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THE WHITE HOUSE
WASHINGTON

August 19, 1999

MEMORANDUM TO THE PRESIDENT

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THE PRESIDENT HAS SEEN
8-30-99

FROM: Bruce Reed
Thurgood Marshall, Jr.

SUBJECT: Back to School Strategy

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Over the next six weeks, we will continue the Administration-wide push to highlight our education agenda as students go back to school. In addition to your two events this week on school safety and the Baby Boom Echo report, we are planning: (1) Secretary Riley's three-day school bus tour through the South from August 30 to September 2; (2) a sustained, four-day Education Week from September 4 to 7 in which you announce \$300 million in school safety grants, lead a school construction event with organized labor on Labor Day, and sit in on an elementary school class with one of the new teachers hired under our class size reduction program; and (3) a major, forward-looking speech in late September to mark the 10th anniversary of the Charlottesville summit, perhaps at Achieve's meeting in the Palisades on Sept. 30.

I. Riley's Bus Tour and Administration-Wide Activities

As you know, Secretary Riley will tour the South in a school bus from August 30 to September 2. He will stop in Tennessee, Alabama, Georgia, South Carolina, and North Carolina. At some of his 15 stops, Education is expecting rallies of several thousand people. With four Democratic governors joining him along the way, Riley will send a consistent message that Democrats are leading the way on education.

Throughout the months of August-October, Cabinet Affairs has arranged for nearly all of your Cabinet; heads of non-Cabinet agencies such as the Peace Corps, NASA, the Smithsonian, and NEH; sub-Cabinet officials; and the Regional Administrators to fan out around the country to highlight the back to school messages. NPR has also scheduled *Federal Community Fairs* that will focus on how the federal government can support after school and youth programs.

In addition to your August 19th event on the Baby Boom Echo report, we hope to make at least one more Presidential announcement on education in late August. Ideally, you could use the August 28th radio address to announce \$95 million dollars in charter school grants for start-up funding as well as -- for the first time -- new funding the Administration secured last year to help successful charter schools share their successes with other public schools (and share their expertise with others who want to start charter schools).

II. Education Week, September 4-7

Because of time constraints, we could not pull off a full-fledged "education tour" on the scale of your New Markets tour. However, we are planning a concerted, four-day push in early September to put education at the center of the budget debate as Congress returns and students go back to school.

In your radio address on Saturday, September 4, you are scheduled to announce \$300 million in grants to 50 communities that will have won a nationwide competition to develop youth safety partnerships between schools and community, health, and law enforcement agencies. With so many winners and so much interest in the school safety, this announcement is a tremendous opportunity for regional press. Justice, Education, and HHS are planning extensive regional press briefings. You also can announce \$32 million in grants for anti-drug middle school coordinators. In addition, we are preparing an executive order to improve coordination of federal school safety efforts. We will look to highlight the back to school message by having AG Reno, Deputy AG Holder, Secretaries Riley and Shalala blanket the morning shows on September 5.

On Labor Day, September 6, in Norfolk, Virginia you will do an event combining labor and education to highlight your school construction proposal. (We will also try to give you an opportunity to "work" at the site, as you requested.) The National Education Association, the American Federation of Teachers and various labor unions are planning complementary events at schools throughout the country.

On Tuesday, September 7, you will highlight your class size reduction initiative by sitting in on an elementary school class with a new teacher who has been hired with the first installment of federal funds to reduce class size, and giving a speech to an assembly of parents. If we can find a site in the Washington area (Montgomery County may work), the First Lady may join you for the event. We are looking for alternative sites outside the Beltway, including in Rhode Island. This event will be a chance to frame the budget debate the day before Congress returns. You also can announce \$75 million in teacher quality grants.

The Vice President will also do some back-to-school events, but has not settled on any dates yet. Bill Bradley is tentatively scheduled to announce his candidacy on Wednesday, September 8.

III. Tenth Anniversary of Charlottesville

You have expressed some interest in using the 10th anniversary of the Charlottesville summit to reflect on what the country has and has not achieved over the past decade. No formal events are planned to commemorate that anniversary, which is September 26-27. But Governors Thompson and Hunt and Lou Gerstner have invited you to address Achieve's 1999 National Education Summit in Palisades, NY on September 30 and October 1. You are scheduled to leave for California on October 1, but we are looking into whether you could speak to the summit on September 30. If that doesn't work out, we will look for another opportunity for you to commemorate the Charlottesville summit anniversary.

Good
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it

good
I could
do it

THE WHITE HOUSE
WASHINGTON

September 17, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Andrew Rotherham

SUBJECT: Analysis of Bush Education Speech and Its Impact on ESEA

Attached is a detailed side-by-side of Bush's education speech, comparing his proposals with current law and with your ESEA plan:

The speech itself is more a triumph of centrist packaging than of substance. Much of what Bush proposed, such as state testing of Title I students, became law in 1994. His call for consequences in failing schools is less ambitious than your proposal – or for that matter, his own efforts in Texas. He said nothing about ending social promotion (again in contrast to his record in Texas). His most newsworthy proposal, to punish failing schools by turning federal funds over to parents, won praise from a segment of the elite press, but leaves him vulnerable to the Democratic attack that his plan will drain funds from public schools and the conservative attack that he's soft on vouchers (he deliberately avoiding mentioning the word).

While he may offer specifics later, Bush has said little about what supports he would offer to turn failing schools around. By contrast, your plan includes a series of specific interventions that states and/or school districts must undertake in failing schools and sets aside resources for this purpose. Second, like any voucher scheme, his school choice plan holds failing schools accountable, but offers parents no way of measuring the performance of private schools, which won't subject themselves to the same tests. This is like giving Social Security recipients individual accounts without telling them the annual return on private investments. Third, the very education programs Bush proposed reforming – Title I and Head Start – would both face severe cuts in the out-years of the Republican tax and budget plan which Bush has said he supports.

In the next few weeks, as part of the House's piecemeal effort to reauthorize ESEA, Goodling will offer a Title I bill. We expect it to track Bush's approach, although conservatives' reaction to the Bush speech may keep Goodling from billing it that way. (Pat Buchanan says one of his main reasons for considering a third-party candidacy is that Bush even wants to "enlarge the Department of Education.") We will oppose the Goodling bill over vouchers, but try to pocket any progress we make on accountability.

George W. Bush Education Proposals

Issue	Bush Proposal	Current Law	Current Clinton Proposals (ESEA, FY 2000 Budget Request, or other proposal)
<u>Title I State Assessments</u>	<ul style="list-style-type: none"> • Title I schools required to test students on academic basics each year— provides no definition of “academic basics.” Choice of tests left to the states. • Assessments must be disaggregated by demographic group. 	<ul style="list-style-type: none"> • Requires all states to have final assessment systems in place to measure performance of Title I schools/students against state standards in at least math and reading/language arts by 2001. Students must be assessed at a minimum at some point during grades 3-5, 6-9, and 10-12. • Requires assessment data to be disaggregated by demographic group by 2001. 	<ul style="list-style-type: none"> • No change.
<u>Rewarding Performance in Title I Schools</u>	<ul style="list-style-type: none"> • States that make the greatest progress in closing the gap for economically disadvantaged students and schools within each state that make the greatest gains in moving Title I students toward the state standards will be rewarded “significantly” through an “Achievement in Education” bonus fund. 	<ul style="list-style-type: none"> • States designate schools as distinguished if the school has exceeded the state's definition of adequate yearly progress for three straight years. These schools can then act as models/mentors for other Title I schools and are eligible for additional funds from the state. 	<ul style="list-style-type: none"> • States must set criteria for designating schools and school districts as “distinguished.” Criteria include measures such as gains in student performance, consistently high performance on state assessments, or improvements in participation. • Secretary will reward states that demonstrate significant achievement gains in core subjects for three straight years, close the gap between low and high performing students, have strategies in place for continuous improvement including reducing social promotion and retention. Rewards include priority in ESEA grant competitions, bonus funds to states, or increased flexibility.
<u>Turning Around Low Performing Title I Schools</u>	<ul style="list-style-type: none"> • States will have three years to reform failing Title I schools by restructuring the management structure, changing personnel, reallocating money, taking over the school or school district, transferring education dollars to the 	<ul style="list-style-type: none"> • Establishes a process for school and school district improvement that requires that (1) districts identify schools not making adequate progress for two consecutive years; (2) identified schools revise Title I plans in the year after being identified; (3) school districts help the identified schools to improve 	<ul style="list-style-type: none"> • Requires a change in Title I plan within three months of a school being identified for improvement with school district intervention beginning immediately. A school district may take corrective action at any time after a school is designated for improvement.

	<p>parents and/or implementing a school choice program.</p> <ul style="list-style-type: none"> • If after three years students at the school still do not demonstrate progress toward the state standards the state will be required to (1) give Title I students in the school the option of (fully paid for) transferring to another school that is closing the achievement gap or (2) offer parents a portable fund of \$1,500 per child for use at the school or supplemental education service of their choice. • If a state adopts a private school choice program at any time, students in failing schools would have the option of taking a pro rata share of Title I funds with them to a private school. <p><i>Note: No information is provided about how the "fully paid for" transfer will be financed. The \$1,500 figure in option 2 is an average and will be financed by the student's pro rata share of Title I resources matched by an equal amount from the state (either state or federal dollars). The student will be entitled to these resources for the duration of the time they would have been enrolled at the failing school.</i></p>	<p>and ultimately take corrective action against schools that consistently fail. Corrective actions include curtailing a school's decision-making authority, transferring staff and/or students to other schools, or reconstituting the school. States use a similar continuum with regard to failing school districts.</p>	<ul style="list-style-type: none"> • Sets aside 2.5 percent allocation at the state level (about \$200 million total) for states and school districts to carry out corrective action and help low-performing schools. States reserve a share of this money but the majority is sent to the district level to facilitate rapid action. • Corrective action must include at least one of the following measures: implementing a new curriculum, redesigning or reconstituting the school, reopening the school as a charter school, or closing the school. • State and districts must also allow students to transfer out of schools identified for corrective action and must provide transportation or cover transportation costs for these students to attend other public schools.
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<p><u>Move Head Start To the Department of Education</u></p>	<ul style="list-style-type: none"> • “To ensure that Head Start makes education a priority and focuses on building skills for school readiness, especially pre-reading and numeracy, the Department of Education will oversee the administration and evaluation of local Head Start programs.” 	<ul style="list-style-type: none"> • The 1998 reauthorization requires that Head Start programs develop performance standards to ensure that at a minimum children participating in the program develop phonemic, print and numeracy awareness, understand and use an increasingly complex vocabulary, develop and demonstrate an appreciation of books, and in the case of non-native English speakers, progress toward English acquisition. • HHS and the Head Start Bureau cooperate with the Department of Education to: <ul style="list-style-type: none"> *Revise Head Start performance standards to include effective transitions for children and families moving from Head Start to schools. *Ensure that all preschools funded with Title I meet the Head Start Program performance standards for education *Co-chair the America Reads Challenge workgroup on early childhood *Conduct joint training on literacy issues *Provide resources to ensure that grantees are working closely with their local elementary school. 	
<p><u>Require Head Start Programs to Adopt a Proven Core Curriculum</u></p>	<ul style="list-style-type: none"> • The federal government will identify model curricula and effective methods of teaching pre-reading and school readiness. These research-based best practices will be made available to local Head Start programs so they can better prepare youngsters to enter school ready to learn. 	<ul style="list-style-type: none"> • Head Start grantees must have a curriculum that supports the development of each child’s cognitive and language skills but there is no specified model. 	

<u>Award Head Start Contracts via Competitive Basis</u>	<ul style="list-style-type: none"> • New Head Start grants will be open to competition and awarded on a selective basis. • In the speech he said that unsuccessful Head Start contracts would be put out to bid and "someone else, including churches, synagogues and community groups" could bid on them. • Upon renewal of each existing Head Start contract the program will be evaluated based on its effectiveness. If a program is found ineffective in teaching pre-reading and school readiness, its contract will be opened up for competitive bid. 	<ul style="list-style-type: none"> • Competitions are currently held for Head Start grants regularly when the program expands into a new area, when a failed program is shut down, and for Early Head Start grants. • Current law allows community groups, churches, and synagogues to bid on Head Start contracts. • Programs are reviewed at least once every three years. The Administration has been clear that all Head Start programs must provide high quality services. Programs found to be deficient must correct the problems within a specified time period not to exceed one year. 	
<u>Head Start Funding and Expansion</u>	<ul style="list-style-type: none"> • Republican tax cut would have cut funding in half, resulting in 430,000 fewer children served. 	<ul style="list-style-type: none"> • Since 1993 Head Start funding has increased by 68 percent, resulting in 200,000 more children served. 	<ul style="list-style-type: none"> • FY 2000 budget request includes a \$607 million increase.
<u>Reform the Office of Education Research and Improvement</u>	<ul style="list-style-type: none"> • Overhaul OERI and make it independent and operate it in accord with scientific standards • Eliminate the regional education laboratories. 		<ul style="list-style-type: none"> • The forthcoming OERI reauthorization proposal contains reforms to make the agency more independent and ensure that all research conducted is rigorous, sound, and publicly accountable. The agency will become the Institute for Education Research and will be governed by an independent board appointed by the President. • The OERI reauthorization proposal continues to support the regional laboratories.

<p><u>Require that the federal investment in education demonstrates results</u></p>	<ul style="list-style-type: none">• Evaluate the 760 federal education programs and insist that every program boost student achievement or replace it with other programs that succeed in reducing the achievement gap.	<ul style="list-style-type: none">• Most of the "760 federal education programs" cited deal with specific purposes such as boating safety, aviation safety, or health and are not administered by the Department of Education and are not intended to raise the achievement of elementary and secondary students.	<ul style="list-style-type: none">• The President has eliminated or consolidated more than 60 redundant or ineffective education programs during the past six years.• Almost every Clinton budget has proposed eliminating or consolidating redundant or ineffective programs.
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April 11, 2000

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Eric Liu
Andrew Rotherham

SUBJECT: Education Tour

As you know, we are planning an education tour May 3-4 to highlight your agenda of teacher quality, accountability, investment, and standards-based reform. You can announce this tour this Friday in your speech to the Education Writers Association in Atlanta. This memo describes four events that we recommend for the tour to frame the success of your "demand more, invest more" agenda. For each event, we also are developing policy announcements. That same week, the Education Department has planned a small event to commemorate its 20th anniversary. That will help underscore our progress since defeating the Republican effort to eliminate the Department just five years ago.

