

**STATEMENT OF THE PRESIDENT ON THE COURT DECISION REGARDING
THE CHICAGO HOUSING AUTHORITY'S "OPERATION CLEAN SWEEP"**

Just hours ago, a Federal District Court for the Northern District of Illinois, Eastern Division, declared the Chicago Housing Authority's (CHA) search policy in violation of the Fourth Amendment.

I am ordering Attorney General Reno and Secretary Cisneros to develop -- within the next 10 days -- a search policy for public housing that is both constitutionally permissible and effective, and that can be implemented on a nationwide basis. We must not allow criminals to find shelter in the public housing community they terrorize.

I have also asked the Attorney General and Secretary Cisneros to explore what other resources we can provide for sweeps by localities and by federal agencies.

During the last weekend in March, 13 people died violently in Chicago -- 3 of them in the Robert Taylor Homes -- and more than 300 gun incidents were reported to local police. The people in the Robert Taylor Homes have asked us to help protect them, and within constitutional limits we will do so.

POLICY INSERT

First, we will do more to protect residents and make their homes safe. Yesterday, I asked Secretary Cisneros to go to Chicago and make a downpayment on the crime bill by providing emergency funds for enforcement and prevention in gang-infested public housing. This effort will mean more police in public housing, a crackdown on illegal gun trafficking, and getting rid of vacant apartments where criminals hide out. It will also mean more playgrounds, more boys and girls clubs, and more midnight basketball leagues to make it easier for them to say no to gangs, guns, and drugs.

Second, we will empower residents ^{with} as partners in making their neighborhoods secure. ~~We will help organize tenant patrols in that which residents~~ ride the elevators and look after the lobbies and entrances. We have to give people a chance to take responsibility for keeping their communities safe.

Finally, ^{public housing} ~~for public housing in high-crime areas~~, we will work side by side with residents ^{in high-crime areas} to undertake the full range of searches that the Constitution allows -- searches in common areas, in vacant apartments, and in exigent circumstances; ^{frisking} ~~weapons frisks of~~ suspicious persons; and searches where there is a warrant for probable cause. And we'll encourage tenant associations to put a clause in their lease agreements that gives the authorities consent to search ^{for weapons} when crime conditions make it necessary.

Corruption
Office

THE PRESIDENT HAS SEEN
4/14

**Report to the President:
Combatting Violent Crime in Public Housing**

**Janet Reno
Attorney General
Henry Cisneros
Secretary, U.S. Dept of
Housing and Urban Development**

April 13, 1994

Introduction

In response to the escalation of violence and the prevalence of firearms in Chicago public housing, the Chicago Housing Authority (CHA) instituted a policy of conducting warrantless, apartment-to-apartment searches of CHA public housing developments. On April 7, 1994, a federal court in Chicago held that CHA's search policy violated the Fourth Amendment. On this basis, the court enjoined CHA from undertaking further warrantless apartment-to-apartment searches of CHA housing units. The court made clear, however, that its ruling did not preclude CHA from obtaining resident consent to search, searching common areas, securing search warrants, or conducting appropriate searches in emergency situations.

The court's ruling prompted the President to direct the Attorney General and the Secretary of Housing and Urban Development to devise a strategy for combatting crime in public housing. In response to the President's directive, a HUD team, including the Secretary, traveled to Chicago, met with elected officials, CHA leadership, residents, law enforcement personnel, and community leaders and conducted an assessment of the security needs of Robert Taylor Homes and Stateway. These two Chicago public housing developments have been besieged by gang warfare over the past several weeks. At the same time, HUD and Department of Justice personnel cooperated in formulating effective and constitutional options for increasing the security of America's public housing. As a result of these cooperative efforts, the Attorney General and the Secretary of HUD submit the following proposals.

Using Searches to Combat Violent Crime

PHAs cannot rid public housing developments of firearms and gun-related violence unless they have broad search authority. The following list suggests several constitutional means of detecting and seizing firearms within a public housing development.

a. Securing the Building Entrances and Lobbies. Any effort to stem violence in public housing developments must begin in the lobbies of the buildings. In some high-rise public housing developments, gang members effectively control access to the buildings. They move freely in and out of the buildings. While some buildings are protected by housing authority guards, those guards are often intimidated by gang members, and they therefore let unauthorized persons enter the buildings unchallenged.

It is essential that PHAs gain control of building lobbies and common areas. To accomplish this end, PHAs can erect fences around buildings, issue identification cards to

tenants, and install magnetometers or metal detectors at the building entrance. Security guards should have the authority to conduct follow up searches with hand-held metal detectors when necessary. Security guards should also be authorized to search packages and clothing, and to refuse entry to anyone who does not submit to this inspection. Most importantly, the PHAs and the local police must cooperate to ensure that the security guards have sufficient protection to do their screening work effectively.

b. Consent Searches. PHAs may search individual units within a public housing development with the tenants' consent. The most effective means of ensuring consent is through specific consent clauses in the lease agreements. Lease agreements should therefore provide for periodic administrative inspections of unit dwellings for unlicensed or unlawful firearms. This provision should be in addition to current lease provisions allowing maintenance inspections and emergency entries. Because such a clause will specify that the inspectors will be looking for illegally possessed firearms, it will give PHA inspectors authority to search dwellings more thoroughly than is now permissible under a maintenance inspection.

The PHA should establish procedures for implementing these periodic inspections. To maximize their effectiveness, the inspections should occur regularly. The PHA should restrict firearms inspections to daylight hours. The inspectors should knock and announce their purpose, and if no one is present, they should leave written notification of the inspection. They should remove all firearms and ammunition, but they should not take any other property. Local police may accompany PHA inspectors for the purpose of providing security, but they should not search the premises.

Lease agreements should also provide that refusal by a tenant to allow the PHA to inspect the dwelling unit for firearms shall be cause for termination of the tenancy.

c. Tenant Resolutions. PHAs should encourage tenant associations to endorse the use of building entrance security devices and the inclusion of consent clauses in lease agreements. A resolution by a tenant association would demonstrate widespread tenant support for such measures and would help PHAs resist challenges by particular tenants to the constitutionality of restrictions on entry and apartment searches.

d. Searches of Common Areas and Vacant Apartments. Experience in Chicago teaches that gangs commonly use vacant apartments as bases of operation. PHAs can search common areas and vacant apartments without consent or a warrant,

and at any time of day or night.

e. Administrative Warrants. Even in the absence of tenant consent, PHAs can obtain an administrative warrant allowing periodic apartment-to-apartment inspections for firearms. Administrative inspections are generally less thorough than consent searches or searches upon probable cause, however, and therefore this type of inspection may be less effective in locating firearms within dwelling units.

f. Frisks of Suspicious Person for Weapons. If police or security officers have reason to believe that an individual is involved in criminal activity and that he is armed, they may frisk him for weapons. More aggressive use of these frisks should also curb violence in the developments.

g. Warrant Searches Upon Probable Cause. Whenever the PHA has probable cause to believe that a specific dwelling contains firearms or other evidence of a crime, a search may be conducted with a judicial warrant. PHAs should make use of expedited techniques for obtaining warrants, such as by telephone or by having magistrates readily available to the PHA and local police to execute warrants.

h. Searches Based on Exigent Circumstances. PHAs may conduct warrantless searches of individual units where there is justification for a search but insufficient time to obtain a judicial warrant.

i. Arrest Warrants. PHAs or local police may enter a dwelling unit to execute an outstanding arrest warrant of the fugitive resides in the unit and the police have reason to believe he is present. Once inside the unit, the authorities may search the area within the fugitive's immediate control. They may also seize firearms that are in plain view.

A Federal Response to the Emergency Situation in Robert Taylor Homes and Stateway

HUD and Justice are committed to working with the City of Chicago to help develop a comprehensive strategy to address violent crime in Robert Taylor Homes and Stateway.

The search strategies outlined above will not work if the PHAs lack the manpower to conduct them safely. In addition, searches will provide only a short-term solution if they are not integrated into a long-range anti-crime strategy to attack the gangs that victimize public housing developments.

HUD and Justice will, therefore, immediately provide

additional enforcement and prevention resources to help stabilize the explosive situation in Chicago's public housing developments. The provision of federal resources will be made contingent on local participation to ensure effective implementation of these immediate measures as well as integration of law enforcement, social services, public health, education and other relevant efforts.

HUD will also work the CHA leadership on a long term plan to demolish the troubled high-rises and transition to a different type of public housing -- one that is economically integrated, small scale, well designed and safe and secure.

Additional Enforcement Measures

1. B.I.T.E. Teams

The CHA police and the Chicago police have established an innovative anti-crime effort called B.I.T.E. -- Building Interdiction Team Effort. A B.I.T.E. team consists of the following:

- 8 public housing officers
- 8 Chicago police officers
- 1 public housing sergeant
- 1 Chicago police sergeant

The goal of the teams is to "win back control" of selected buildings from the gangs. B.I.T.E. teams are being used to secure the perimeters of buildings and then patrol and search common areas and vacant apartments, challenge suspicious persons and inspect occupied apartments when they receive tenant consent.

The CHA believes that the an expanded B.I.T.E. force can provide the manpower and expertise to conduct emergency sweeps in the future. The CHA estimates that the minimum number of police personnel needed in a sweep are:

- 8 police to secure the perimeter of buildings;
- 14 police to secure the interior (particularly ground floor) of buildings;
- 4 police to start the search from the bottom floor up; and
- 4 police to start the search from the top floor down.

Response:

HUD will provide CHA \$10 million to fund 10 additional

B.I.T.E. teams. Funds will be drawn from the public housing modernization emergency program as well as from CHA's own unobligated modernization funds.

The Justice Department's Bureau of Justice Assistance (BJA) will assist the B.I.T.E. program by providing approximately \$500,000 for its enhancement and expansion.

2. Replacing Private Security ("Rent-A-Cops")

The CHA currently employs private security personnel to act as guards in public housing buildings. Observers have criticized this practice on a number of grounds: lack of adequate supervision and accountability, lack of training, unclear mission. The CHA recommends supplanting these private security forces with either in-house security staff or CHA housing police.

Response:

HUD will permit CHA to reprogram \$5 million from its unobligated modernization account to fund replacements for private security forces.

3. Operation Safe Home

HUD, Justice, the Department of Treasury and the Office of National Drug Control Policy have established the Operation Safe Home initiative to combat fraud and violent crime in designated public and assisted housing. The initiative coordinates federal and local law enforcement efforts in a broad range of enforcement and prevention matters.

Response:

Request that the United States Attorney in Chicago give priority to developing, as part of Operation Safe Home and the Anti-Violent Crime strategy in his community, a coordinated federal-state-local response to the alarmingly high level of armed violence at Robert Taylor Homes and Stateway.

4. Vacancy Reduction

Excessive vacancies represent a significant security problem for the CHA. In some developments, they have become a haven for gangs to stash weapons and drugs. In some buildings, gangs have literally broken through walls dividing separate apartments -- a practice called "tunnelling" -- enabling gangs to control segments of floors.

Management personnel are constantly at risk; gangs control exit and entry in many buildings. Work is constantly disrupted; crews return some mornings to find partially rehabilitated apartments destroyed.

The CHA is taking a series of innovative steps to reduce vacancies in their developments. The construction trades are training residents to rehabilitate vacant apartments under a new HUD program called Step-Up. Homeless veterans are "house-sitting" and fixing up vacant apartments, getting preferential treatment for future apartments in return.

Response:

HUD will permit CHA to reprogram \$10 million in unobligated public housing modernization funds for purposes of rehabilitating vacant apartments in Robert Taylor Homes and Stateway. This reprogramming will be approved in anticipation of the CHA receiving Vacancy Reduction funds later in fiscal year 1994.

HUD will also provide CHA with technical assistance in designing a "round-the-clock" rehabilitation program to combat the random destruction of unfinished work.

HUD will work with the CHA and local construction trades to expedite implementation of the expanded Step-Up program.

CHA would also change the way it carries out maintenance responsibilities under this plan. Each building under the vacancy program could, for example, establish a newly established maintenance management system that implements performance standards for all maintenance and renovation staff.

5. Gun Trafficking

In the current environment, the trafficking of firearms in Chicago's public housing developments continues unimpeded by any sustained, coordinated effort by federal and local enforcement officials.

Response:

BJA will make available \$200,000 to undertake a suppression program to discourage illegal trafficking in firearms and their use in the commission of crimes. This program may include investigation and prosecution of gun traffickers, those who illegally possess firearms, and those who use firearms in the commission of a crime. BJA will work will work with the Bureau of

Alcohol, Tobacco and Firearms on this effort.

6. Tenant Patrols

The CHA has helped organize and fund tenant patrols in about half of the buildings in Robert Taylor Homes and Stateway. These patrols supplement the efforts performed by Chicago police and local housing police. The cost of starting up a tenant patrol is \$8,000 per building.

Response:

HUD will permit CHA to reprogram \$150,000 in unobligated public housing modernization funds for purposes of initiating tenant patrols in the remaining buildings in these targeted developments. Funds will be used to cover a range of activities, including training and equipment.

7. Strategic Planning

An effective anti-crime strategy must operate on a number of levels: sufficient, well-trained police; adequate prevention strategies; resident involvement; community outreach; integration of other public and private resources.

Response:

BJA will provide \$150,000 to assist in the development of a neighborhood mobilization program to prevent crime. Key program elements will focus on the building and enhancing of local planning teams; the development of short-, intermediate- and long-term strategies; community policing; and crime prevention strategies.

8. Participation in CHANGE

HUD recently joined the Mayor's task force on violence in public housing known as CHANGE, which stands for Chicago Housing Authority Neighborhood Gang Enforcement. This task force utilizes a multi-agency approach to violent crime in public housing. For instance, under CHANGE representatives of the FBI, ATF, DEA, U.S. Marshals Service, State Police, Chicago Police and Chicago housing police have participated in coordinated sweeps of targeted public housing sites armed with arrest and search warrants for drug dealing and other offenses. Most of those arrested are prosecuted by the Cook County State's Attorney, which has nearly a 95% conviction rate resulting from these arrests.

Response:

HUD will participate fully in meetings of the CHANGE task force in an effort to provide meaningful guidance and assistance to the shaping of strategies in Chicago to combat violent crime in public housing.

Prevention Measures

The CHA, local ministers and residents consistently identified the absence of recreational facilities and other services as a major impediment to stabilizing the current situation. The CHA and others have great experience with administering a range of programs and activities -- in both Robert Taylor Homes and Stateway as well as in other CHA developments.

1. Playground Reconstruction

The playground facilities in Robert Taylor Homes and Stateway are in abysmal condition: strewn with glass, needles and other drug paraphernalia. Reconstruction of adequate, secure ballfields, "green space" and other playground facilities needs to happen immediately. Progress is being made; the corporate and philanthropic community as well as the state government are expected to rehabilitate a playground at a local high school.

Response:

HUD will permit CHA to reprogram \$300,000 in unobligated public housing modernization funds for purposes of rehabilitating playground facilities that are on the grounds of Robert Taylor Homes and Stateway.

2. Recreational Activities

The CHA has successfully administered a range of recreational activities to offer an alternative to gang life for public housing youth. The CHA has particularly requested additional funding for their midnight basketball program. The House crime bill would authorize \$50 million for midnight sports leagues. Yet appropriations for this initiative would not be made until the fall; funding awards might not be made until winter. CHA estimates that approximately \$200,000 is needed to administer a program this summer.

Response:

HUD will permit CHA to reprogram \$200,000 in unobligated public housing modernization funds for purposes of administering a midnight basketball program in Robert Taylor Homes and Stateway.

