather than a jury trial did not violate the juvenile's right to due process. United States ex rel. Murray v. Owens, 465 F.2d 289 (2d Cir. 1972). However, more recently, as the States have begun revising their own juvenile justice systems to allow delinquents to be held longer and in adult facilities, some state courts have questioned whether the revised statutes are consistent with McKeiver and whether it remains permissible to deny jury trials to juveniles who potentially face incarceration with adults. Just last year, the highest courts of Wisconsin and Louisiana held that non-jury adjudications under revised state laws that resulted in delinquents being subject to incarceration

with adults amounted to criminal prosecutions, and therefore violated the juveniles' constitutional right to a jury trial. See In re Hezzie R., 580 N.W.2d 660, 673-74 (Wis. 1998), cert. denied, 119 S. Ct. 1051 (1999); In re C.B., 708 So.2d 391, 397-400 (La. 1998) (ruling as a matter of state law, but "adopt[ing]" the Supreme Court's analysis in McKeiver); see also Matter of O.H., 504 S.W.2d 269, 271-73 (Mo. App. 1973) (surveying cases; expressing constitutional concern with the holding in Murray; and granting relief to a juvenile on statutory grounds); Monroe v. Soliz, 939 P.2d 205, 208-09 (Wash. 1997) (juvenile had no right to jury trial where statute required juveniles transferred to adult facility to be segregated from adult convicts and "[t]he nature of incarceration remain[ed] juvenile regardless of the custody venue"). Indeed, the Wisconsin court held in Hezzie R. that, even if (as in the Federal system) there was no certainty that an adjudicated delinquent might eventually be transferred to an adult facility, the mere risk of such eventual treatment sufficiently transformed the delinquency adjudication into a criminal prosecution, so as to require a trial by jury.

Thus, Title I raises serious constitutional concerns to the extent that it would, in conjunction with existing law, permit a person to be adjudicated delinquent in a nonjury proceeding, while there is some chance that such person would, after the age of twenty-one, be incarcerated on the same terms as adult convicts in an adult prison. In order to avoid this constitutional problem, the bill could, for instance, amend § 5039 to provide that the protections prescribed in that section shall apply to any person committed to the custody of the Attorney General pursuant to an adjudication of delinquency, during the entire term of such person's detention (including any part of such detention that extends beyond the person's twenty-first birthday).

We thank you for the opportunity to express our concerns about this important issue. We stand ready to work with you on this and the other important issues the House will be considering this week. The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

Jon P. Jennings  
Acting Assistant Attorney General

cc: The Honorable John Conyers, Jr.  
Ranking Minority Member

Automated Records Management System  
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sandra Yamin ( CN=Sandra Yamin/OU=OMB/O=EOP [ OMB ] )

CREATION DATE/TIME:16-JUN-1999 20:00:13.00

SUBJECT: FINAL CLEARANCE -- Draft letter on Ag/Rural Development Approps Bill

TO: Karen Tramontano ( CN=Karen Tramontano/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Steve Ricchetti ( CN=Steve Ricchetti/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: George T. Frampton ( CN=George T. Frampton/OU=CEQ/O=EOP@EOP [ CEQ ] )  
READ:UNKNOWN

TO: Maria Echaveste ( CN=Maria Echaveste/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Todd Stern ( CN=Todd Stern/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Wesley P. Warren ( CN=Wesley P. Warren/OU=CEQ/O=EOP@EOP [ CEQ ] )  
READ:UNKNOWN

TO: Ron Klain ( CN=Ron Klain/O=OVP@OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Gene B. Sperling ( CN=Gene B. Sperling/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Lynn G. Cutler ( CN=Lynn G. Cutler/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Ann F. Lewis ( CN=Ann F. Lewis/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Miles M. Lackey ( CN=Miles M. Lackey/OU=NSC/O=EOP@EOP [ NSC ] )  
READ:UNKNOWN

TO: Bruce N. Reed ( CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Michelle Peterson ( CN=Michelle Peterson/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Jeffrey M. Smith ( CN=Jeffrey M. Smith/OU=OSTP/O=EOP@EOP [ OSTP ] )  
READ:UNKNOWN

TO: Joshua Gotbaum ( CN=Joshua Gotbaum/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Martha Foley ( CN=Martha Foley/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

TO: Sally Katzen ( CN=Sally Katzen/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: John Podesta ( CN=John Podesta/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Wendy E. Gray ( CN=Wendy E. Gray/OU=NSC/O=EOP@EOP [ NSC ] )