Wednesday, May 3 – Teacher Quality and Failing Schools

1. Teacher Quality – Columbus, Ohio. The first event would highlight teacher quality in Columbus, where the local teachers union and the school district have developed an exceptional teacher peer review program. The program provides mandatory mentoring for all newly hired teachers, even those with previous experience, and intervention to help struggling teachers and remove low-performing ones. The program has been in place 12 years and is considered a national model. In addition, Columbus is an excellent place to underscore a number of your top education priorities. The Columbus schools have reduced class size in the early grades, targeted low-performing schools, and recently decided to end social promotion.

As news for this event, we have asked the Education Department to prepare a study of state budget surpluses and teacher salaries to underscore your call for paying teachers more while demanding more from them.

2. Failing Schools – Kentucky. The second event on May 3 would be at a high-poverty, high-performing school in Kentucky. Under Governor Patton, Kentucky has implemented standards, invested in low-performing schools and now has high-poverty schools that rank among the best performing schools in the state. (In 1998, 5 of the 20 highest performing elementary schools in reading were high-poverty schools, as were 6 of the top 20 in math, and 13 of the top 20 in writing.) A number of turned-around schools in Kentucky also have made strong progress the past few years.

This part of the tour would underscore that poverty need not be destiny in academic achievement and that high-poverty schools can and should be high-performing schools. North Carolina and Texas get all the attention on standards and accountability; highlighting Kentucky would put another success story on the map.

We are working with Political Affairs on the right site for this visit in Lexington, Louisville, or a rural area. The possibilities include Leestown Middle School in Lexington, which last year dramatically improved its math scores to reach the average; Iroquois High in Louisville, which has doubled its reading and math scores in the past year, although it still remains below the state average; Summer Shade Elementary in Summer Shade, which doubled its reading scores in one year and is now 17 points above the state average; and Sparksville Elementary in Columbia, which increased reading scores 40 points in one year and is now almost 30 points above the average.

For this event, we are preparing an Executive Order directing the Department of Education to report on the number of low-performing schools in the country and what specifically states and school districts are doing with the resources from your Accountability Fund to assist them. This EO would also direct the Office of Educational Research and Improvement to increase its focus on researching and disseminating effective strategies to fix failing schools and authorize the Secretary to redirect resources to more effectively help states and localities fix failing schools.

Thursday, May 4 – Charter Schools and School Construction

1. St. Paul, Minnesota – Charter Schools. On May 4, we would first visit the City Academy charter school in St. Paul, Minnesota, the first-ever charter school in the country. By visiting it we will highlight both your leadership on charter schools and the phenomenal growth of charter schools during your term. (Coincidentally, May 1-5 is National Charter Schools week.) City Academy serves approximately 100 high school students in a community center and is credited with helping many at-risk students who were failing in their previous school achieve success. For this event, we are working with Channel One to arrange a website chat with several other charter schools around the country.

The other news for this event would be an Executive Memorandum directing the Department of Education to develop and release guidelines for faith-based institutions and leaders in faith communities who wish to open or operate charter schools. These guidelines would reaffirm that charter schools must be non-sectarian but underscore that in order to increase the supply of high quality educational options for disadvantaged students, all sectors of society must be engaged and that faith-based organizations can help strengthen public education in many communities.

2. Quad Cities, Iowa/Illinois – School Construction. We would conclude the tour in the Quad Cities area on the border to highlight school construction and after-school programs. This would further frame your "invest more, demand more" message. Like many communities, schools in the Quad Cities area are experiencing problems with deferred maintenance and growth, and support federal assistance such as your School Modernization initiative to help them address these issues. In addition, as you know, Senator Harkin has been a key supporter of school construction and so an event on the Iowa side of the river would serve to highlight his efforts. A visit late in the day to

such an after-school program would highlight another one of your signature initiatives. We have several reports and announcements that could serve as deliverables at this event.

As with other tours, we will invite a few key national leaders to join you. Our list of possible invitees includes Secretary Riley, Senator Kennedy, and possibly Senator Lieberman, Bob Chase, Sandy Feldman, Al From and/or Will Marshall, Hugh Price, Lou Gerstner, and Bob Schwartz of ACHIEVE. Let us know if you have other suggestions.

Domestic Policymaking in the Clinton-Gore White House 1993-2001:
Selected Memoranda and Documents

Crime and Gun Safety Documents (Annex I)

4/27/93	Memorandum for the President From: Bruce Reed, Jose Cerda III Subject: Crime Bill Considerations	1.19
5/20/93	Memorandum for the President From: Bruce Reed, Jose Cerda III Subject: Update on 100,000 New Police	1.20
7/29/93	Draft Decision Memorandum for the President From: Attorney General Janet Reno Subject: Police Corps	1.21
7/30/93	Memorandum for the President From: Bruce Reed, Jose Cerda III Subject: Final Decisions on the Crime Bill	1.22
7/31/93	Memorandum for John Podesta From: Eli J. Segal Subject: National Service and Police Corps (Attorney General Reno's Memo of July 30)	1.23
8/3/93	Memorandum for the President From: John Podesta, Todd Stern Subject: Police Corps / Crime Bill	1.24
10/25/93	Memorandum for the President From: Bruce Reed, Jose Cerda Subject: Crime Bill Funding	1.25
10/27/93	Memorandum for the President From: Bruce Reed, Jose Cerda Subject: Possible Biden-Dole Deal on Crime	1.26
12/2/93	Memorandum for the President From: Bruce Reed, Jose Cerda III Subject: California Crime Notes	1.27
1/19/94	Memorandum for the President From: Bruce Reed, Jose Cerda III Subject: Crime Bill Conference: Outstanding Issues and Recommendations	1.28

3/5/99	Memorandum for the President From: Bruce Reed, Chuck Ruff Subject: Police Brutality	1.40
4/20/99	Memorandum for the President From: Bruce Reed, Jose Cerda III Subject: Policy Response to School Shootings	1.41
4/20/99	Memorandum for the President From: Bruce Reed, Jose Cerda III Subject: Rep. Carolyn McCarthy's Gun Legislation	1.42
4/27/99	Memorandum for the President From: Bruce Reed Subject: Remarks on Comprehensive Gun Control Legislation	1.43
4/28/99	Memorandum for the President From: Bruce Reed Subject: Long-term Strategy on Littleton Aftermath	1.44
5/11/99	Memorandum for the President From: Bruce Reed Subject: Unveiling of the 21 st Century Crime Law Enforcement and Public Safety Act	1.45
5/14/99	Memorandum for the President From: Bruce Reed, Neera Tanden Subject: Ratings Systems for Different Media	1.46
5/26/99	Memorandum for the President From: Bruce Reed Subject: National Campaign on Youth Violence	1.47
5/26/99	Memorandum for the President From: Bruce Reed Subject: Strategy for House Passage of Juvenile Crime and Gun Legislation	1.48
8/16/99	Memorandum for the President and the First Lady From: Bruce Reed, Eric Liu Subject: National Campaign Against Youth Violence	1.49
10/14/99	Memorandum for the President From: Karen Tramontano, Bruce Reed Subject: Proposed Biological Terrorism Provisions in the Omnibus Crime Bill	1.50
11/29/00	Memorandum for the President From: Bruce Reed Subject: Brady Bill Anniversary and Gun Enforcement Event	1.51

Undated (1997?)

Memorandum for the President

I.52

From: Rahm Emanuel, Bruce Reed

Subject: Strategy in Response to Brady Law Supreme Court Decision

THE PRESIDENT HAS SEEN

THE WHITE HOUSE

4-26-93

WASHINGTON

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April 27, 1993

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MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED, DEPUTY ASSISTANT TO THE PRESIDENT
JOSE CERDA III, SENIOR POLICY ANALYST

SUBJECT: CRIME BILL CONSIDERATIONS

In structuring a proposal that meets your pledge to put 100,000 new police officers on the street, Domestic Policy has combined a series of crime-related initiatives. Inadequate funding caused us to take this piecemeal approach and to include Enterprise Zones, HUD's crime initiative, Safe Schools legislation and National Service participants in the 100,000 calculation. But the crime bill component of this plan has always been the central -- and most credible -- element of our 100,000 new police proposal.

Handwritten notes:
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re: 4/27/93
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Last year's crime bill conference report does not really include monies for hiring new law enforcement personnel. The bill's Cop on the Beat program does not allow funds to be used for new personnel, and the increase in funding for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs was enacted as part of separate legislation after the crime bill conference report failed last year. The Police Corps, as included in last year's bill, only offers scholarship assistance and provides no direct funding to put police on the streets. Moreover, given the scarcity of resources for the policing initiative, we do not believe the Police Corps is a cost effective means for increasing police force levels. Thus, without changes to the language and funding levels for these programs, the crime bill will not put more police on our streets. *include in bill*

So that the crime bill properly reflects your commitment to the 100,000 police pledge, we have been structuring a proposal, the Police on Our Streets Act, that would combine the Justice Department's spending for new programs and use that \$2.299 billion in budget authority to fund a single match grant program. We would then have a single direct funding source for the majority of our new police personnel.

We have spoken to Senator Biden's and Congressman Schumer's staff about such an approach, and they believe a "Police on Our Streets Act" could easily be incorporated as Title I of a new crime bill. We have not spoken to Chairman Brooks' staff about this specific proposal, but we believe he would be open to the idea. Chairman Brooks has been a critic of the large scale Police Corps included in the crime bill; and he may support scaling back the program.

A summary of the major provisions in the crime bill is attached.

AID TO STATE AND LOCAL LAW ENFORCEMENT

- Raised the authorization level for the Byrne Memorial State and Local Law Enforcement Assistance Programs to \$1 billion. The Byrne program is the primary means of providing states and localities with federal law enforcement assistance.¹
- Other authorized appropriations for states and localities include:
 - \$150 million yearly for community policing grants;
 - \$300 million yearly for Drug Emergency Areas;
 - \$100 million yearly for Safe Schools grants;
 - \$100 million yearly for juvenile gang prevention grants.
 - \$10 million yearly for grants to states for DNA analysis;²
 - \$30 million yearly for law enforcement scholarships;
 - \$5 million yearly to provide family support services to law enforcement personnel;
 - \$15, \$20 and \$30 million over the next three years for substance abuse grants to community coalitions;
 - \$100 million yearly for grants to states and localities to drug test arrestees;
 - \$2 million yearly for grants to states to conduct racial and ethnic bias studies of their criminal justice systems;
 - \$2.5 million yearly for Midnight Basketball League grants;
 - \$100, \$100 and \$200 million thereafter for a National Police Corps;
 - a one-time \$100 million authorization to establish joint state-federal boot camps at closed military installations;
 - \$100 million yearly for drug treatment in state prisons;
 - a one-time \$700 million authorization for the construction and operation of 10 regional prisons for violent drug offenders;
 - \$10, \$15, \$20 and \$25 million for grants to state prisons for literacy programs;
 - \$50 million yearly for Rural Drug Enforcement Task Forces;
 - \$25 million yearly for Rural drug treatment and prevention programs.

TOTAL NEW SPENDING -- ALMOST \$1 BILLION YEARLY

(AND 800 MILLION IN ONE-TIME PRISON CONSTRUCTION COSTS)

¹After the crime bill failed to pass last year, this increased Byrne authorization was passed as part of separate legislation. Incorporating such an increase into a new crime bill would be redundant.

²This bill passed the House as separate legislation earlier this year.

*Byrne program is
the primary means of
providing states and
localities with federal
law enforcement assistance.*

PENALTIES FOR DRUG AND VIOLENT CRIMES

- Provides 56 new criminal offenses or penalty increases, including serious violent crime, drug trafficking and firearms offenses.
- Imposes four new mandatory federal prison sentences. They are: using minors to sell drugs in a drug-free zones; closing the loophole for the importation of small quantities of drugs; possessing or distributing drugs in a federal prison; and drug-related violations in newly created drug-free truck stops.

GANG VIOLENCE

- Launches a major new anti-gang initiative, including expanded juvenile courts, new law enforcement efforts, and gang violence prevention programs (e.g., Boys/Girls Clubs in housing projects).
- Creates a new federal offense for serious gang-related drug trafficking and violent crimes.
- Provides the death penalty for drive-by-shootings, one of the most common and serious types of gang crimes.

VICTIMS OF CRIME

- Increased federal aid to the victims of crime by removing the "cap" on the Crime Victims Fund and barred attempts by the previous administration to use the Crime Victims Fund to pay for expenses currently covered by Medicare and other federal programs.³
- Grants crime victims the right to speak at the sentencing phase of federal criminal trials, including death penalty.

RURAL LAW ENFORCEMENT

- Provides \$50 million in aid to rural law enforcement agencies.
- Establishes federal-state-local Rural Law Enforcement Task Forces in every federal judicial district with significant rural areas.

³These provisions were enacted separately when the crime bill failed last year.

- Establishes a specialized rural law enforcement training program at the Federal Law Enforcement Training Center in Glynco, Georgia.

POLICE CORPS

- ✓ ● Establishes an ROTC-style program to provide college scholarships to students willing to serve as police officers upon graduation.
- ✓ ● Provides new educational opportunities for police officers who are already on the beat and have demonstrated a commitment to a law enforcement career.

PRISONS

- Establishes 10 new regional prisons to hold up to 8,000 federal and state drug offenders.
- Creates 10 new military-style boot camps on closed military bases for first-time offenders and other non-violent drug offenders.

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TERRORISM

- Provides the death penalty for terrorist murders and creates stiff new federal penalties for providing material support to terrorists.
- Implements United States' obligations under new anti-terrorism treaties by creating new federal offenses for terrorist acts committed against civil aviation and maritime targets.

GUN PENALTIES

- Provides new mandatory minimum penalties for serious gun offenses, including gun possession by convicted felons and for theft of a firearm.

FEDERAL LAW ENFORCEMENT

- ✱ ● Authorizes \$345.5 million for federal law enforcement agencies to add hundreds of additional FBI and DEA agents, federal prosecutors, Border Patrol officers, and other law enforcement officials to combat violent crime and drug trafficking.