3. Drug Rehabilitation

The CHA has designed and implemented in other developments a program called CADRE -- Combatting Alcohol and Drugs through Rehabilitation and Education. The program provides a range of prevention, intervention and treatment services for residents. CHA estimates that it would cost approximately \$300,000 to implement the program in Robert Taylor Homes.

Response:

The Justice Department's Bureau of Justice Assistance will provide the CHA with \$300,000 to expand CADRE to Robert Taylor Homes. The funds will be transferred from the Center for Substance Abuse Treatment.

4. Other Services

The CHA identified a range of other services needed to address the root causes and effects of the violence in Robert Taylor Homes and Stateway. These services include: counseling for young children, victim assistance programs, summer cultural activities, support for boys and girls clubs and after-school programs, truancy reduction measures and other support services.

Response:

HUD will provide CHA \$2 million in Family Investment Center funds to rehabilitate CHA and adjoining facilities for purposes of providing support services to residents. Up to \$300,000 of this award may be used to fund directly a range of support services, including the services identified above.

BJA will provide \$150,000 to establish Boys and Girls Clubs in these targeted developments. Funds will provide these funds through its current Cooperative Agreement with Boys and Girls Clubs of America.

IV. Long Term Measures

Robert Taylor Homes, Stateway and other developments comprise 65 highrise buildings along State Street in South Chicago. These buildings warehouse 23,000 of the nation's poor in dense, ill-designed environments, with average incomes around \$5400.

The efforts described above will hopefully stabilize the situation in Robert Taylor Homes and Stateway over the next several months. Yet more radical measures are needed if this housing is to become safe and livable and if the tenants residing

in the developments are to become working, productive citizens.

Vince Lane has a vision that would virtually "change the landscape" of Chicago by demolishing these high-rises and rebuilding in their place small-scale, well-designed, economically integrated housing.

To accomplish Chairman Lane's vision, HUD and Congress will need to dramatically transform the way the public housing program works. Three revisions are most critical.

Public housing agencies should be given the flexibility to use modernization funds to demolish and replace dilapidated buildings. Currently, the CHA receives approximately over \$130 million a year in modernization funds. It must use those funds to rehabilitate existing developments whether or not demolition and replacement would be more costly and effective.

Public housing agencies should be allowed to capitalize a portion of the expected modernization funding stream -- as is done with Community Development Block Grant Funds. The CHA could potentially leverage hundreds of millions in dollars under a proposal which would permit a PHA to capitalize a portion of its modernization grant.

Public housing agencies should be allowed to leverage public housing funds with such resources as bond financing and other public and private sources of capital. The ability to leverage non-Federal funds will permit PHAs to stimulate the development of mixed income communities.

Response:

Include the modernization revisions in HUD's 1994 legislation. Implement the leveraging proposals administratively.

AMERS. HAVE A CONSTITUTIONAL RIGHT TO BE SAFE.

DRAFT

PROPOSALS FOR RESTORING SAFETY TO PUBLIC HOUSING

The Department of Housing and Urban Development has asked us to prepare a set of options for measures that would be both effective and constitutional in addressing the problem of widespread use of firearms in public housing projects. The decision whether, and how, to implement these proposals is, of course, for HUD to make based on policy judgments and the availability of resources. We are comfortable, however, that the proposals we have incorporated here are constitutionally supportable, for the reasons given in the analysis that accompanies each proposal.

I. INTRODUCTION AND SUMMARY OF PROPOSALS

In Washington, D.C., residents of one public housing project call their neighborhood "Little Vietnam," because of the nightly sounds of gunfire. Near another Washington, D.C., project a minister explained that school children are unfazed by a murder because they are "children of war." In Los Angeles, a public housing development is called a "war zone," populated by gangs wielding "horrendous" firepower. In Dallas, tenants complain that gangs and drug dealers control their public housing complex.

Recent events in Chicago have highlighted the level of violence in that city's public housing. In the last two years, nearly 120 homicides occurred in the Chicago Housing Authority's 1,479 structures. In 1988, a molotov cocktail thrown into a family's apartment severely burned a seven-year-old girl. Random sniper fire killed another seven-year-old walking to school in October 1992, and in the summer of 1993, gunfire threatened the lives of maintenance workers, forcing them to abandon the premises. During one three-day period in March 1994, gang warfare resulted in over 300 shooting incidents and three deaths in a single CHA project. According to the New York Times, mothers counsel their children on how to react if they are caught in a cross-fire. The Washington Post reported that tenants in one Chicago project had to pay gang members to be allowed to take their groceries to their apartments.

Public housing must be both affordable and safe. The decision in Pratt v. Chicago Housing Authority, No. 93 C 6985 (N.D. Ill. April 7, 1994), which held that the Chicago Housing Authority's policy of conducting warrantless, apartment-to-apartment searches of public housing projects violates the Fourth Amendment, demonstrates the difficulty of finding effective and constitutional ways of achieving that end. Nonetheless, the Constitution does not disable public housing officials from taking the steps necessary to ensure that the tenants of public housing projects are afforded the basic right to a safe environment for themselves for themselves and their children.

We set forth here a series of proposals designed to restore safety to public housing projects, while at the same time respecting the constitutional rights of every resident and visitor in those projects. If these proposals are adopted and implemented, we believe they can be highly effective in curbing violence in public housing projects and thereby making a huge contribution to the quality of the lives of persons served by the nation's public housing agencies.

We propose the following:

1. Public housing agencies (PHAs) should include in their lease agreements a provision banning the possession of firearms;
2. Public housing lease agreements should be amended to allow periodic administrative inspections for firearms;
3. PHAs should rely on their ability to obtain warrants to conduct administrative inspections of their buildings;
4. PHA tenant associations should adopt resolutions approving lease agreement provisions banning weapons and providing consent for firearms inspections;
5. PHAs should take steps to secure buildings through use of metal detectors, identification cards, and effective security guards;
6. Police patrolling public housing should attempt to take weapons from violent criminals by aggressively using their authority to stop and frisk suspicious individuals;
7. Public housing authorities should rely on the exigent circumstances doctrine to conduct warrantless searches of individual units where there is probable cause to believe that evidence of a crime will be found in that unit or when emergency conditions require immediate action, such as to pursue persons fleeing from the scene of a crime or to investigate a possible medical emergency resulting from a shooting incident.

YES
Concealed
weapons

II. FIREARM PROHIBITIONS IN PUBLIC HOUSING LEASE AGREEMENTS

a. The Proposal

Presently, federal regulations set forth lease requirements for public housing. See 24 C.F.R. § 966.4 (1993). These regulations require Public Housing Agencies (PHAs) to "maintain the dwelling unit and the project in decent, safe and sanitary condition." Id. at § 966.4(e)(1). Similarly, they require the

tenants "[t]o abide by necessary and reasonable regulations promulgated by the PHA for the benefit and well-being of the housing project and the tenants," "[t]o keep the dwelling unit * * * in a clean and safe condition," and "[t]o act, and cause household members or guests to act, in a manner which will not disturb other residents' peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition." *Id.* at § 966.4(f)(4),(6) and (11). The tenant is further required "[t]o assure that the tenant, any member of the household, a guest, or another person under the tenant's control, shall not engage in" criminal activity that threatens the safety of other residents and employees and drug-related criminal activity. *Id.* at § 966.4(f)(12)(i). Criminal violations or serious or repeated violation of the lease provisions are cause for termination of the tenancy. *Id.* at § 966.4(l)(2)(ii).

HUD should amend these regulations (1) to state that violent crime is rampant in public housing projects, and that firearms are a threat to the safety of residents, employees, and guests; (2) to ban all firearms from public housing projects, with the exception of firearms carried by law enforcement and security officers; (3) to prohibit tenants from possessing or storing firearms anywhere within the confines of the housing project; (4) to require that the tenant assure that any member of his or her household or guests shall not possess or store firearms within the confines of the housing project; and (5) to state that possession of a firearm by the tenant, a member of his household, or his guest shall be cause for termination of the tenancy.

v knives
+ grenades

[KICK YOU OUT IF YOU
HAVE A GUN]

b. Explanation and Legal Analysis

A regulation banning firearms in public housing projects would not offend the Second Amendment. The Second Amendment provides: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed." The courts uniformly have held that the Second Amendment guards only against federal attempts to disarm or abolish organized state militias, and does not confer an individual right to own or possess firearms. See, e.g., United States v. Cruikshank, 92 U.S. 542, 553 (1876) (the Second Amendment does not give individuals a right to bear arms; instead, it was meant only to limit the power of the federal government with respect to the maintenance of state militias); Presser v. Illinois, 116 U.S. 252, 265 (1886) (same; upholding a defendant's conviction for violating a state law that prohibited military assemblies without a permit); United States v. Miller, 307 U.S. 174, 178 (1939) (rejecting Second Amendment challenge to federal conviction for possession of a sawed-off shotgun because the sawed-off shotgun lacked a "reasonable relationship to the preservation or efficiency of a well-regulated militia"); Quilici v. Village of Morton Grove, 695 F.2d 261, 269-271 (7th Cir. 1982) (rejecting constitutional challenge to

Tough
Fight

a local ordinance prohibiting the possession of handguns within the municipality's borders), cert. denied, 464 U.S. 863 (1983).

Nor would a regulation banning firearms violate the Equal Protection Clause. The regulation would apply equally to anyone who entered a public housing complex. Moreover, the regulation would not restrict the rights of tenants and their guests to own firearms as long as they stored the firearms elsewhere. Cf. Sklar v. Byrne, 727 F.2d 633, 639 (7th Cir. 1984) (rejecting equal protection challenge to gun-control ordinance with a grandfather clause). And finally, the overwhelming need to control violence in public housing projects amply provides a rational basis for the regulation.

III. CONSENT CLAUSES IN LEASE AGREEMENTS

a. The Proposal

Tenant cooperation will be essential to enforce a ban on firearms in public housing projects. That cooperation should be reflected in the lease agreement and should be a condition of tenancy. Presently, 28 C.F.R. § 966.4(j) requires that the "lease set forth the circumstances under which the PHA may enter the dwelling unit during the tenant's possession." The current regulations require advance notification for routine inspections and maintenance, but they do not require advance notice of an entry by PHA staff "when there is reasonable cause to believe that an emergency exists." Id. at § 966.4(j)(1) and (2). These provisions should be amended explicitly to provide for periodic administrative inspections of the dwelling unit for firearms. Advance notice of a firearms inspection would not be required. The regulations should also authorize the PHA to remove and retain firearms discovered during an inspection. Refusal by a tenant to allow the PHA to inspect the dwelling unit for firearms, in conformity with established PHA procedures, would be cause for termination of the tenancy.

b. Explanation and Constitutional Analysis

The Fourth Amendment provides that "[t]he right of the people to be secure in their * * * houses * * * shall not be violated." On the basis of this language, the Supreme Court has held that the "physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed." United States v. United States District Court, 407 U.S. 297, 313 (1972). Accordingly, the Court rarely has dispensed with the warrant requirement where the locus of the search or inspection is a private dwelling. See, e.g., Payton v. New York, 445 U.S. 573, 590-601 (1980) (barring warrantless home arrests in the absence of exigent circumstances); Camara v. Municipal Court, 387 U.S. 523 (1967) (requiring a warrant for a nonconsensual administrative search of

a residence). Nevertheless, it is beyond dispute that government officials may enter and search a dwelling without a warrant and without probable cause upon the consent of a party who has "common authority over the premises." Illinois v. Rodriguez, 497 U.S. 177, 179 (1990); see United States v. Matlock, 415 U.S. 164 (1974). Consequently, a tenant can allow the PHA to search his apartment for firearms.

The tenant's consent should be binding on the other members of the household. Matlock, 415 U.S. at 169-170. See 24 C.F.R. § 966.4(a) (requiring that the lease identify all members of the household). Moreover, because the tenant may not sublease the dwelling unit (id. at § 966.4(f)(1)), his or her consent should endure until the unit is turned over to a new lessee. As a general matter, the tenant's consent should also extend to areas of the dwelling inhabited by a guest. A more difficult question of the scope of the tenant's consent would be presented in the unusual case in which a guest was present during the inspection and objected to the inspection of his suitcase or personal belongings, see 3 Wayne R. LaFave, Search and Seizure, § 8.5(d) at 304-309 (2d ed. 1987), but that situation is not likely to arise with great frequency.

Because the "scope of a search is generally defined by its expressed object," Florida v. Jimeno, 111 S. Ct. 1801, 1804 (1991), a properly crafted lease provision can give the PHA sufficient authority to conduct a thorough search of the project and the individual dwelling units for firearms. The tenant's consent should authorize access to any area or container within the dwelling unit that could possibly conceal a firearm. Ibid.

We believe that conditioning the receipt of public housing on a waiver of Fourth Amendment rights is permissible, although that question is not entirely free from doubt. On several occasions, the Supreme Court has held that it is lawful to condition receipt of a government benefit on an agreement to forfeit certain constitutional rights, particularly where, as here, the agreement is a reasonable means of protecting a compelling interest. See, e.g., Treasury Employees v. Von Raab, 489 U.S. 656 (1989) (upholding drug testing of employees who are involved in drug interdiction or who carry firearms); Snepp v. United States, 444 U.S. 507, 509 n.3 (1980) (upholding restriction on First Amendment freedoms as a condition of employment with the CIA). Significantly, in Wyman v. James, 400 U.S. 309 (1971), the Supreme Court held that receipt of public assistance can be conditioned on periodic home visits by a case worker. In that case, the limited intrusion of a home visit was offset by the need to protect dependent children and the public fisc. Id. at 318-319. To be sure, firearms inspections will be far more intrusive than the home visits at issue in Wyman, but that greater intrusion is balanced by a greater need, namely, the need to protect the lives of the residents of public housing projects.

The consent provision in a lease agreement must be backed by an eviction clause. In Wyman, for example, the State terminated the welfare recipient's public assistance when she refused to admit the caseworker for a home visit. Likewise, here, a tenant who attempts to prevent the PHA inspectors from searching his unit for firearms should face eviction.

IV. TENANT ASSOCIATION APPROVAL

a. The Proposal

Many public housing projects contain formal or informal tenant organizations, and HUD officially encourages tenant participation in public housing management. See 24 C.F.R. § 964.11. In keeping with that policy, PHAs should urge these organizations to approve - - by resolution or otherwise - - the use of the measures set forth above. Such a resolution would provide concrete justification for the implementation of the recommendations. Thus, a tenant organization resolution should set forth in detail the conditions that justify the use of these new measures. Tenant organizations should also specifically state that the organization expressly approves the ban on weapons, the insertion of consent provisions in leases, the execution of searches pursuant to those consent provisions, and the use of eviction as a penalty for violation of the new lease provisions.

b. Explanation and Legal Analysis

The Supreme Court has stated that "the community has a real interest in encouraging consent." Schneckloth v. Bustamonte, 412 U.S. 218, 243 (1973). Although tenant organizations may not provide consent for individual tenants, a tenant organization's explanation of the need for weapons bans and consent provisions may provide support for a judicial validation of these provisions. Approval by representative tenant organizations will help to ensure that all tenants have notice of these provisions. In addition, tenant organization approval may support a finding that the inclusion of consent provisions in leases establishes the actual consent of individual tenants.

