



*“One Strike  
and You’re Out”*

Policy in Public Housing

**DRAFT**

For: Bruce Reed

Fr: Rahm

Please look over  
and get back to

him. Etc.

Crime -  
Public Housing

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*“One Strike  
and You’re Out”*

Policy in Public Housing

**“I challenge local housing authorities and tenant associations: Criminal gang members and drug dealers are destroying the lives of decent tenants. From now on, the rule for residents who commit crime and peddle drugs should be one strike and you’re out.”**

**President Bill Clinton  
State of the Union, January 23, 1996**

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# One Strike and You're Out: How It Can Help Our Public Housing Communities

## Introduction

Public housing is a place to live, not a place to deal drugs or to terrorize neighbors. Yet today, some of America's public housing communities are under siege by gangs, violent criminals and drug dealers who threaten the safety and welfare of decent, responsible tenants.

In the face of this community crisis, there has emerged a strong and committed consensus among residents, public housing agencies (PHAs) and HUD that decisive action must be taken to provide for the safety and well-being of families who live in public housing. Building on this concern, President Clinton has proposed implementation of a strict, straightforward "One Strike" policy: people in public housing who engage in drug and other criminal activity will face certain and swift eviction.

*By aggressively rooting out criminals, this One Strike policy will help to:*

- free public housing residents from daily threats to their personal and family safety;
- build public housing communities that are safer and drug-free;
- support parents in their efforts to instill the values of hard work, personal responsibility, and good citizenship in their families;
- create an environment where young people, especially children, can live, learn, and grow up to be productive and responsible citizens;
- ensure that public housing residents can pursue the work and educational opportunities necessary to lift themselves out of public housing and attain self-sufficiency; and
- encourage businesses to invest in these distressed areas, bringing badly-needed jobs.

One Strike can make a real difference in communities. Already, housing agencies in cities like Toledo, Ohio and Portland, Oregon are seeing dramatic results from using tough but fair "One Strike" policies to screen and evict drug dealers and other criminals. Combined with crime prevention efforts, community policing, and aggressive law enforcement efforts like Operation Safe Home, One Strike can be a powerful and effective weapon in America's battle to turn crime and drug-infested public housing developments into safe, strong, and hopeful communities.

## Guidance for Adopting a "One Strike and You're Out" Policy

Today, there are over 3 million low-income people living in public housing. A majority of the nation's public housing developments are well-managed and provide safe, attractive, and quality homes for families and children. Most public housing residents are law-abiding citizens, sometimes holding several jobs, trying to guide their children and protect them from harm. But there is public housing in this country — even among good housing authorities in major cities or medium-sized communities — that is dominated by crime and failing its mission to provide decent and safe environments for families. Some housing agencies need additional tools to fight the gangs, drug trade and violent crime that pervade their communities. Others are experiencing new patterns and higher levels of crime and are unprepared to deal with such unexpected increases in crime activity.

To meet this challenge, the Clinton Administration has implemented the most far-reaching transformation of public housing since its inception to improve the safety and quality of life in public housing. HUD has enabled cities to demolish dozens of blighted

vacant, high-rise projects and replace them with garden-style, economically-integrated developments. HUD is changing the social dynamic in public housing by instilling positive incentives, rewarding working families, and setting tougher expectations on personal responsibility so that families can achieve self-sufficiency. We have initiated a national crackdown on gangs and violence called Operation Safe Home that has resulted in thousands of arrests and confiscation of assault weapons and drugs.

As one important step in a this larger, comprehensive strategy to improve the quality, safety and well-being of public housing communities, HUD recommends that PHAs design and implement “One Strike and You’re Out” (One Strike) policies. To be truly effective, a One Strike policy must reflect a genuine community compact among residents, housing officials, local courts and law enforcement agencies to build safe, strong and inspiring communities for families and children.

Current law permits local housing agencies to adopt One Strike policies — PHAs have broad authority to screen applicants and are required to state clearly in their leases that illegal drug use and other criminal activities that threaten the well-being of residents are grounds for eviction. A new law, the Housing Opportunity Program Extension Act of 1996 (Extension Act), also gives PHAs new authority and obligations to deny occupancy on the basis of illegal drug-related activity and alcohol abuse. HUD will issue guidance on this new legislation shortly.

While many PHAs take full advantage of their authority to use stringent screening and eviction procedures, there are some PHAs that do not. Moreover, PHAs, local police departments and courts do not always work together to promote community safety. These guidelines are intended to assist local housing agencies in adopting and implementing fair, effective and comprehensive One Strike policies that encompass both prevention through screening and enforcement by eviction. They also provide guidance in enlisting the cooperation of residents, police departments, and courts that is necessary to the success of One Strike programs.

## Monitoring PHA Performance in Implementing One Strike Policies

HUD will provide incentives for PHAs to aggressively implement One Strike policies, through its Public Housing Management Assessment Program (PHMAP), HUD’s management evaluation system for housing authorities.

PHMAP is a numerical grading system, based on a 100-point scale, that scores PHAs on their performance of such duties as: (1) maintaining a low number of vacancies; (2) maintaining the overall physical conditions of buildings; (3) collecting rents; (4) turning over vacant units for occupancy; and (5) working with residents to establish quality programs and opportunities. HUD will revise its PHMAP system, by amending existing regulations, to add an evaluation component that takes into consideration PHAs’ performance of such activities as: tracking crime-related problems in their developments, cooperating with local law enforcement and local courts, adopting and implementing effective applicant screening and tenant eviction policies and procedures, and meeting stated goals under any HUD-funded drug prevention or crime reduction program. Under such a performance evaluation system, a high-scoring, high-performing PHA would receive less federal oversight and may be eligible to receive additional formula funds under HUD’s FY 1997 budget request; a PHA with a failing PHMAP score would be ineligible for such additional funding and could ultimately face a HUD takeover of its management.

## Guiding Principles of a One Strike Policy

As PHAs develop One Strike policies and crack down on criminals, gangs, drugs and violence in public housing, they should be mindful of the following overarching principles:

- *All individuals have the right to live in peace and be free from fear, intimidation, and abuse.* Public housing residents have the same rights as all other Americans to live peacefully and decently. The elderly should not be afraid to go for walks in their own neighborhoods. Families should be able to raise their children in safe, promising communities where children can play, learn, and grow without persistent threat.
- *Because of the extraordinary demand for affordable rental housing, public and assisted housing should be awarded to responsible individuals.* Some have expressed concerns about evicting criminals from public housing for fear that such individuals or their families will have nowhere to go. At a time when the shrinking supply of affordable housing is not keeping pace with the number of Americans who need it, it is reasonable to allocate scarce resources to those who play by the rules. There are many eligible, law-abiding families who are waiting to live in public and assisted housing and who would readily replace evicted tenants. By refusing to evict or screen out problem tenants, we are unjustly denying responsible and deserving low-income families access to housing and are jeopardizing the community and safety of existing residents who abide by the terms of their lease.
- *Applicants and current residents of public housing should be protected from discrimination and violation of their right to privacy.* It is critical to the credibility and success of One Strike programs that PHAs comply with all civil rights, fair housing, and privacy laws, at both the screening and the eviction stages. Tenant selection and lease enforcement must not infringe upon an individual's right to privacy and should not discriminate based on race, color, nationality, religion, sex, familial status, disability or membership in other groups or categories protected under such laws.
- *Active community and governmental involvement in designing and implementing a One Strike policy is fundamental to its success.* An effective One Strike policy is one that is tailored to local needs and circumstances and has the active support and participation of the community. PHAs should seek the cooperation of residents, law enforcement officials, and the courts in designing and carrying out their One Strike programs.