Specifically, these allocations are:

- \$45 million to hire and train 350 new DEA agents;
- \$25 million to expand DEA state and local task forces;
- \$5 million for special agents to investigate violations of the Controlled Substances Act relating to anabolic steroids;
- \$9 million for FBI drug trafficking investigations;
- \$500 million to hire and train 500 new border patrol officers;
- \$10 million for the U.S. Marshals Service;
- \$15 million for BATF to hire train 100 special agents to investigate firearms violations committed by drug trafficking organizations;
- \$20 million for U.S. Courts to address case overload;
- \$12 million for federal defender services.

EXCLUSIONARY RULE

- Codifies current law providing "good faith" exception to the exclusionary rule where police have a warrant.

CHILD ABUSE

- Creates a national system for background checks for workers in day-care centers.
- Imposes the death penalty for child abuse murders.

THE WHITE HOUSE

WASHINGTON

May 20, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED, DEPUTY ASSISTANT TO THE PRESIDENT
JOSE CERDA III, SENIOR POLICY ANALYST

SUBJECT: UPDATE ON 100,000 NEW POLICE

Carol Rasco passed along your request for an update on the status of the Administration's plans to put 100,000 cops on the street. We have been working with the Justice Department and OMB on a credible proposal to meet your campaign promise.

Although funds are tight, we believe the Administration can claim credit for up to 100,000 new law enforcement personnel from the following sources:

Crime Bill	- 50,000	-- \$3-5 billion over 5 years
Jobs Package	- 10,000	-- \$200 million over 2 years
Enterprise Zones	- 15,000	-- \$500 million over 2 years
HUD's Compac	- 5,000	-- \$750 million over 5 years
ED's Safe Schools	- 100	-- \$235 million over 5 years
National Service	- 20,000	-- no set amount
Troops to Cops	-	to be determined

Total Cops 100,100

I. Revised Crime Bill -- Community Policing/Cop on the Beat

The Domestic Policy Council and the Justice Department recommend that our main vehicle for putting more cops on the street should be a modified version of last year's crime bill, with a new Administration-backed title on community policing. There is widespread support on the Hill for more cops. Senator Biden is working with the state attorneys general on habeas corpus reform, the main sticking point from last year. The rest of last year's conference report would remain largely unchanged. The Brady Bill would still be included.

Senator Biden is concerned that we work this out quickly because he believes that Gramm and the GOP could introduce their own crime bill any day. He would like the Senate to take up this issue in June, before the July 4th recess. We will be ready to proceed as soon as the economic plan clears the House.

The linchpin of the 100,000 new police proposal should be a single grant program administered by the Justice Department that helps states and localities put police on the street by providing a source of direct funding.

TOTAL NEW POLICE -- 50,000

II. Jobs Package -- Re-Hire/New Hire Proposal

Per your request, the new jobs bill now contains \$200 million to re-hire or hire additional police officers, perhaps as many as 10,000. These funds could also be used to redeploy police officers onto the streets in community policing roles.

If passed, DOJ would have to spend \$44 million of this money in FY 1993 through its current discretionary authority. The Attorney General has considerable flexibility in awarding these funds. Hopefully, if we move quickly on a crime bill, the remainder of the funds could be spent under the authorizing language to be included in the Biden/Brooks crime bill.

TOTAL NEW POLICE -- 10,000

III. Empowerment Zones -- Community Investment Program

The Empowerment Zone legislation authorizes \$250 million in FY 1994 (already appropriated) and \$250 million in FY 1995 for community policing grants to these 110 areas selected by the Enterprise Board. The Attorney General has broad discretion to make these grants: they can be made under the general language in the legislation; they can be made under current Justice programs; or they can be made under authorizing language passed in a new crime bill.

TOTAL NEW POLICE -- 15,000

IV. Department of Housing and Urban Development -- COMPAC

To help housing authorities fight against crime, HUD has proposed restructuring its current Drug Elimination Grant Program into a considerably more flexible Community Partnership Against Crime (COMPAC). The program is budgeted for \$265 million next year,

and \$1.5 billion over the next five years. HUD expects that about \$150 million of these funds per year will be spent on law enforcement or security personnel, including community-based policing efforts that would increase police presence on public housing complexes.

TOTAL NEW POLICE -- 5,000

V. Department of Education -- Safe Schools

We have amended the Department of Education's draft of Safe Schools legislation to allow the program's monies to be used for "sworn" police officers, not only professional security personnel. While hiring "sworn" police personnel may prove too expensive to use them in the same round-the-clock manner as security guards, they can be used more cost-effectively in community policing roles, including schools as part of their "beat".

TOTAL NEW POLICE -- 100

VI. National Service -- National Service Officers

The National Service Trust Fund estimates that some 20,000 of its participants will serve in law enforcement/public safety roles. These "national service officers" could be used to assist police departments in the broad areas of community policing and crime prevention. They could take reports, staff telephone crime reporting units and administer citizen crime prevention surveys. Relieving officers from these time-consuming duties would potentially free more police officers to become cops "on the beat", and the support work will make officers more effective in their crime-fighting. With direct funding available for most of the new police, we believe it is credible to use National Service members serving in public safety/law enforcement roles in our 100,000 count.

TOTAL NEW NSOs -- 20,000

VII. Military/Labor -- Troops to Cops Demonstration Programs

We are working with the Labor and Defense Departments to define these proposals. However, substantial funds are not available from these sources.

As we understand it, monies available under Senator Nunn's "Troop to Teachers" initiative are not available for a "Troops to Cops" initiative without new authorizing language. Currently, this DoD account has about \$65 million in it, \$20 million of which could probably be used for a cops initiative.

Perhaps as much as \$75 million may be available through the Department of Labor if we develop appropriate demonstration projects under amendments to the Job Training Partnership Act. Authority to undertake such projects was enacted in the 1991 Defense Department Authorization.

TOTAL NEW POLICE -- TO BE DETERMINED



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

93 JUL 30 AM : 36

July 29, 1993

DRAFT DECISION MEMORANDUM FOR THE PRESIDENT

FROM: JANET RENO
ATTORNEY GENERAL

SUBJECT: Police Corps

The following compares the positions of Adam Walinsky and the Department of Justice on the police corps concept.

Adam Walinsky's Proposal

Mr. Walinsky proposes to provide a scholarship to each police corps participant of up to \$12,500 per year with a cap of \$40,000 over four years. The participant would then be required after graduation from college to serve as a police officer for four years. Police corps participants must commit to only four years of service. (Participants in the first two years of operation need only commit to two years.) It takes four years for an officer to become a seasoned member of the police force. \$5,000 per year per graduate for up to five years would be paid to law enforcement agencies as a hiring incentive. Monies would be targeted for 16 weeks of training in addition to whatever law enforcement related education the person chose in college. After expenditure of these dollars, we would not have police officers on the street to show for it. Communities would still have to come up with the funds to hire them. This would be a huge burden, as the national average for salary, benefits, training and equipment for a new police officer is approximately \$50,000.

Department of Justice Proposal

The Department would prefer to use our limited resources to provide direct grants to communities to enable them to actually hire new police rather than just sending them to school. We need police on the streets now. Police groups have advised that there is no lack of well-educated candidates to become police officers. If the goal is to produce a better educated police force, scholarships for career officers would be a more effective means of achieving this goal if we had the money.

We do not have enough money to achieve your promise of putting 100,000 police officers on the street, but in case you want to provide money for scholarships, an alternative police corps proposal has been developed by the Department of Justice, in consultation with the Domestic Policy Council staff. This version would cost \$25 million over five years, provide scholarships to aspiring police officers, and build partnerships between educational institutions and law enforcement agencies to address local needs. It would also assure qualified participants of jobs upon graduation.

Another option would be to augment the police corps concept already incorporated into the National Service program legislation.

You should also know that virtually every major national police organization opposes Mr. Walinsky's police corps proposal.

In summary, I think the facts stated above relating to each approach to police corps strongly suggest that the Administration support for the Department of Justice or National Service version of police corps.

DECISION

Option A:

Support the Department of Justice Police Corps Proposal:

Approve Approve as amended Reject No Action

Option B:

Support the National Service Police Corps Proposal:

Approve Approve as amended Reject No Action

Option C:

Support the Adam Walinsky Police Corps Proposal:

Approve Approve as amended Reject No Action

THE WHITE HOUSE
WASHINGTON

July 30, 1993

93 JUL 30 P5:34

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA III

SUBJECT: FINAL DECISIONS ON THE CRIME BILL

As outlined in a previous memorandum to you, we believe that the crime bill should include a down-sized Police Corps, not the Justice Department's new Community Police Corps. But whether you accept our suggestion or Justice's -- the most important thing is not to let this or any other issue slow down or jeopardize quick introduction of a crime bill.

Last week, Senator Biden and the National District Attorneys Association finally reached an agreement on the crime bill's habeas provisions. The State Attorneys General are also on board. We are prepared to proceed with the announcement of a joint Biden-Brooks crime bill the first week of the August recess. The bill will include: (1) a community policing title that will put 50,000 new police on the street over the next five years; (2) boot camps; (3) federal death penalty; (4) habeas corpus reform; (5) the Brady Bill; and (6) the Police Corps.

We have reached agreement with the Justice Department, OMB and House and Senate Judiciary Committee staff on a bold community policing initiative that will be the centerpiece of the crime bill. It provides grants to cities and states to put 50,000 new police officers on the street over the next five years. The other 50,000 of your 100,000 pledge will come from (1) the FY 1993 supplemental appropriations bill you signed last month, which included \$150 million for community policing; (2) National Service, which will make up to one-fourth of its slots available for law enforcement and crime prevention efforts; (3) HUD's COMPAC program for public safety in public housing; (4) the Education Department's Safe Schools Initiative; (5) a joint Labor-Defense Troops-to-Cops initiative; and (6) community investment funds targeted to Empowerment Zones.

The one remaining policing issue is the nature of the Police Corps. All parties (except Adam Walinsky and the staunchest Police Corps proponents) agree that the Police Corps is not the most cost-effective way to put new police on the street, and that its funding should be scaled back. We recommend that funding for the Police Corps be scaled back to \$25 million per year, as you proposed in your FY 1994 budget. The Justice Department wants to cut funding still further, to \$5 million a year, and fundamentally change the nature of the program.

In the attached memorandum, the Attorney General has outlined three options on the Police Corps. Here is our assessment.

1. Justice's Community Police Corps

The Justice Department substitute would create a Community Police Corps that would provide grants to a handful of local police departments to allow them to offer scholarships to prospective police recruits as well as to current officers. Chiefs of Police, police unions and cities would prefer such a locally-based proposal. But Justice has yet to persuade Senator Kennedy and the Police Corps' many other friends in Congress to support the DOJ substitute, and Walinsky is already campaigning vehemently against it. Senators Sasser and Specter re-introduced the Walinsky version as a stand-alone bill this week.

2. Walinsky's Police Corps

We think the Attorney General's concerns about the nature of the Police Corps could still be addressed in conference -- the only time Police Corps proponents are likely to agree to changes. We will face an uphill battle if we try to scale back funding for the Police Corps and replace it with our own version at the outset. The Walinsky version passed the House and Senate with bipartisan support last year, and you endorsed it in the campaign. We also fear that unless Kennedy and Biden can be persuaded to support the Justice substitute, we will squander the only good thing to come of having to wait so long for a crime bill, which is that we have an unprecedented opportunity to introduce the same bill in both houses. It could also increase pressure on the two chairmen to differ on more volatile issues, like habeas.

3. National Service Trust Fund

Over the long term, you could resolve this issue by developing a small, but high-profile, Police Corps through the National Service program. One-third of National Service funds are dedicated for certain priority projects to be administered by the National Service Corporation, including professional corps like teachers, nurses and police. The essential elements of the Justice Department's Community Police Corps could be implemented more quickly and in far more communities through National Service -- without further congressional action or funding.

Eli Segal has always been supportive of a public safety component in National Service. Moreover, a national Police Corps would give the National Service program the visible symbol it needs to capture the American people's attention.

We recommend announcing the crime bill the first week of the August recess with the Walinsky language, and addressing the Attorney General's concerns either in conference -- or better yet, by developing a Police Corps proposal through the National Service program that will not require further congressional action.

THE WHITE HOUSE

WASHINGTON

July 31, 1993

MEMORANDUM FOR JOHN PODESTA

FROM: Eli J. Segal *EJS*

SUBJECT: National Service and Police Corps
(Attorney General Reno's memo of July 30)

Introduction

The Attorney General's memorandum concerning the Police Corps prominently discusses national service. While I am not an expert on the police, it is clear to me that before any decision is made regarding national service and law enforcement, both the President and the Attorney General should be briefed on the options for law enforcement within national service. This memorandum summarizes my understanding of the possibilities; I am happy to work further with the Department of Justice and the Domestic Policy Council. Rana Sampson, a White House Fellow working at the DPC and a former police officer, has worked closely with us and is our point person in this area.

The opportunities for national service to contribute to law enforcement fall into two categories.

Non-sworn police work

Because the national service initiative is oriented primarily toward pre- and non-professional service, most openings will be for non-sworn police aides. In cities like San Diego and New York, such "national service officers" have already made a real impact, assisting in community policing and freeing other officers to become beat cops.

While there will be considerable opportunities for such placements under the legislation, the number of law enforcement placements will depend on the emphasis established by regulation. If national service were very heavily focused on law enforcement, it could generate 50,000 such non-sworn placements over three years, with correspondingly fewer placements in education, the environment and health. (I do not know whether such NSOs would appropriately count toward a 100,000 goal.) There is no need for a decision now, but it will be helpful for our planning purposes to know how strong an emphasis on law enforcement placements is desirable.

Professional police officers

There will be limited opportunities for police officers through the national service initiatives: only one-third of the program funds may be dedicated to positions paying more than twice the minimum wage, and in such instances, the Federal government will not pay any salaries or benefits. The national service program, then, could offer one or two years of loan repayment (at \$4725 a year) and training to prospective police officers.

National service would allow for a much cheaper version of the Walinsky police corps. I imagine that our educational award would provide a modest inducement for college graduates to become police officers (if that is important), and that the training would provide some aid for localities in defraying the costs of hiring (whether enough, I do not know). National service, however, cannot require a commitment or offer an award greater than two years; that may present an insurmountable obstacle to the program's working.

Once again, if these placements are feasible, the President could decide to put a heavy emphasis on achieving them. Over three years at full funding, national service could supply as much as \$500 million for these purposes, or enough for 30,000 two-year terms. The cost would be fewer placements as teachers and fewer innovative national programs.