READ:UNKNOWN

CC: Courtney O. Gregoire ( CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [ OPD ] )

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CC: James J. Jukes ( CN=James J. Jukes/OU=OMB/O=EOP@EOP [ OMB ] )

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CC: Sandra Yamin ( CN=Sandra Yamin/OU=OMB/O=EOP@EOP [ OMB ] )

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CC: William G. Dauster ( CN=William G. Dauster/OU=OPD/O=EOP@EOP [ OPD ] )

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CC: Dawn L. Smalls ( CN=Dawn L. Smalls/OU=WHO/O=EOP@EOP [ WHO ] )

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CC: Linda Ricci ( CN=Linda Ricci/OU=OMB/O=EOP@EOP [ OMB ] )

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CC: Rebecca L. Walldorff ( CN=Rebecca L. Walldorff/OU=WHO/O=EOP@EOP [ WHO ] )

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CC: Robert L. Nabors ( CN=Robert L. Nabors/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: Paul J. Weinstein Jr. ( CN=Paul J. Weinstein Jr./OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Lisa Zweig ( CN=Lisa Zweig/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: Shannon Mason ( CN=Shannon Mason/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Mindy E. Myers ( CN=Mindy E. Myers/OU=WHO/O=EOP@EOP [ WHO ] )

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CC: Scott R. Hynes ( CN=Scott R. Hynes/O=OVP@OVP [ UNKNOWN ] )

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CC: Michele Ballantyne ( CN=Michele Ballantyne/OU=WHO/O=EOP@EOP [ UNKNOWN ] )

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CC: Mara E. Rudman ( CN=Mara E. Rudman/OU=NSC/O=EOP@EOP [ UNKNOWN ] )

READ:UNKNOWN

CC: Adrienne C. Erbach ( CN=Adrienne C. Erbach/OU=OMB/O=EOP@EOP [ OMB ] )

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CC: Carolyn T. Wu ( CN=Carolyn T. Wu/OU=WHO/O=EOP@EOP [ WHO ] )

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CC: Leslie Bernstein ( CN=Leslie Bernstein/OU=WHO/O=EOP@EOP [ WHO ] )

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CC: Lisa M. Kountoupes ( CN=Lisa M. Kountoupes/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Mark J. Tavlarides ( CN=Mark J. Tavlarides/OU=NSC/O=EOP@EOP [ NSC ] )  
READ:UNKNOWN

CC: Victoria A. Wachino ( CN=Victoria A. Wachino/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

CC: Peter A. Weissman ( CN=Peter A. Weissman/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

CC: Judy Jablow ( CN=Judy Jablow/OU=CEQ/O=EOP@EOP [ CEQ ] )  
READ:UNKNOWN

CC: Elizabeth Gore ( CN=Elizabeth Gore/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

CC: Melissa G. Green ( CN=Melissa G. Green/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

CC: Charles E. Kieffer ( CN=Charles E. Kieffer/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TEXT:

Attached for final clearance is a draft letter to the Senate Appropriations Committee on the Agriculture and Rural Development Approps Bill, FY00. The Full Committee mark-up of this bill is scheduled for Thurs, June 17. Please provide your sign-off or clearance to me no later than 10:00AM Thurs morning. Thank you!

Please note that Jack Lew has not had the opportunity to review this draft.

DRAFT

The Honorable Ted Stevens  
Chairman  
Committee on Appropriations  
U.S. Senate  
Washington D.C. 20510

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, FY 2000, as reported by the Senate Subcommittee. Since the Administration has not had an opportunity to review the Subcommittee's bill and report language, our comments are based on preliminary information. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated.

The allocation of discretionary resources available to the Senate under the Congressional Budget Resolution is simply inadequate to make the necessary investments that our citizens need and expect. The President's FY 2000 Budget proposes levels of discretionary spending that meet such needs while conforming to the Bipartisan Budget Agreement by making

savings proposals in mandatory and other programs available to help finance this spending. Congress has approved, and the President has signed into law, nearly \$29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals.

The Administration appreciates efforts by the Subcommittee to accommodate certain of the President's priorities within the 302(b) allocation. However, the Subcommittee bill is over \$500 million, or four percent, below the program level requested by the President. The FY 2000 Budget would increase spending within the discretionary caps for agriculture and other programs in the bill by 3.6 percent over comparable FY 1999 spending. We urge the Committee to consider the over \$600 million in user fees proposed in the Budget in order to fund high-priority programs. Given the current period of financial stress in the agricultural sector, now is not the time to reduce assistance to farmers, ranchers, and rural residents.