V. ADMINISTRATIVE SEARCH WARRANTS

a. The Proposal

Although consent clauses in the lease agreement appear to be the strongest tool for enforcing a project-wide prohibition on firearms, administrative search warrants provide a useful but more limited means of protecting tenants. The administrative warrant

will not permit a full-scale search of the dwelling, including a rummaging through drawers and closets. But the administrative warrant should be sufficient to allow the PHA staff to walk through the apartment and interview the tenants. Administrative searches should be conducted on a routine basis; they should not be tied to a particular shooting incident. Moreover, the PHA should establish uniform procedures for conducting the inspections.

b. Explanation and Legal Analysis

An administrative search warrant can authorize a routine inspection of all residential units within a building for enforcement of safety codes. Camara v. Municipal Court, 387 U.S. 523 (1967). The warrant does not require a showing of probable cause or even a reasonable belief that a particular dwelling has violated the code. Id. at 534. Rather, an administrative warrant will issue if a building-wide inspection is needed to protect the "public health and safety." Id. at 535. Surely, the reduction of gunfire in public housing projects is a special need that justifies an administrative inspection of unit dwellings for firearms. In the context of a commercial business, routine inspections are permissible even where, as here, the inspection may ultimately detect crime and benefit law enforcement. See New York v. Burger, 482 U.S. 691, 709 (1987) ("regulation of the vehicle-dismantling industry reasonably serves the State's substantial interest in eradicating automobile theft"); United States v. Biswell, 406 U.S. 311, 315 (1972) (federal regulation of the sale of guns is of "central importance to federal efforts to prevent violent crime").

Nevertheless, it must be noted that a routine inspection conducted pursuant to administrative warrant is less invasive -- and hence less thorough -- than a consent search or a warrant search supported by probable cause. See Camara, 387 U.S. at 537 ("because the inspections are neither personal in nature nor aimed at the discovery of evidence of crime, they involve a relatively limited invasion of the urban citizen's privacy").

To ensure the constitutionality of Camara-type searches of public housing units, the PHA should establish firearms inspection procedures that reduce the discretion of the PHA inspectors and that are narrowly tailored to the public interest of providing safe public housing. In the absence of an emergency, those procedures should restrict firearms inspections to daylight hours. Firearm inspections should occur regularly, and should not be tied to any particular incidence of gunfire. Also, the PHA procedures should require the inspectors to knock and announce their purpose prior to entry. The inspectors should refrain from full-scale searches in the absence of tenant consent. In this regard, the PHA should explore the feasibility of using hand-held metal detectors to identify areas (drawers, cabinets) that require closer inspection. PHA inspectors should not examine personal items unless they have reasonable grounds to believe that the item contains a firearm. If

the dwelling unit is unoccupied at the time of the inspection, the PHA should leave written notification of the inspection for the tenant, and the inspectors should close all windows and lock all doors upon leaving. Inspectors should remove and retain all firearms located during the inspection, but they should not take other property. Local police may accompany PHA inspectors for the purpose of providing security, but they should not search the premises.

In the absence of consent or a warrant, the PHA cannot conduct routine inspections of unit dwellings for firearms. Warrantless administrative inspections are permitted only where the subject of the search has a "reduced expectation of privacy." New York v. Burger, 482 U.S. at 702. See, e.g., ibid. ("the owner or operator of commercial premises in a 'closely regulated' industry"); New Jersey v. T.L.O., 469 U.S. 325 (1985) (students); O'Connor v. Ortega, 480 U.S. 709 (1987) (government employees); Griffin v. Wisconsin, 483 U.S. 868 (1987) (probationers). In contrast, residents of public housing do not have a reduced expectation of privacy in their homes, and cases, such as Griffin, do not provide a basis for bypassing the warrant requirement.

VI. IDENTIFICATION CARDS, METAL DETECTORS, AND ENTRY SEARCHES.

a. The Proposal

A PHA can enhance the security of its public housing by implementing a program of issuing identification cards to residents, using magnetometers or metal detectors, and conducting entry searches to prevent residents and visitors from bringing firearms into public housing properties. These measures could be implemented in much the same way that they are used at courthouses and other public buildings. Residents and visitors who wish to enter public housing would be required to pass through a metal detector. If the detector reacted to the presence of metal, then the person would be required to empty his or her pockets of metal objects and pass through the detector again. Follow-up searches also could be conducted with hand-held magnetometers. At the same time, hand baggage and parcels would be subjected to an x-ray or to a hand search limited to determining that these containers do not contain a weapon. Implementing such a program would require the deployment of guards who can enforce the requirement that persons empty their pockets of any metal. To ensure that these measures have a deterrent effect, the PHA should conspicuously display signs announcing that persons entering public housing must pass through metal detectors and are subject to entry searches. Finally, PHA leases should be modified to contain a provision in which residents consent to the use of magnetometers and entry searches.

YES -
frad

b. Explanation and Legal Analysis

Entry searches have been upheld against Fourth Amendment challenges in the context of airports, (see United States v. Edwards, 498 F.2d 496 (2d Cir. 1974)), courthouses, (McMorris v. Alito, 567 F.2d 897 (9th Cir. 1978); Downing v. Kunzig, 454 F.2d 1230 (6th Cir. 1972)), and other public buildings (Justice v. Elrod, 832 F.2d 1048 (7th Cir. 1987)). Courts have approved entry/magnetometer searches on the ground that the governmental interest in ensuring the safety of air travel and public spaces justifies the relatively minimal intrusion into the privacy of persons subject to the search. Courts have been willing to extend this rationale to other locations based on a showing that an entry search is legitimately necessary to protect the safety of the public. See Wilkinson v. Forst, 832 F.2d 1330 (2d Cir. 1987) (people who wish to attend Ku Klux Klan rally); Jeffers v. Heavrin, 701 F. Supp. 1316 (W.D. Ky. 1988) (people entering Churchill Downs for the Kentucky Derby), rev'd on other grounds, 932 F.2d 1160 (6th Cir. 1991). As the Seventh Circuit has explained, an airport-style entry search "being unintrusive, is constitutionally unproblematic where * * * there is some reason -- there needn't be much -- to expect that armed and dangerous people might otherwise enter." Justice v. Elrod, 832 F.2d at 1050. In addition, in some circumstances, a person entering a building after being given notice that an entry magnetometer search would be conducted on all persons entering the building has consented to the search. See Jeffers v. Heavrin, 932 F.2d 1160, 1163 (6th Cir. 1991); McMorris v. Alito, 567 F.2d at 901.

The pervasiveness of firearms and the level of violence in some public housing plainly supply the requisite need to institute the use of metal detectors and entry searches. If conducted in an unintrusive manner that is designed only to reveal the presence of weapons, then such searches do not constitute an unreasonable invasion of the privacy rights of persons entering public housing. In addition, visitors who are warned of the entry-search policy and nevertheless decide to enter a public housing building have consented to the search. Although notice alone may not be sufficient to support a finding that residents have consented to entry searches, a general consent to such searches can be included in lease agreements.

VII. TERRY STOPS

a. The Proposal

PHAs should seek to remove firearms from people carrying them in public housing projects. To this end, police officers patrolling the indoor and outdoor common areas of public housing should rely on their ability to stop and frisk persons whom the officers reasonably suspect of carrying firearms. Aggressive use of the

authority to stop and frisk suspicious individuals could result in the confiscation of numerous weapons.

b. Explanation and Legal Analysis

Under Terry v. Ohio, 392 U.S. 1 (1968), police officers who have reasonable suspicion to believe that a person is armed and dangerous may stop and frisk that person. Reasonable suspicion consists of "some minimal level of objective justification for making the stop." United States v. Sokolow, 490 U.S. 1, 7 (1989) (quoting INS v. Delgado, 466 U.S. 210, 217 (1984)). Officers may rely on a broad range of suspicious circumstances to justify a Terry stop, including furtive behavior, flight at the sight of the police, suspicious bulges beneath clothing, narcotics dealing, and information from informants. Recent studies suggest, however, that police officers do not aggressively employ their authority to conduct Terry stops. See James Q. Wilson, Just Take Away Their Guns, N.Y. Times Magazine, March 20, 1994, at 46-47. YES

Because of the prevalence of firearms in some public housing, aggressive use of Terry stops may result in the confiscation of significant numbers of weapons. Police officers who routinely patrol a public housing unit and are familiar with its residents would be particularly attuned to suspicious behavior in the areas under their patrol. Such officers would be likely to become aware of the identities of gang members and drug traffickers and thus better able to judge when a Terry stop would be justified.

VIII. SEARCHES BASED ON EXIGENT CIRCUMSTANCES

a. The Proposal

PHAs may also rely on the exigent circumstances exception to the warrant requirement to conduct warrantless searches in some limited circumstances. That doctrine clearly permits police to conduct immediate, warrantless searches for guns in public housing units from which the sound of gunfire has been heard. Where the police have probable cause to believe a gun is present in an apartment, but no specific evidence of the gun's past or impending use, a warrantless search may also be permissible. Warrantless searches when police are unable to limit the likely location of gunfire to a single unit are more problematic. If police have narrowed the likely location of gunfire to two or three units, they may be able to conduct a search of those units for firearms. Any door-to-door search for guns in more than two or three apartments, however, should not be conducted unless it is for the limited purpose of searching for wounded or to prevent an imminent physical attack (as in the instance of the roving, armed gang). Finally, the exigent circumstances exception is inapplicable when the reason for the search is not so urgent that police may reasonably delay in obtaining a search warrant. Thus, police cannot rely on the

doctrine to justify a search occurring more than a short time after an incident involving a firearm.

b. Explanation and Legal Analysis

1. When the sound of gunfire emanates from a particular dwelling, the existence of an exigency, warranting an immediate entry to apprehend the shooter, attend to any wounded, or recover the gun, is unquestionable. Under the exigent circumstances exception, police officers may conduct a warrantless search of premises when exigent circumstances and probable cause exist to justify the intrusion. See, e.g., Ker v. California, 374 U.S. 23, 41-42 (1963). "Exigent circumstances" are defined as "those circumstances that would cause a reasonable person to believe that entry * * * was necessary to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of the suspect, or some other consequence improperly frustrating legitimate law enforcement efforts." United States v. McConney, 728 F.2d 1195, 1199 (9th Cir.) (en banc), cert. denied, 469 U.S. 824 (1984). That test is plainly satisfied when the police know that a gun has been fired from a particular apartment.

A reasonable argument might also be made that, in areas pervaded by violent crime, such as the CHA developments in Pratt, the mere presence of a gun in a dwelling, even absent any evidence of its past or impending use, creates an exigency supporting an immediate search for the gun; the exigency inheres in the fact that, given the omnipresent violence in the area, a significant possibility exists that, at any moment, the gun will actually be used. In Boston Housing Authority v. Guirola, 575 N.E.2d 1100 (Mass. 1991), the court upheld a BHA officer's warrantless entry into an apartment to seize a sawed-off shotgun that had been observed in the apartment by an exterminator. After taking explicit note of the "'almost total absence of safety and security in BHA's developments,'" id. at 1105 n.11 (quoting Spence v. Reeder, 416 N.E.2d 914 (1981)), the court concluded that an immediate search was justified because of "the potential for danger to the community and to the police" posed by the shotgun, id. at 1106. Gaulmon v. United States, 465 A.2d 847 (D.C.App. 1983), used a similar rationale to uphold a police entry into a hotel room and seizure of a gun that had been observed there by a hotel maid. The court noted that the hotel was located in a "high crime area," id. at 852, and it referred to the "menacing statistics" reflecting "substantial injury and loss of life attributable to the unlawful use of firearms in the District of Columbia." Ibid. (footnote omitted). Although by no means conclusive, these cases provide some support for the proposition that, in a setting where violent crime is pervasive, the mere presence of a weapon in a dwelling may constitute an exigency justifying a warrantless search.

2. It does not follow, however, that, when the police, based on the sound of gunfire or otherwise, have probable cause to

believe there are guns located somewhere in a housing project building, they are entitled to conduct a warrantless apartment-to-apartment search for the guns. As one court of appeals has observed, "[f]ederal courts long have held that police officers, before they constitutionally may search a separate unit within an apartment building, must have probable cause to do so that is specifically related to that unit." United States v. Dorsey, 591 F.2d 922, 928 (D.C. Cir. 1978). See also, e.g., United States v. Winsor, 846 F.2d 1569, 1572 (9th Cir. 1988) (en banc); United States v. Votteller, 544 F.2d 1355, 1363 (6th Cir. 1976); United States v. Higgins, 428 F.2d 232, 235 (7th Cir. 1970); United States v. Olt, 492 F.2d 910, 911 (6th Cir. 1974). These courts correctly recognize that each entry into a separate unit of a multiple-unit dwelling, like each entry into a separate house, constitutes a discrete invasion of the privacy rights of an additional individual.

The Supreme Court has upheld the validity and execution of a warrant that mistakenly described the place to be searched as a third-floor apartment, when the area was in fact divided into two separate apartments. Maryland v. Garrison, 480 U.S. 79 (1987). But in that case, the officers reasonably believed that the area described in the warrant was one dwelling instead of two, and they had already entered the second apartment and found the evidence they were seeking when they became aware that the area contained two apartments instead of one. The Court "expressly distinguish[ed]" those facts "from a situation in which the police know there are two apartments on a certain floor of a building, and have probable cause to believe that drugs are being sold out of that floor, but do not know in which of the two apartments the illegal transactions are taking place." Id. at 88 n.13.

Although Garrison makes clear that police must have probable cause specifically connected to a particular dwelling unit, courts might allow a search of more than one apartment based on the extreme exigency posed by someone firing guns from a multiple unit apartment building. Cf. New York v. Quarles, 467 U.S. 649 (1984) (finding "public safety" exception to Miranda rule where police failed to recite Miranda warnings before asking suspect the location of a gun just used in a crime and apparently discarded in a supermarket).

At least when police can limit the probable location of gunfire to two or perhaps three apartments within a building, they should be able to search each of those apartments for the gun. In Brinegar v. United States, 338 U.S. 160, 175 (1949), the Supreme Court stated that probable cause requires "less than evidence which would justify * * * conviction" but "more than bare suspicion." More recently, in Illinois v. Gates, 462 U.S. 213, 235 (1983), the Court stated that "finely tuned standards such as proof beyond a reasonable doubt or by a preponderance of the evidence * * * have no place in the probable cause determination," and that there is no

"numerically precise degree of certainty corresponding to 'probable cause' * * *." To the degree these cases suggest that probable cause may be established on less than a 50% probability, it seems unlikely that the police may lawfully search several apartments in a building for a gun they know to be located in one of them, because the chance that the gun is located in any single apartment is simply too low. But where the police have limited the likely location of the gun to two or three apartments, the odds that the gun is in any one apartment are better and may pass muster. See State v. Smith, 344 N.W.2d 505 (S.D. 1984) (upholding warrant that authorized search of entire two-unit house, where police had probable cause to believe evidence was located somewhere in the house but lacked information as to which unit contained the evidence). But see 1 W.R. LaFave, supra, § 3.2(e) at 603-604 (in the absence of a "compelling need for an immediate search * * *, it is to be doubted that a less than 50% probability should suffice when it appears that one of the places to be searched has no connection at all with the criminal activity").

The possibility that the standard for probable cause varies depending on the urgency of the search, see 3 LaFave, supra, § 6.5(d) at 685, raises a broader point. Assuming the standard for probable cause is significantly lower where there exists a risk of immediate bodily harm or death, the lower standard might be invoked in the wake of a volley of gunfire in a public housing project to support an immediate apartment-to-apartment search for the responsible weapon. Given the pervasively violent setting, one volley of gunfire is likely to lead to another in very short order. An immediate apartment-to-apartment search for the weapons could therefore help prevent mayhem. The exigency might not rise to the level of a ticking bomb, but the underlying theory is the same. We stress that in raising the possibility of a variable probable cause standard sufficient, at its lower end, to support an immediate apartment-to-apartment search for the weapon giving rise to recent gunfire, we are moving beyond the cutting edge of the law. The likelihood of success on such an argument is quite low.