## Prevention Through Tougher Screening at Admissions

The first essential element of a One Strike policy is to ensure that those who engage in illegal drug use or other criminal activities that endanger the well-being of residents are not allowed to live in public housing. Today, some PHAs do not conduct adequate screenings for admission into public housing. PHAs should screen applicants thoroughly by taking the following steps:

1. **Conduct comprehensive background checks that include screening for criminal activity.**

PHAs should adopt uniform screening procedures designed to ensure that every newly admitted resident can be expected to comply with the basic rules of tenancy. Such screening should include, where warranted and consistent with legal standards, reviewing police and court records, credit or payment histories, and landlord references, and checking with probation officers, parole officers, and local social service providers. If possible, PHAs should also make home visits where appropriate.

Such screening should also be conducted on all appropriate members of the applicant household, rather than on just the applicant. Often, the persons with the criminal backgrounds are not the family heads but their adult children or grandchildren. To be more

thorough, some PHAs, for instance, obtain police reports on all applicant household members 16 years of age or older to ascertain past drug or criminal activity.

**2. Work with courts and law enforcement agencies to gain access to criminal records.**

PHAs should enlist the cooperation of local, state, and federal law enforcement officials and courts to gain access to criminal records of potential tenants to the full extent permitted by law. In most jurisdictions, arrest and conviction records and other documentation showing a criminal history are public records. If state or local law is an obstacle to such screening, PHAs and their residents may want to consider efforts to bring the matter to the attention of appropriate legislative bodies. This has been done successfully in some states.

The recently-passed Extension Act also requires that the National Crime Information Center, police departments, and other law enforcement entities make their criminal conviction records available to PHAs for purposes of screening, lease enforcement, and eviction. In turn, PHAs are required to establish and implement systems of records management that ensure that records received are maintained confidentially, not misused or improperly disseminated, and destroyed once action is taken.

**3. Develop criteria to screen for drug-related and other criminal activity.**

Under the Extension Act, PHAs must screen applicants for involvement in certain illegal drug-related activities. Specifically, PHAs must deny occupancy to applicants who have been evicted from public housing within the past three years because of drug-related criminal activity, unless the applicants have completed rehabilitation programs. PHAs must also develop standards that deny occupancy to persons illegally using controlled substances and to persons who a PHA has reasonable cause to believe, based on illegal use or a pattern of

illegal use of controlled substances, may interfere with the health, safety or right to peaceful enjoyment of the premises by other tenants. PHAs may consider evidence of rehabilitation in making the “reasonable cause” determination.

PHAs should also consider evidence of other criminal activity — including violent crimes and any other crimes that would pose a threat to the life, health, safety, or peaceful enjoyment of residents — in making informed assessments about applicants’ suitability for tenancy. PHAs should consider applications for residence by persons with such criminal histories on a case-by-case basis, focusing on the concrete evidence of the seriousness and recentness of criminal activity as the best predictors of tenant suitability. PHAs also should take into account the extent of criminal activity and any additional factors that might suggest a likelihood of favorable conduct in the future, such as evidence of rehabilitation.

**4. Protect applicants’ due process rights.**

PHAs must adopt written policies and procedures governing admissions that describe the criteria and standards to be applied. PHAs must post their policies in the offices where applications are received and make copies of those policies available to applicants upon request. When a PHA deems an applicant ineligible for admission, it must promptly notify the applicant of the basis for its decision, and provide the applicant with an opportunity for an informal hearing on the determination. The Extension Act also requires that where denial of occupancy is based on a criminal record, the PHA must provide the applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

**5. Consult with attorneys who are familiar with local laws.**

PHAs should have attorneys experienced in local landlord-tenant law review their screening policies and procedures to ensure compliance with any applicable state or local laws.

**6. Consider involving current residents in the tenant selection process.**

Because they have a clear and immediate stake in the outcome of tenant selections, current public housing residents sometimes are the toughest screeners of new admissions. Some PHAs have successfully used resident screening advisory committees. These committees may advise PHAs, but PHAs must remain responsible for the final decision to admit or decline a potential tenant. PHAs also must ensure that advisory committees comply with privacy laws and other legal standards.

## Enforcement by Eviction

The second key component of a One Strike policy is to have clear lease provisions that bar drug-related and other criminal activity and to encourage stricter enforcement of those provisions.

Current law requires all PHAs to use leases that expressly state that (1) any criminal activity is grounds for eviction if it threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, and (2) all drug-related criminal activity occurring on or off the premises is cause for eviction. Under the required lease terms, a tenancy can be terminated and the household evicted when the tenant, any member of the tenant's household, or a guest engages in the prohibited criminal activity. In addition, the Extension Act requires PHAs to establish standards for occupancy that allow PHAs to evict any person who the PHA determines is illegally using a controlled substance, or whose illegal use of a controlled substance is determined by the PHA to interfere with the rights of other tenants.

Even when lease terms are clearly stated, PHAs may encounter problems in the actual enforcement of those terms prohibiting drug-related or other criminal activity. The following guidance is intended to provide PHAs with the information they need to develop and enforce One Strike eviction policies.

**1. Put the policy in the lease.**

PHAs must make their eviction policies clear in every lease. At a minimum, this means including the HUD-required language obligating tenants to assure that neither they nor any household member or guest, or other under their control, will engage in the prohibited drug-related or other criminal activities, and providing that failure to abide by this lease term is grounds for eviction. It is highly recommended that the lease also contain language expressly stating that any drug-related or criminal activity in violation of this term will be treated as "a serious violation of the material terms of the lease." Finally, PHAs should consider additional language specifying that the PHA has a One Strike or "zero tolerance" policy with respect to violations of lease terms regarding criminal activity. To ensure that their leases are sufficiently explicit, PHAs should have them reviewed by experienced attorneys in their jurisdictions.

Under the Extension Act, alcohol abuse is grounds for termination of tenancy if a PHA determines that such abuse interferes with the health, safety, or right to peaceful enjoyment of the premises by other tenants. To make this policy clear, PHAs should include a lease term allowing for eviction under these circumstances.

**2. Specify that arrest and conviction are not necessary to trigger eviction.**

Evictions are civil, not criminal, matters. In order to terminate a lease and evict a tenant, a criminal conviction or arrest is not necessary, and PHAs need not meet the criminal standard of "proof beyond a reasonable doubt" in eviction proceedings. PHAs should specify in their leases that criminal activity is cause for eviction even in the absence of conviction or arrest. Any provisions in state laws that require conviction in order to evict tenants are preempted by federal law.

This does not mean that tenants can be evicted only on the basis of a suspicion that they have engaged in prohibited activity. Plainly, PHAs must be prepared to prove in court that a tenant has violated his or her lease.

**3. Ensure sufficiency of the evidence before proceeding with eviction.**

Both to be fair to tenants and to bring success in court, it is important that PHAs review all potential cases to ensure that the evidence is strong enough to warrant an eviction action. Inadequately supported cases can lead to well-publicized defeats that could set back PHAs' efforts to implement One Strike programs and other initiatives to fight crime in public housing. PHAs are well advised to bring no case to court without strong evidence that the lease has been violated.

**4. Educate applicants and tenants on lease terms.**

As extra assurance that tenants have full notice of anti-crime policies, PHAs should thoroughly educate applicants, new tenants and current residents about lease terms related to criminal activity and the consequences of single violations of those terms. Briefings should occur before leases are signed or renewed. To the extent practicable, PHAs should include all appropriate members of households in these briefings, not just the heads of households.

**5. Make tenants responsible for the conduct of everyone in their households.**

The lease language mandated by federal law imposes on tenants an affirmative obligation to assure that neither they nor any member of their household or guest or other person under their control will engage in prohibited drug-related or other criminal activities. PHAs can generally enforce this obligation by terminating leases and evicting entire households when a household member or guest commits a crime in violation of lease provisions. A promise is a promise. Where the tenant has promised in a lease to ensure a crime-free household, the tenant is responsible for the household, regardless of whether he or she was personally engaged in the prohibited drug or other criminal activity.

PHAs retain the flexibility to handle these cases on an individualized basis, and they should exercise reasonable discretion in light of all of the relevant circumstances. In particular, when a tenant has taken all reasonable steps to prevent the criminal activity, eviction may not always be warranted or proper. To ensure both humane results and success in court, PHAs should undertake a case-by-case analysis before proceeding with eviction. If they do seek eviction, PHAs should be prepared to persuade a court that eviction is justified.