Below is a discussion of our specific concerns with the Subcommittee bill. We look forward to working with you to resolve these concerns as the bill moves forward.

#### Food and Drug Administration

While the Administration is pleased that the Subcommittee has reportedly provided an increase over the FY 1999 enacted level for the FDA, we are disappointed that the Subcommittee has apparently not funded the full request for the FDA, including important youth tobacco prevention activities and the proposed seafood inspection program transfer.

The Administration is concerned that the Subcommittee's apparent reduction of \$40 million from the President's request for non-foods/tobacco FDA activities would jeopardize the FDA's ability to improve the public health infrastructure through enhanced product safety assurance and injury reporting systems.

The Administration is committed to Youth Tobacco Prevention activities and urges the Committee to provide the requested increase of \$34 million for these programs. Every day, three thousand young people become regular smokers. Reducing young people's tobacco use would improve public health for generations to come. This is particularly important in light of the recent decision of the conferees on the FY 1999 Emergency Supplemental Appropriations Act to permit States to retain the entire amount secured from tobacco companies without any commitment whatsoever from the States that those funds be used to reduce youth smoking. To help discourage youth smoking, we urge the Congress to consider the Administration proposal to increase tobacco taxes.

#### Food Safety Initiative

The Administration appreciates the Subcommittee's support for the President's Food Safety Initiative through increases above the enacted and House bill levels provided to USDA and FDA. Nonetheless, we are concerned that the Committee has reportedly provided only \$46 million of the \$62 million increase over FY 1999 levels requested in this bill for the Initiative. American consumers enjoy the world's safest food supply, but still too many Americans get sick, and in some cases die, from preventable

food-borne diseases. The President's requested increase would provide critical resources to expand USDA's and FDA's food safety research and risk assessment capabilities. We strongly urge the Committee to provide full funding at the requested levels for these activities and consider the Administration's meat inspection fee proposal.

#### Women, Infants, and Children Program

The Administration strongly supports the \$33 million increase for WIC over the House level. The Committee mark should sustain a participation level of 7.4 million in FY 2000. We remain concerned, however, that this is still insufficient to support the projected average monthly participation level of 7.5 million, thereby not achieving our longstanding 7.5 million goal.

#### Food and Nutrition Service Research

The Administration strongly objects to any provision of the Committee bill that would prohibit the use of Food and Nutrition Service (FNS) funds for research and evaluations on nutrition programs. To address program integrity and performance issues properly, it is crucial that research on nutrition programs also occur in the context of the programs' administration. We urge the Committee to provide funding for these activities within FNS.

#### Common Computing Environment

The Administration is very concerned by the Subcommittee's decision not to fund the Common Computing Environment, either directly through the Support Service Bureau as requested in the President's Budget or by providing additional funds in the county-office agency salaries and expense accounts. Some in Congress have criticized USDA this year for delays in providing the crop-loss assistance funds to farmers that were provided in P.L. 105-277, the FY 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act, and for long waiting periods some farmers and rural residents have faced in receiving other assistance through USDA county offices. Yet this bill would not provide the funds needed to address the very problems that contributed to the delays. At a time when the farm community is under financial stress and the demand for farm credit and other programs is high, the need for timely and efficient service to producers and rural residents has never been greater. Without the proposed \$74 million in funding, it will not be possible to modernize the technology in USDA's local field offices, create one-stop shopping for rural customers, and promptly deliver the programs that Congress enacts with available staffing levels.

#### Conservation and Environmental Programs

The Subcommittee bill appears to cut spending on key USDA conservation programs by at least \$140 million from the President's request. The \$26 million reduction in the Environmental Quality Incentives program (EQIP) would mean 13,000 farmers and ranchers not receiving needed financial and technical assistance to stop soil erosion, improve waste treatment in animal feeding operations, and implement other voluntary conservation measures critical to protecting our natural resources. To further advance this important work, including addressing the significant backlog of farmers' requests for aid, the Administration requested a \$100 million increase in the EQIP program as part of its Clean Water Action Plan. The combination of the EQIP reduction and the Subcommittee's failure to fund the requested additional funds for

technical assistance to animal feeding operations could damage livestock owners, progress toward ensuring that their operations are environmentally sound and community-friendly.