In footnote two of its opinion (at page 10), the Pratt court stated that an immediate apartment-to-apartment search would be permissible, absent probable cause particular to each apartment, for the purpose of apprehending an armed gang that has entered the building "engaged in shooting." This seems a defensible proposition given the serious threat to safety presented by the gang members, and the limited nature of the intrusions confined to determining their location. But see Winsor, 846 F.2d at 1572-1573 (door-to-door search of hotel for fleeing bank robbery suspect violated Fourth Amendment, even though search was restricted to "visual entry" from corridor). On much the same rationale, the sound of gunfire in an apartment building should permit the police to conduct an apartment-to-apartment search, in the area where the gunfire was heard, for the limited purpose of determining if anyone was wounded and is in need of medical attention. Although such a

search would not cover weapons, any weapon observed in plain view could be seized. Nothing in the Pratt footnote, of course, authorizes anything remotely resembling an immediate apartment-to-apartment search for guns.

Because the purpose of the exigent circumstances exception is to allow the police to avoid the delay necessary for obtaining a warrant, the general rule is that, if the officers had time to get a warrant, then there was no exigency. See, e.g., United States v. Lindsey, 877 F.2d 777, 780 (9th Cir. 1989). Accordingly, searches that are conducted days or even several hours after the existence of probable cause has become known to the authorities cannot be justified by exigent circumstances.

April 15, 1994

MEMORANDUM FOR DISTRIBUTION

FROM:

RAHM EMANUEL *RE*

Subject:

HUD/Justice Report to the President on Fighting
Violent Crime in Public Housing

Attached please find a copy of the policy to fight violent crime in public housing that was developed jointly by Secretary Cisneros and Attorney General Reno. In addition, I have attached possible questions that you may be asked, with the appropriate answers.

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

April 14, 1994

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

On April 8, 1994, you asked us to work together to devise law enforcement measures that would be effective and constitutionally valid in dealing with the severe problems of violent crime in urban public housing developments such as Robert Taylor Homes and Stateway in Chicago. During the past week, we have worked productively toward that end. This letter outlines the conclusions we have reached regarding a variety of law enforcement techniques that might be used in combatting this grave problem.

You are familiar with the background: In response to the escalation of violence and the prevalence of firearms in public housing projects in Chicago, the Chicago Housing Authority (CHA) instituted a policy of conducting warrantless, apartment-to-apartment searches of CHA public housing projects. On April 7, 1994, a federal court in Chicago held that CHA's search policy violated the Fourth Amendment. On that basis, the court enjoined CHA from undertaking further warrantless apartment-to-apartment searches of CHA housing units. The court made clear, however, that its ruling did not preclude CHA from taking other steps to conduct searches in and around the housing projects.

In the Chicago case, although some tenants opposed the CHA's "sweep search" policy, many others supported the policy and supported CHA's efforts to maintain order and combat gang violence in the housing projects. The case also made vividly clear once again how pervasive violence has become in many of our inner-city housing projects. While striking down the particular "sweep search" policy employed by CHA, the judge recognized that the level of violence in the housing projects represents a grave threat to the lives and safety of innocent persons in and around the CHA buildings.

Following the court's ruling and your request for us to focus intensively on this issue, the Department of Justice consulted with the Department of Housing and Urban Development regarding the

options available to a public housing agency such as CHA in conducting searches on the premises of public housing projects that suffer from very high rates of violent crime. We outline here the options that we considered, and which we concluded are constitutionally valid, at least in the extraordinary circumstances presented by the crime problem in the Robert Taylor Homes and Stateway developments.

1. Securing the Building Entrances and Lobbies. Any effort to stem violence in crime-ridden public housing projects must begin in the lobbies of the buildings. In some high-rise public housing projects, gang members effectively control access to the buildings. They move freely in and out of the buildings. While some buildings are protected by security guards, those guards are often intimidated by gang members, and they therefore let unauthorized persons enter the buildings unchallenged.

It is essential that the housing authority gain control of building lobbies and common areas. To accomplish that end, the authority can erect fences around buildings, issue identification cards to tenants, and install magnetometers or metal detectors at the building entrances. Security personnel should be accorded the authority to conduct follow-up searches with hand-held metal detectors when necessary. They should also be authorized to search packages and clothing, and to refuse entry to anyone who does not submit to inspection. Most importantly, the authority and the local police must cooperate to ensure that the security guards have sufficient protection to do their screening work effectively. If the ground floor of the building is secure, other techniques may not be necessary; if it is not, other techniques are likely to prove futile.

2. Consent Searches. A search is lawful if it is conducted pursuant to an uncoerced consent. Leases in housing projects, as elsewhere, typically include a standard consent clause permitting the housing authority to conduct routine maintenance inspections and to enter the tenant's apartment in case of emergency. Where crime conditions in the housing development make unit-by-unit inspections essential, similar lease consent clauses could be employed to authorize periodic administrative inspections of tenants' units for unlicensed or unauthorized firearms.

As in the case of maintenance inspections, such firearms inspections should be conducted on a routine basis, during daylight hours, and should be no more intrusive than absolutely necessary to determine whether weapons are present in the tenant's unit.

If the agency gives advance notice of the fact that an inspection will be conducted and the general period within which it will take place the intrusiveness of the inspection will be lessened and any constitutional objection to the inspection thereby reduced.

In appropriate circumstances, tenant associations should be encouraged to endorse the use of building entrance security devices and the inclusion of consent clauses in lease agreements. A resolution by a tenant association would demonstrate widespread tenant support for such measures, which is an important factor in determining whether to include such a clause in the lease. In addition, a showing of widespread tenant support would be helpful in responding to challenges by particular tenants to the constitutionality of restrictions on entry and consent clauses in leases.

3. Searches of Common Areas and Vacant Apartments. Experience in Chicago teaches that gangs commonly use vacant apartments as bases of operation. The housing authority can search the common areas of public housing projects and vacant apartments without consent or a warrant, and at any time of the day or night.

4. Weapons Frisks of Suspicious Persons. If police or security personnel have reason to believe that an individual is involved in criminal activity and that he is armed, they may frisk him for weapons. Where police establish a presence in an area and use their lawful power to stop and frisk persons engaged in suspicious behavior, the use of that power can be effective in disrupting and deterring violent crime.

5. Warrant Searches on Probable Cause. Whenever law enforcement officials have probable cause to believe that a specific dwelling contains evidence of a crime, a search may be conducted with a judicial warrant. Police should make use of expedited techniques for obtaining warrants, such as by telephone or by having magistrates readily available to issue warrants.

6. Searches Based on Exigent Circumstances. Housing authority officials may conduct warrantless searches of individual units where there is justification for a search but insufficient time to obtain a judicial warrant.

7. Arrest Warrants. Housing or local police may enter a dwelling unit to execute an outstanding arrest warrant if the fugitive resides in the unit and the police have reason to believe he is present.

During staff consultations between the two Departments, we have discussed these alternatives and others in more detail, and we

will continue working together in devising and refining law enforcement strategies that can be applied to deal with this crisis.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet Reno".

Janet Reno
Attorney General

A handwritten signature in cursive script, appearing to read "Henry Cisneros".

Henry Cisneros
Secretary of Housing and
Urban Development

**HUD/Justice Report to the President
Combatting Violent Crime in Public Housing
Questions and Answers**

QUESTION:

What prompted this report?

ANSWER:

The report was prompted by a federal district court opinion declaring Chicago's policy of conducting warrantless searches for weapons and drugs in Robert Taylor Homes and Stateway, two Chicago Housing Authority developments, unconstitutional.

The President directed the Attorney General and the Secretary of HUD to establish an effective, constitutionally permissible search policy.

QUESTION:

How was the report prepared?

ANSWER:

A HUD team, including Secretary Cisneros, traveled to Chicago last Sunday to observe firsthand the conditions in Robert Taylor Homes and Stateway, two high-rise developments besieged by gang warfare.

HUD and Justice then worked collaboratively on preparing this report to the President.

QUESTION:

What does the report say?

ANSWER:

The report gives public housing agencies, public housing residents, local law enforcement and others clear guidance on the range of lawful techniques that can be used to combat violent crime in public housing developments.

Constitutionally permissible measures include:

securing building entrances and lobbies with metal detectors;

issuing identification cards to residents;

searching apartments with the tenants' consent (which can be obtained individually or through clauses in the lease);

searching common areas and vacant apartments;

frisking suspicious persons for weapons;

obtaining judicial warrants expeditiously when there is probable cause that a specific dwelling contains evidence of a crime;

conducting warrantless searches in emergency situations; and

carrying out arrest warrants.

QUESTION:

Does the federal government support CHA's sweep-search policy?

ANSWER:

The district court in Chicago (Judge Anderson) has already struck down these searches. We are looking beyond that. Our objective is to propose effective, alternative means of combating violence in public housing developments.

QUESTION:

Does this policy support the types of searches that the Judge found unconstitutional in Chicago?

ANSWER:

This policy is not fact specific. The exigent or emergency circumstances that justify a warrantless search and the facts that support probable cause in that situation are issues that must be decided by a court when they arise.

This policy seeks to emphasize that there is a range of constitutional options available, depending on the circumstances, which are available to PHA's seeking to develop effective ways to respond to violence and the use of firearms on the PHA's premises. We do not think it is useful to try to hypothesize every conceivable fact situation which could give rise to a constitutional search .

QUESTION:

If CHA appeals Judge Anderson's ruling, will the federal government support CHA?

ANSWER:

The federal government will have to address that issue if it arises. We note, however, that CHA is already well represented and the appeal process can be lengthy. We therefore believe that it is more important to find alternative solutions that can be implemented immediately.

QUESTION:

Can you outline your proposals?

ANSWER:

First, we feel it is critical that we regain control of the building lobbies and common areas by using identification cards, metal detectors and entry searches and by ensuring that police officers as security guards have sufficient protection to do their screening work effectively. Presently, gang members control access to many public housing buildings, and security guards are unable to stem the flow of unauthorized persons and firearms into the buildings.

Second, we are suggesting that public housing authorities operating public housing developments with severe crime problems consider obtaining tenants' consent to inspections for firearms. One way to achieve that end would be for the authority to amend its leases to authorize routine inspections for unauthorized or unlicensed firearms. That approach would be more likely to succeed if tenant associations endorse the use of building entrance security devices and consent clauses in lease agreements.

In addition, public housing authorities can search without a warrant common areas and vacant apartments, which are often taken over by gangs. They can also employ a series of well-established law enforcement techniques, including weapons frisks of suspicious persons and searches based on emergency circumstances.

QUESTION:

Can a public housing authority require a tenant to submit to an entry search in order to gain access to his or her apartment?

ANSWER:

Yes. The courts have upheld the use of metal detectors and follow-up searches at airports, in federal buildings, and in other settings as long as they are legitimately necessary to protect the safety of the public. Certainly, the need for these measures is manifest in projects in which violent crime is pervasive.

QUESTION:

Can you condition the receipt of public housing on the tenant's consent to inspections of his or her unit for unauthorized or unlicensed firearms?

ANSWER:

It depends on the reasonableness of the inspections program that the tenant is being asked to consent to. Almost all lease agreements allow routine inspections for unsafe conditions, and a tenant can be denied an apartment if he or she refuses to agree to permit inspections of that type. Whether routine inspections for unlawful firearms is a reasonable lease terms depends on the circumstances. Where the circumstances are as extreme as they are in projects such as Robert Taylor Homes and Stateway, we think that a lease term requiring the tenant to consent to occasional apartment inspections for firearms is reasonable.

QUESTION:

But won't an inspection for firearms be more intrusive than an inspection for leaking pipes?

ANSWER:

Perhaps. But the overwhelming need for such inspections makes the consent reasonable. We cannot restore safety to these public housing developments without tenant cooperation.

QUESTION:

Under what conditions can an individual unit be searched under your policy announced today?

ANSWER:

The most common way is through the consent of the tenant in that unit. That consent can come in two ways:

First, the tenant can consent, pursuant to a clause in a lease agreement, to a periodic inspection of the unit for

unlicensed or unauthorized firearms. This provision is much like the common provision for regular maintenance inspection, and would occur routinely, during daylight hours.

Second, the tenant can consent orally or in writing to a request to search the unit as part of a door-to-door response to an emergency situation.

QUESTION:

Is this lease language optional?

ANSWER:

It would be the PHA's option to include it in the lease, and as proposed here, it would be "optional" for a particular project. However, it would not be "optional" for the individual resident in a development that had chosen to utilize this provision.

QUESTION:

Will it apply to just developments with high crime or will it be at all developments?

ANSWER:

The lease provisions will be in all leases, if the PHA decides to utilize this approach, but they will have a "local option" in that they will not go into effect unless the Resident Council of the development approves them.

QUESTION:

Will HUD have to approve this lease language?

ANSWER:

No (HUD does not have a role in lease approval. It is offered to the tenants for a 30 day comment period and it is adopted by the Board of Commissioners)

QUESTION:

If the lease language is adopted and a resident signs, then refuses to allow the inspection, will CHA go ahead and do the search?

ANSWER: Yes.

QUESTION:

Will they terminate the lease for the refusal?

ANSWER:

They will have the option of termination, but as with any lease violation, that will be at the discretion of the PHA depending on the circumstances. Under unique circumstances the PHA could utilize the option of offering the resident alternative housing opportunities.

QUESTION:

Will it make a difference if firearms are found or not?

ANSWER:

It would obviously be considered in deciding whether to seek to evict or not.

QUESTION:

Under what circumstances would the lease provide for these types of inspections?

(a) there would be regular administrative inspections for weapons, which would be during daylight hours, and could have notice provisions similar to those for maintenance inspections, that is 48 hour notice.

(b) there would be administrative inspections prompted by gunfire from a building area. The lease could indicate that an incident of violent gunfire would be the basis for an administrative inspection for weapons within a specific time period (say 24-72 hours).

April 14, 1994

MEMORANDUM

FOR: Don Baer
Rahm Emanuel
✓ Bruce Reed

FROM: Carter Wilkie *CW*

RE: Public housing safety policy

The following language includes the one change suggested this morning by Mr. Cutler:

At one public housing project in Chicago, three people just died in a single weekend in which 300 shootings were reported to local police. In trying to solve this problem, Vince Lane, the head of the Chicago Housing Authority, has become a hero to public housing residents. But a week ago yesterday (note: Thursday April 7), the Authority's search and sweep policy was declared unconstitutional by a federal district judge.

Every law abiding American -- rich and poor alike -- has a right to raise their child in safety. To live out of the line of gunfire. And away from the shadows of criminals who invade their halls and terrorize their homes. Not just a few Americans. Not just some Americans. But all Americans. Every American. Everywhere.

So, today, I am announcing a new policy to help the residents of America's public housing take back their homes from crime:

[Tenants] First of all, we will put tenants first. This new policy will give residents of public housing more responsibility in managing the safety of the places they call home.

[Secure] Second, this policy will secure public housing to protect the safety of the residents. HUD will work with local housing officials, police departments and tenant associations to put more officers in public housing, to fill up vacant apartments where criminals nest, to put metal detectors at the entrances and to make lobbies and hallways and other public spaces safe.

[Search] Third and finally, this policy will ask every tenant to be a partner in maintaining safety. Every public housing tenant will be asked to consent to a lease that says when an emergency arises and residents are in danger, officials can search for illegal weapons -- in apartments or on suspects. And we will give tenants' groups the authority to make rules even more strict where they choose to.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20410-0001

FAX TRANSMISSION

DATE: 4-14-94

NUMBER OF PAGES (including cover sheet) 6

TO: Bruce Reed

FROM: Bruce Katz

PHONE #: _____

COMMENT LINE: _____

The phone number of this fax machine is (202) 708-2476

HUD No. 94-51
Michael Siegel (202) 708-0685 x116
Sharon Maeda (202) 708-0980

FOR RELEASE:
Friday,
April 15, 1994

HUD SECRETARY ANNOUNCES PLANS FOR SECURING,
IMPROVING CHICAGO PUBLIC HOUSING

A wide-ranging plan to improve security in Chicago Housing Authority (CHA) developments troubled by violent crime--as well as provide long-term solutions to conditions that contribute to these problems--was announced today by Henry G. Cisneros, Secretary of Housing and Urban Development.