THE WHITE HOUSE
WASHINGTON

August 3, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN PODESTA *JP*
TODD STERN *TS*

SUBJECT: Police Corps/Crime Bill

Attached is a memo from the Attorney General on the police corps together with memos from Bruce Reed/Jose Cerda and Eli Segal commenting on it. Since the police corps will be a section of the crime bill, the police corps issue must be resolved in order to ready the crime bill for announcement as early as next week.

Here's the situation in a nutshell. There are three basic Police Corps alternatives:

- (1) The full Adam Walinsky proposal, at a cost of \$200 million per year. This is not feasible financially.
- (2) A scaled-back Walinsky plan, at a cost of \$25 million per year, as proposed in our FY 94 budget. Reed/Cerda favor this alternative at this time.
- (3) A Justice Department "community police corps" proposal, at a cost of \$5 million per year.

Can't find the original of this. I'll check with the AG's office. (8/3)

On the merits, Reed/Cerda do not disagree with the Attorney General, and hold out the possibility of moving in her direction when the House and Senate bills go to conference. (Although the plan is to introduce identical bills, they are sure to be amended in different ways in the two houses, which will make a conference highly likely.)

Reed/Cerda also note that it might be possible to develop the police corps in the context of National Service (and consequently drop it from the crime bill in conference), although Eli's memo makes clear that there are still open questions as to (i) whether the National Service program could adequately fill that role and (ii) whether doing so be good for National Service.

Read/Cerda (option 2) seems to make the most sense right now. Option 1 is too expensive and, as the Attorney General says, we need cops on the street, not just in school. On the other hand, option 3 won't work at this time. Although Jack Brooks would prefer it, since he is not a police corps fan, it would create big problems in the Senate, where Senator Kennedy supports Walinsky and Senator Biden defers to Kennedy. The best that we can hope to do for now is to try to persuade Kennedy and Biden to accept our scaled-back Walinsky proposal.

In short, White House staff recommend option 2 for now, holding open the possibility of moving in conference toward the AG's proposal or toward a National Service model, if that proves feasible.

Agree

Disagree

Discuss

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New AB's proposal

THE WHITE HOUSE

WASHINGTON

October 25, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA III

SUBJECT: CRIME BILL FUNDING

I. ACTION-FORCING EVENT

The crime bill will be taken up on the Senate floor and in the House Judiciary Committee next week. As the crime issue takes on increasing urgency in Congress and the countryside, we face the prospect of a bidding war in both houses, in which Republicans and even liberal Democrats compete to prove that they care more about crime than the Administration. Senator Biden and others are urging us to pre-empt this debate by pledging more resources for cops, drug treatment, and prisons.

II. BACKGROUND

A. House Update

The outlook for passing some kind of crime bill by Thanksgiving may have improved significantly. In the House, Chairman Brooks has given up trying to find habeas reform and death penalty provisions that can attract a majority of House Democrats, and has decided to postpone consideration of those issues until next year. The Black Caucus opposed his habeas proposal, even though it was more liberal than ours and much more liberal than current law, and he does not believe he could get a majority to vote the crime bill out of committee without substantial prodding from the Administration or unacceptable revisions in habeas.

Brooks plans instead to break out the key components — cops, boot camps, drug courts, Safe Schools, and the Brady Bill — and pass them all separately. If the Republicans go along, the crime measures can then be passed quickly under suspension in the House, and easily reconciled with Senate versions. This strategy reduces the chance of a gridlocked conference, and should assure that the Brady Bill and most key elements of the crime bill will be on your desk by Thanksgiving.

Biden is considering a similar strategy in the Senate, but he has less control over the outcome. Hatch may agree to drop habeas, but Gramm and other Republicans will force

DRAFT

October 27, 1993

Handwritten signature

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA III

SUBJECT: POSSIBLE BIDEN-DOLE DEAL ON CRIME

Copy to: ① POTUS memos
② BR
③ Crime Bill -
100,000 cap!
④ Crime Bill -
Memos to
President

Biden has held extensive discussions with Dole about a po provisions in the crime bill. He believes he can close a deal with the Republicans if he has sufficient assurances from the White House that we will find the money for it.

We are raising this matter one more time, because we believe this is not just another accounting decision. You have a chance to seize one of the two most powerful realignment issues (along with health care) that will come your way, at a time when public concern about crime is the highest it has been since Richard Nixon stole the issue from the Democrats in 1968. In Robert Kennedy's day, crime was a linchpin that helped hold a Democratic majority together across racial and class lines.

In 1992, you were the first Democratic candidate since RFK to speak credibly about crime. As President, you have an opportunity to unite the country on an issue that has divided our party and our nation for three decades. Even more important, as you have said many times in recent months, we have an obligation to do everything we can to restore personal security for all the decent, ordinary Americans who are cowering in their homes and seeing their children get shot in the streets.

Elements of the Deal

The deal would raise the five-year cost of the Senate crime bill from \$5.9 billion to between \$9.9 and \$11.3 billion. The key elements of the deal are:

1) Increasing the policing authorization from \$3.4 billion to \$5.2 billion, which would pay for 60,000 five-year grants at a declining federal match of 75-50-40-25-10% (the current bill provides 50,000 three-year grants with a match of 75-50-25%); and

2) Raising the boot camp/prison authorization to Republican levels (\$2.5-3 billion), but maintaining our program. If the crime bill goes to the floor without a deal, the Republicans will offer amendments -- which will pass, and probably survive conference -- that will not only increase prison spending, but force us to take on an expensive new program of federally run regional prisons that Justice opposes and we cannot afford. Biden believes that if we accept something close to Republican funding levels, he can get them to accept Democratic provisions -- which would earmark at least \$1 billion for boot camps, and let states choose whether to spend the rest on boot camps or regional prisons.

OMB has \$3.5 billion in the Justice planning baseline -- enough to fund the cops title. Yesterday, you pledged to use \$5 billion in savings from procurement reform for crime if Congress will pass it, or come back with other cuts if necessary. CBO is expected to score those savings at \$3-5 billion, but we can use savings beyond what is scored, so long as the procurement reforms work.

Together, this total of \$8.5 billion over five years (\$3.5 billion in the baseline and \$5 billion in procurement savings) would come close to covering the key components of the crime bill -- cops, drug courts, and boot camps/prisons -- at the low end of the possible Biden-Dole deal. It would not cover about \$1 billion in authorizations for non-essential programs that Biden added to his bill without our support.

	<u>Current Authoriz.</u>	<u>Biden- Dole</u>	<u>Increase</u>
Cops	3.4	5.2	+1.8
Boot camps/prisons	.3	2.5-3.0	+2.2-2.8
Drug courts	1.2	1.2	no change
Essential programs	.1	.1	no change
Non-essential programs	.9	.9	no change
<hr/>			
Total, all programs	5.9	9.9-11.3	+4.0-4.5
Total, essential programs	5.0	9.0-10.4	+4.0-4.5

Baseline plus procurement savings. 8.5

In the House, Brooks plans to pass total authorizations of less than \$5 billion -- assuming he can hold the line in committee. Biden's staff believes the result in conference will be a House-Senate bill at around \$8 billion.

Here are the implications of pursuing a deal:

Advantages

One way or another, these authorization levels will go up, and the public will hold us to them whether we asked for them or not. Either we look for a deal that enables us to protect our programs and interests, or we cede control of the process and take our lumps.

Biden believes that if he can strike a deal with the Republicans, he will be able to avert a bidding war in the Senate. His plan would be to reach advance agreement with Dole and Hatch to support a manager's substitute that would include the crime programs at agreed-upon spending levels and with agreed-upon legislative provisions. Biden, Dole and Hatch would agree to oppose amendments to these programs from either side of the aisle.

A deal in advance -- announced with Biden, Dole, and others at the White House, with a statement that it's time to put politics behind us -- would stop Republicans from

pursuing their current strategy, which will be to bloody the Administration on two fronts: first, that we don't have the money to pay for our bill; and second, that we're not willing to cut government to pay for putting criminals behind bars.

Finally, this deal would beef up boot camps and certainty of punishment for what the Attorney General calls "the mean bads," and ward off a Republican prison program that she hates but may not be able to stop.

Dole and Hatch would also be willing to agree to drop habeas for this year, but they cannot guarantee that their colleagues will give them unanimous consent to do so. More likely, the Senate would debate and pass their habeas or ours as part of the crime bill, and Biden would drop it in conference since it will not be in the House bill.

The Administration would need to demand other conditions in any deal, such as: 1) bipartisan assurances to put a crime bill on your desk by Thanksgiving, and not go home until they finish; 2) bipartisan agreement to pass your procurement reforms and other spending cuts in the October package; 3) Republican assurances to still support the bill if it comes back from conference without habeas and possibly without death; and 4) perhaps most important, agreement from Dole and Hatch that when Brady comes to the floor, they will join Biden and Mitchell in fighting to table any non-gun amendments. We would also want to make clear that our commitment extends only to specific funding levels for the three programs we care most about -- cops, drug courts, and boot camps/prisons -- not every crime authorization they send our way.

To underscore your commitment to finding the money, you could earmark the procurement savings (or other cuts if procurement fails) toward an \$8-10 billion Crime Trust Fund that would pay for your anti-crime priorities. To relieve Justice's immediate funding crunch, you could pursue an FY94 supplemental next spring targeted to border control and more police, and pay for it with FY94 rescissions from the October package.

Disadvantages

Any additional commitments to anti-crime initiatives will make accounting decisions about the FY95 budget even harder -- assuming that Congress sends you Senate-size authorization levels for cops, drug courts, and prisons and does not reduce them in conference. As we discussed at the meeting in the Roosevelt Room on Monday, Justice and OMB have reservations about any new commitments. These decisions may become tougher still if Congress rejects your procurement reforms and other budget cuts -- but as you said yesterday, you have reserved the right to come back with more cuts.

There is also an inherent risk, more difficult to calculate, in entering into negotiations with the Republicans, who may walk away from a deal or find excuses to abandon it later. Finally, if the Republicans cannot control their own on death and habeas, they will continue to use it against us -- just as we'll hold their feet to the fire on guns.

December 2, 1993

MEMORANDUM FOR THE PRESIDENT

**FROM: BRUCE REED
JOSE CERDA III**

SUBJECT: CALIFORNIA CRIME NOTES

You have stated repeatedly that you would like Congress to conference the crime bill -- with more money for police, boot camps and drug courts, and assault weapons ban -- and sent to your desk for signature as soon as possible when they reconvene. While in California, you will have an opportunity to highlight some of the Senate bill's major components.

Policing

Los Angeles may be the most underpoliced city in the country, with about half as many cops per capita as New York or Chicago, less than one patrolling officer per square mile, and more than 9 violent crimes per sworn officer -- 2 - 3 times the national average. The city has been trying desperately to put more police on the streets. In 1992, a ballot proposition to earmark new taxes for new police received 62% of the vote, but fell short of the two-thirds vote required for a tax increase. The city has also turned to the Department of Defense to recruit outgoing military personnel and gone up to Capitol Hill to testify in favor of your community policing initiative. Some have even argued that the city should use surplus funds for Los Angeles International Airport. Recently, Mayor Riordan announced a plan called Project Safety L.A. to reorganize and expand the police force by 3,000 over the next four years, but he is likely to need federal funds.

Los Angeles Police Chief Willie Williams, who was a community policing pioneer in Philadelphia, has made great strides in Los Angeles and been an advocate for more police and community policing. The weekend of the King verdicts, Chief Williams increased police presence by 600 officers -- which not only helped keep the peace, but reduced violent crime by 12% across the city.

The Senate crime bill authorizes a total of \$8.995 billion over the next five years to hire 100,000 new police officers and expand community policing. With the exception of the authorization levels, the policing title remains largely unchanged from your original.

Assault Weapons

As you know, the movement to ban assault weapons took hold after Patrick Purdy opened fire with an AK-47 on a group of schoolchildren in Stockton, California -- and probably reached its high-point this year with the shootings at the Pettit & Martin law firm in San Francisco and the passage of an assault weapons ban last night by a vote of 56-43. The amendment attached to the crime bill represents a compromise reached between Senators Feinstein, DeConcini and Metzenbaum and includes elements from all of their bills. Specifically, the amendment would: (1) ban 19 specific weapons; (2) define additional weapons prospectively restricted by means of an objective test based on physical features; (3) double the penalty for the violation of firearms laws from 5 to 10 years for violations involving assault weapons; (4) expressly exempt more than 650 legitimate (manual and semi-automatic) hunting and sporting firearms; and (5) ban large capacity ammunition clips with more than 10 rounds.

On a separate note: while federal firearms licensing (FFL) reforms were not attached to the crime bill, FFLs are a big issue in Los Angeles County. More than 3,000 (of the 270,000) FFL dealers reside in LA County -- that's more than in any other county in the country.

Last year, the LA Times ran a series on FFL abuses, conducting a random survey of more than 100 local dealerships. Among the many oddities discovered by the LA Times was a man by the name of Charles "Big Chuck" McDonald, who was sentenced to 46 months in prison for illegally selling guns. Despite a questionable past that included serving time in military prison and a dishonorable discharge, Big Chuck was awarded an FFL to sell guns out of his hotel room under the name Chuck's Guns, and he proceeded to sell guns to anyone who "didn't look like a cop." The FFL directive you signed in August calls for ATF to toughen its background checks so that people like Big Chuck don't get FFLs in the first place.

Gangs

Street gangs have long plagued California cities such as Los Angeles and San Francisco. In Los Angeles alone there are more than 1,030 distinct gangs with over 150,000 gang members, and, in 1992, there were 803 gang-related homicides in Los Angeles county alone. Despite the "truce" reported last year violent gang activity continues, and LA street gangs have expanded, reaching nearby cities such as Denver and Kansas City.

The crime bill includes several programs that attempt to deal with the gang problem. First, it includes bootcamps and alternative punishments for young offenders, which can be coupled with drug treatment and testing (\$1.2 billion). Second, it bans juvenile possession of handguns and authorizes \$500 million to build facilities to house violent juveniles. And third, the bill includes a \$100 million in gang prevention grants that are designed to provide alternatives activities to youths immersed in the gang culture.