In some instances, eviction of an entire household may be appropriate as a means of protecting the health, safety and welfare of the public housing community. In others, alternative approaches may be appropriate, such as allowing a household to remain in occupancy on the condition that the offending member move and agree not to return. This latter approach does not always lead to effective long-term removal of the offending individual. PHAs, therefore, should consider the likelihood of success in each particular case and their ability under local law to take action if an agreement is violated. In some cases, trespass laws and restraining orders may also help to keep former residents away from remaining household members.

**6. Treat tenants evenhandedly.**

PHAs should implement their One Strike policies uniformly: the same lease should be provided to all tenants, and the PHA must enforce its provisions against all violators in a fair, evenhanded manner. Similar lease violations should result in similar sanctions.

**7. Protect the due process rights of tenants.**

Lease terminations and evictions based on criminal activity must be preceded by notice and an opportunity for a hearing. Prior to the hearing, PHAs must provide the tenant with a chance to examine any relevant documents, records, or regulations directly related to the termination or eviction. Under the Extension Act, this includes criminal conviction records that are the bases for terminations or evictions.

In most states, PHAs need not handle these evictions through their ordinary administrative grievance procedures. In 47 states, HUD has determined that the state landlord-tenant process provides the necessary pre-eviction hearing and other basic elements of due process, so that PHAs can exclude criminal activity evictions from their grievance procedures and proceed entirely through the state court system. In the three remaining states (Hawaii, Nevada, and North Carolina), HUD regulations permit PHAs to expedite their normal grievance procedures in cases involving criminal activity.

State or local law governing eviction procedures may give tenants procedural rights in addition to those provided by federal law. Tenants may rely on those state or local laws so long as they have not been preempted by federal law.

#### **8. Involve attorneys trained in local landlord-tenant law.**

Because eviction procedures vary from state to state, it is important that attorneys trained and experienced in local law participate in designing and implementing a One Strike eviction policy. It is obvious but critical that eviction cases must be done right; eviction cases often are promptly thrown out of court on technical errors, which may damage a PHA's credibility with both residents and the courts.

#### **9. Obtain full cooperation from state and local police departments.**

The cooperation of local police is key to the successful implementation of a One Strike policy. Ideally, police should supply additional patrols for public housing communities with special needs. At a minimum, PHAs should request that police: (1) promptly provide housing managers with relevant incident reports for timely eviction processing; (2) help PHAs expedite drug identification in serious cases; and (3) prepare for cases as needed with PHA attorneys.

PHA executive directors or staff should educate police personnel regarding public housing needs and problems, and work out administrative arrangements so that full and

expeditious cooperation occurs. The police must know exactly what criminal activities are grounds for lease termination so they can keep the PHA informed when such behavior occurs. Likewise, the PHA may receive information that would be helpful to the police if relayed promptly, discreetly and in accordance with any applicable laws.

In addition, police are often the best witnesses at eviction hearings involving criminal activity. Police testimony typically will be important to obtaining a drug-related eviction, where the police have made an arrest and seized drugs in the unit. PHAs should encourage police departments to view providing testimony as an important part of the police department's mission and should use subpoenas where appropriate to facilitate police testimony.

#### **10. Obtain full cooperation from local judges.**

There are some local judges who are hesitant to evict problem residents for fear that these residents have nowhere else to live. In fact, there are thousands of deserving and law-abiding families that are waiting to move into rental units. At a time when the nation is facing a shortage of affordable housing, responsible, hard-working families and individuals should not be denied public housing so that disruptive households can remain. Although PHA directors may not talk to judges about particular pending cases, they may arrange general meetings with groups of local judges to discuss these issues and the need for evictions where the evidence shows serious lease violations. Residents also should be involved in meetings with judges, because nobody can make the case for One Strike policies better than they.

#### **11. Assist civilian witnesses in eviction proceedings.**

PHAs should be sensitive to the needs of civilian (non-police) witnesses who have agreed to testify in eviction proceedings. PHAs should help witnesses prepare for court and provide them with any other support they may need. Public housing residents themselves often will make effective witnesses to drug-related or

other crime. For this reason, it is critical that PHAs have the support and participation of residents when they initially design One Strike policies; residents are more likely to testify if they understand that the program will benefit them and if they have been involved from the beginning.

**12. Provide resident witnesses the opportunity to relocate to another home, if necessary to ensure their safety.**

Residents who witness violent crime often are reluctant to risk their lives or the safety of their families by coming forward to testify. Witnesses may be more apt to testify if PHAs can help minimize their sense of personal danger and help them move to a new home. HUD has pursued and obtained several legislative provisions that will enable local housing agencies to provide relocation assistance to resident witnesses. In FY 1996, at HUD's urging, Congress has made witness relocation one of the eligible activities under the Section 8 rental certificates program so that PHAs can assist families to move to privately-owned apartments. Congress has also eliminated mandatory federal preferences governing who can be given priority to live in public or assisted housing, thus giving PHAs more flexibility to put resident witnesses at the top of local waiting lists. In providing relocation assistance, PHAs, of course, should ensure that resident testimony is in good faith and relevant to the particular case at issue.

## **Protecting Existing Residents from Nonresidents**

It is important to recognize that even the most effective One Strike policies can be undermined if housing agencies do not also have security measures in place to protect against criminal activities committed by nonresidents. In many public housing communities, criminal and disruptive activities are undertaken by those who *do not live* in the respective community.

These nonresidents, of course, are not subject to eviction.

Crime committed by nonresidents is a difficult problem that is best addressed through close cooperation between PHAs and state and local law enforcement. Some public housing communities have had their states declare them "drug-free zones," so that greater penalties may be imposed for committing drug-related crimes on or near the development. In some localities nonresidents can be prosecuted for criminal trespassing. At minimum, such a remedy typically requires PHAs to post warnings on properties so that violators have sufficient notice. Some PHAs have issued resident identification cards to better enforce trespassing laws. The criminal trespass tool can be ineffective, however, when the nonresident can argue that he or she is an expected guest of a resident. If the presence of some nonresidents can be linked to specific residents, the disruptive activities of these guests can be grounds for eviction of the entire host household. Sometimes simply providing warnings of the possibility of such eviction actions can be effective.

Finally, where a PHA settles an eviction case on the condition that a disruptive household member moves away, to the extent allowed in the jurisdiction, the agreement should provide that (1) the individual thereafter will be a trespasser at the development and (2) the household can be subject to eviction if the individual comes back.

## **Protecting Residents from the Effects of Alcohol Abuse**

The main focus of a One Strike policy should be illegal drug-related activity and other criminal activity that threatens the well-being of the public housing community. To protect the safety and security of public housing, however, PHAs also should consider the effects of alcohol abuse by residents on the public housing community. Specifically, the Extension Act requires that PHAs establish standards that prohibit occupancy by a person if the PHA determines that it has reasonable cause to believe that the

person's abuse or pattern of abuse of alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. In making that determination, PHAs may consider evidence of rehabilitation. PHAs also must establish standards allowing

for termination of tenancy when the PHA determines that a person's abuse of alcohol is interfering with the rights of residents. Again, HUD will issue additional guidance on these new statutory provisions in the near future.



## Appendix

### Models of Success in Fighting Public Housing Crime

#### A. One Strike and You're Out Policies

Some housing authorities are already effectively screening and evicting drug dealers and other criminals from public housing.

##### Lucas Metropolitan Housing Authority (LMHA), Toledo, OH

- *Actions:* In just three short years, the LMHA has been transformed from a troubled agency to one of the nation's best-managed housing providers. Part of LMHA's success can be attributed to its comprehensive anti-crime strategy, which includes an effective One Strike policy.