"Today we challenge all citizens of greater Chicago, all levels of government, all neighborhood groups, businesses and foundations: work with us, as one team, with one goal: restoring safety in public housing for the decent families who want a better life for themselves and their children, and want to live their lives in peace and safety," Secretary Cisneros said.

The plan proposes short and long-term strategies to improve security, bolster enforcement, provide alternatives to gang life, and address housing policies that exacerbate crime.

The Secretary said the package includes about \$29 million in federal support, and he challenged the City and the CHA to match these funds from private and public sources, to enhance the overall effort.

-more-

HUD No. 94-51

-2-

Secretary Cisneros said the package also includes legislative proposals intended to eliminate problems that have contributed to conditions that produce crime and violence. HUD will submit legislation that would allow public housing modernization funds to be used to demolish dilapidated high-rise buildings--and replace them with small-scale, well-designed and economically integrated housing.

Other legislation would allow public housing authorities to capitalize the HUD modernization funds they now receive, so they could be counted as assets: this would provide access to hundreds of millions of dollars for replacement of deteriorated public housing. Legislation for these proposals will be submitted shortly.

HUD also will take administrative action to allow and encourage leveraging of public housing funds with bond financing and other public and private funds. These steps would stimulate the development of mixed-income housing developments.

"We want to work from a position of strength where the security of residents is concerned," Secretary Cisneros said. "To attack these problems, we will provide both financial and government agency resources to attack crime and criminals. Our goal is no less than restoring public housing communities to the decent, safe environments for which they were intended."

To establish a comprehensive approach to security in the CHA developments, additional steps announced today will include:

- \$10 Million from HUD and \$500,000 from the Department of Justice will be provided for additional Chicago B.I.T.E. (Building Interdiction Team Effort) teams. These teams of Chicago City and Chicago Housing Authority Police work to "win back control" of the

-more-

HUD No. 94- 51

-3-

most troubled buildings by securing common areas, challenging suspicious persons, and addressing tenants crime-related concerns.

- HUD will allow CHA to reprogram \$5 million to replace private security personnel with in-house security staff.

- The U.S. Attorney in Chicago will give priority to developing a strategy to attack the problems of armed violence at Robert Taylor Homes and Stateway. The renewed efforts are part of the Administration's Anti-Violent Crime Initiative and Operation Safe Home and include the Department of Treasury along with the Departments of Justice and Housing and Urban Development.

- HUD will allow the CHA to reprogram \$10 million in modernization funds to expand efforts to secure and rehabilitate vacant apartments. The effort will include an expedited "Step Up" program which employs local residents in housing rehabilitation.

- Other measures, involving the Bureau of Justice Assistance, the Bureau of Alcohol, Tobacco and Firearms, the FBI, and Drug Enforcement Administration, will focus on reducing trafficking in illegal drugs and guns.

Beyond the immediate steps to provide better short- and medium term security, Secretary Cisneros announced that HUD would enable the CHA to undertake reconstruction of playgrounds and expansion of recreational programs. In addition, both HUD and Justice will provide funds for youth counseling, drug rehabilitation services, after school activities for youth, and summer cultural activities.

#

(Attached is a breakout of funds announced today.)

**FEDERAL ASSISTANCE TO CHICAGO
FOR COMBATING VIOLENT CRIME IN PUBLIC HOUSING**

ENFORCEMENT MEASURES

Agency	Amount of Assistance	Source of Assistance	Purpose
HUD	\$10,000,000	\$5 million from HUD's public housing modernization emergency program and \$5 million from CHA's own unobligated modernization funds	To fund 10 additional B.I.T.E. teams (B.I.T.E. -- Building Interdiction Team Effort) which are used to secure building perimeters, patrol and search common areas and vacant apartments, challenge suspicious persons, and, with tenant consent, inspect occupied apartments
Justice	\$500,000	Bureau of Justice Assistance	To enhance/expand the B.I.T.E. program
HUD	\$5,000,000	A reprogramming of CHA's unobligated modernization funds	To fund replacements of private security guards with CHA housing police officers at all public housing developments
Justice	\$200,000	Bureau of Justice Assistance	To support a program to investigate and prosecute those engaged in illegal trafficking of firearms in and around CHA projects
HUD	\$10,000,000	A reprogramming of CHA's unobligated modernization funds	To rehabilitate vacant apartments in Robert Taylor and Stateway to prevent safe havens for gangs to store weapons and drugs
HUD	\$150,000	A reprogramming of CHA's unobligated modernization funds	To help start up tenant patrols in the rest of the buildings of Robert Taylor and Stateway

PREVENTION MEASURES

Agency	Amount of Assistance	Source of Assistance	Purpose
HUD	\$300,000	A reprogramming of CHA's unobligated modernization funds	To rehabilitate playground facilities and other outdoor recreational areas at Robert Taylor Homes and Stateway
HUD	\$200,000	A reprogramming of CHA's unobligated modernization funds	To support midnight basketball programs
Justice	\$300,000	Bureau of Justice Assistance	To create a drug prevention, intervention and treatment program, CADRE (Combating Alcohol and Drugs through Rehabilitation and Education), at Robert Taylor Homes
HUD	\$2,000,000	Family Investment Center funds	To rehabilitate supportive services facilities for residents; up to \$300,000 may be used to directly fund such services as youth counseling, summer cultural activities, and after-school programs
Justice	\$150,000	Bureau of Justice Assistance	To establish Boys and Girls Clubs at Robert Taylor Homes and Stateway

60638

From the desk of STEPHEN R. NEUWIRTH

To Lloyd Cutler **Date** 4/13

Carol Rasco
George Stephanopoulos
Rahm Emanuel
Bruce Reed ✓
Jennifer O'Connor

Attached is the latest draft of the public housing search proposals being drafted by Justice and HUD. The Departments plan to include a third section, not in this draft, discussing other HUD programs that might be used to help address the problem.



Deputy Associate Attorney General

Washington, D.C. 20530

FACSIMILE TRANSMITTAL COVER SHEET

DATE:

April 13, 1994

TO:

Steve Neuwirth (Fax: 456-1647)

Bruce Katz (Fax: 708-2476)

FACSIMILE NO.

TELEPHONE NO.

FROM:

Nancy E. McFadden

Deputy Associate Attorney General

FACSIMILE NO.

202--514-0238

TELEPHONE NO.

202--514-9700

NUMBER OF PAGES (INCLUDING COVER SHEET):

5

COMMENTS:

This is a revised version by Bill Bryson of the version we sent over last night. I will follow up with a phone call to both of you.

**COMBATING VIOLENT CRIME IN PUBLIC
HOUSING: A NATIONAL POLICY**

I. Searches for Firearms in Public Housing

1. The Chicago Searches

In response to the escalation of violence and the prevalence of firearms in public housing projects in Chicago, the Chicago Housing Authority (CHA) instituted a policy of conducting warrantless, apartment-to-apartment searches of CHA public housing projects. On April 7, 1994, a federal court in Chicago held that CHA's search policy violated the Fourth Amendment. The court therefore enjoined CHA from undertaking further warrantless, apartment-to-apartment searches pursuant to the CHA "sweep search" policy. The court made clear, however, that its ruling did not preclude CHA from taking other steps to conduct searches in and around the housing projects. The court identified various measures that CHA could lawfully take, such as obtaining residents' consent to search particular apartments, searching common areas and vacant apartments (where violent gang activity often occurs), securing search warrants to search particular apartments, and conducting appropriate searches in emergency situations.

The Chicago court case showed that although some public housing project residents oppose the CHA's "sweep search" policy, many others agree with the policy and support the CHA's efforts to maintain order and combat gang violence in the housing projects. The case also made vividly clear once again how pervasive violence has become in many of our inner-city housing projects. While striking down the particular "sweep search" policy employed by CHA, the judge recognized that the level of violence in the housing projects threatens the lives and safety of innocent persons in and around the CHA buildings.

The court's ruling prompted the President to direct the Attorney General and the Secretary of Housing and Urban Development to devise a strategy for combating crime in selected public housing projects that suffer from extremely high crime rates. In response to the President's directive, a HUD team including the Secretary, traveled to Chicago, met with the CHA leadership, residents, and law enforcement personnel, and conducted an assessment of the security needs of Chicago's public housing projects. At the same time, HUD and Department of Justice personnel cooperated in formulating effective and constitutional options for increasing the security of America's public housing. As a result of these cooperative efforts, the Secretary of HUD and the Attorney General submit the following proposals.

2. Using Searches to Combat Violent Crime.

Public Housing Authorities (PHAs) cannot protect public housing projects from gun-related violence unless they have broad

search authority. We propose use of the following search powers to reduce the incidence of violence in housing projects with high crime rates and to reclaim those projects for their law-abiding residents.

a. Securing the Building Entrances and Lobbies. Any effort to stem violence in public housing projects must begin in the lobbies of the buildings. In some high-rise public housing projects, gang members effectively control access to the buildings. They move freely in and out of the buildings. While some buildings are protected by housing authority guards, those guards are often intimidated by gang members, and they therefore let unauthorized persons enter the buildings unchallenged.

It is essential that PHAs gain control of building lobbies and staunch the flow of firearms into public housing apartments and common areas. To accomplish that end, PHAs can erect fences around buildings, issue identification cards to tenants, and install magnetometers or metal detectors at the building entrances. Security guards should be accorded the authority to conduct follow-up searches with hand-held metal detectors when necessary. Security guards should also be authorized to search packages and clothing for firearms, and to refuse entry to anyone who does not submit to inspection. Most importantly, the PHAs and the local police must cooperate to ensure that the security guards have sufficient protection to do their screening work effectively.

b. Consent Searches. PHAs may search individual units within a public housing project with the tenants' consent. The most effective means of ensuring consent is through specific consent clauses in the lease agreements. Lease agreements should therefore provide for periodic administrative inspections of unit dwellings for unlicensed firearms. This provision should be in addition to current lease provisions allowing maintenance inspections and emergency entries. Because such a clause will specify that the inspectors will be looking for firearms, it will give PHA inspectors authority to search dwellings more thoroughly than is now permissible under a maintenance inspection.

Lease agreements should also provide that refusal by a tenant to allow the PHA to inspect the dwelling unit for firearms shall be cause for termination of the tenancy.

c. Tenant Resolutions. PHAs should encourage tenant associations to endorse the use of building entrance security devices and the inclusion of consent clauses in lease agreements. A resolution by a tenant association would demonstrate widespread tenant support for such measures and would help PHAs resist challenges by particular tenants to the constitutionality of restrictions on entry and apartment searches.

d. Searches of Common Areas and Vacant Apartments. Experience in Chicago teaches that gangs commonly use vacant apartments as bases of operation. PHAs can search the common areas of public housing projects and vacant apartments without consent or a warrant, and at any time of the day or night.

e. Weapons Frisks of Suspicious Persons. If police or security personnel have reason to believe that an individual is involved in criminal activity and that he is armed, they may frisk him for weapons. More aggressive use of the power to stop and frisk suspicious persons could be used to curb violence in the projects.

f. Warrant Searches on Probable Cause. Whenever the PHA has probable cause to believe that a specific dwelling contains firearms or other evidence of a crime, a search may be conducted with a judicial warrant. PHAs should make use of expedited techniques for obtaining warrants, such as by telephone or by having magistrates readily available to the PHA and local police to execute warrants.

g. Searches Based on Emergency Conditions. PHAs may conduct warrantless searches of individual units where there is justification for a search but insufficient time to obtain a judicial warrant, such as to pursue gang members fleeing from a shooting incident, or to investigate a possible medical emergency.

h. Arrest Warrants. PHAs or local police may enter a dwelling unit to execute an outstanding arrest warrant if the fugitive resides in the unit and the police have reason to believe he is present. Once inside the unit, the authorities may search the area within the fugitive's immediate control. They may also seize firearms that are in plain view at that time.

II. Other Security Measures

The search strategies outlined above will not work if the PHAs lack the manpower to conduct them safely. In addition, searches will provide only a short-term solution if they are not integrated into a long-range anti-crime strategy to attack the gangs that victimize public housing projects. We propose the following programs to implement a security program in the housing projects and to combat the violent gangs by aggressive use of federal, state, and local law enforcement agencies against drug and firearms offenders in housing projects identified as crime-infested.

1. B.I.T.E. Teams.

The CHA and the Chicago Police Department have established an innovative anti-crime effort called B.I.T.E. - Building Interdiction Team Effort. Teams of up to 10 CHA and Chicago police, working together, are able to provide a sufficient show of

force to have the capacity to "win back control" of selected buildings from gang members. B.I.T.E. teams are being used to secure the perimeters of buildings and then patrol and search common areas and vacant apartments, challenge suspicious persons and inspect occupied apartments when they receive tenant consent.

An expanded B.I.T.E. force can provide the manpower and expertise to secure buildings and conduct lawful searches for firearms. Federal funding to support the use of such teams can be effective in breaking the gangs' stranglehold over some of the most crime infested buildings, and in restoring tenants' confidence that the PHAs and local police have the capacity and the will to protect the inhabitants of the buildings from gang violence.

2. Operation Safe Home and Other Joint Anti-Crime Programs.

As part of the Administration's Anti-Violent Crime Initiative that was announced on March 1 by Vice President Gore and the Attorney General, the Department of Justice and the Department of the Treasury have joined in support of Operation Safe Home, a HUD program designed to combat fraud and violent crime in public housing. In communities where violence in public housing is particularly acute, the Anti-Violent Crime Initiative will result in a coordinated federal-state-local law enforcement response to violent crime at public housing sites.

Other coordinated federal-state-local anti-crime programs should be promoted as well. In Chicago, HUD recently joined the Mayor's task force on violence in public housing known as CHANGE, which stands for Chicago Housing Authority Neighborhood Gang Enforcement. Under that program, representatives of the FBI, ATF, DEA, U.S. Marshals Service, state police, Chicago police, and Chicago Housing Authority have participated in coordinated sweeps of targeted public housing sites armed with arrest and search warrants for drug dealing and other offenses. Most of those arrested have been prosecuted by the Cook County State's Attorney's Office, which has nearly a 95% conviction rate resulting from those arrests.

3. Vacancy Reduction.

Excessive vacancies present serious security problems for PHAs in high-crime projects. In some developments, they have become a haven for gangs to stash weapons and drugs. In some buildings, gangs have literally broken through walls dividing separate apartments -- a practice called "tunnelling" -- enabling the gangs to control large segments of floors within the buildings.

The PHAs should expand programs designed to reduce vacancy rates, by training residents to rehabilitate and then occupy their own units and by conducting rehabilitation on a "round-the-clock" basis to combat the random nighttime destruction of unfinished rehabilitation work.

Report to the President:
Combatting Violent Crime in Public Housing

Henry Cisneros
Secretary of Housing
and Urban Development

April 14, 1994

Introduction

In response to the escalation of violence and the prevalence of firearms in public housing projects in Chicago, the Chicago Housing Authority (CHA) instituted a policy of conducting warrantless, apartment-to-apartment searches of CHA public housing projects. On April 7, 1994, a federal court in Chicago held that CHA's search policy violated the Fourth Amendment. On that basis, the court enjoined CHA from undertaking further warrantless apartment-to-apartment searches of CHA housing units. The court made clear, however, that its ruling did not preclude CHA from obtaining resident consent to search, searching common areas, securing search warrants, or conducting appropriate searches in emergency situations.