In your speech during the signing of the Brady Bill, you referenced three individuals who were making a difference. One of those persons was David Plaza, Coordinator for the Gang Alternatives Program in Norwalk, California. Today in Los Angeles County, where 2 children die each day because of gang violence, and where \$1 million per day is spent to counteract gangs, David Plaza is making a difference. Having joined a gang in the 8th grade when he witnessed the drive-by shooting of one of his best friends, Plaza started to turn his life around when he was sent to a youth counseling center several years later and met a former gang member turned anti-gang advocate. By Senior year, Plaza was elected student council president. After graduating from high school, he went to college and got his degree. Now, Plaza teaches a 15-day anti-gang program and works to get gang members off the street. We first learned about Plaza's work when he participated in the U.S. Sentencing Commission's Symposium on Drugs and Violence, speaking on the Commission's "Perspectives from the Street" panel.

Brady Bill

Last Tuesday's Washington Post carried a front-page article on how waiting periods and background checks in four states over the past four years have stopped more than 47,000 persons who were prohibited from buying guns from doing so. California was one of those states. According to state officials, 21,168 sales have been blocked since 1989 in California under its 15-day waiting period.

Bruce 1/24

THE WHITE HOUSE

WASHINGTON

January 19, 1994

STAY OFF DRUGS
CRIME BILL
1-24-94

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA

SUBJECT: CRIME BILL CONFERENCE:
OUTSTANDING ISSUES AND RECOMMENDATIONS

I. BACKGROUND

The White House and the Justice Department have reached substantial agreement at the staff level on a series of recommended positions for the Administration to take going into conference on the crime bill. Webb Hubbell provided the attached summary from the Justice Department, and the key issues are summarized below. We are also working with the Department of Labor and the National Economic Council on the question of job creation and training as it relates to the crime bill. Secretary Reich will send you options within the next few days on behalf of Labor, HUD and Justice.

The Senate is eager for a quick conference on the crime bill. Chairman Brooks says he wants direction from the Administration, but needs to accommodate the demands of his committee members for additional votes on habeas reform, the death penalty, and other issues before going to conference. The House leadership wants Brooks to move quickly, and we should reinforce that message. The longer it takes to conference, the harder it will be to maintain bipartisan support and avoid the return of gridlock.

The State of the Union address is an opportunity to urge quick passage of a crime bill, and define the upcoming crime debate. We hope that you will use it to stress the crime-fighting programs you favor (more cops, boot camps, and drug courts; an assault weapons ban; safe schools; etc.); challenge all Americans to set an example for their children by staying off drugs, work as partners with the police, and take personal responsibility for making their neighborhoods safe; and finally, promise Americans a criminal justice system that sends violent criminals to jail and keeps them there.

II. MAJOR ISSUES

A. "Three Strikes and You're Out" for Violent Offenders

White House and Justice recommend that you support some version of the "three-strikes-and-out" provision in the Senate crime bill, targeted to violent repeat offenders. The Senate provision would apply to individuals with three federal and/or state drug or violent crime felony convictions, which are punishable by a maximum prison term of 10 years or more, so long as the third conviction is in federal court. Justice believes this is a sound approach, and will work with conferees to ensure that the final version is well-targeted.

Governors across the spectrum from Mario Cuomo to George Allen have made three-strikes-and-out the central crime plank of their State of the State addresses. Voters in Washington approved it overwhelmingly in November, and legislatures in California, Virginia, New York, and elsewhere are expected to enact versions of it this spring. The idea is sweeping the country because Americans believe that keeping violent criminals behind bars is the single most effective step we can take to reduce violent crime -- and they're right: 6% of violent offenders commit 70% of all violent crimes.

We recommend that you support a version of three-strikes-and-out in the crime bill, and call for it in the State of the Union. It will send a clear signal that you want action on all fronts, from tough punishment as well as crime prevention.

B. Regional Prisons/Truth-In-Sentencing

The Senate crime bill authorizes \$3 billion for grants to states for boot camps and state prisons, and another \$3 billion for 10 federally-run regional prisons (2,500 inmates each) for violent state offenders and criminal aliens. The regional prison slots come with a catch: to qualify, states would have to certify that violent felons (those punishable by a maximum prison term of 5 or more years) are serving at least 85% of their sentences, and that state sentences for violent crimes are at least as rigorous as their federal counterparts.

It will be difficult to keep regional prisons out of the bill. They are a "must have" provision for Republicans, and attract enough support from Representative Schumer and other Democrats to have been included in the final 1992 crime bill conference report.

White House and Justice believe that the best way to preempt the current regional prisons proposal -- and help states deal with the legitimate problem of violent, repeat offenders -- is to add a truth-in-sentencing condition to the original Democratic proposal on grants to states for boot camps and state prisons. As with the "three-strikes-and-out" provision, Justice believes that they can craft legislative language that is sufficiently narrow to focus on only the most serious violent offenders. The broad Republican version of truth-in-sentencing is a massive unfunded mandate on the states; we can design a carefully targeted

alternative that will give the states a better deal, though they will still consider it an underfunded mandate.

C. Federalizing Gun and Other Crimes

The Senate crime bill creates a number of new federal crimes, most of which are primarily symbolic. Justice would like to oppose one in particular: a D'Amato amendment that federalizes most gun crimes by making a federal crime of all murders committed with a firearm, and of the use, possession, or carrying of a firearm during the commission of a state violent crime or drug offense. These provisions are excessively broad, and we recommend that you oppose their inclusion in the crime.

The Senate bill also creates new federal crimes in the area of criminal street gangs, parental accountability for juvenile crimes, and domestic violence. Justice does not recommend that you oppose these new federal crimes, but would like to modify the language to ensure that federal law enforcement efforts supplement -- not supplant -- local law enforcement efforts.

do so

D. Mandatory Minimums

The Justice Department worked closely with Senator Biden's staff and others to try to keep new mandatory minimum sentences out of the crime bill replacing specific sentencing floors with language directing the Sentencing Commission to provide for an "appropriate enhancement" for a particular crime. They had little success.

But the Senate crime bill does include a "safety valve" that will allow non-violent, first-time offenders, who are being sentenced under three of the most popular federal drug-related mandatories, to be sentenced under the sentencing guidelines rather than receiving mandatory minimum sentences. This narrow provision represents a bipartisan compromise between Senators Simon, Kennedy, Hatch and Thurmond, as well as the Attorney General and the Sentencing Commission. Along with the Attorney General's recent loosening of the Justice Department's prosecutorial guidelines, this provision will give her more than enough flexibility in dealing with mandatory minimums. White House and Justice recommend that you support the safety valve provision.

Justice would like you to go further by categorically opposing new mandatory minimums, and directing the Sentencing Commission to enhance sentences instead. We disagree. We do not believe that mandatory minimums are as serious a problem at the federal level as they are at the state level. In July, 1993, GAO issued a report (based on a review of 900 cases in 8 judicial districts) showing that in 70 percent of drug cases carrying mandatory minimums, defendants were sentenced to stiffer sentences pursuant to the sentencing guidelines than they would have been under the mandatory minimum. The GAO's

review also revealed that in only about 5 percent of federal drug cases was a mandatory minimum sentence imposed that was longer than the punishment proscribed by the sentencing guidelines.

Moreover, the strategy Justice recommends will only draw attention to the Administration's forthcoming nominations to the Sentencing Commission, who are bound to be highly controversial in any case. Most of the prospective nominees interviewed by the Justice Department are outspoken critics of the sentencing guidelines. The combined effect of these steps -- prosecutorial guidelines from the Attorney General advising U.S. Attorneys not to seek tough sentences for certain crimes, Sentencing Commission nominees who want to give judges broad discretion, and an effort to take tough sentences out of the crime bill and leave them up to those same nominees instead -- will be to make this Administration look like it's easing up on crime at the very time it ought to be cracking down.

We recommend that rather than setting out to weaken tough sentences in the crime bill, the Justice Department focus its efforts on not federalizing crimes that don't belong in federal court. The most far reaching new mandatory minimums in the crime bill is part of the D'Amato amendment, which would set mandatory sentences for virtually all gun crimes. We believe the Administration should leave the other minimums to the conferees to decide. We can't take a principled stand against new minimums if we're going to support "three strikes and out."

E. Assault Weapons and Other Gun Issues

The Senate crime bill includes a tough assault weapons ban, a ban on the possession of handguns by minors, and several critical changes to strengthen the federal firearms licensing system, including requiring gun dealers to comply with all state and local laws and to report lost or stolen inventory to ATF.

White House and Justice recommend that you strongly support all of these provisions and insist on their inclusion. Dole said on Meet the Press this month that the Republicans would accept an assault weapons ban if we would accept their tough prison and sentencing provisions. Biden and Schumer have supported the same deal. We believe that is a good deal for us, especially if we can work something out with the Republicans on truth-in-sentencing and prisons.

An assault weapons ban will still be an uphill struggle in the House, but it's a fight well worth having. The crime bill conference debate shouldn't be about whether we're for prevention vs. punishment, or whether or not we support tough measures for repeat offenders. It should be about whether or not the Republicans will accept common-sense gun measures that are long overdue and have broad public support, and whether or not Republicans will block a \$22 billion crime bill to placate the NRA.

II. OTHER ISSUES

A. 100,000 Cops Title

The Senate crime bill authorizes a total of \$8.995 billion over the next five years to hire 100,000 new police officers and expand community policing. Eighty-five percent of these funds would be used to hire new police officers for deployment in community policing, and fifteen percent would be used for programs to help department re-orient their emphasis to more pro-active community policing (i.e., specialized training, new technologies that help keep cops on the beat, and community crime prevention programs).

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White House and Justice recommend endorsing the Senate version and insisting on 100,000 cops. We will need to make a few minor changes, based on what we learned in developing and administering the \$150 million Police Hiring Supplement. After the phenomenal response to the \$150 million program (more than 4,000 applications), Justice wants to amend the policing title to turn grants for smaller jurisdictions (under 100,000) over to the states. We would like to try to reserve at least 60% of the program's resources for larger jurisdictions. (The House would set aside 60% of the program's funds for cities under 100,000; the Senate splits the police monies evenly between cities with populations over 150,000 and those under 150,000.) We also recommend giving the Attorney General increased flexibility in awarding the 15 percent of the funds that do not go toward the actual hiring of personnel.

HUD
COMMUNITY
DEVELOPMENT
PROGRAMS
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Finally, we will seek some miscellaneous changes, such as: making sure we have the ability to give Empowerment Zones priority designation; allowing overtime costs during the first year of a grant, when new police personnel are in training; and allowing priority designations for projects that involve the recruiting of departing military personnel as police officers. We will also follow up on Rev. Jesse Jackson's suggestion that encouraging police (and other potential role models) to move into marginal neighborhoods can have the same kind of impact as putting more police on the street. We will seek to include a provision that allows us to give priority to cities that make a concerted effort to lure people back into the neighborhoods they serve.

Much like the gun provisions in the crime bill, the full burden of passing an effective policing title that put 100,000 more police on the street is on the Administration. It is quite likely that members will try to reduce the size of the police program in conference -- as Congress did with the supplemental appropriations bill. We recommend that you strongly support and insist on your version of the policing program.

B. Violent Crime Reduction Trust Fund

As you know, Senators Byrd, Mitchell, Sasser, Biden, Hatch, Dole, Gramm and others reached agreement on an amendment to codify your 252,000 federal workforce reduction,

transfer these savings into a newly-created Violent Crime Reduction Trust Fund (VCRTF), and reduce the discretionary caps by an equal amount. The total amount of money available for crime bill authorizations under the amendment would be \$22.268 billion over the next 5 years. Recognizing that the creation of the VCRTF is essential to achieving a crime bill conference report, you have already elected to include it in the FY 1995 budget.

White House and Justice recommend supporting the VCRTF in conference. We will need to make one change in conference, to adjust authorization levels so that expenditures in the early years correspond with the savings coming into the VCRTF.

C. Jobs and the Crime Bill

Pursuant to your conversation with Secretaries Reich and Cisneros and the Attorney General, Domestic Policy and the NEC have met with appropriate agency staff to discuss what job-related provisions could be included within the context of the crime bill. The Secretaries intend to submit a joint memorandum to you soon. Here are the options they are currently considering.

*10/15/94
J. C. [unclear]*

Youth Fair Chance: Labor will recommend that you support a \$1 billion Youth Fair Chance Initiative that has a specific emphasis on crime and violence. The Youth Fair Chance program focuses on youth growing up in high-poverty areas by saturating neighborhoods of about 25,000 people with funds for school-to-work programs for in-school youth and job training for out-of-school youth. Additionally, grant recipients must commit to a number of complementary initiatives such as expanding sports recreation programs and public/private partnerships. The only real difference between the current Youth Fair Chance and that which Labor is proposing is that, instead of high-poverty areas, we could target high-crime areas; and, instead of a \$25 million program funded by Labor, it would be a \$200 million a year program funded out of the Violent Crime Reduction Trust Fund.

We have some concerns about this proposal. First, although we like the concept, OMB has already oversubscribed the Violent Crime Reduction Trust Fund for FY 95, and it will be difficult to make the case in conference that we are negotiating in good faith if everyone knows that we've already spent the money. Second, for this new program to be an eligible expense through the VCRTF, we would need to enact separate authorizing legislation that would have to go through the House Education and Labor Committee. This not only would delay crime bill action, it would prompt a root cause vs. punishment debate that Republicans would welcome in an election year.

Jobs Linkages to the Crime Bill: A second option is to use the Job Corps model in boot camps and other alternative sentences for juvenile offenders. The House already passed such a non-binding amendment to one of the crime bills that passed the House, and it could be expanded and strengthened in conference.

We especially like this option, which bolsters both your anti-crime and job creation efforts. For example, while boot camps -- like the one you pioneered in Arkansas -- have been successful, they have not met the ambitious expectations put forth by their original proponents. One of the ways to improve boot camps is to build on the positive impact they have on participants by continued "after shock" and increased job opportunities. Continued supervision in the form of electronic monitoring combined with Job Corps programs is an excellent example of such an effort. Currently Justice and Labor are examining other crime bill and jobs programs to see what else can be done in this area. We should be able to make these changes in conference without generating intense GOP opposition.

Separate Jobs Bill: Another option would be to push for a targeted FY 94 supplemental appropriations bill -- offset by recisions -- after the crime bill is signed. The bill could include immediate funding for your priority crime programs -- cops, drug courts, boot camps -- as well as a jobs initiative such as the Youth Fair Chance Initiative and Maxine Waters' proposed 17-30 Black male initiative. Having already made our way through the crime bill debate, we would be in the position of putting a crime spin on a jobs bill, instead of putting a jobs spin on a crime bill.