Other valuable environmental programs would be severely underfunded by the Subcommittee bill, and we urge the Committee to restore funding for them. The Subcommittee failed to fund the \$50 million discretionary portion of the Administration's request for the Farmland Protection Program, which is part of the Administration's Lands Legacy Initiative. America's farmers need these funds to help them stay on their land, through easements that permanently protect 80,000 acres of prime farmland from development. We urge the Committee to provide the \$50 million in discretionary funds requested for the program and redirect its savings from the Conservation Farm Option to this program, as well as to the Wildlife Habitat Incentives Program to assist over 3,000 farmers in protecting and restoring wildlife habitat. In addition, the Subcommittee has not provided the \$12 million requested in the Conservation Operations account to assess soil management's effects on carbon sequestration, and \$5 million for USDA's initiative to help communities make use of geospatial data to make more informed land use decisions and promote smart growth. The Administration recommends funds be redirected to these high-priority activities, such as by eliminating the Forestry Incentives Program as requested and as included in the House bill.

#### Outreach for Socially Disadvantaged Farmers

The Subcommittee bill does not provide the requested \$7 million increase for the Outreach for Socially Disadvantaged Farmers program. This program has proven effective in mitigating the decline in the number of minority farmers by increasing their participation in agricultural programs, assisting them in marketing and production, and improving the profitability of their farming operations. USDA loan default rates have also improved in areas where this program operates. The requested increase is needed to expand this program beyond the limited areas in which it now operates, to further these farmers, equal access and their opportunity for success, and to continue USDA's work to improve its civil rights performance.

#### Research

The Subcommittee bill would fund USDA's National Research Initiative at \$81 million below the request of \$200 million, while providing funding for a large number of unrequested, earmarked research grants. We urge the Committee to increase the funding for competitive research grants and reduce earmarks for lower-priority programs.

#### Rural Development

The Administration appreciates the support in the Subcommittee bill for priority USDA rural development programs, such as water and wastewater loans and grants, Business and Industry guaranteed loans, and rental assistance for very-low income rural residents. The Administration is concerned, however, that the Subcommittee bill's funding for Rural Development salaries and expenses would jeopardize effective implementation of these programs. The \$25 million, or five percent, reduction from the requested salaries and expenses funding could require USDA to eliminate over 400, or six percent, of its staff through a Reduction-In-Force. We urge the Committee to provide the requested level of funding to ensure an adequate delivery system for these vital programs for rural America.

We look forward to working with the Committee to address our mutual concerns.

Sincerely,

Jacob J. Lew  
Director

Identical Letter Sent to The Honorable C. W. Young,  
The Honorable David R. Obey, The Honorable Joseph Skeen,  
and The Honorable Marcy Kaptur

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sandra Yamin ( CN=Sandra Yamin/OU=OMB/O=EOP [ OMB ] )

CREATION DATE/TIME:16-JUN-1999 12:21:12.00

SUBJECT: FINAL CLEARANCE -- Draft SAP - H.R. 1501 Juvenile Justice

TO: Elena Kagan ( CN=Elena Kagan/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Janet Murguia ( CN=Janet Murguia/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Sandra Yamin ( CN=Sandra Yamin/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: Mark J. Schwartz ( CN=Mark J. Schwartz/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: James J. Jukes ( CN=James J. Jukes/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: John T. Carnevale ( CN=John T. Carnevale/OU=ONDCP/O=EOP@EOP [ ONDCP ] )

READ:UNKNOWN

TO: Charles A. Blanchard ( CN=Charles A. Blanchard/OU=ONDCP/O=EOP@EOP [ ONDCP ] )

READ:UNKNOWN

TO: Broderick Johnson ( CN=Broderick Johnson/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: David W. Beier ( CN=David W. Beier/O=OVP@OVP [ UNKNOWN ] )

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TO: Theodore Wartell ( CN=Theodore Wartell/OU=OMB/O=EOP@EOP [ OMB ] )

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TO: Kenneth L. Schwartz ( CN=Kenneth L. Schwartz/OU=OMB/O=EOP@EOP [ OMB ] )

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TO: Elizabeth Gore ( CN=Elizabeth Gore/OU=OMB/O=EOP@EOP [ OMB ] )

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TO: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

TO: Joanne Chow ( CN=Joanne Chow/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: Richard E. Green ( CN=Richard E. Green/OU=OMB/O=EOP@EOP [ OMB ] )

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TO: Ronald E. Jones ( CN=Ronald E. Jones/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: Jon E. Rice ( CN=Jon E. Rice/OU=ONDCP/O=EOP@EOP [ ONDCP ] )

READ:UNKNOWN

TO: Charles M. Brain ( CN=Charles M. Brain/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: Eric R. Anderson ( CN=Eric R. Anderson/O=OVP@OVP [ UNKNOWN ] )

READ:UNKNOWN

TO: Sherron Duncan ( CN=Sherron Duncan/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: David J. Haun ( CN=David J. Haun/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: Michael Deich ( CN=Michael Deich/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

CC: Courtney O. Gregoire ( CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

CC: Erica R. Morris ( CN=Erica R. Morris/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

CC: Mindy E. Myers ( CN=Mindy E. Myers/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TEXT:

Please provide to me your sign-off ASAP. The bill is now on the floor.