The court's ruling prompted the President to direct the Attorney General and the Secretary of Housing and Urban Development to devise a strategy for combatting crime in selected urban public housing projects that suffer from extremely high crime rates. In response to the President's directive, a HUD team, including the Secretary, traveled to Chicago, met with elected officials, CHA leadership, residents, law enforcement personnel, and community leaders. The HUD team conducted an assessment of the security needs of two Chicago Housing projects, Robert Taylor Homes and Stateway. These two public housing developments, which have suffered from high crime rates for years, have been besieged by intensive gang warfare over the past several weeks. After consultation with the Attorney General over the legal issues involved, the Secretary of HUD submits the following proposals to break the stranglehold of crime in these developments.

Using Searches to Combat Violent Crime

Public housing authorities cannot protect public housing projects from gun-related violence unless they have the capacity to control the flow of weapons into the building. There are a number of ways to achieve that end, consistent with the Constitution. In the view of the Department of Justice, the following techniques can lawfully be used to attack the problem of violence in crime-infested urban housing projects and to reclaim those projects for their law-abiding residents.

1. Securing the Building Entrances and Lobbies. Any effort to stem violence in crime-ridden public housing projects must begin in the lobbies of the buildings. In some high-rise public housing projects, gang members effectively control access to the buildings. They move freely in and out of the buildings. While some buildings are protected by security guards, those guards are often intimidated by gang

members, and they therefore let unauthorized persons enter the buildings unchallenged.

It is essential that the housing authority gain control of building lobbies and common areas. To accomplish that end, the authority can erect fences around buildings, issue identification cards to tenants, and install magnetometers or metal detectors at the building entrances. Security personnel should be accorded the authority to conduct follow-up searches with hand-held metal detectors when necessary. They should also be authorized to search packages and clothing, and to refuse entry to anyone who does not submit to inspection. Most importantly, the authority and the local police must cooperate to ensure that the security guards have sufficient protection to do their screening work effectively. If the ground floor of the building is secure, other techniques may not be necessary; if it is not, other techniques are likely to prove futile.

2. Consent Searches. A search is lawful if it is conducted pursuant to an uncoerced consent. Leases in housing projects, as elsewhere, typically include a standard consent clause permitting the housing authority to conduct routine maintenance inspections and to enter the tenant's apartment in case of emergency. Where crime conditions in the housing development make unit-by-unit inspections essential, similar lease consent clauses could be employed to authorize periodic administrative inspections of tenants' units for unlicensed or unauthorized firearms.

As in the case of maintenance inspections, such firearms inspections should be conducted on a routine basis, during daylight hours, and should be no more intrusive than absolutely necessary to determine whether weapons are present in the tenant's unit.

In appropriate circumstances, tenant associations should be encouraged to endorse the use of building entrance security devices and the inclusion of consent clauses in lease agreements. A resolution by a tenant association would demonstrate widespread tenant support for such measures, which is an important factor in determining whether to include such a clause in the lease. In addition, a showing of widespread tenant support would be helpful in responding to challenges by particular tenants to the constitutionality of restrictions on entry and consent clauses in leases.

3. Searches of Common Areas and Vacant Apartments. Experience in Chicago teaches that gangs commonly use vacant apartments as bases of operation. The housing authority can search the common areas of public housing projects and vacant

apartments without consent or a warrant, and at any time of the day or night.

4. Weapons Frisks of Suspicious Persons. If police or security personnel have reason to believe that an individual is involved in criminal activity and that he is armed, they may frisk him for weapons. Where police establish a presence in an area and use their lawful power to stop and frisk persons engaged in suspicious behavior, the use of that power can be effective in disrupting and deterring violent crime.

5. Warrant Searches on Probable Cause. Whenever law enforcement officials have probable cause to believe that a specific dwelling contains evidence of a crime, a search may be conducted with a judicial warrant. Police should make use of expedited techniques for obtaining warrants, such as by telephone or by having magistrates readily available to issue warrants.

6. Searches Based on Exigent Circumstances. Housing authority officials may conduct warrantless searches of individual units where there is justification for a search but insufficient time to obtain a judicial warrant.

7. Arrest Warrants. Housing or local police may enter a dwelling unit to execute an outstanding arrest warrant if the fugitive resides in the unit and the police have reason to believe he is present.

Other Security Measures

The search strategies outlined above will not work if the housing authority lacks the resources to conduct them safely. In addition, searches will provide only a short-term solution if they are not integrated into a long-range comprehensive anti-crime strategy to attack the gangs that victimize public housing projects. To implement effective security programs and to combat the violent gangs that have overridden certain projects will require an aggressive use of coordinated federal, state, and local law enforcement efforts. Some of those efforts have been tried in Chicago and have already proved promising. By devoting additional resources to those programs and supporting new law enforcement initiatives, we can make real progress against the culture of violent and drug-related crime that pervades housing developments like Robert Taylor Homes and Stateway in Chicago.

1. B.I.T.E. Teams. The Chicago Housing Authority and the Chicago Police Department have established an innovative anti-crime effort called B.I.T.E. -- Building Interdiction Team Effort. Teams of up to 10 CHA and Chicago police, working together, are able to provide a sufficient show of

force to have the capacity to "win back control" of selected buildings from gang members. B.I.T.E. teams are being used to secure the perimeters of buildings and then patrol and search common areas and vacant apartments, challenge suspicious persons, and inspect occupied apartments when they receive tenant consent.

An expanded B.I.T.E. force can provide the personnel and expertise to secure buildings and conduct lawful searches for firearms. Federal funding to support the use of such teams can be effective in breaking the gangs' stranglehold over some of the most crime-infested buildings, and in restoring tenants' confidence that the public housing agencies and local police have the capacity and the will to protect the inhabitants of the buildings from gang violence.

HUD will provide CHA with \$10 million to fund 10 additional B.I.T.E. teams. The money to support that expanded program will be drawn half from the public housing modernization emergency program and half from CHA's own unobligated modernization funds. In addition, the Justice Department's Bureau of Justice Assistance will assist the B.I.T.E. program by providing approximately \$500,000 for its enhancement and expansion.

2. Replacing Private Security Guards. CHA currently employs private security personnel to act as guards in public housing buildings. Observers have criticized this practice on a number of grounds: the guards lack adequate supervision and accountability; they lack training; and they do not have a clear mission. CHA would like to replace these private security forces with either in-house security staff or CHA housing police officers.

HUD will permit CHA to reprogram \$10 million from its unobligated modernization account to fund replacements for the private security guards.

3. Operation Safe Home. As part of the Administration's Anti-Violent Crime Initiative that was announced on March 1 by Vice President Gore, the Department of Justice and the Department of the Treasury have joined in support of Operation Safe Home, a HUD program designed to combat fraud and violent crime in public housing.

The United States Attorney in Chicago will give priority to developing, as part of Operation Safe Home and the anti-violent crime strategy in his community, a coordinated federal, state, and local response to the alarmingly high level of armed violence at Robert Taylor Homes and Stateway.

4. Combatting Gun Trafficking. In the current environment, trafficking in firearms in some of Chicago's public housing developments is rampant and unimpeded by any sustained, coordinated effort by federal and local law enforcement officials. Many of those weapons that are illegally bought and sold in and around the projects are promptly put to criminal use.

The Bureau of Justice Assistance will participate with the Bureau of Alcohol, Tobacco and Firearms in a program to reduce the availability of firearms and deter their use in the commission of crimes and in the intimidation of residents at Robert Taylor Homes and Stateway. BJA will make \$200,000 available to support this program to investigate and prosecute those engaged in illegal trafficking in firearms in and around the CHA projects.

5. Participation in CHANGE. HUD recently joined the Chicago Mayor's task force on violence in public housing known as CHANGE, which stands for Chicago Housing Authority Neighborhood Gang Enforcement. Under that program, representatives of the FBI, ATF, the Drug Enforcement Administration, the U.S. Marshals Service, the Illinois state police, the Chicago police, and the Chicago Housing Authority police have participated in coordinated sweeps of targeted public housing sites to conduct warrant-authorized arrests and searches for drug dealing and other offenses. Most of those arrested have been prosecuted by the Cook County State's Attorney's Office, which has a conviction rate of nearly 95% resulting from those arrests.

HUD will participate in the CHANGE task force in an effort to provide guidance and assistance to the shaping of strategies in Chicago to combat violent crime in public housing developments there.

6. Reducing Vacancy Rates. Excessive vacancies present serious security problems for CHA in high-crime housing projects. In developments such as Robert Taylor Homes, vacant apartments have become havens for gangs to stash weapons and drugs. In some buildings, gangs have literally broken through walls dividing separate apartments -- a practice called "tunnelling" -- which has enabled the gangs to control large segments of floors within the buildings. As a result, management personnel are constantly at risk in those buildings, renovation work is constantly disrupted, and crews return some mornings to find partially rehabilitated apartments completely destroyed.

The Chicago Housing Authority has taken a series of innovative steps to reduce vacancies in CHA developments. Residents are being trained to rehabilitate vacant apartments

under a new HUD program called Step-Up. Homeless veterans are "house-sitting" in some units and assisting in the rehabilitation of vacant apartments, in exchange for which they are given preference in qualifying as tenants.

In support of those efforts, HUD will permit CHA to reprogram \$10 million in unobligated public housing modernization funds to rehabilitate vacant apartments in Robert Taylor Homes and Stateway. HUD will also provide CHA with technical assistance in designing a round-the-clock rehabilitation program to combat the random destruction of unfinished work. In addition, HUD will work with CHA to expedite implementation of an expanded Step-Up program.

7. Tenant Patrols. CHA has helped organize and fund tenant patrols in about half the buildings in Robert Taylor Homes and Stateway. These patrols supplement the efforts of the Chicago police and the CHA housing police. The cost of starting up a tenant patrol is approximately \$8,000 per building.

HUD will permit CHA to reprogram \$150,000 in unobligated public housing modernization funds for purposes of initiating tenant patrols in the remaining buildings in these targeted developments.

8. Strategic Planning. An effective anti-crime strategy must operate on a number of levels. It requires sufficient numbers of well-trained police; resident involvement; community outreach efforts; and the integration of other public and private resources.

The Bureau of Justice Assistance will work with the City of Chicago to help support the development of a comprehensive strategy to address violent crime, especially centered on the Robert Taylor Homes and Stateway. In tandem with an ongoing BJA project entitled the Comprehensive Communities Program, this effort will involve helping the City to define its violence problems and to develop effective strategies to address them. By focusing on both enforcement and prevention, the comprehensive strategy can link police and other city agencies with the community to ensure integration of law enforcement, social services, public health, education, and other relevant agencies.

Prevention Measures

CHA, local ministers, and residents have consistently identified the absence of recreational facilities and other services as a major impediment to stabilizing the current crisis at Robert Taylor Homes and Stateway. CHA and others have great

experience with administering a range of programs and activities in CHA housing developments.

1. Playground Reconstruction. The playground facilities in Robert Taylor Homes and Stateway are in abysmal condition: they are strewn with glass, hypodermic needles, and other drug paraphernalia. Reconstruction of adequate, secure ball fields, "green space," and other playground facilities needs to begin immediately.

HUD will permit CHA to reprogram \$300,000 in unobligated public housing modernization funds to rehabilitate playground facilities on the grounds of the Robert Taylor Homes and Stateway projects.

2. Recreational Activities. CHA has successfully administered a range of recreational activities to offer an alternative to gang life for public housing youth, but it needs assistance in continuing to offer those activities. In particular, CHA has requested additional funding for its midnight basketball program. The House of Representatives crime bill would authorize \$50 million for midnight sports leagues. Yet appropriations for that initiative would not be made until the fall, and funding awards might not be made until winter. CHA estimates that approximately \$200,000 is needed to administer a program this summer.

HUD will permit CHA to reprogram \$200,000 in unobligated public housing modernization funds for purposes of administering a midnight basketball program at Robert Taylor Homes and Stateway.

3. Drug Rehabilitation. CHA has designed and implemented in other developments a program called CADRE -- Combatting Alcohol and Drugs Through Rehabilitation and Education. The program provides a range of prevention, intervention, and treatment services for residents. CHA estimates that it would cost approximately \$200,000 to implement the program in Robert Taylor Homes.

The Justice Department's Bureau of Justice Assistance will provide CHA with \$300,000 to expand CADRE to Robert Taylor Homes. The funds will be transferred from the Department of Health and Human Services' Center for Substance Abuse Treatment.

4. Other Services. CHA has identified a number of other services needed to address the causes and effects of the unrelenting violence at Robert Taylor Homes and Stateway. These services include counseling for young children, victim assistance programs, summer cultural activities, support for

Boys and Girls Clubs and after-school programs, and truancy reduction measures.

HUD will provide CHA with \$2 million in Family Investment Center funds for the rehabilitation of facilities to be used to provide support services to residents. Up to \$300,000 of that award may be used to fund directly a range of support services, including the services identified above. The Bureau of Justice Assistance will provide \$150,000 to establish Boys and Girls Clubs in these targeted developments. The funds will be provided through BJA's cooperative agreement with Boys and Girls Clubs of America.

Long Term Measures

Robert Taylor Homes, Stateway, and other CHA developments comprise 65 highrise buildings along State Street in South Chicago. These buildings house 23,000 of the nation's poor in dense, ill-designed environments. The average annual income of tenants in the CHA projects is \$5400.

The efforts described above may stabilize the situation in Robert Taylor Homes and Stateway over the next several months. But more radical measures are needed if public housing in Chicago is to become safe and livable over the long term.

CHA Chairman Vince Lane has a vision that would virtually "change the landscape" of Chicago by demolishing the highrise buildings and constructing in their place small-scale, well-designed, economically integrated housing.

To realize Chairman Lane's vision, HUD and Congress will need to make fundamental changes in the nation's public housing program. Three revisions are most critical:

Public housing agencies should be given the flexibility to use modernization funds to demolish and replace dilapidated buildings. Currently, CHA receives more than \$130 million a year in modernization funds. Under the present law, it must use those funds to rehabilitate existing developments, even if rehabilitation is far more expensive and less effective than demolition and replacement.

Public housing agencies should be allowed to capitalize a portion of the expected modernization funding stream, as is done with Community Development Block Grant Funds. With that authority, CHA could have access to hundreds of millions of dollars of funds for the demolition and replacement of housing projects.

Public housing agencies should be allowed to leverage public housing funds with such resources as bond financing and other public and private sources of capital. The ability to leverage non-Federal funds would permit public housing agencies to stimulate the development of mixed income communities.

The modernization revisions can be included in HUD's 1994 legislation. The leveraging proposals can be implemented administratively.

[News] At one public housing project in Chicago, three people just died in a single weekend in which 300 shootings were reported to local police. In trying to solve this problem, Vince Lane, the head of the Chicago Housing Authority, has become a hero to public housing residents. But a week ago today, the Authority's search and sweep policy was declared unconstitutional by a federal district judge.

Every law abiding American -- rich and poor alike -- has a right to raise their child in safety. To live out of the line of gunfire. And away from the shadows of criminals who invade their halls and terrorize their homes. Not just a few Americans. Not just some Americans. But all Americans. Every American. Everywhere.

So, today, I am announcing a new policy to help the residents of America's public housing take back their homes from crime:

[Tenants] First of all, we will put tenants first. This new policy will give residents of public housing more responsibility in managing the safety of the places they call home.

[Secure] Second, this policy will secure public housing to protect the safety of the residents. HUD will work with local housing officials, police departments and tenant associations to put more officers in public housing, to fill up vacant apartments where criminals nest, to put metal detectors at the entrances and to make lobbies and hallways and other public spaces safe.

[Search] Third and finally, this policy will ask every tenant to be a partner in maintaining safety. The lease of every public housing tenant will say that when an emergency arises and residents are in danger, officials can search for illegal weapons -- in apartments or on suspects. And we will give tenants' groups the authority to make rules even more strict where they choose to.