D. Other Agencies

Agencies such as Treasury, HHS and Education have various technical concerns that we are trying to address, such as duplication of already existing programs and assuring proper coordination between agency efforts. We are committed to working with the agencies to remedy as many of these technicalities as possible at the staff level.

4/21/94

THE WHITE HOUSE
WASHINGTON

July 29, 1994

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
JOSE CERDA

SUBJECT: Keeping Your Pledge on 100,000 Cops

The community policing program was preserved, even strengthened, in conference. The crime bill conference report authorizes nearly \$9 billion over 6 years -- enough for you to credibly say that we will be able to put 100,000 more police on the street. We also made changes in conference that will give cities like Houston and New York more flexibility to try different ways to expand the number of police on the street.

I. MAJOR PROVISIONS OF THE COMMUNITY POLICING PROGRAM

The final crime bill authorizes \$8.995 billion over the next 6 years out of the Violent Crime Reduction Trust Fund for community policing. That works out to almost an even swap -- a reduction of 100,000 positions in the federal bureaucracy is enough to pay for 100,000 more police, which is exactly the promise you made in your acceptance speech at the Democratic Convention.

1. How the Program Works: The money will be divided equally among large and small cities: half goes for cities with populations over 150,000, the other half for cities and towns under 150,000. The bill provides \$450 million for technical assistance and evaluation. As in our pilot program, the Administration will award policing grants on a competitive basis. With \$9 billion, we should be able to meet the full demand for new police.

The program will emphasize new hires, with some flexibility for cities that want to redeploy their current force. At least 85% of the grant funds must go to hire, rehire, and train new police officers. Communities are encouraged to use these funds to hire former members of the Armed Forces to serve as community policing officers, particularly in areas where a military base has closed. At the Attorney General's discretion, the remaining grant funds -- up to 15% -- can be used to promote community policing in other ways: redeploying existing officers (through overtime, new equipment, etc.), developing new technologies, and offering specialized training to officers.

2. Added Flexibility: To give cities even more flexibility and make it easier for them to put more police on the street faster, we added a provision that for the first three years of the program will allow cities to use some of the money from the 85% hiring pot for innovative strategies to redeploy existing officers, so long as they can demonstrate that doing so will put more police on the street. New York City, which has already expanded its police force, will be able to purchase the technology for a paperless arrest system that will allow the department to increase its street presence by at least 300 to 400 officers. Houston, which used overtime to put the equivalent of 655 officers on the streets within 90 days and cut crime by 22% in 2 years, will be able to expand that effort. To keep overtime from eating up the whole program (and make sure that we're not accused of hiring 100,000 secretaries instead of 100,000 cops), this provision expires after three years and is limited to a maximum of 20% of the grant money in FY95 and FY96 and 10% in FY97.

Mayors like Lanier and Giuliani are very happy with the added flexibility, as is Schumer, who pushed hardest for it. So, too, are police chiefs from major cities -- such as New York's Bill Bratton and Chicago's Matt Rodriguez -- who are committed to making your program work. Last week, the mayors who earlier expressed doubts about the community policing program -- Lanier, Rendell, and Giuliani -- sent us strong letters of support.

3. How We Can Reach 100,000: Policing grants will be awarded for three to five years, with a declining federal match that will average between 50% and 75%, depending on a city's size and salary levels. The federal share is limited to a total of \$75,000 per officer over the life of the grant. Cities with higher costs or limited resources may apply for a waiver of the federal match. (In the pilot program, only 4 % of all applicants applied for such a waiver.) Per officer costs vary widely from city to city, but our best national estimate is that it costs on average about \$42,000 per year in salary and benefits for each new officer.

Based on these formulas, Justice projects a total of at least 99,000 more police on the street over the next 6 years: a minimum of 88,000 new hires and rehires; another 9,000 more police on the street through redeployment; and over 2,000 new hires and rehires from grants already awarded through the pilot program.

We actually have the potential to exceed 100,000. Justice will have the discretion to use money from the "up to 15%" pot to provide grants for hiring as well as equipment and redeployment -- enough to hire or redeploy up to 17,000 more police. The conferees also authorized \$400 million for the Police Corps, which could provide another 10,000 new officers (but that authorization is not guaranteed out of the Trust Fund, and will remain a contentious issue in future appropriations). We will also help communities put more police on the street by providing up to 25,000 public safety volunteers through National Service, expanding public housing police through the proposed COMPAC program, and giving schools money for police and security guards through Safe and Drug-Free Schools legislation.

II. MAKING SURE THE PROGRAM SUCCEEDS

The crime bill gives us the authority to put 100,000 cops on the street, but to actually achieve that goal, we will need to focus the Administration's efforts in three key areas:

1. Appropriations: In theory, the crime bill is fully paid for -- the Trust Fund authorizes the use of savings realized from the Federal Workforce Reduction Act. But crime bill expenditures are still subject to appropriation, and we can expect resistance from appropriators down the road if money remains tight. So far, we've done relatively well. Last year we asked for \$200 million and got \$150 million. This year we asked for \$1.7 billion and both houses have given us over \$1.3 billion. Community policing will need to remain one of your highest priority investments if we're going to achieve 100,000 cops.

2. Cop Czar: Administering all the grant programs in the crime bill will be an enormous challenge for the Justice Department. With \$30 billion to spend over the next 6 years, the Violent Crime Reduction Trust Fund will have a larger annual budget than two Cabinet agencies -- Commerce and the State Department. The selection of someone to run the community policing program at Justice should be given the same careful attention as a Cabinet appointment, even though it doesn't require Senate confirmation. The Justice Department is developing a list of candidates, including some chiefs who have been at the forefront of community policing. Your cop czar needs to be someone of unquestioned integrity who has the backbone to use this program not just to give away money, but to fundamentally change the way police forces around the country do business.

3. President's Council on Policing: If we're going to bet \$9 billion on a single idea -- community policing -- we've got to preserve and protect the integrity of the idea, and help ensure that it works. The success of this program, more than anything else we do, will affect whether crime goes up or down on your watch. It won't do us any good to have put 100,000 cops on the street if crime doesn't go down, if people's sense of personal security doesn't go up, and if departments dismiss community policing as just one more hoop they have to jump through to get money. We need to hold departments to high standards in return for our grants to ensure that they really do change, and when we find something that works in one community, we ought to help spread the word to others.

One way to make sure that happens, and to see that it gets the highest level of attention from the Administration, would be for you to meet periodically with a group of law enforcement leaders from around the country. This group could serve as a kind of Joint Chiefs of Staff for the war on crime, and allow you to work directly with those on the front lines to see that we're doing all we can. At the same time, you might consider having periodic briefings on personal security with the Attorney General, the Drug Director, and the FBI Director. Restoring Americans' sense of personal security will take the same determination and attention you devote to issues of national security.

THE PRESIDENT
8-11-94

August 11, 1994

*This doesn't explain
how punishment will be
allocated. How much flexibility
will be left?*

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: Punishment Provisions in Crime Bill

The crime bill includes several tough criminal penalties for violent and gun offenders, as well as substantial funds for state prisons, boot camps, and criminal alien incarceration. Forty percent of the prison money is tied to truth-in-sentencing requirements. The major provisions are:

I. PRISONS

* Prison Funds: The crime bill includes over \$10 billion for prisons -- more than any other provision in the bill, and more than any other crime bill in history.

* Truth-in-Sentencing Requirements: 40% of the prison grants must go to states that enact truth-in-sentencing laws which require violent offenders to serve at least 85% of their sentence.

* Criminal Aliens: The bill includes \$1.8 billion to reimburse states that incarcerate criminal aliens.

II. PENALTIES

* Three-Strikes: Effective immediately, the bill will impose life imprisonment on any offender who commits a serious violent felony under federal law, after having been previously convicted of two or more serious violent felonies under either federal or state law.

* Violent and Gun Offenders: The bill includes new minimum sentences for violent and gun offenders, including enhanced penalties for using a semiautomatic weapon in a violent crime or in drug-trafficking.

* Death Penalty: The bill will extend the death penalty to more than 60 crimes not currently covered, such as the killing of a federal law enforcement officer or a state or local law enforcement officer assisting in a federal investigation.

* Violent Youth: The bill lowers the age at which violent offenders can be tried as adults in federal court to 13, so that serious criminals can expect serious punishment no matter what their age.

*60 to 64
State how
Do you
of juveniles
offenders*

ISSUE BRIEFING: PREVENTION

Crime Prevention Programs in the Crime Bill Conference Report

Wednesday, August 3, 1994

This is the third of three issue papers discussing the key elements of the President's anti-crime strategy, represented in the Crime Bill before Congress. Just as certainly as we must punish those who break our laws and wreak havoc in our cities, we must also take whatever steps we can to stop crime before it happens. Those who have no hope, no job, no other answer, who know no other way are often drawn to crime and violence. All Americans deserve hope and opportunity; need to know that there is a better answer than crime, and must have the opportunity to go another way.

If we are going to steer young people away from crime and gangs we must, as the President often says, provide them with "something to say 'yes' to": after-school programs, summer youth activities, and employment, sports and recreation opportunities that can take the place of gangs. We can bring community groups, law enforcement officials, and struggling young Americans together in an effort to keep kids off the path to crime.

Key Prevention Programs in the Crime Bill

- The President's Youth Employment Skills program "Y.E.S." will provide young ~~people with job training and opportunities in hard-hit, high-crime areas.~~ We believe that neighborhood youths and young adults will say "YES" to jobs and no to crime. And we must work with existing businesses in these areas to encourage them to stay, expand, and hire young people from the community.
- The Ounce of Prevention Council and programs can provide the vehicle for effectively coordinating and integrating the delivery of the Federal Government's new youth development and youth-oriented crime prevention initiatives.
- The Police Partnerships for Children program encourages police officers to make a difference in young lives by becoming involved with children and family services agencies that deal with at-risk children.
- The Gang Resistance Education and Training program ("G.R.E.A.T."), is already a proven success, helping kids fight the allure of gang membership through education.
- The Community Schools Initiative of the Ounce of Prevention Program will provide grants to communities across the country to develop and implement after-school programs for youth, drawing together parents, clergy, social workers, teachers, youth groups, community and business leaders and local officials.

- The Model Intensive Grant Program is a competitive program which will award up to 15 highly targeted grants to support comprehensive crime prevention programs in chronic, high-intensity crime areas.
- The Local Partnership Act will provide grants to thousands of American cities to fund health and educational crime prevention programs.
- The Midnight Sports Program will provide grants to programs designed to prevent youth violence by getting kids off the streets and teaching them sportsmanship, teamwork and conflict resolution.
- Programs to place Boys and Girls Clubs in public housing projects -- which are all too often located in high-crime areas -- can provide young people with a meaningful alternative to gangs, drugs, crime and violence.

Drug Courts

- We will never control crime until we control substance abuse. We must get the hard core drug users -- the 20% of cocaine users who consume over 2/3 of available cocaine -- off the streets and into treatment. Effective, innovative programs, like drug courts use the power of the criminal justice systems to force addicts to kick their drug habits.
 - * Adequately funded and administered drug treatment and coerced abstinence programs are critical to breaking the drug and violent crime cycle that has so heavily burdened our criminal justice system.
 - * The program includes an intensive supervision of the participants by the court, drug testing and treatment, and the prompt application of a series of graduated sanctions for failure to comply with the conditions of the program.
 - * The program can be administered on a pre-trial diversion basis, as a post-conviction probation program, or in combination.

Violence Against Women

- Action must be taken to stop and/or more severely penalize those criminals who prey, intentionally, upon women. New Federal laws and programs in the Violence Against Women Act can help prevent some attacks and improve after the fact restitution for the victims of others.

- * The Crime Bill's Violence Against Women Federal cause of action for gender-motivated violence is both fair and smart. It's fair because it addresses those situations in which victims are without redress due to inadequate state remedies, and allows victims improved access to Federal courts. It's smart because it does not clog Federal dockets by automatically labelling whole categories of offenses as gender-motivated.
- * We should also be focusing on the interstate incidents of criminal abuse and violence against women, recognizing the Federal criminal justice system's role in such matters. The Crime Bill would create appropriate new Federal offenses in this area, such as fleeing across state lines in violation of a "stay away" or protective order.
- * The Violence Against Women Act would enhance the rights of crime victims through provisions including strengthened restitution and extension of the "rape shield law" which protects victims from abusive inquiries concerning their private sexual conduct.
- * By putting money into enforcement, training, and other prevention approaches, we can effectively respond to crime and prevent many crimes. The Crime Bill would fund such efforts as a national domestic violence hotline, anti-stalking programs, and state grant programs to educate college students about rape and violence prevention.

September 12, 1994

MEMORANDUM FOR THE PRESIDENT

FROM: Don Baer
Rahm Emanuel
Bruce Reed

SUBJECT: Draft Statement for Crime Bill Signing

Here is a draft statement for the Crime Bill signing tomorrow.

The speech has three objectives: to define the bill in clear, moral terms as a way to bring America's laws back in line with Americans' values; to remind people that changing laws won't be enough unless they take personal responsibility for their families and communities; and to announce what we're doing right away to get communities the tools they need to fight crime.

The Vice President will speak first, and make all the necessary acknowledgments. You are the only other speaker on the program.

If you have any thoughts on this draft, please let us know.

**Statement of the President
Crime Bill Signing
September 13, 1994**

DRAFT 9/12

The American people have been waiting a long time for this day.

Over the last twenty-five years, half a million Americans have been killed at the hands of other Americans. And the system that is supposed to punish criminals has made excuses for their behavior.

Over the last six years, children have become the most likely victims of violent crime in America as well as its most likely perpetrators. And politicians on the left and the right have made excuses for doing nothing.

And over the last two years, we watched as Meghan Sposato lost a mother she never knew, as Polly Klaas lost her life to a felon who should never have been back on the streets, and as James Darby lived in fear for his life only to lose it walking home. And some in Washington still tried to keep this day from happening and make excuses yet again.

Today, at last, the waiting ends. The bickering stops. The era of excuses is over. The law-abiding citizens of this country have made their voices heard: Never again should people in Washington put politics and party ahead of law and order. The single most important right our system must protect is every American's right to feel safe.