Two years ago, the LMHA instituted a tougher lease and lease enforcement policy. Its One Strike policy has been effective for several reasons. First, the LMHA has established a good working relationship with local law enforcement officials and judges. The Law Enforcement Access Data System, which maintains local criminal records, is available on-site in the city's public housing developments at the police and sheriff substations to provide prompt responses to disturbances as they occur. Also, local law enforcement officials and judges are often invited to and participate in LMHA open-houses for such openings as new police substations or child care centers. These and other visits to public housing developments give these local partners a real sense of the LMHA's commitment to providing quality housing for hard-working, responsible tenants. Today, these partners have a vested interest in upholding One Strike policies and ensuring safe and quality homes for Toledo families.

Second, the LMHA has elicited strong resident support and involvement in all aspects of its crime prevention strategy. Residents participate in a grievance panel for hearing eviction cases, and the resident council has been and will continue to be deeply involved in designing and implementing tougher screening and lease enforcement policies and procedures.

- *Results:* LMHA has maintained an impressive rating of 94 out of a possible 100 on HUD's management assessment system in the last two years. Six police substations are currently located on public housing sites. Forty-one tenants have been evicted for drug or other criminal activities in the last 12 months. Over 330 applicants out of a total of 2,300 applicants taken were rejected for criminal history or unfavorable landlord references in the last 12 months. Overall incidents of drug-related crime has dropped from 227 in 1993 to 173 in 1994 and continued to fall in 1995. The overall level of other crime (murder, rape, assault, etc.) in the public housing community also dropped from 579 incidents in 1993 to 186 incidents in 1994. In addition, a recent resident survey indicated that over 75% reported feeling safe in living in LMHA properties, an increase of 22 percentage points in less than two years.

##### Housing Authority of Portland, Oregon (HAP)

- *Actions:* HAP uses an aggressive screening policy, combined with vacancy reduction and eviction. HAP's screening policy on drug-related crime says that "applicants whose habits and practices reasonably may be expected to

have a detrimental effect on the tenant or project environment" are denied admission. A full range of screening procedures puts the policy into action, such as: applications and reference forms with questions about gang-related and/or criminal activity; criminal background checks on all household members 15 years of age or older; formal screening by a Prospective Renters Verification Service; review through the state Judicial Information Network to determine the final outcome of civil, criminal and eviction court cases; and checking the Association of Oregon Housing Authority records on evictions and residents owing money, and HAP's own Do Not Rehouse records. Finally, applicants see a pre-occupancy video describing lease requirements.

- **Results:** From January to September 1994, 99 applicants were denied admission because of criminal histories (and another 37 for other reasons). Between May 1988 and March 1994, the most crime-ridden and troubled public housing development in the city saw a 78% drop in the incidents of gang activities, 72% drop in robbery cases, and 60% drop in drug abuse cases. At another development, the additional implementation of a community policing project led to a 45% drop in gang activity and an 83% drop in drug abuse cases in just one year.

### **Charlotte Housing Authority (CHA), Charlotte, NC**

- **Actions:** Since 1979, the CHA has screened applicants for prior rental history both as a renter and as a neighbor. Screening has also included the person's civil and criminal court records. In 1983, the screening process was expanded to include screening of all persons 16 years of age or older who were listed on the application. Four

years ago, CHA adopted a new lease and grievance policy. Under this new policy, grievances for cases involving violent crime and drugs are expedited. Residents have only three days to request a hearing and that hearing is before a single hearing officer instead of the normal grievance panel. CHA has also asked the North Carolina Legislature for legislation permitting them to go directly from the grievance hearing to district court in matters involving drugs and crime in order to circumvent the lengthy proceedings in civil/magistrate court.

- **Results:** As a result of the combination of aggressive police patrols, lease enforcement, prevention, and drug treatment, the crime rate fell during 1994 by 8.7% overall and 12.4% in targeted neighborhoods. The crime rate has continued to fall in 1995.

### **B. Operation Safe Home**

Operation Safe Home brings together a coalition of forces to combat criminal and gang activity in public housing. Residents, managers and various federal and local law enforcement agencies work together to find, fight, and rid the community of crime. Before Operation Safe Home was started in early 1994, the lack of coordination among these groups undermined effective crime prevention.

**Nationwide results:** By September 1995, Operation Safe Home had shown dramatic nationwide results.

- 6,826 arrests
- 737 search warrants served
- seizure of 558 weapons, over \$1 million in cash, and drugs with street value of nearly \$2.9 million
- relocation of 183 families who witnessed violent crime and were willing to testify in court

*Some specific examples of Operation Safe Home successes:*

**Washington, DC**

- *Actions:* A 10-month undercover investigation of a local gang by HUD's Office of Inspector General, ATF and the DC Metro Police.
- *Results:* The investigation led to the arrest of 15 members of a drug gang that had terrorized residents of the DC Housing Authority's Kelly Miller complex. After the arrests, the authority coordinated a campaign to paint, clean up, install new windows, improve security and bring in other social services. Local residents threw a block party to celebrate reclaiming their area. Today, Kelly Miller has been designated a "drug-free zone."

**Boston, MA**

- *Actions:* A coordinated effort by law enforcement authorities to reclaim an area that had become an "open-air" drug market, terrorizing residents of the Boston Housing Authority's Mission Hill Development. Participating authorities included: special agents of HUD's Office of Inspector General, DEA, and ATF, along with Massachusetts State Police, Boston Police and Boston Housing Police.
- *Results:* Over 100 arrests were made, followed by community policing to maintain a high profile for law enforcement in the area. At the same time, the housing authority launched a campaign to reform and reclaim the neighborhood.

**New York, NY**

- *Actions:* Investigation by a task force, comprised of HUD's Office of Inspector General, ATF and the New York City Housing Police.
- *Results:* The investigation dismantled a violent drug organization that controlled narcotics trade in and around the New York City Housing Authority's Baisley Houses development and terrorized its residents. The gang was believed responsible for 17 murders. Seized during the arrests: \$10,000 in cash, 300 vials of cocaine, quantities of heroin and marijuana, and an AK-47 assault rifle.

**Chicago, IL**

- *Actions:* A coordinated investigation by multiple federal, state and local law enforcement authorities into murder and drug-related crimes at several Chicago Housing Authority developments.
- *Results:* The investigation led to the indictments of 38 members — virtually the entire command structure — of a violent street gang.

**C. Drug Elimination Grant Program**

The Public Housing Drug Elimination Program (PHDEP) provides a range of prevention and education programs to encourage residents to join together to fight crime and foster a safe environment for public housing youth. These initiatives range from employing security guards and supporting resident patrols to creating alternatives to gang involvement for youths. The Drug Elimination program also provides the primary source of funds to support effective screening and lease enforcement procedures (other than legal fees):

The Drug Elimination Program is working. In a recent evaluation of participating public housing agencies, 25 of the 28 evaluated reported significant strides in the fight against drug-related crime.

### **Providence, RI**

- *Actions:* This PHA's comprehensive plan to eliminate drug use involves five initiatives: drug prevention through the Pride Program of family services, youth activities and economic opportunities; resident screening procedures; resident involvement; enhanced security with resident crime watches and a partnership with local police; and modernization and maintenance.
- *Results:* Overall law enforcement activity has shown a marked increase in the vicinity of the PHA and its residential developments. In FY 1995 police responses have increased 37% over FY 1994. Total arrests on public housing properties have increased more than 85% over arrests made during FY 1994, reflecting the stepped-up level of law enforcement and resident involvement in the community. Between FY 1994 and 1995, property crimes decreased by 15%.

### **Denver, CO**

- *Actions:* Project Storefront has effectively brought together public housing residents, the Denver Police Department, and community-based organizations and private/public entities to eliminate drug activity in public housing communities. The Storefront centers provide a visible, yet non-threatening, activity center for resident and community outreach, communication, and program activity. Each Storefront houses a resident Community Resource Specialist and a Denver Police Community Resource Officer. During high crime periods, a foot patrol team also works out of the Storefronts to reduce crime and improve the quality of life for public housing residents.

- *Results:* Between 1993 and 1994, there was a 26% reduction in the number of crimes reported within Denver's public housing communities. In addition, the housing authority was successful in evicting 255 persons during the 1993-94 year. Thirteen (13%) percent of the evictions were drug-related.