U. S. Department of Housing and Urban Development
Washington, D.C. 20410-0500

OFFICE OF GENERAL COUNSEL

FACSIMILE TRANSMISSION

FROM THE OFFICE OF: Nelson A. Diaz, General Counsel

DATE: 4/12/94

NUMBER OF PAGES (including cover page) 9

TO: STEPHEN R. NEWWIRTH

OFFICE: _____

FAX NO.: 456-1647 PHONE: 456-7903

FROM: ELIZABETH K. JULIAN

IF YOU HAVE ANY QUESTIONS,
PLEASE CALL ME AT 708-3250.
EKA

PERSON TRANSMITTING THIS FAX: ELAINE HALKIAS

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April 12, 1994

DRAFT

**Combatting Violent Crime in Public Housing
A National Policy on Searches for Guns and Drugs
A Federal Action Plan for the Chicago Housing Authority**

I. Searches for Guns and Drugs in Public Housing

1. The Chicago Searches

The HUD team made a quick assessment of the CHA's search policy during its one-day visit to Chicago. Meetings were held with CHA leadership and staff, residents, law enforcement personnel and community leaders. The Secretary and his regional representative participated in a B.I.T.E. team search of an apartment identified as harboring drugs and weapons.

It is clear that the CHA's "search policy" actually covers a range of practices and tactics. The federal district court in Pratt -- while enjoining CHA's method of conducting warrantless searches of apartments -- approved without reservation the CHA conducting searches under a range of circumstances.

First, the CHA can conduct searches pursuant to valid search warrants.

Second, the CHA can conduct searches pursuant to resident consent, either written or oral. It must be emphasized that the majority of CHA's searches -- by B.I.T.E. teams (see below) and other police forces -- are undertaken with such consent.

Third, the CHA can conduct searches in common areas throughout CHA buildings and in space not leased to tenants, including vacant apartments.

Fourth, the CHA can conduct searches in an existing emergency or clear and present danger when there is probable cause to believe that a crime has been committed. The Court expounded on this type of search by saying that a door-to-door search in pursuit of an armed gang after the building has been surrounded, would be appropriate to apprehend the criminals and restore safe conditions. The Court stressed the relevance of such factors as timeliness of the response and the probability of arrests and confiscation of weapons, in saying that such a door-to-door search might be appropriate without a warrant.

Fifth, the CHA can conduct searches pursuant to CHA's general management responsibilities. The federal district court in the Summaries consent decree already validated such

"administrative searches". Housing inspectors are permitted to examine units for physical and structural deficiencies and to identify and remove unauthorized occupants. The inspectors are accompanied by CHA police (who wait in the corridor) to provide protection. The inspectors report any violation of the law, or any unlawful or criminal activity, observed during the inspection to the police. The police may then conduct a warrantless search based upon probable cause.

Sixth, the CHA can conduct searches reasonably required to assure the safety of any individual or law enforcement officer while law enforcement officers or CHA administrative staff are engaged in a lawful search.

The federal district court, therefore, did not rule out the conduct of warrantless searches in public housing; it outlined several criteria that will be used to judge whether a particular method of search passes constitutional muster.

The CHA intends both to appeal the court's ruling as well as test its limits in the coming months. The CHA believes that it may continue to conduct searches necessary to protect the safety and welfare of its residents within the guidelines outlined above, and will do so as the circumstances require. The CHA intends to prepare written guidelines to govern its conduct of warrantless searches as well as embark on a campaign of gaining tenant consent for such activity. Key issues to be covered in the written policy include:

who in the PHA has the authority to order a warrantless search;

the level of violent activity that arises to an emergency situation or a clear and present danger;

what measures will be taken on a timely basis to secure the building site and initiate the search of apartments; and

how the searches will be conducted.

2. A Federal Position on Searches

HUD believes that the Pratt opinion provides the basis for establishing a national policy on searches in public housing. The national policy would have at least 5 elements.

It would first recognize the extreme situation which now exist in many public housing developments around the nation, giving concrete examples of the toll of gang violence and drug-related crime.

It would recognize searches as one element of a larger, more comprehensive strategy to combat violent crime (particularly gang-related crime) in public housing. Searches keep the gangs on the defensive, disrupting their settled organization and practices of business.

It would praise the efforts of the CHA and other agencies that have instituted searches as a way to protect the lives of residents and wrest control of buildings back from the gangs.

It would outline the types of searches that are clearly permissible under the Constitution and would give examples of where such permissible searches are underway.

The policy would recognize that warrantless searches without tenant consent can be undertaken under certain parameters. It would outline those parameters and give examples of warrantless searches that, in the Administration's view, would pass constitutional muster.

HUD also believes that revisions to public housing lease provisions will support PHAs in their efforts to restore safety to embattled developments. HUD will amend its regulations to clarify that PHAs are not only permitted but encouraged, where they feel it is necessary, to give notice of an intent to amend the lease to provide for tenant consent to unit searches, without a warrant, under exigent circumstances. Exigent circumstances would be defined in the lease to include a general and serious threat of violence and disruption to the right of the residents to peaceful enjoyment of their home. The amendments would only go into effect following formal endorsement of the proposal by the duly elected resident councils of the PHA (or some other validated survey of the residents). Resident support for the lease provision would lessen the likelihood of a successful challenge to the provision in court.

HUD will also seek legislation to permit PHAs to include gun ban provisions in their leases and to preempt state and local law to the contrary. HUD would urge the Administration to include this provision in the crime bill to expedite its consideration.

? NO

II. Other Security Measures

CHA has identified 3 strategies that can be used to carry out and augment the constitutional search policies described above.

1. B.I.T.E. Teams

The CHA police and the Chicago police have established an innovative anti-crime effort called B.I.T.E. -- Building

Interdiction Team Effort. Four teams have been established consisting of the following:

- 8 public housing officers
- 8 Chicago police officers
- 1 public housing sergeant
- 1 Chicago police sergeant

The goal of the teams is to "win back control" of selected buildings from the gangs. B.I.T.E. teams are being used to secure the perimeters of buildings and then patrol and search common areas and vacant apartments, challenge suspicious persons and inspect occupied apartments when they receive tenant consent.

The CHA believes that the an expanded B.I.T.E. force can provide the manpower and expertise to conduct emergency sweeps in the future. The CHA estimates that the minimum number of police personnel needed in a sweep are:

- 8 police to secure the perimeter of buildings;
- 14 police to secure the interior (particularly ground floor) of buildings;
- 4 police to start the search from the bottom floor up; and
- 4 police to start the search from the top floor down.

Recommendation:

Provide sufficient federal resources (how much?) to fund 10 B.I.T.E. teams. HUD is exploring a range of funding possibilities.

2. Operation Safe Home

HUD, the Department of Justice and the Department of Treasury have established the Operation Safe Home initiative to combat violent crime in designated public housing sites. The initiative coordinates federal and local law enforcement efforts at these sites on a range of investigative and prevention matters.

Recommendation:

Instruct the Operation Safe Home task force of federal law enforcement personnel (e.g. HUD IG, DEA, FBI, ATF, Secret Service) in Chicago to include Robert Taylor Homes and Stateway within their target agenda.

3. Vacancy Reduction

Excessive vacancies represent a significant security problem for the CHA. In some developments, they have become a haven for gangs to stash weapons and drugs. In some buildings, gangs have literally broken through walls dividing separate apartments -- a practice called "tunnelling" -- enabling gangs to control segments of floors.

Management personnel are constantly at risk; gangs control exit and entry in many buildings. Work is constantly disrupted; crews return some mornings to find partially rehabilitated apartments destroyed.

The CHA is taking a series of innovative steps to reduce vacancies in their developments. The construction trades are training residents to rehabilitate vacant apartments under a new HUD program called Step-Up. Homeless veterans are "house-sitting" and fixing up vacant apartments, getting preferential treatment for future apartments in return.

Recommendations:

Provide the CHA with additional HUD funds (how much?) to increase Step-Up participation from xxx to yyy. HUD is exploring a range of funding possibilities.

Provide the CHA with additional HUD funds (how much?) to rehabilitate vacant apartments for occupancy. HUD is exploring a range of funding possibilities.

Work with the CHA on designing a "round-the-clock" rehabilitation program to combat the random destruction of unfinished work.

III. Recreational Facilities/Resident Services

The CHA, local ministers and residents consistently identified the absence of recreational facilities and other services as a major impediment to stabilizing the current situation. The CHA and others have great experience with administering a range of programs and activities -- in both Robert Taylor Homes and Stateway as well as in other CHA developments.

1. Playground Reconstruction

The playground facilities in Robert Taylor Homes and Stateway are abysmal: strewn with glass, needles and other drug paraphernalia, broken gyms. Reconstruction of adequate, secure ballfields, "green space" and other playground facilities needs to happen immediately. Progress is being

made; the corporate and philanthropic community is expected to provide \$x towards this end. The state government may contribute an additional \$1.5 million.

Recommendations:

Provide the CHA with additional HUD funds (how much?) to support playground reconstruction. HUD is exploring a range of funding possibilities.

Work with Department of Interior to identify other longer-term funding sources for such activities.

2. Recreational Activities

The CHA has successfully administered a range of recreational activities to offer an alternative to gang life for public housing youth. The CHA has particularly requested additional funding for their midnight basketball program. The House crime bill would authorize \$50 million for midnight sports leagues. Yet appropriations for this initiative would not be made until the fall; funding awards might not be made until winter. CHA estimates that approximately \$200,000 is needed to administer a program this summer.

Recommendation:

Provide the CHA with \$200,000 to carry out midnight basketball activities. HUD is exploring a range of funding possibilities.

3. Drug Rehabilitation

The CHA has designed and implemented in other developments a program called CADRE -- Combatting Alcohol and Drugs through Rehabilitation and Education. The program provides a range of prevention, intervention and treatment services for residents. CHA estimates that it would cost approximately \$300,000 to implement the program in Robert Taylor Homes.

Recommendation:

Provide the CHA with \$300,000 to expand CADRE to Robert Taylor Homes. HUD is exploring a range of funding possibilities.

4. Other Services

The CHA identified a range of other services needed to address the root causes and effects of the violence in Robert Taylor Homes and Stateway. These services include:

counseling for young children, summer cultural activities, support for boys and girls clubs and after-school programs, truancy reduction measures and other support services.

Recommendation:

Provide the CHA with additional federal funds (how much?) to support these services. HUD is exploring a range of funding possibilities.

IV. Long Term Measures

Robert Taylor Homes, Stateway and other developments comprise 65 highrise buildings along State Street in South Chicago. These buildings warehouse 23,000 of the nation's poor in dense, ill-designed environments, with average incomes around \$5400.

The efforts described above will hopefully stabilize the situation in Robert Taylor Homes and Stateway over the next several months. Yet more radical measures are needed if this housing is to become safe and livable and if the tenants residing in the developments are to become working, productive citizens.

Vince Lane has a vision that would virtually "change the landscape" of Chicago by demolishing these high-rises and rebuilding in their place small-scale, well-designed, economically integrated housing.

To accomplish Chairman Lane's vision, HUD and Congress will need to dramatically transform the way the public housing program works. Three revisions are most critical.

Public housing agencies should be given the flexibility to use modernization funds to demolish and replace dilapidated buildings. Currently, the CHA receives approximately \$xxx million a year in modernization funds. It must use those funds to rehabilitate existing developments whether or not demolition and replacement would be more costly and effective.

Public housing agencies should be allowed to capitalize a portion of the expected modernization funding stream -- as is done with Community Development Block Grant Funds. The CHA could potentially leverage \$xxx million in funding under a proposal which would permit a PHA to capitalize xx% of its modernization grant.

Public housing agencies should be allowed to leverage public housing funds with such resources as bond financing and other public and private sources of capital. The ability to leverage non-Federal funds will permit PHAs to stimulate the

development of mixed income communities.

Recommendation:

Include the modernization revisions in HUD's 1994 legislation. Implement the leveraging proposals administratively.

April 11, 1994

Note to: Betsy Julian


From: Steven Balis

Re: Crime in Public Housing

You asked for ideas on possible changes in the HUD public housing tenancy requirements, including lease provisions on entry of the tenant's unit.

HUD public housing tenancy requirements are stated in the so-called "lease and grievance" regulations (Part 966). These regulations state the requirements on public housing leases (Subpart A), and on administrative grievance hearings for public housing tenants (Subpart B). Many provisions affect the control of criminal activity by public housing residents and guests.

In principle, the existing tenancy requirements provide an ample legal foundation for aggressive PHA action against public housing crime. In practice, PHAs often confront crippling practical and legal difficulties in effective enforcement of tenancy requirements. However, for the most part the difficulties are not caused by HUD's lease and grievance regulation, and cannot be cured or seriously relieved by revision of the HUD regulation under existing law. It is doubtful that amendment of the lease grievance procedure will significantly aid PHA action against criminal activity and violence in public housing.

In a past rulemaking, the Department proposed to relieve the rigidities of lease and grievance -- in part to facilitate PHA action against criminal activity. In response, the Congress codified major aspects of the existing lease and grievance procedure. See 42 U.S.C 1437d(k) (grievance procedure) and 1437d(l) (leases). The following is a brief summary of current requirements.

Summary of current rule

Under the law and regulation, a public housing tenant may be evicted for violation of the lease or other good cause. The tenant may also be evicted if household members or guests commit a crime that threatens other residents or employees, or a drug crime "on or near" public housing.

For most evictions, the PHA may not evict a tenant until the tenant is offered an administrative grievance hearing. To evict, the PHA must prove the grounds for eviction twice -- first, in the PHA grievance hearing; and, second, in the State landlord-tenant court. The total time for eviction is the sum of the times needed for the administrative hearing and subsequent State judicial process. By law, the PHA may only bypass the grievance process in evictions for drug crime or crimes that threaten residents or employees (if HUD has determined that law of the State requires a due process hearing in court). (See the attached copy of the final rule published October 11, 1991 (56 Federal Register 51560). The Preamble contains a full discussion of rule provisions on eviction for criminal activity.)

Under the lease, a public housing family may only use the unit as a private dwelling for approved household members, may not disturb other residents, may not damage the unit, may not use the unit for an illegal activity, must comply with State health and safety codes, and must comply with PHA rules. § 966.4. The PHA may change the lease form or project rules after 30 days notice to tenants. § 966.3 and § 966.5.

The PHA may evict for any serious violation of the lease, whether or not caused by a criminal activity. In practice, PHAs evict for those available grounds that can be most readily proved. For example, the PHA may not have willing witnesses to prove drug dealing or use inside a family's apartment, and may therefore elect to evict the family for nonpayment of rent, or for damage to the unit. However, the PHA must offer an administrative hearing if evicting for grounds other than criminal activity.

Entry to unit

You asked me to explore legal options for broadening the PHA's right to enter a public housing unit and prevent or secure evidence of criminal activity or guns. (My remarks do not consider Constitutional search and seizure issues.) The public housing statute does not contain any provision on the PHA's authority to enter an assisted unit.

The lease and grievance rule establishes requirements for PHA entry of the unit with and without advance notice to the tenant. § 966.4(j). The PHA may enter without advance notice

if there is "reasonable cause" to believe than an "emergency" exists. In other cases, the PHA must give the tenant "reasonable advance notification". When the PHA has given advance notice, the PHA may inspect the unit for "routine inspections and maintenance", for improvements or repairs, or to show the unit for re-leasing.

The Department could revise the lease grievance rules on unit entry in any of the following ways:^{1 2}

- (1) By deleting the unit entry provision.

If HUD's rule is silent on this subject, the PHA's contractual right of entry would be controlled by any provisions of the lease (not dictated by HUD), and by constraints under State law, and the Constitutional prohibition of unreasonable search and seizure.