Not so long ago, kids grew up knowing that if they broke a neighbor's window playing baseball, they were going to have to own up to it, and pay to get that window fixed. They knew that they'd be in trouble if they lied or stole, because their parents and their teachers and their neighbors cared enough to set them straight. And everybody knew that if someone committed a serious crime, they were going to be caught, and convicted, and serve their time in jail. The rules were simple, and people followed them -- and the punishment was swift and certain for those who did not.

Now, too many kids don't have parents who care about them, and gangs and drugs have taken over our schools. Most criminals don't even get caught, and every day you can pick up the paper and read about another criminal who has literally gotten away with murder.

The American people haven't forgotten the difference between right and wrong. The system has. Today, with this Crime Bill, we bring the laws of our land back in line with the values of our nation. And we begin the long, hard work to restore the clear line between right and wrong.

I have always said that I'm here to fight for the people who work hard and play by the rules. Well, here are the rules: People who commit crimes must be caught, convicted, and punished, and those who commit violent crimes must be punished severely. The bill I'm about to sign says that criminals ought to serve the full sentences imposed on them; repeat

violent offenders should spend their lives behind bars; and the most heinous criminals, who take a life, should pay with their own.

Young people must learn the difference between right and wrong, and need role models to look up to. The bill I'm about to sign will make sure that young people who want to avoid trouble have a place to go -- and that young people who break the law will be punished for it.

Perhaps most important, it is time for us to stand up for the brave men and women who put their lives on the line to protect us every day. In the struggle for our streets, there must be no doubt at all about which side we are on. The bill I'm about to sign puts the government on the side of the police, not the criminals; on the side of the victims, not their attackers; and on the side of those who abide by the law, not those who break it.

That's what this Crime Bill is all about. That's why the police and prosecutors and preachers fought so hard for it, that's why the American people demanded that Congress pass it, and that's why I am so proud to sign it into law today.

When I sign this bill, "three strikes and you're out" will become the law of the land -- and the penalty for those who kill a law enforcement officer will be death.

With this law, we will cut the federal bureaucracy by 270,000 positions -- to its lowest level in 30 years -- and use the savings to put 100,000 more police on the streets and build prisons to keep 100,000 violent criminals off the streets.

With this law, we'll make it illegal for juveniles to own handguns -- and make it a crime for anyone to carry or sell deadly assault weapons that have no place on our streets.

With this law, we'll give our young people something to say yes to -- places to go after school where they are safe and supervised, where teachers replace gang leaders as role models and steer kids away from drugs and gangs and guns.

With this law, we'll launch a new attack on violence against women -- to make women safer in their homes, in their neighborhoods, at work or at school.

And with this law, we will say to our police who arrest criminals, and our prosecutors who convict them: there are going to be the prison cells to lock up violent offenders, and to keep them there for a long, long time.

But, my friends, even this law -- the toughest, smartest Crime Bill in history -- cannot do the job alone. Because even if this law puts a new police officer on your block, that officer can't make your street safe again unless you come out of your home to help.

Even if this law takes thousands of violent criminals off the streets, the crime and violence will not cease unless you and your neighbors decide that you will not tolerate it in your community anymore.

Even if this law helps the schools in your town stay open late and gives your children an alternative to drugs and gangs, your children won't learn the difference between right and wrong unless you teach it to them.

Government can restore order to our streets. But government cannot repair disorder in our souls. Every American has the right to feel safe, but our country will only become safe again if every American lives up to their responsibility for themselves, their families, and their communities.

The hard work of passing this law is over, and now the hard work of making a difference in every community must begin. Today, I am naming Vice President Gore, whose reinventing government report a year ago first proposed the reductions in bureaucracy that will go to pay for this bill, to head the President's Prevention Council. I have asked him to work closely with every department to ensure that we carry out a coherent, cost-effective effort from the White House to give communities the tools they need to prevent crime. In a few weeks, I will name a community policing expert from the front lines to head our program to put 100,000 police on the street, and in the very first month of the Crime Bill, the Justice Department will award grants to put 2,500 new police on the street in cities and towns that applied last year. And in the coming months, Vice President Gore and I will hold a series of forums about crime and violence across the country, culminating next year with a meeting here at the White House, to talk with people at the grassroots whose values and common sense guided this Crime Bill every step of the way.

Today, we remember thousands of police officers who have given their lives to make our nation safer, whose names are inscribed in a stone memorial just a mile away from here. We remember the countless innocent victims whose lives were lost and whose families were shattered by the scourge of violent crime.

And we remember in particular three victims -- James Darby, Polly Klaas, and Jody Sposato -- whose tragic deaths galvanized a nation and shamed our political system into action. It is in their memories that I dedicate this bill, and with a profound prayer that these tragedies not be repeated, that I sign it. I hope this law will always be remembered in their names.

Today, the will of the American people has triumphed over a generation of political paralysis and division -- and given us a chance to work together in the same spirit, without regard to party, to solve our other problems. Now, in that spirit, let us dedicate ourselves to restoring the same basic values. Let us restore the sense of right and wrong that built this country. And let us make it safe again for all our people.

THE WHITE HOUSE
WASHINGTON

May 3, 1995

LEON

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: Habeas Reform



Handwritten note:
This OK on GOP bill
as you describe it kept
with some changes
standalone

I. Background

Attached is a Justice Department analysis of the habeas reform proposal that Senate Republicans have introduced as part of their anti-terrorism bill. It is largely similar to habeas provisions the House passed as part of its crime bill in March.

The Administration and the Justice Department have been strong and vocal supporters of habeas reform. The average delay from sentence to execution in capital cases now stands at nine years.

In August 1993, the Attorney General and Senator Biden won the district attorneys' support for a one-year, one-appeal reform proposal. Biden and Hatch eventually decided to drop habeas from the crime bill, because Hatch was afraid a Democratic crime bill would undermine recent Supreme Court decisions that have strengthened prosecutors' hands, and Biden was convinced that Republicans had enough support from Southern Democrats to adopt their tougher version of habeas on the floor.

Republicans clearly have the votes in the new Congress, and their bill will attract enthusiastic bipartisan support from state and local prosecutors. Biden would prefer to see habeas taken up as a stand-alone measure, rather than as part of the anti-terrorism bill. Although he is aware that the Administration may accept what the Republicans pass, he will not be happy about it.

For the moment, Republicans see habeas as an opportunity to turn the anti-terrorism debate to their advantage, although it is not clear whether they will insist that it be included. Biden and Daschle have let the Republicans know that if habeas remains part of the anti-terrorism bill, Democrats will start adding anti-gun amendments, such as a moratorium on repealing the assault ban and a stiffer ban on cop-killer bullets.

II. Major Issues

The Administration and congressional Republicans are in agreement on the one aspect of habeas reform that most people can understand, which is limiting death-penalty

appeals to one year and one bite at the apple. Although there is deep disagreement among Democrats and within the Administration about other important details, there is no disagreement among prosecutors, who strongly supported the House Republican bill and will strongly support the Senate Republican version.

In broad terms, the major issues involve: 1) counsel standards; 2) how much deference to give state courts; and 3) habeas for federal prisoners.

1. **Counsel Standards:** The Biden bill would require states to impose higher counsel standards than the current federal ones in exchange for curbing habeas appeals; the Republican bills leave standards up to the states. The Justice Department believes we may be able to persuade the Republicans to accept some kind of standards that ensure the quality of lawyering, on the grounds that it is in everybody's interest to have sound counsel standards that help ensure finality. A related issue is federal funding for prosecutors and defense counsel to handle habeas litigation.

2. **Deference to State Courts:** The Republican bills would essentially codify several recent Supreme Court decisions which require deference to state courts on questions of fact, law, and applications of law to fact. The Biden bill would allow for independent review of those questions. Many prosecutors argue that the Biden bill would weaken current law; the prosecutors' groups supported it last year because they were afraid a Democratic Congress might go even further, as it had done in 1992. In the current atmosphere, we will have a hard time getting any changes in this area.

3. **Habeas for Federal Prisoners:** The Republican bills limit collateral appeals by federal prisoners under 28 U.S.C. 2255. The Biden bill only addresses appeals by state prisoners. This means that the Biden bill would not affect the case of Timothy McVeigh. We should go along with some form of limits on appeals by federal prisoners.

III. How to Proceed

The Attorney General would be willing to accept a tougher bill than she and Biden put forward. The White House counsel's office would rather see the issue go away.

For now, we can continue to argue that we would be happy to take up habeas as a stand-alone measure after the terrorism bill passes, but this is no time to bring up divisive issues for partisan advantage. Dole and Hatch may put off habeas to avoid confrontations over guns. If not, we can try to extract some improvements in return for going along with it in the bill. In the meantime, we will keep meeting with them on a bipartisan basis to reach agreement on other elements of the anti-terrorism legislation.

COLL = 7M SCK
can't have 20m
court gun

agru

Analysis of the Specter-Hatch Habeas Proposal (S. 623)

S. 623 contains the current Specter-Hatch habeas proposal. The major features of this proposal are largely parallel to those of the habeas proposal in S. 3, but it corrects many of the formulation problems and idiosyncratic features in the earlier version. It is also closer in several respects to the House-passed habeas bill (H.R. 729).

The current proposal is sufficiently improved in comparison with S. 3, and sufficiently similar to the House bill, that it will almost certainly enjoy the general support of prosecutors. Hence, the Senate will probably pass this proposal or something very close to it. The Senate passed similar reforms in two earlier Congresses by large margins (in S. 1241 of the 102d Congress and in S. 1763 of the 98th Congress).

I. General Habeas Reforms

Sections 2 through 7 of the bill contain general habeas reforms that would apply to all types of cases (not just capital cases). The specific features are as follows:

Section 2 -- habeas filing time limit. Section 2 proposes a general one-year time limit for federal habeas filing. The time limit would generally run from the end of direct review, unless the petitioner could show cause for filing at a later time (i.e., previous unavailability of the legal or factual basis of a claim or unlawful state interference with filing). The limitation period would be tolled while the petitioner was pursuing state collateral remedies. This is essentially the same as the time limitation rule for filing in the House-passed habeas bill (H.R. 729).

Sections 3 and 4 -- appeal of denial of collateral relief. These sections strengthen in some respects the requirement that a petitioner must obtain a certificate of probable cause to appeal a district court's denial of a writ of habeas corpus. The requirement of obtaining such a certificate is extended to federal prisoners who are denied collateral relief by district courts (in § 2255 motion proceedings), and a requirement is added that a judge issuing such a certificate shall indicate which specific issue or issues it relates to. The sections refer to "certificates of appealability" rather than "certificates of probable cause," but this change is purely terminological. The standard for granting such a certificate -- substantial showing of the denial of a constitutional right -- would remain the same as in current law. Similar amendments appear in the House habeas bill.

Section 5 -- amendments to 28 U.S.C. 2254. This section contains several amendments to 28 U.S.C. 2254 relating to exhaustion of state remedies, the scope of habeas review, and counsel in habeas proceedings.

With respect to exhaustion of state remedies, section 5 provides that a habeas application may be denied on the merits notwithstanding the failure of the applicant to exhaust state remedies, and that a state shall not be deemed to have waived the exhaustion requirement (as a precondition for granting habeas relief) unless it does so expressly. The same reforms appear in the House habeas bill.

Like the House bill, section 5 in this bill contains provisions which are apparently intended to provide for deference on federal habeas review to reasonable state court determinations of a petitioner's claims. The proposed standard of review breaks down as follows:

With respect to questions of law, a judgment would not be overturned on the basis of a state court determination unless it was contrary to clearly established federal law as determined by the Supreme Court. Under the rule of Butler v. McKellar, 494 U.S. 407 (1990), federal habeas courts currently do not overturn judgments on the basis of a state court determination of a question of law that reflected a reasonable interpretation of Supreme Court precedent at the time the judgment became final. This is also expressed by saying that a judgment is not to be overturned (under the current standards) unless a rule of law contrary to the state court's determination was dictated by Supreme Court precedent at the time of finality. The proposal on this point in section 5 of the Specter-Hatch bill could readily be interpreted as meaning practically the same thing as the current standard under Butler v. McKellar.

With respect to questions of application of law to fact ("mixed questions"), a judgment would not be overturned on the basis of a reasonable state court determination of such a question. Under current standards, federal habeas courts have exercised independent judgment on mixed questions. However, in Wright v. West, 112 S.Ct. 2482 (1992), the state argued that reasonable applications of law to fact by state courts should be entitled to deference, considering that the standards for reviewing state court determinations of purely legal questions (under Butler v. McKellar) and purely factual questions (under 28 U.S.C. 2254(d)) are already deferential. The Supreme Court found it unnecessary to resolve this issue under the facts of the case. The provision in the Specter-Hatch bill would resolve this issue in the manner urged by the state in Wright v. West.

With respect to questions of fact, section 5 of the bill makes two changes. First, it provides as part of its general standard of review that a judgment is not to be overturned on the basis of a state court determination of a factual question, unless the determination was unreasonable in light of the evidence presented to the state court. Second, it provides that state court fact-finding is presumed to be correct, and that the

petitioner has the burden of rebutting this presumption by clear and convincing evidence -- strengthening current 28 U.S.C. 2254(d), which conditions the presumption of correctness for state court fact-finding on several specifications concerning the state proceedings. The practical effect of these changes is limited, since application of 28 U.S.C. 2254(d) normally leads to deference by the habeas court to reasonable state court resolutions of factual questions under the existing standards.

Section 5 also states that a habeas court may not hold an evidentiary hearing on a claim whose factual basis was not developed in state court proceedings, unless cause is shown and the underlying facts of the claim would establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty. This is apparently intended to enact a strengthened version of the rule of Keeney v. Tamayo-Reyes, 112 S.Ct. 1715 (1992), under which a petitioner is generally not allowed to present additional evidence in federal habeas proceedings relating to a claim rejected by the state courts unless he can show cause and prejudice. However, the formulation of the proposed standard on this point in section 5 is inadequate. As drafted, the language is unclear as to whether it is supposed to govern evidentiary hearings on claims that were never raised or were procedurally defaulted in state court, or to govern taking additional evidence on claims that were decided on the merits by state courts (or both).

Finally, section 5 provides that appointment of counsel for indigents in federal habeas proceedings is to be governed by Criminal Justice Act (18 U.S.C. 3006A) standards, except as otherwise provided by rules promulgated by the Supreme Court. This preserves mandatory appointment of counsel as required by rule -- e.g., as provided in Rule 8(c) of the § 2254 Rules for cases in which an evidentiary hearing is held -- but would otherwise condition appointment on the court's determination that the interests of justice require appointment. This is consistent with the current approach for non-capital cases, but inconsistent with the provisions of 21 U.S.C. 848(q) that require the routine appointment of counsel for indigents in federal habeas review of capital cases.