### **Flint, MI**

- *Actions:* With the support of federal drug elimination funds since 1991, the Flint Housing Commission has hired police/security officers and implemented a community policing program in partnership with the Flint Police Special Projects Unit. In 1994, the Housing Commission hired a private security firm to provide greater police visibility and coverage to their developments via foot and car patrols. The private security firm is also responsible for responding to emergency calls from the public housing developments as opposed to responding to city-at-large calls.
- *Results:* In 1991, the Flint police officers, through new community policing efforts, were able to reduce the crime rate in one development by half. Drug arrests have dropped considerably since the City implemented a more aggressive anti-crime effort in the four developments. During 1991, 1992, and through March 1993, the Flint Police Special Operations Bureau made over 3,800 drug-related arrests. Only 28 of these arrests involved residents of public housing. From April 1993 to June 1994, only 12 drug arrests were made in the four developments.

*For additional information on these and other model anti-crime strategies in public housing and copies of model leases, please call the U.S. Department of Housing and Urban Development's Drug Information and Strategy Clearinghouse at 1-800-578-3472.*

Bruce Reed  
Domestic Policy Council  
Room 216 OEOB

THE WHITE

Office of the Pre

For Immediate Release

April 16, 1994

PRESS BRIEFING

BY

SECRETARY OF HOUSING AND URBAN DEVELOPMENT HENRY CISNEROS  
AND ACTING ASSOCIATE ATTORNEY GENERAL BILL BRYSON

The Briefing Room

10:38 A.M. EDT

MS. MYERS: A huge crowd today, the Saturday gang.  
(Laughter.) You're all so quiet.

Secretary of Housing and Urban Development Henry Cisneros, and the Acting Associate Attorney General Bill Bryson are going to brief you on their report to the President on fighting violent crime in the public housing projects. So, without further ado, Secretary Cisneros.

SECRETARY CISNEROS: Thank you, Dee Dee.

The last weeks have seen an eruption of violence in Chicago's public housing, of which has been unprecedented. Last weekend alone, some 15 shootings and five deaths in the public housing developments along the State Street Court, or principally at Robert Taylor Homes and Stateway Homes.

It prompted the President to direct the attentions of the Attorney General and the Department of Housing and Urban Development to several elements of this crisis. First, to devise a policy on the sweeps, and secondly, to look at the other elements of security and community development that need to occur to stop the violence.

Unfortunately, the violence we see in Chicago is not limited to Chicago public housing. While it may not be on as intense a scale in other places at this time, it exists in many communities across the country, and Washington, D.C. as well, as many of us know.

The President directed the Attorney General and the Secretary of Housing and Urban Development to devise a policy that could be used nationally so that other housing authorities across the country would be able to act upon it; a policy that would look at the nature of sweeps that might be necessary and do it within constitutional limits.

As you know, a judge, Judge Anderson in Chicago last week ruled that the sweeps as they were being conducted exceeded constitutional limits. And so work has been done over the course of the last week to devise a national policy. That policy has essentially five elements. You heard the President describe it in general terms in his radio address. I'd like to be a little more specific on the elements of the policy.

First, the policy assumes that it is essential to get control of the lobbies of buildings. So substantial effort is placed, and resources, to focus on access, entryways, metal detectors, guards, and control of lobbies.

The precise policy on sweeps includes the following four elements. Sweeps can occur in the common areas of buildings. This

MORE

is important, because of what we have seen in recent weeks in Chicago includes the use of post boxes, mail boxes, as hiding places for guns, as well as stairwells, air vents and electrical outlets used as hiding places for weapons as well as drugs. So it is not insignificant to be able to sweep the common areas. That was allowed before and it continues to be.

Secondly, obviously, sweeps can occur in vacant units. I was along with a sweep team last Sunday evening in Chicago that netted something on the order of 25 weapons just Sunday night -- heavy weapons, rifles, 30-06 weapons with scopes, automatic weapons and revolvers -- just on Sunday night. The stock room at the police substation of the Chicago Housing Authority is full; literally 1,000 weapons that have been secured principally in vacant units.

And I'll say more about the issue of vacancies in a moment. But sweeps through vacant units can be very productive because the gangs tend to put the weapons -- locate these caches of weapons in vacant units.

Fourthly, sweeps can occur where consent has been given. That consent can take several forms. It may be consent that is given in advance as an element of a lease where people in the agreement to sign a lease for a building sign a consent that would allow searches for weapons just as they allow consent for searches -- for maintenance problems, inspections that are now a standard part of a lease. And we expect that this will be decided on a local basis, sometimes as local as the residence voting themselves in a building whether or not they want that as a precondition on the lease. We believe that would be important in a court test on this subject, that the residents voted that kind of element in a lease in advance.

But another approach to consent is what I witnessed myself on Sunday, and that is leases that are signed on the spot as a police team arrives at a unit. What you find -- you say, well, that's surprising that a resident would allow a search if they know there is contraband in their apartment. Frequently, they don't know that there's contraband there. It may be a mother who has small children, but a relative, a boyfriend, an older member of the family who has hidden guns there that the family doesn't know. What I witnessed on Sunday was the discovery of heroine in bags hidden in a mother's chest of drawers -- bureau -- by a son who was in the room and when it was discovered, readily admitted it was his. The mother did not know that it was there. She had consented to the search. So it is not insignificant to search when consent has been given. And that, obviously, meets the test of the law.

Finally, the fourth element of searches are warrantless searches in exigent circumstances. The key word there, of course, is exigent. It has to do with what has occurred -- whether or not there has been shooting, for example, from the upper stories of the building, and how massive it might be, how frequent it might be, and how timely the response is. All of those are subjective judgments, but the judge's order indicated that under circumstances of exigency, these sweeps can occur.

So those are the elements, then, of clarification on the sweeps policy. The bottom line is they allow for the continuation, the use of that particular vehicle, sweeps, within certain circumstances. And they are an instrument available not only to the city of Chicago, but to other housing authorities that want to use that instrument.

Acting Associate Attorney General Bill Bryson is here in the event you have some questions. But I'd like to follow up on the second aspect of this beyond sweeps to what is essentially a strategy of providing a down payment on the crime bill.

Yesterday in Chicago, the mayor and Vince Lane, the chairman of the Housing Authority, and myself announced a series of initiatives that represent cooperation between the federal government and the city of Chicago.

You have in front of you a handout that I'd like to call to your attention because it speaks to the other elements of what have to occur. The first page is called enforcement measures. The second is called prevention measures. Roughly speaking, they group into those two categories. The first one are measures associated with security and safety and taking control of buildings and their surrounding areas. And the second revolve around recreation, youth programs, antigang strategies, drug control and other elements that are preventative in character.

Let me just quickly give you the highlights of this, because I think it underscores what the President has said all along in his fight against crime and, particularly, in his pressing for the crime bill that while we focus on security measures, we must also focus on the balancing of some preventative measures.

On the security side, HUD is putting in new funds as well as advancing some CHA unobligated funds, totaling \$10 million for the creation of 10 additional BITE teams which will augment two BITE teams -- that stands for Building Interdiction Team Effort -- already in existence.

Now, let me just say quickly what those are. They're 18-member teams: eight members of the Chicago Police Department with a sergeant or nine Chicago police; eight members of the Chicago Housing Authority Police and a sergeant or nine CHA police team up together and literally arrive at a building, take control of the lower floors of the building, and then proceed on searches within the limits of what has been described.

I went with one of those teams on a raid on Sunday night. This was one where consent was required, but the emphasis was on controlling the common spaces and vacant spaces, and, as I say, 25 weapons were secured by BITE teams that evening.

This is a very substantial commitment of 180 additional police personnel, 18 times 10, for a year with a capacity to extend it beyond a year with additional HUD funds, as well as with funds that are in the crime bill. So this is a substantial addition of police capability that can be on the scene immediately. It does not require hiring of police personnel. These are off-duty personnel who, through overtime, can be in place as quickly as the funds are available. We're talking about the next week to 10 days on this. It's a very effective mechanism. They arrive en masse, without notice where buildings are in particular difficulty, and it's made a great deal of difference.