- (2) By amending the provision on entry with notice to the tenant. Such amendments could include:

- Provision explicitly allowing notice inspection for guns, unlawful activity or unauthorized use or occupancy (illegal activity is often accompanied by unauthorized use or occupancy).
- Provision explicitly allowing notice inspection for these purposes for a broad portion of the day (say, at any time other than midnight to eight a.m.). This would permit a notice search during evening hours.

An advance notice of inspection would obviously give time and incentive for participants to remove or hide evidence of illegal activity (such as drug paraphernalia or guns), or to disappear from the unit. Nevertheless, a notice inspection, or even the threat of inspection, may disrupt illegal activity or force

¹ This is a technical statement of options, not a recommendation.

² Unlike entry under a search warrant, the contractual right (to enter a unit in accordance with a lease), even if valid and enforceable in court, may not carry the right for PHA representatives to force entry where the occupants refuse. The refusal of the tenant or family to admit the PHA inspector may be a violation of the lease, and ground for eviction through the courts. Probably, however, such refusal does not authorize PHA self-help to force entry without the aid of judicial process.

participants and illegal transactions out of apartments into public or common areas (possibly more vulnerable to surveillance or arrest).

- (3) By amending the provisions on emergency no-notice entry.

The rule could be revised to explicitly authorize no-notice inspections because of specified types of crime-related activity.

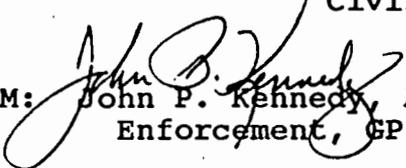


U. S. Department of Housing and Urban Development
Washington, D.C. 20410-0500

APR 11 1994

OFFICE OF GENERAL COUNSEL

MEMORANDUM FOR: Elizabeth K. Julian, Deputy General Counsel,
Civil Rights and Litigation, GD

FROM:  John P. Kennedy, Associate General Counsel for Program
Enforcement, GP

SUBJECT: Fourth Amendment Law Governing Searches of Apartments

This is in response to your request for a summary of the Fourth Amendment case law governing searches of apartment units.

No place is more sacred under Fourth Amendment law than the home. See Payton v. New York, 445 U.S. 573, 589 (1980) ("In [no setting] is the zone of privacy more clearly defined than when bounded by the unambiguous physical dimensions of an individual's home -- a zone that finds its roots in clear and specific constitutional terms: 'The right of the people to be secure in their . . . houses . . . shall not be violated.'). The Supreme Court has repeatedly cited Payton for the proposition that warrantless searches of homes are presumptively unreasonable. See Maryland v. Buie, 494 U.S. 325, 331 (1990); Arizona v. Hicks, 480 U.S. 321, 327 (1987); Welch v. Wisconsin, 466 U.S. 740, 748-49 (1984). Generally, either the voluntary consent of the tenant or a search warrant supported by probable cause is required before an apartment may be searched for law enforcement purposes. See Reardon v. Rhoan, 811 F.2d 1025, 1028 (7th Cir. 1987) (and cases cited therein).¹ Numerous cases have held that the probable cause showing -- i.e., a fair probability that contraband or evidence of a crime will be found -- must be related to each discrete apartment unit to be searched. See, e.g., United States v. Busk, 693 F.2d 28, 30-31 (3d Cir. 1982); United States v. Dorsey, 591 F.2d 922, 928 (D.C. Cir. 1978); United States v. Higgins, 428 F.2d 232, 235 (7th Cir. 1970).

The probable cause showing is always required for a non-consensual search of an apartment, even where exigent circumstances excuse the failure to first obtain a warrant. See Hopkins v. City of Sierra Vista, 931 F.2d 524, 527 (9th Cir. 1991); Reardon v. Wroan, 811 F.2d at 1028. For this reason, any warrantless sweep search of an entire apartment complex to locate and confiscate

¹ Where an arrest is lawfully made inside an apartment, a reasonable search incident to that arrest may be made in order to secure the area.

firearms is extremely difficult to justify under the Fourth Amendment, no matter how grave the emergency. Indeed, we are unaware of any case upholding these kinds of searches by the government.

As mentioned above, obtaining the voluntary consent (either oral or written) of all tenants is an appropriate way to avoid Fourth Amendment problems. The Fourth Amendment does not apply to situations in which voluntary consent has been obtained, either from the tenant whose apartment has been searched or from a third party who possesses common authority over the premises. See Illinois v. Rodriguez, 497 U.S. 177, 181 (1990). Another possible approach is to require, as a lease condition, periodic inspections of apartments by the landlord for safety-related purposes. If firearms are observed in plain view, we do not see any reason why the landlord cannot notify law enforcement authorities of this fact, and invite them to enter the premises to either verify the legality of the firearm's possession by the tenant, or to confiscate the firearm if its possession is illegal under state law.

I would be happy to provide you with a more detailed analysis of the law in this area at your request. Please contact me, at 708-2568, if you wish to discuss this matter.

OFFICE OF CABINET AFFAIRS

THE WHITE HOUSE

WASHINGTON

FAX

TO:

Jose Berda
Bruce Reed

DATE: _____

PHONE: _____

NO. OF PAGES _____
(Including cover)

FAX: _____

PRIORITY: Y N

FROM:

Jim O'Connor

PHONE:

(202) 456-2572

FAX:

(202) 456-6704

MESSAGE:

Jose - this is current substance

They're faxing over the draft reg to
ban guns in public housing. I'll get
that to you when I get it.

OPERATION SAFE HOME

Summary Description: Operation Safe Home is a concerted and coordinated campaign to reduce three types of fraud and abuse that undermine HUD programs: violent crime in HUD-assisted housing; fraud in public housing administration; and equity skimming in multifamily insured housing.

Underlying Principles of Operation Safe Home:

- While HUD operations are abused by only a small number of people, the effect of this limited abuse is to taint all of HUD's programs.
- Fraud and abuse in HUD programs not only waste taxpayer dollars; they also result in substandard living conditions for families who are in desperate need of HUD assistance.
- The American people have a right to expect that all funding provided through HUD results in efficient and effective assistance to the truly needy. We must counter the public expectation of corruption with a demonstration of zero tolerance for corruption.
- Restoring integrity to HUD programs needs to be accomplished through a partnership involving HUD, law enforcement agencies, tenants, and housing owners and managers.
- Combating fraud and abuse in HUD programs will require the coordinated efforts of all law enforcement agencies at the Federal, State, and local levels. The law enforcement agencies need to be actively involved in crime prevention efforts, as well as in enforcement activities.
- Inspector General (IG) leadership in Operation Safe Home reinforces the OIG's focus on detecting and preventing major problems in HUD's operations, rather than emphasizing strict bureaucratic compliance with rules and regulations.
- Operation Safe Home is entirely consistent with the President's crime initiative. HUD-assisted housing is a major locus of violent crime. We must not allow poor people who need HUD assistance to be continually victimized.

Violent Crime in Assisted Housing: initiative involves coordinated law enforcement and crime prevention operations at targeted sites; new Federal policies and programs geared to supporting law enforcement and crime prevention in assisted housing; and consultation/coordination between Federal law enforcement agencies and HUD with respect to HUD's existing crime prevention programs.

● **Coordinated Law Enforcement and Crime Prevention Operations at Targeted Sites**

- Initial targeting of 20 to 30 sites involving public and assisted housing. Sites to be selected jointly by DOJ, Treasury, and HUD, based on recommendations of U.S. Attorneys, Weed and Seed designations, Urban Revitalization Demonstration designations, and on-going Federal law enforcement operations.
- Within each designated site, establishment of law enforcement task force consisting of local police, State Police, U.S. Attorney's Office, DEA, FBI, ATF, FBI, Secret Service and HUD OIG. Each task force to analyze violent crime problem at site, in light of on-going enforcement efforts; develop coordinated plans for expanded enforcement efforts; and recommendations for prevention measures. While HUD OIG assumes responsibility for convening the task group and providing staff support, leadership and operations will be decided separately by each task group.
- For each designated site, convening of a HUD-sponsored conference on violent crime. Invited conference participants to include Members of the Congress, tenants, owners, management, local businesses, civic groups, community groups, and Federal, State, and law enforcement agencies.
- For each designated site, establishment of a violent crime steering committee, chaired by the executive director of the public housing authority (or equivalent), and comprising representatives of tenants, owners, management, local businesses, civic groups, community groups, and the law enforcement task group. Committee to be charged with on-going assessment of the violent crime problem at the site; formulation of recommendations on crime prevention efforts; and oversight of prevention programs.

● **New Federal Policies and Programs Geared to Supporting Law Enforcement and Crime Prevention in Assisted Housing**

HUD will:

- Develop legislation for expanded crime prevention programs at public housing authorities (COMPAC and Tenant Opportunity).
- Promote gun bans at public housing authorities.
- Foster gun buy programs at public housing authorities.
- Establish guidelines for and fund witness protection

programs at public housing authorities.

- * -- Prohibit firearm dealers from operating within public housing authorities.
- Identify and provide strong incentives for law enforcement personnel to live in public and assisted housing.
- Establish a model contract for provision of local police services to public housing authorities.
- Require, as a condition of drug elimination grant applications, that public housing authorities have a strategy for coordination with local, State, and Federal law enforcement agencies.
- In evaluating Family Investment Center grant applications, provide extra credit for proposals in DOJ Weed and Seed locations.
- Facilitate the reprogramming of funds provided to public housing authorities, to enable implementation of new crime prevention strategies.

The Department of Justice, the Department of the Treasury, and HUD will identify opportunities for using Federal law enforcement training programs to enhance the capabilities of housing authority police officers.

The Department of Justice and HUD will collaborate in targeting additional Weed and Seed efforts to public and assisted housing sites; and in identifying mechanisms to strengthen public housing authority performance in screening out and/or evicting undesirable tenants.

● Consultation/Coordination Between Federal Law Enforcement Agencies and HUD With Respect to HUD's Existing Crime Prevention Programs

As part of its ongoing crime prevention efforts, HUD's Office of Public and Indian Housing sponsors technical assistance and training, in areas such as community policing, resident patrols, crime prevention through environmental design, risk-focused violence prevention, and establishment of youth councils. Henceforth, the Department of Justice and the Department of the Treasury will consult with HUD on the design and implementation of these programs, thus ensuring that the programs benefit from the extensive expertise and experience of Federal law enforcement.

Fraud in Public Housing Administration: FBI White Collar Crime and the HUD OIG are undertaking a collaborative effort to target and work 10 to 20 major cases involving potential fraud (such as

bribery, embezzlement, and bid-rigging) in public housing administration throughout the country. As soon as the target cases are identified, the FBI and the HUD OIG will be consulting with U.S. Attorneys, with the goal of a series of searches, arrests, and indictments occurring within 6 to 9 months.

Meanwhile, during the first half of calendar 1994, HUD OIG auditors and investigators will be conducting a series of limited probes for additional instances of fraud, with the expectation that these probes will generate another wave of cases for FBI/OIG action.

Equity Skimming in Multifamily Insured Housing: DOJ, U.S. Attorneys, and the HUD OIG are committed to developing an effective prosecutive strategy for cases where private owners illegally divert project resources, resulting in huge losses in taxpayer money and substandard living conditions. HUD has \$43 billion in insured multifamily housing mortgages, of which \$12 billion is currently considered at risk. This initiative will strongly support the goals of DOJ's Affirmative Civil Enforcement Program, and is expected to utilize double damages remedies provided by the HUD Reform Act of 1990.

**Operation Safe Home
Draft talking points
for Secretary Cisneros**

- I'd like to thank you all for coming here this morning. Attorney General Reno, Secretary Bentsen and I have asked you here to talk to you about a broad-based, interdepartmental initiative -- Operation Safe Home -- which we are undertaking to reduce violent crime in public and assisted housing, and to crack down on white collar crime in public housing and assisted housing.
- Public housing and publicly assisted housing should be engines of transition: from welfare to work; from dependence to self-sufficiency; from tenancy to homeownership. They must be places where people can pull their lives together, consolidate their gains, build a stake and move on.
- Above all else -- and before all else -- they must be safe environments; places where people can walk the streets without fear, where children can go to and from school and play outside without jeopardy.
- People who live in public housing and assisted housing want this for themselves and their children as much as anyone else in America. They deserve it as much as anyone else in America.
- They should not have to live in buildings where gangs control the stairwells; they shouldn't have to put their children to bed in bathtubs at night to protect them from stray bullets; they shouldn't be forced to keep their children inside, for fear they'll be caught in somebody's crossfire.
- No one in America should have to live in such conditions, which are absolutely unacceptable in any housing subsidized by federal dollars.
- Operation Safe Home will bring the full law enforcement resources of the federal government government, in cooperation with state and local authorities, to bear on violent crime in public and assisted housing.
- Operation Safe Home complements President Clinton's efforts to combat crime in American communities. The President has been briefed on this initiative and strongly supports it.
- At the federal level, this effort cuts across departmental and agency lines, involving HUD, the Department of Justice, the Drug Enforcement Administration, the ATF, the FBI, the Secret Service and U.S. attorneys.

- I want to express my appreciation and thanks to Attorney General Reno, Secretary Bentsen, and to all of the other dedicated people at HUD, Justice and Treasury who have worked long hours to put this initiative together.
- Attorney General Reno and Secretary Bentsen will speak to you about the roles their departments are playing in this vital effort.
- I want to outline what HUD is doing.
- [HUD ANTICRIME SUBSTANCE, TBA]
- The damage violent crime does to people and communities is obvious. But there is another category of criminal behavior which is just as damaging in the long run: white collar crime.
- Fraud leads to the literal physical deterioration of public and assisted housing, which is a valuable, taxpayer-supported public asset, and it erodes public support for public and assisted housing, and thereby our ability to give low-income people the chance to lift themselves economically.
- It is intolerable, both from the standpoint of taxpayers, who depend on us to maintain the value of their investment, and from the standpoint of residents who are directly victimized by the fraudulent activities of a few public housing officials and landlords.
- To combat fraud in public housing, the HUD Office of Inspector General (OIG) and the FBI are targeting 10 to 15 cases, and we expect there will be a series of simultaneous arrests, searches and indictments within six to nine months (?).
- Meanwhile, HUD OIG auditors and investigators will conduct a series of limited probes to uncover additional instances of corruption -- probes which we expect will result in another wave of cases for OIG/FBI action.
- We are also cracking down on another fraudulent activity, "equity skimming" in HUD-insured (subsidized?) privately owned multifamily housing.
- Equity skimming -- in which property owners illegally divert resources from their projects -- results in substandard living conditions for residents and huge losses for taxpayers. (Clarification needed on how much money.)

- HUD's OIG, the Department of Justice and U.S. attorneys are working together to develop an effective strategy for prosecuting these cases.
- Our message to those who would defraud taxpayers and prey on public and assisted housing residents for illegal private gain is straightforward and simple: Don't even think about it.
- Our message to gangs, drug dealers and other criminals is equally clear: There is no safe harbor for you in HUD-financed housing.
- And, finally, for the residents of public and assisted housing -- the people who get up every day and send their children to school, the people who support their families by working long hours at hard, low-paying jobs, the people who desperately want to work and pay their own way, and who so desperately need a decent, wholesome, safe, environment -- our message is this:
- We will no longer write off your communities as unsalvageable war zones. We will no longer consign you to lives of round-the-clock fear. We will no longer look the other way while your children are lost to violence and drugs.
- We understand your desire and need for a decent, **SAFE**, place to live -- a desire which you share with all Americans -- and with the help of all Americans, from local communities, to state capitols, to Capitol Hill, we are going to work with you to make your homes, your neighborhoods, and your communities, safe at last.