Section 6 -- section 2255 amendments. Section 6 proposes a one-year time limit for applications for collateral relief by federal prisoners (§ 2255 motions), which is parallel to the time limit proposed for federal habeas filing by state prisoners in section 2 of the bill. The House habeas bill includes the same time limitation rule for applications for collateral relief by federal prisoners, except that the basic limitation period in the House bill is two years for federal prisoners' motions rather than one. Both bills provide for deferral of the start of the limitation period on a showing of cause.

Section 6 also includes provisions which are evidently intended to tighten the standards for bringing second and successive § 2255 motions, parallel to the bill's proposal for limiting second and successive habeas petitions by state prisoners (see discussion of section 7 below). However, the language on this point in section 6 is inadequate, and tends to conflate the § 2255 motion remedy with the remedy for presenting claims of newly discovered evidence under Fed.R.Crim.P. 33.

Section 7 -- limits on second and successive petitions.
Section 7 tightens the standards for bringing second and successive federal habeas petitions by uniformly requiring that the petitioner raise a claim that was not previously presented and show cause for not having raised it earlier, and by requiring that the underlying facts of the claim must be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty. This is substantially the same as the standard proposed in the House bill for successive petitions in capital cases under the "Powell Committee" provisions.

Section 7 also provides that a successive petition must be initially presented to an appellate panel for a determination whether the petitioner has made a prima facie showing of satisfaction of the successive petition standard. The effectiveness of this approach as a screening mechanism is questionable, and it will take up additional time by running this threshold issue before appellate panels. However, the current version of this proposal in section 7 states that the appellate panel must make the required determination within 30 days of the filing of the motion. Hence, any delay resulting from this provision would be limited.

II. "Powell Committee" Procedures for Capital Cases

Section 8 contains the bill's version of the "Powell Committee" proposal, under which states have the benefit of stronger finality rules on federal habeas review if they extend appointment of counsel for indigents in capital cases to state collateral proceedings, and set standards of competency for such counsel.

Most of the features of this proposal are the same as or very similar to the corresponding features of the "Powell Committee" provisions in the House bill: Both bills propose a general 180 day time limit for federal habeas filing under these procedures, subject to tolling while state collateral review is taking place. Both bills provide for an essentially automatic stay of execution, continuing until the end of state collateral review. Both bills condition successive petitions on the satisfaction of the same restrictive standard (see discussion of section 7 above).

Like the House bill, section 8 of the current Specter-Hatch proposal sets time limits for concluding the litigation of capital habeas petitions that are subject to the "Powell Committee" procedures, but its specific standards on this point are different. Under section 8, a district court would have to decide a petition within 180 days of filing, subject to a possible 30 day extension, and 120 days would generally be allowed for a court of appeals' decision, following the conclusion of briefing. Like S. 3, section 8 lists criteria for the district court to consider in deciding whether to grant an extension of time which are in some respects unclear or of dubious relevance. However, since the application of these criteria could at most result in the extension of a basic 180 period by 30 days, their practical significance is limited.

Finally, section 8 provides that a habeas petition subject to the "Powell Committee" procedures cannot be amended after the state files its answer, except on grounds that would justify entertaining a successive petition.

III. Other Matters

Section 9 makes changes in 21 U.S.C. 848(q) which are evidently intended as conforming changes to certain amendments in section 5 (see the final paragraph in the discussion of section 5 above).

Section 9 also provides that ex parte requests to the court to authorize payment for expert and investigative services shall not be allowed unless a proper showing is made concerning the need for confidentiality. According to prosecutors, counsel representing state capital defendants in federal habeas proceedings currently use these ex parte proceedings to establish a relationship with the court and to pitch their cases before the state has had any contact with the court or an opportunity to respond. This part of section 9 evidently responds to that concern.

Finally, section 10 states a general severability rule for the bill.

THE PRESIDENT HAS SEEN
11-3-97

Proctor / C. Raff / CCDA -

THE WHITE HOUSE
WASHINGTON

57 007 10-25-97

October 22, 1997

MEMORANDUM FOR THE PRESIDENT

FROM BRUCE REED *BR*
CHUCK RUPP *CR*

RE: Attached ONDCP Memorandum on the Southwest Border Region

*I am more sympathetic
of the Mrs. Murray and I
fear too much delay in policy
process - esp on technology point
if we can show a responsible
way to solve our drug problem,
Let's discuss soon*

Attached is a memorandum that General McCaffrey sent to you outlining recommendations on how to improve the Administration's drug interdiction efforts along the Southwest border. Although we share the General's concerns, we do not support his recommendations at this time and do not believe this issue should be tasked to the Drug Policy Council for resolution.

First, the Treasury and Justice Departments have strong reservations about ONDCP's recommendations. In fact, less than a month ago, we met with Secretary Rubin, Attorney General Reno, and General McCaffrey to discuss coordination of border-related issues. At that time, General McCaffrey was preparing to send a report to Congress on the Southwest border that made the same recommendations as the attached memorandum. Secretary Rubin and the Attorney General expressed their opposition to sending this report to Congress, and General McCaffrey agreed to hold it. Rubin and Reno -- who oversee the enforcement agencies that carry out the drug, crime, trade and immigration laws along the border -- have concerns that assigning a single, federal official at each point of entry to coordinate drug interdiction will negatively affect or conflict with our immigration and trade policies.

Second, several other border-related issues are currently being discussed in the White House and among the agencies, and will need to be resolved over the next few months. Most notably, the Commission on Immigration Reform recently released its final report recommending that the Immigration and Naturalization Service (INS) be disbanded and its responsibilities -- including border enforcement -- parceled out to various agencies. In the wake of this report, Members of Congress have introduced INS reform plans and included appropriations language requiring the Administration to submit similar plans by early next year.

Because of all the above, we proposed at our recent meeting with Secretary Rubin, the Attorney General, and General McCaffrey that a White House-led working group consider all border-related proposals and the issues of drug and crime enforcement, immigration, and trade that they raise. We have met internally and concluded that the White House group will be led by DPC; include Counsel's Office, OMB, NSC and NPR; and will closely coordinate with all the affected agencies to ensure that their issues are fully considered. Although we recognize ONDCP's specific mandate to oversee the High-Intensity Drug Trafficking Areas and coordinate certain counterdrug technologies and intelligence -- and support these issues being discussed by

THE WHITE HOUSE
WASHINGTON
October 30, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
RAHM EMANUEL

SUBJECT: "Sporterized" Assault Weapons Directive

Attached is a draft directive on the importation of a new class of modified, or "sporterized," assault weapons. As you know, the 1994 Crime Bill bans 19 specific assault weapons, their duplicates, and certain other semiautomatic weapons with military-style features. The 1968 Gun Control Act more generally prohibits the importation of firearms that are not "generally recognized as particularly suitable or readily adaptable to sporting purposes." In recent years, certain gun manufacturers have redesigned "assault-type" weapons in minor ways to circumvent the 1994 ban and to meet the criteria currently used to apply the sporting purposes provision of the 1968 Act. This directive is intended to address importation of such redesigned weapons.

The directive essentially mirrors the action you took in 1993 to ban the importation of assault pistols and the action President Bush took in 1989 to ban the importation of assault rifles. Everyone agrees that the directive should: (1) require Treasury to reexamine, and if necessary, modify the criteria used to keep non-sporting weapons out of the country; and (2) temporarily suspend the approval of all pending and future applications for permits to import sporterized assault weapons. Although only a limited number of these firearms has come into the country since passage of the assault weapons ban (approximately 14,000 in 1994, 12,000 in 1995, 30,000 in 1996, and nearly 20,000 to date this year -- as opposed to nearly 160,000 in 1993), applications are now pending to import as many as 1.1 million more of these firearms. The directive would halt importation of these firearms while Treasury conducts its review -- and depending on the outcome of that review, could lead to a permanent ban on such weapons.

As you know, we have not yet resolved whether the Administration should take the additional step of temporarily suspending permits that already have been granted. While ATF originally estimated that 300,000 sporterized assault weapons could be legally imported under roughly 50 existing permits, the Bureau now puts the figure at about 600,000. The difference is due largely to ATF staff's approval last week of 3 permits for an additional 175,000 sporterized firearms -- action taken in the face of an informal departmental directive not to act on pending applications until the scope of this directive was determined.

We have asked Treasury, Justice, and White House Counsel to develop the strongest possible case for temporarily suspending existing permits. Justice litigators continue to have

serious doubts that we have a sufficient factual basis for taking this action. They point out that, in upholding the Bush Administration's suspension of existing permits in 1989, the court relied on a combination of specific facts, including: a large number of approved and pending permits for assault rifles; a 57% increase in the number of assault rifles recovered at crime scenes; and several highly publicized shootings involving assault rifles, such as the Stockton, CA murders. Arguably, the same combination of circumstances does not exist today. While the number of approved and pending permits is comparable, the 145% increase in the number of sporterized weapons traced since 1994 is largely attributable to an expanded tracing program (indeed, other makes of guns have shown a larger increase in tracings), and no highly publicized crimes have involved these weapons.

Given these circumstances, Justice litigators believe that a court is very likely to enjoin our suspension of existing permits. Justice also points out that a loss on this issue could undermine our ability to defend any future action taken by Treasury to modify the test for non-sporting weapons: for example, a court that believes we stepped over the line in suspending existing permits may doubt whether we have a bona fide basis for modifying the criteria used to apply the sporting purposes test. The Justice Department, however, has stated clearly that it will defend in court an Administration decision to suspend existing permits.

You have the following options with respect to the scope of the directive:

Option 1: Suspend action only on pending and future permits (covering about 1.1 million firearms). Allow imports under the 50 existing permits (covering 600,000 firearms) during the review period. If Treasury ultimately changes the sporting purposes test, revoke permits for firearms inconsistent with the new criteria. Treasury and Justice lawyers believe this option is entirely defensible. Senator Feinstein and other Members of Congress would complain that this action is not sufficiently bold.

Option 2: Suspend action on pending and future permits, and require Treasury to closely monitor the levels of importation and criminal use of sporterized firearms during the review period. If during the review period, the Secretary determines that circumstances warrant additional action, including suspension of existing permits, then Treasury would be directed to take such action. Although this solution will not be acceptable to Senator Einstein, it may dampen criticism from others -- and substantially reduce our litigation risk.

Option 3: In addition to suspending action on pending and future permits, temporarily suspend all existing permits (50 permits for 600,000 firearms) while ATF reviews the sporting purposes criteria. After this review, if Treasury changes the sporting purposes test, revoke permits for firearms inconsistent with the new criteria. Justice litigators believe that this option presents a substantial litigation risk and could undermine our ability to defend future action by Treasury to modify the sporting purposes test. Additionally, key Treasury staff would spend much of the review period in court -- and not necessarily working on re-examining the sporting purposes test.

Recommendation:

Chuck Ruff believes that, although it would be consistent with the Justice Department's professional obligations to defend the revocation of existing permits, there is a substantial risk that any ensuing litigation would ultimately undermine ATF's ability to make defensible changes in the sporting purposes criteria. Not only would discovery reveal the current weaknesses in AT's analysis -- and thus potentially in the predicate for any changes it may propose -- but an adverse decision in the district court (and in the court of appeals) would adversely affect our ability to defend challenges to the new criteria. Thus, he would prefer Option 2.

We are comfortable with either Option 2 or Option 3. (Option 1 looks weak in not holding out even the possibility of a suspension of existing permits.) Option 3 looks stronger to start with, but may well result in a quick loss in court. Option 2 will be subject to immediate criticism by Einstein and others, but may hold up best over time.

DRAFT - DRAFT - DRAFT

October xx, 1997

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

Subject: Importation of Uzi and Galil Firearms

The historic Violent Crime Control and Law Enforcement Act of 1994 banned 19 specific assault weapons, duplicates of those 19 firearms and certain other semiautomatic weapons possessing various military style features. The Administration and Congress worked to ban these deadly firearms because -- as the weapon of choice for gangs and drug dealers -- they were being recovered at numerous crime scenes and resulting in criminals being better armed than some of the nation's law enforcement officers. Last year, in part as a result of the ban on assault weapons, fewer police officers were slain in the line of duty than in any year since 1960, and fewer law enforcement officers were killed by assault weapons.

In addition to the prohibitions contained in the 1994 ban on assault weapons, the 1968 Gun Control Act further restricts the importation of firearms unless they are determined to be particularly suitable for or readily adaptable for sporting purposes. To enforce this law, the Treasury Department has developed a factoring system to determine whether handguns meet this sporting purposes test and are thus importable. The Department also determined that semiautomatic assault type rifles do not meet the sporting purposes test and are not importable.

I am now informed that 2 of the 19 assault weapons that were specifically banned from importation in 1989, the Galil and the Uzi, have been redesigned in order to circumvent the ban. The Galil and Uzi, which are manufactured by Israeli Military Industries, were banned because -- in their military configurations -- they were found to have no legitimate sporting purpose. It is now appropriate to determine whether the redesigned weapons would have legitimate sporting purposes in this country and are suitable for continued importation under the provisions of the Gun Control Act of 1968.

My Administration has aggressively enforced all applicable laws to keep non-sporting firearms and other munitions posing a threat to public safety from entering the country. Therefore, I direct you to:

- 1) Take the necessary steps to reexamine and determine whether the sporting purposes test should be modified with respect to the importation of the Galil, Uzi and any other firearms that have been similarly adapted or re-engineered since the 1989 ban on the importation of semiautomatic assault rifles or the 1994 ban on semiautomatic assault weapons;

[Option 1]

- 2) *Effective immediately, suspend action on pending and future applications to import these weapons until this review is complete.*

[Option 2]

- 2) *Effective immediately, suspend action on pending and future applications to import these weapons until this review is complete, and*
- 3) *During this review period, closely monitor the continued importation and criminal use of these modified assault-type weapons, and -- if you determine that circumstances warrant additional action -- take any other appropriate action including the suspension of existing permits.*

[Option 3]

- 2) *Effective immediately, suspend all existing permits and action on pending and future applications for permits to import these weapons until this review is complete.*

Nothing herein shall be construed to require actions contrary to applicable provisions of law.