You see also under the next item, the third one down, \$5-million advance to fund replacements of private security guards so that sworn police officers can be in charge of the lobby and entrance areas. Today, there are so-called rent-a-cops, private security guards at the entrances, generally regarded to be ineffective. They're not trained, they're underpaid; the gangs intimidate them, go around them, even when they have a metal detector and it goes off. The rent-a-cops stay in there plastic, glassed-in cages for fear of stepping out and confronting the gangs. We think the gang members will have a good deal more of a problem confronting a peace officer, a police officer, a trained policeman with back-up capability in the same way. So this is an effort to replace the security personnel with sworn officers.

You see a program that is part of -- the next one -- an element of our Operation Safe Home initiative which will bring FBI

and Alcohol, Tobacco and Firearms resources together in order that we can trace weapons and prosecute appropriately, based on interstate movement of weapons, moving weapons through the mails and other possible things such as that.

The next one, I promised I'd say a word about vacancies. There's a \$10-million advance to rehabilitate vacant apartments. This is literally an around-the-clock effort. Conditions are so bad in the housing authority that I saw, the housing developments that I saw, that when you make an effort at vacancy rehabilitation, if the workmen leave at 6:00 p.m. in the evening, by the time they return the next morning, the work they did the previous day's been vandalized and undone.

So in a mixture of fixing the buildings on a practical, round-the-clock basis, using the model that was used in the California earthquake to get the freeway built in a fourth of the time that was originally projected, as well as to have a physical presence in the buildings with workers and spotlights and guards moving equipment through the building 24 hours, that will be an element of getting control of some of these buildings and dealing with the vacancies.

You see, finally, on this page funding for tenant patrols -- very important American heroes who wake up in the middle of the night to patrol their own buildings, no matter the weather. And they need some support in the form of radio equipment and so forth.

Let me quickly go through the second page because it's important to balance the security steps against the prevention measures. You see there funds to rehabilitate playground facilities. Presently the ball fields around Robert Taylor Homes are covered with glass shards and fragments and drug paraphernalia; clearly, unavailable to the children who want to play there.

In addition, \$200,000 to support recreational programs, particularly one called Midnight Basketball that takes and allows gang members to be engaged in something other than gang activity by participating in basketball late into the night. Well orchestrated, coached, supervised basketball.

A very successful drug program at the Harold Ickes Homes called CADRE will be extended to the rest of the developments in the Chicago Housing Authority with the funds advanced from the Bureau of Justice Assistance. And then, very importantly, you see a \$2 million new investment of family -- in what we call Family Investment Center funds to provide recreational programs, youth counseling, cultural activities, after-school programs, and do that on the ground floor of the buildings, which then take some units out of circulation and replaces them with adults to add to the control of the bottom floor of the lobbies.

In addition, what we find is that many of those ground floor units are being used for drug transactions because people can avoid coming to the building and just use the windows for drug transactions at the ground levels. If we would transform those into active places where adults are providing youth services and counseling and so forth, they're unavailable for those purposes.

And finally, \$150,000 to establish a Boys and Girls Club.

Let me just say two things in closing. The first is that this represents a down payment on the concepts the President has pushed in the crime bill; the same balancing of, on the one hand, prevention measures with those matters related to enforcement. And though this is particularly targeted to Chicago, because of the

emergency circumstances of the moment -- the level of violence and gang war that is at its highest intensity -- this same approach will be available to other communities in the crime bill and through other programs that exist between the various federal departments. And we will work with other communities in the same way.

Finally, everything that we have proposed here is in consultation with the residents. Keep in mind, it is the residents who have requested that the policy of sweeps continue, and support them. And I can tell you this from firsthand, spending Sunday afternoon and Monday and yesterday with the residents. I didn't take one step in recommending to the President, consulting with the Attorney General, or allocating our resources -- HUD resources -- without consultation with the residents. It is an absolute imperative that we do that, and I can tell you from those discussions that they are nearly desperate with the conditions that they're forced to raise their children in today.

I could tell you anecdotal stories; I won't dwell on it now, but perhaps the most plaintive voice that I heard on Sunday was a lady who just said, "Please make it stop." Beyond ideology, beyond partisanship, beyond fine legal distinctions, she was just begging that the violence, the shooting, her children having to watch their classmates be taken to the hospital stop. And they're convinced that the sweeps have played an important role in slowing down the flow of weapons.

Without the sweeps, the weapons have come back into the buildings on a large scale. As a matter of fact, one lady told me yesterday -- she said, they're bringing the weapons back in in bagfuls. So some mechanism like the sweeps needs to be available to those who would try to provide safety and security. We've tried to provide those within constitutional limits.

The rest of the things we've talked about here -- the BITE teams, the vacancies, the drug programs, the recreational programs -- all -- I can show you my notes -- are specifically requested by the residents, because they know their circumstances better than anyone else.

I'll be happy to stop on that note and take questions. And Mr. Bryson may want to speak to some of the legal issues.

Q Is this problem only with the public housing? I mean, why particularly with public housing?

SECRETARY CISNEROS: Well, I'll tell you why particularly with public housing. Because the configuration of the public housing is a big part of the problem. First of all, we have created a legacy of concentration in Chicago -- not only in Chicago, but in Chicago, 67 high-rise buildings along State Street for four miles, literally -- no exaggeration -- you can check it on the odometer of your car -- four miles, 67 high-rise buildings without a break. A concentration of something like a third of the 144,000 people who are public housing residents in Chicago in this State Street corridor.

Point number one, concentration. Secondly, the federal government has been part of the problem in recent years in allowing income levels to drop so dramatically in public housing that the residents of public housing share all of the same problems. The median income in Chicago public housing is \$5,400, as against something in excess of \$40,000 in the metropolitan area as a whole. So an eighth or so, and no income mix. In many buildings, 85 percent single heads of households; no one working in regular jobs; no role models for the children at all.

Now, that's the base condition. Then it is exaggerated by -- rather it is complicated by the war for turf, and particularly for control of drug producing properties. There is a gang war in Chicago right now -- and particularly, I speak now of Robert Taylor Homes and Stateway -- by two gangs; one called the Gangster Disciples, the other called the Black Disciples. They literally control entire high-rise buildings, and frequently these buildings are adjacent to each other. I am told by the Chicago police that the drug take from those high-rise buildings is as high as \$30,000 a week, or \$1.5 million a year. Therefore, in the minds of 15- and 16-year-old gang members, it is worth fighting for, even dying for, control of the buildings.

What you end up with, then, is high-rise buildings adjacent to each other with young men spotting from the upper stories to see whether their rival gang members are moving around in the common space between the buildings, and shooting from building to building with heavy weapons. I mean, a 30-06 deer rifle with a scope is the kind of weapon that's in use and the kind of weapon that was confiscated the other night.

So, unfortunately, you find circumstances where, because children live there and families live there, they get caught in the cross-fire. Women will show you apartments with bullet holes over their children's beds; bullets that have finally ended up in the hallway in their homes not because they were the targets, but because anyone in the opposite building ends up being a target in the cross-fire.

Q Where are the Chicago police in all this?

SECRETARY CISNEROS: Chicago police are patrolling, and they have allocated a unit of 125 officers in addition to what the Chicago Housing Authority has. But it's not enough to patrol, when what is required is to actually take control of buildings and take them back from the gang members; and that's the circumstance. That's why Chicago, at this moment -- and that's why public housing.

Q What are you hearing from the civil liberties groups on this? What are your preliminary estimates of court tests? Are people telling you this will or will not pass constitutional muster?

SECRETARY CISNEROS: We believe that this will pass constitutional muster, and a lot of work went into drafting a policy that would pass a court test. The consent forms, the consents in the leases, the conditions under which warrantless searches can occur -- all of those were drafted with that in mind.