Draft 12:15PM

June 16, 1999

(House)

H.R. 1501 - Consequences for Juvenile Offenders Act of 1999

(McCollum (R) Florida and 19 cosponsors)

H.R. 2122 - Mandatory Gun Show Background Check Act of 1999

(McCollum (R) Florida and Hyde (R) Illinois)

The Administration supports a comprehensive approach to addressing the problem of youth crime and violence. The President has taken the lead to address youth violence on all fronts □) from the media to the gun industry to parental responsibility. Most importantly, the Administration supports common sense gun legislation to help keep guns out of the hands of children and criminals. Specifically, the Administration supports measures to strengthen the successful Brady Law to require Brady background checks at gun shows and flea markets, and to raise the age of handgun ownership from 18 to 21. In addition, the Administration supports other life-saving measures already passed by the Senate to: require mandatory child safety devices with every new handgun sold; ban the importation of large capacity ammunition clips; prohibit violent juveniles from buying guns as adults; and bar juvenile possession of assault rifles.

The Administration opposes H.R. 2122, which fails to close the gun show loophole. The bill contains a narrower definition of □&gun show□8 that would not cover flea markets and other such commercial venues where

hundreds of guns are regularly bought and sold. In addition, the bill creates a safe harbor for criminals by creating a new class of "instant check registrants" to do background checks at gun shows, undermining law enforcement efforts to trace firearms that are later used in crimes. We also oppose the Dingell amendment, which maintains many of H.R. 2122's worst features and makes others worse. For example, it shortens the amount of time law enforcement officials have to conduct background checks. According to the FBI, if this 24 hour limit were applied to all current background checks, an estimated 17,000 criminals would have been able to purchase guns over the past 6 months.

We strongly support the McCarthy/Roukema amendment, the only amendment to H.R. 2122 that will close the gun show loophole once and for all.

In addition, the Administration supports comprehensive legislation to strengthen youth responsibility and accountability by juvenile offenders. While the Administration recognizes the importance of addressing juvenile crime, it is only through a comprehensive approach to crime -- including prevention, intervention, and punishment -- that we can continue to lower our crime rate, improve the safety of our communities, and deter children and adults from a life of crime.

To this end, the Administration supports the Conyers substitute. This amendment reauthorizes the office of Juvenile Justice and delinquency prevention and the office of Community Oriented Policing Service (COPS) -- which has made a significant contributions to our nation's safer streets. The President proposed nearly \$1.3 billion in his FY 2000 budget - and nearly \$6.4 billion over the next five years - for a new 21st Century Policing Initiative to help communities build on their efforts under the COPS program. This initiative will enable communities to continue to hire, redeploy, and retain police officers; to give law enforcement officers access to the latest crime-fighting technologies; to hire community prosecutors; and to foster community-wide prevention. These successful tools in the fight against crime must be an integral part of any legislation that seeks to make our streets safer, but they are not included in current House legislation.

In addition, the Administration has concerns with the McCollum amendment, which would treat certain juveniles prosecuted in the federal system too harshly by failing to provide needed safeguards for younger juveniles, and juveniles who are charged with less serious crimes.

Finally, the Administration supports serious efforts to address the issue of media violence and its effects on young people. That is why the President has taken the lead in challenging the entertainment industry to live up to its responsibilities and initiating both a Surgeon General's report on youth violence and a joint FTC/DOJ study of the industry's marketing practices. The Administration, however, opposes an expected amendment to ban the distribution of certain violent material to teenagers. A broad prohibition of this kind on the sale or exhibition of violent materials would raise profound First Amendment concerns -- so much so that the drafters of this provision have included expansive loopholes that insofar as they address constitutional problems would render the provision, in critical respects, virtually impossible to enforce and therefore meaningless.