Now, if you were, this afternoon, to call a member of the ACLU and ask them a specific question, I can't tell you what their answer might be. My guess is that there are some who might continue to want to test these questions; and that's what the courts are for. But we believe that we have devised a policy here that can meet the test.

And let me, in the final analysis, say that the conditions in public housing in Chicago -- as well as other places right now -- are so severe that any abstract analysis of people's rights of the type that the ACLU might do is swamped in real life by people's rights being denied. Clearly, people ought to have a right to live safely, in peace, take their children to school, walk the sidewalks of their buildings, to be able to walk through the hallways of a building without all the lights having been knocked out and the elevators pitch dark because the gang members want to reduce the silhouette that they'll make to gunners in the next buildings -- those are rights that people have, as well; and those rights are being abridged by the present circumstances.

Q In announcing the program --

SECRETARY CISNEROS: I'll come back -- just let me take this lady and I'll come back.

Q What is the status of the overall issue of gun control in public housing?

SECRETARY CISNEROS: We are, internally now, assessing the proper course that we want to follow. Clearly we want to discourage -- obviously, illegal weapons are banned in public housing. The question has arisen of whether or not we ought to ban all guns in public housing by lease. Some public housing residents -- and there are some places in the country where people would feel this would be a substantial infringement on their rights, so we have not crossed that bridge at this point.

There is some legislation that suggests that developments may want to vote on whether all weapons can be banned in a building. And we think that has some plausibility and is worth looking at. But we've not issued regulations or taken a stand yet on the question of banning all weapons in public housing. It's an open question; it's now being discussed in the department and elsewhere.

Q In announcing this program, it sounds like housing authorities are admitting a failure on a rather extreme level -- that people are indeed living in circumstances where their children have bullet holes over their bed, or where they're always making --

SECRETARY CISNEROS: I'm not afraid to acknowledge that public housing, in the worst configurations, has failed. And therefore, we must go beyond security measures and even the kinds of community building measures, salvaging measures that I've described here today to profound and dramatic change in public housing.

We'll be introducing legislation this next week which will allow us to do things, for example, like change the rules and internal dynamics of public housing so that people can work, and families that have incomes and work can be included in the mix of families in public housing. That goes to one of the questions that I answered earlier about the income mix.

We want to go farther than that, and make it possible to capitalize future streams of public housing assistance to housing authorities so that large sums of money can be made available now -- not down the road, not just rehabilitate, modernize and put Band-Aids, but replace the worst of the high-rise public housing with more appropriately scaled, scattered, safer configurations across the metropolitan area. These are the kinds of dramatic, profound changes I think we need to make in public housing.

Let me just say, anytime that you're in Chicago -- and I know most of you are White House press so it may be restricted to a time when you're traveling there with the President -- but it is worth seeing this line up of 67 high-rise buildings and recognizing what was done there.

Q Can that be torn down?

SECRETARY CISNEROS: Much of it ought to be replaced because, as I said, the present configuration is a failed effort at housing people.

Q But, Mr. Secretary, may I ask you just a question about the allocation of resources understanding that you are going to accomplish nothing without a zone of safety.

SECRETARY CISNEROS: Right.

Q I still note that some \$30-odd million are devoted to enforcement, and of the \$2,950,000 that have been slated for prevention, my count is no more than \$950,000 that might go for such things as counseling, drug prevention, violence prevention. What can you really hope to accomplish if you lay in a heavy dose of law enforcement short-term and you don't do anything to counsel kids who are seeing this violence, to help their parents find jobs who only have a median income, that you so eloquently put it, at \$5,000 a year. I mean, what about the so-called soft services that really are going to be the building blocks of changing this thing? You've got to change the people.

SECRETARY CISNEROS: Good question, and I'd like to answer it in two ways. The first is that what you see here is an immediate infusion of federal resources to deal with the present circumstances. In part, it's law enforcement. It's also some of these community efforts.

Yesterday morning, I met with the mayor, with the head of the Parks District in Chicago, which controls the park system as well as recreational programs; met with foundation leaders from the Chicago area and began discussions with the business community of Chicago. There's one important element missing that was not present at the table, but the mayor committed to bring them to the table is the Board of Education. And what we're asking is that this down payment be matched by these other institutions in their areas of capability. And we received some tentative commitments yesterday, which the mayor will outline in the weeks ahead.

This is a partnership in which the federal government has started and we expect fully that we will see resources for summer recreation programs from the Parks District, for some educational initiatives from the Board of Education, some commitments from the foundation and business community to cultural programs, antidrug initiatives, and, very importantly, the city of Chicago with its own discretionary resources. So what you see here is a small percentage of what will be brought to bear on this circumstance.

Additionally, and the second part of the answer, we have many ongoing programs that are not represented in this -- our own HUD as well as the other federal departments. And I might also say that in instances where we concentrate effort, such as you know the decision this week to join in a partnership with the District of Columbia government to deal with the very troubled District of Columbia Housing Authority, it gives us the opportunity, gives HUD the opportunity to work on the housing component, but also to bring to bear the efforts of other federal resources.

So I fully expect you'll see the Department of Education and Labor and Justice and Health and Human Services joining us, using public housing, the base as the focal point for effort.

Q Considering the magnitude of the money you're discussing here for these two projects, doesn't that really limit the likelihood of this truly being a nationwide approach?

SECRETARY CISNEROS: Let me make clear, the announcement yesterday in Chicago was not solely for these two projects. If you look at many of these things, for example, the BITE teams, which is \$10 million of this \$29 million package; the vacancy reduction, which is another \$10 million of the \$29 million -- so now we're up to \$20 million of the \$29 million -- are intended to be used throughout the CHA. So we're talking about one of the largest housing authorities in the country that has new resources to work with.

Now, as to the question of inadequacy of resources -- yes, we're always working with tight resources, always. It's the sort of going in assumption that we're going to be very, very tight. That's why it's important to leverage beyond what the federal government can do and get others to the table. That was the first thing I did on arrival yesterday morning in Chicago, is to meet with the group that I described. And I think we can create partnerships that leverage money dramatically.

We're looking now at some changes in rules that would allow us to bring private sector partners that can bring resources, like our pension fund relationship where we put \$100 million of housing vouchers, and with pension money, extend that to \$1.2 billion worth of housing product. We'll have to do a good deal more of that. And I think that's going to be one of the watchwords, one of the hallmarks of our efforts the next few years.

Q Mr. Secretary, are these search consent clauses now going to be a part of everybody's lease in the Chicago Housing Authority?

SECRETARY CISNEROS: The preconsent given in leases will be a local decision. That is to say, we believe it is an element of policy that will enhance the ability of housing authorities to conduct searches. The decision will have to be made as local as each housing authority, and potentially, each development where residents may want to vote. That would further enhance the constitutionality of these preconsent devices.

Q Are sweeps being used in other housing authorities?

SECRETARY CISNEROS: Yes, they are. Yes, they are, but in different configurations. For example, in Baltimore, they give 48 hours notice that a sweep is going to occur and have not been tested with that approach.

Bruce, do you know other cities that are using sweeps now?

MR. KATZ: I think Philadelphia and Puerto Rico are using sweeps similar to the ones they use in Baltimore.

SECRETARY CISNEROS: In Baltimore -- with advance notice.

Q Is that successful?

SECRETARY CISNEROS: You'd be surprised at how successful they are because, as I said earlier, frequently residents don't know what another family member has put in the unit. So it's more successful than you might imagine, but clearly, not as successful as a surprise sweep might be.

Q But there are dangers, too. I mean, recently, in Boston, a 71-year-old man who also happened to be a preacher had a heart attack and --

SECRETARY CISNEROS: I don't think that was a sweep, though. That was a -- my recollection is it wasn't public housing, it was a private apartment and -- it may have been assisted housing, but it was a private apartment and it was a police action. That was not a sweep, but it was an anticrime raid. It was a different circumstance. They arrived in force, rammed down the door, were looking for fugitives and had the wrong person. It's exceedingly unfortunate. The mayor and the police chief apologized; obviously, apologies aren't enough in such a circumstance, but that was the circumstances of that case.

Q Could you just clarify -- when you were talking about the warrantless searches in exigent circumstances, does that mean that -- let's say, there's a shooting, a shoot-out, and the police come into the building, that they are able without a warrant to go into an entire floor, searching?

SECRETARY CISNEROS: It does. It does --

Q -- kind of leave open the possibility that whenever there might be any type of incident whatsoever, the police could use that in order to --

SECRETARY CISNEROS: No, and let me tell you some practical reasons why it doesn't. First of all, the sweeps involved a lot of police personnel. You can't just assemble large numbers of people anytime there's an incident. The sweeps, as they were being run in Chicago, involved over 100 personnel. So the likelihood that you could say, oh, there's been some shooting; we need the excuse; let's put 100 people together and go -- it doesn't work that way as a practical matter.

Legally, what we interpret the -- and Bill may want to expand on this -- what we interpret the exigent condition to be an appropriate response in a timely fashion. It can't be three days later. It's got to be in some rough approximation to when the incident occurred and targeted to the circumstances of the incident.

Bill?

ASSOCIATE ATTORNEY GENERAL BRYSON: With respect to exigent circumstances, there's a lot of case law on this, and the theme of what we're saying here is that we think we can have an effective crime prevention and apprehension program without departing from standard Fourth Amendment law. We're not trying to create new law here. What we're really trying to do is to avoid having everything tested in court, avoid having long delays while programs get precleared, in effect, by federal and state courts. We think there is the capacity through existing Fourth Amendment law to take care of the problem.

Now, with respect to exigent circumstances, the standard formula -- and of course, it's very fact specific; you just can't say in any more than the most general terms how exigent circumstances will apply in a particular case until you know the facts -- but by and large, the way the courts would articulate it is to say that you need some kind of emergency situation where the need to act without a warrant is pressing. And the police, under those circumstances, can engage in an appropriate response.

If a gang is running into a building and the police are following, they can run into the building. They can pursue the gang. That doesn't mean that they can go through the entire building, to the top floor, and look through everybody's chest of drawers in their apartments. That would be well beyond what the courts would characterize as exigency. But it really is a fact-specific kind of inquiry that has to be done and yet, it gives flexibility to police to deal with emergency situations.

Q How throughout the chain of command would a determination need to be made in order to declare a circumstance exigent? Are we talking about a sergeant, a captain? What are we talking about?

ASSOCIATE ATTORNEY GENERAL BRYSON: Well, typically, when -- real exigency is typically something that has to be decided on the spot, because if it has to go up to the captain, by that time, your need for immediate action very often has ended. Not necessarily, but very often. So this is the kind of thing -- if

there is a medical emergency; somebody has been shot, somebody is shooting from the windows of an apartment, you can identify the apartment. You go in and you try to apprehend them then. You don't need, under those circumstances, to get a warrant because you have no capacity to get a warrant. You don't have the time. And you also, of course, don't have the time to call the chief of police.

That's the way exigent circumstances typically works. Now, there may be circumstances in particular cases in which you do have to go up the chain. But the normal exigent circumstances case will not involve the opportunity for that.

Q So it could be a cop on the beat?

ASSOCIATE ATTORNEY GENERAL BRYSON: It typically has been. In exigent circumstances law, it's the cop on the beat who is trained to understand what the limits are of exigent circumstances, but it's the cop on the beat that has to make that decision in many exigent circumstances cases.

Q On another part of this, you say that it will be helpful for a tenant to show their support for searches in advance. Is this basically a majority rule can overrule the Fourth Amendment?

ASSOCIATE ATTORNEY GENERAL BRYSON: No. What we think is very important here, and the theme of that element and really a lot of this is, one, local circumstances really control what is reasonable in a particular case. The whole Fourth Amendment is premised on the concept of reasonableness. And reasonableness is a balancing of need against the intrusion.

Now, in particular cases, the need may be very great. And that's true of these two units. We need desperately to get control of these units -- to get control from the gangs. Therefore, the need element is extremely high. The intrusion of searches into one's home obviously is high, too. But what's important, I think, about allowing the voice of the tenants to be heard through tenant organizations or otherwise is that you have evidence in the clearest form that you can have of what the people who are affected by both the emergency need and also by the intrusions that are involved -- how they feel about it.

Now, this is not to say that the Fourth Amendment is somehow subject to majority rule; of course, it's not. It is, however, to say that in assessing a particular case what the level of need versus intrusion is, that it's very important to consider how the people who are there view it. And for that reason, I think a lot about this policy is really local specific. This is not to say that the same policy were to be applied in say a senior citizens' public housing home in Sarasota which hasn't had a serious crime problem in years -- of course not. This is a policy which, in its various applications, has to be made specific to, as the Secretary said, a particular housing authority and even perhaps a particular building.

Q Are you suggesting that the consent to be searched be a condition of the lease? And what circumstances would that consent be able to be withdrawn?

ASSOCIATE ATTORNEY GENERAL BRYSON: Well, again, that's going to have to depend on how these particular authorities work that out. I think that there certainly are circumstances in which it is legitimate to have in the lease a provision similar to the maintenance and emergency clause provision which would allow for administrative inspections for firearms, let's say. In fact, there is already a provision in the consent decree in the Chicago case that allows inspections of that character.

Now, this is in the leases. It is a provision that everybody who is in the unit is bound by. Whether there would be, in a particular case, provisions that would allow somebody to opt out at particular time; or whether somebody could say, no -- just at the outset -- I don't want to sign that; and whether that person would then be able to do that would depend very much on the local conditions. And that's the gist of, I think, the whole constitutional analysis here, is that it really is not something on which you can make any across-the-board pronouncements that X policy applies regardless of where and regardless of the circumstances.

I point out that when you have a clause like this in a lease, what it really gives you is flexibility. That means you don't, then, necessarily have to conduct any of these procedures. You can say, we've got this capacity and, therefore, when the time comes, if we need to use it, we can invoke it. That gives you the flexibility that the current typical lease clauses do not. They do contain emergency entry provisions. But they typically -- the word emergency in that sense usually means the place is on fire, or there is water flowing out from the place and down into the lower units.

We think that, in effect, that in some of these units there is a fire -- there is a problem that ought to be addressed in the same sort of a way; this is a form of emergency. Now, obviously, it's different from the emergency or maintenance inspections. But it is of the same general nature, and can be dealt with in the same kind of way. It is something that has to be explored, I think, by, again, the local agencies.

And one of the things in our discussion with the people at HUD -- which has been very profitable on this, and I expect to continue -- will be to try to provide guidance to local housing authorities to the extent that they seek it as to what kinds of innovative mechanisms can be used to try to address the problem without infringing Fourth Amendment rights.

Q Do you think in some circumstances it ought to be a condition of the lease?

ASSOCIATE ATTORNEY GENERAL BRYSON: I think in some circumstances it can be a condition of the lease, that's right. Now, the basic theme of consent law in the Fourth Amendment is that you can't coerce somebody to consent to something. So if the conclusion is that, under those circumstances, you would be effectively coercing consent because the person has no other choice, then you would have to reassess that. If the person had other choices -- if there were a provision, let's say, in a particular development that conditions were so bad that you felt you had to go to some mandatory lease provision, then if the person had choices -- was offered public housing under the circumstances, it might well take the coercive element away. But in any even, that's the basic theme.

What we're saying is, we can square this with the Fourth Amendment. We are not engaged in an effort to try to undermine the principles of the Fourth Amendment; and we would welcome, as a matter of fact, the constructive suggestions of any civil liberties groups as to how we can go about doing this while minimizing the intrusiveness of these procedures. But I think they, as we, recognize that what we're dealing with here is an emergency situation in which some kind of innovative action is required. And we're prepared to embark on it without, in any way, trampling on the rights of people under the Fourth Amendment. And we think it can be done. We think there is enough room under the doctrines that the courts have devised to do that.

Q I have one more question for Secretary Cisneros. You had said that people in public housing had supported these measures and you had worked in consultation with them.