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(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Jones), in consultation with the Departments of Justice (Jones) and the Treasury (Levy), the Office of National Drug Control Policy (Rice), the Domestic Policy Council (Kagan, Cerda), and TCJSD (Boden).

Due to time constraints it was not circulated broadly.

OMB/LA Clearance:

H.R.1501 was introduced on April 21, 1999 and referred to the full House Judiciary Committee by the Crime Subcommittee on April 22, 1999. There was no full Judiciary Committee action on the bill.

H.R. 2122 was introduced on June 10 and was to the House Judiciary Committee. The Committee did not hold hearings on H.R. 2122.

Administration Position to Date

The Administration has taken no position on H.R. 1501 or H.R. 2122.

Descriptions of H.R. 1501 and H.R. 2122

The following description is based on the versions of the bills as introduced and summaries of the most significant of the 55 amendments that were ruled in order by the House Rules Committee. The Rules Committee issued the rule for floor debate of these bill at approximately 1 AM on June 16th and we have not seen the text of the amendments.

H.R. 1501 as Introduced. H.R. 1501 would authorize appropriations to the Justice Department of \$500 million for each of fiscal years 2000 through 2002 for grants to State and local governments. To receive the grants States would be required to implement systems of graduated sanctions for juvenile offenders. The sanctions would be proportional to the offense committed and would increase if the individual commits additional crimes. Sanctions could include counseling, restitution, community service, a fine, supervised probation or confinement. Each State would be required to submit an annual written report detailing the reasons for any divergence from a graduated sanction by a court in that State.

States and localities also could use a portion of the grant awards for other purposes including::

- building or expanding facilities;
- establishing juvenile gun courts and drug court programs;
- hiring additional prosecutors, judges and probation officers;
- promoting mental health screening and treatment;
- establishing or expanding substance abuse programs;
- training law enforcement personnel and establishing school safety programs;

- maintaining juvenile record systems and establishing interagency information-sharing programs;
- conducting research on drugs, gangs and youth violence;
- purchasing new technology and equipment to expedite the prosecution of violent juvenile offenders; and
- establishing accountability programs to reduce recidivism among juveniles.

Description of Hyde Amendment to H.R. 1501 -- Protecting Children from the Culture of Violence. The Hyde Amendment (similar to H.R. 2036) would:

- Prohibit the sale or display to minors of any explicit sexual material or explicit violent material and subject violators to 5 years imprisonment for first offenses and up to 10 years for subsequent convictions;
- Require the National Institutes of Health to study the effects of video games and music on child development and youth violence, especially whether (1) video games and music affect the emotional and psychological development of juveniles and (2) violence in video games and music contributes to juvenile delinquency and youth violence;
- Provide an exemption from antitrust laws for any joint action or agreement by or among persons in the entertainment industry for the purpose of developing and disseminating voluntary guidelines designed to (1) alleviate the negative impact of telecast material, movies, video games, Internet content, and music lyrics containing violence, sexual content, criminal behavior, or other subjects that are not appropriate for children, or (2) promote telecast material, movies, video games, Internet content, or music lyrics that are educational, informational, or otherwise beneficial to the development of children; and
- Authorize \$5 million annually for FYs 2000-2004 for a Justice Department grant to the National Center for Neighborhood Enterprise to enable the National Center to fund grassroots entities to establish violence-free zone in nine cities.

The bill also includes a Sense of the Congress provision that retailers who sell records, tapes, CDs, and other sound recordings over the counter should make copies of the lyrics available to persons over the age of 18 for their on-site review.

Description of H.R. 2122

H.R. 2122 would: require background checks of sales that take place at gun shows where 50 or more guns were offered for sale; at least one of which was shipped in interstate commerce, and where there are at least 10 firearms vendors. The Senate passed similar provisions in S. 254, which does not contain the exception for gun shows with fewer than 10 licensed dealers. Law enforcement officials would have 72 hours to conduct the background check instead of 3 working days as permitted under S. 254.

The bill would require every handgun to be sold with a secure gun storage or safety device but defines a safety device to include any part that would render the handgun inoperable. This definition would include the trigger mechanism and, therefore, would not require any change to how firearms are currently sold.

Pay-As-You-Go Scoring

Per BASD (Balis ) H.R. 1501 and H.R. 2122 would affect receipts (criminal fines) and direct spending (outlays from the Crime Victims Fund); therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act. The criminal fines are deposited into the Crime Victims Fund and are available for use in the following year, and this Office estimates the net budget effect in any one year is negligible. CBO's position is not known.

LEGISLATIVE REFERENCE DIVISION  
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