JUVENILE DELINQUENCY: COMPARISON OF PRESENT LAW AND TWO PROPOSALS IN THE 106TH CONGRESS (H.R. 1501 AND S. 254 AS PASSED BY THE HOUSE AND SENATE RESPECTIVELY)

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JUVENILE JUSTICE SIDE BY SIDE

COMPARISON of CURRENT LAW to H.R. 1501 and S. 254, and RECOMMENDATIONS:

(Prepared by the ACLU)

I. CRIME

TOPIC AREA	CURRENT LAW	HOUSE BILL (H.R. 1501)	SENATE BILL (S. 254)	Recommendations
Disproportionate MINORITY Confinement. (42 U.S.C. § 5633(a)(23))	Under current law, states must make efforts to address any disproportionate minority confinement within their juvenile detention facilities. The DMC became a core requirement in 1992 to address a serious problem of overrepresentation of minority youth in juvenile detention centers. States are given broad discretion to determine what measures to take.	Sec. 1310. State plans must address delinquency prevention and system improvement efforts to reduce the disproportionate number of minority juveniles who come into contact with the juvenile justice system as well as addressing any disproportionality that exists in detention facilities. Numerical standards or quotas may not be established.	Sec. 222. (a)(27). Language does not specifically mention race. State plans must address any disproportionate confinement of "any segment of the population."	Senate provision should be rejected. The Senate should cede to the House. By eliminating any specific reference to race, the Senate version eliminates the original purpose of the provision. This may have the affect of terminating programs already in place at the state level to address this problem.
Juveniles in Prison:	Youth under juvenile court jurisdiction	Sec. 1310.	Sec. 103.	House provision

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Separation from Adult Inmates. (STATES) (42 U.S.C. § 5633(a)(13) as interpreted by regulations)	may not be detained where there is any physical or sustained sight or sound contact with adult inmates. - sight contact is defined as "clear visual contact between incarcerated adults and juveniles within close proximity to each other." - sound contact is defined as "direct oral communication between incarcerated adults and juvenile offenders." - ALL contact is prohibited in the residential areas of a facility.	Instead of current law standard of "sight and sound" separation, states need only ensure that juveniles not have "regular contact" or unsupervised incidental contact. This would permit incidental contact with adults.	State detention centers must ensure that juveniles do not have prohibited physical contact or sustained oral communication with incarcerated adults. Brief and inadvertent superficial contact is permissible.	should be rejected. The House should cede to the Senate. The House language creates a loophole to allow for supervised incidental contact which could lead to potentially dangerous situations for juveniles.
Juveniles in Prison: Separation from Adult Inmates. (FEDERAL) (18 U.S.C. § 5035)	A juvenile under age 18 may be detained only in a suitable juvenile facility or other suitable place designated by the Attorney General with a preference for a foster home or community-based facility. The juvenile may not be detained in a facility where he or she has regular contact with an adult convicted of a crime or awaiting trial on a crime. Insofar as possible, alleged delinquents should be kept separate from adjudicated delinquents.	Sec. 204.**To the maximum extent feasible**, a juvenile prosecuted as an adult in federal court shall not be detained prior to sentencing in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges. - A juvenile who is prosecuted as a juvenile shall not be detained prior to disposition in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges.	Sec. 103. Delinquent youth in federal court may not be detained: - where they have prohibited physical contact or engage in sustained oral communication with incarcerated adults that provides an opportunity for the adult to physically harm the youth; - an exception to prohibited contact allows for supervised proximity between a youth and an adult inmate that is brief and inadvertent or accidental, in secure nonresidential areas not used by juveniles. Sec. 105(b). **Release and Detention Prior to Disposition**. **To the extent practicable**, violent juveniles shall be kept separate from nonviolent juveniles.	House provision should be rejected. The House should cede to the Senate. The House language creates a substantial loophole which could allow certain youth as young as 13 who are prosecuted in the Federal system to have unlimited exposure to adult inmates.
REMOVAL of JUVENILES from	Youth may be detained in adult facilities for the following purposes:	Sec. 1310. Extends current law to allow detention with	Sec. 222. Extends current law to allow detention	The parental consent exception

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ADULT JAILS. (STATE) (42 U.S.C. § 5633(a)(14))	- 6 hours for processing, or 6 hours before or after a court appearance; - in rural areas, for 24 hours plus weekends & holidays for delinquent youth who are awaiting an initial court appearance; - during and up to 24 hours after emergency conditions that make travel unsafe.	adults subject to separation requirements described above. For juveniles accused of nonstatus offenses and detained in a jail/lockup for a period not to exceed 6 hours: (i) for processing or release; (ii) while awaiting transfer to a juvenile facility; or (iii) in which period such juveniles make a court appearance; - In rural areas, for 48 hours plus weekends & holidays for youth accused of nonstatus offenses who are awaiting an initial court appearance; - In rural areas, for up to 20 days prior to sentencing whenever **parents consent**, the child's views are represented by counsel, and the court determines detention is in the child's best interest. Subject to review every 5 days in the presence of the juvenile; During and up to 24 hours after emergency conditions making travel unsafe have cleared.	with adults: - In rural areas for 48 hours plus weekends & holidays for delinquent youth awaiting an initial court appearance; - In rural areas, indefinitely whenever **parents consent**, the child's views are represented by counsel, and the court determines detention is in the child's best interest. Subject to review every 5 days; such review MAY be in the presence of the juvenile. - During and up to 48 hours after emergency conditions making travel unsafe.	in both Senate and House provisions should be rejected. This exception is a radical change to current law and will result in children being placed in adult jails for unacceptably long periods.
Confidentiality of RECORDS. (STATE) (42 U.S.C. § 3796 et seq.)	Federal grant provisions do not require any particular method of maintaining or disseminating juvenile records.	Sec. 102. **Grant Program**. Funding from the Juvenile Accountability Block Grant is available to States providing an adult-equivalent records system for all juveniles committing a felony-equivalent offense, with information available to law enforcement, FBI, all courts, and school officials. Sec. 504. **Grant Program for Juvenile Records**. Authorizes a grant program for States to	Sec. 321. **Block Grant Program**. In order to receive funds from the Attorney General, States must provide an adult-equivalent records system for all juveniles committing a felony-equivalent offense, with information available to law enforcement, FBI, all courts, schools and colleges. - If a juvenile is adjudicated delinquent, the records of that adjudication are transmitted to the FBI. Records of the most serious felony offenses shall be maintained	Oppose language in BOTH bills and remove in Conference. However, we recommend continuing current law privacy protections for juvenile records. However, in the alternative we

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		improve record-keeping systems. In order to qualify, states must have in place a system to make juvenile records available for firearm background checks. This system must assure that records of violent juvenile offenses are not expunged and are available as if it were an adult record. Sec. 1310. **State Plans**. (Amends 42 U.S.C. § 5633) An amendment to the Juvenile Justice and Delinquency Protection Act requires that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records relating to such juvenile that are on file in the geographical area under the jurisdiction of the court are made known to the court.	and disseminated in the same manner as adult criminal records. Records of any other felony offense shall only be made available within the criminal justice system. There is also a provision that allows for the record to contain a notation of expungement under State law. Sec. 1104. **Transfer of School Disciplinary Records**. (Amends 20 U.S.C. 8921 et seq. Part F, § 14604(b).) Within 2 years after this Bill's enactment, each State receiving federal funds under this Act shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, full-time or part-time, in the school.	recommend restricting the shared information to courts and law enforcement agencies only. We also recommend that schools be required to go to the courts to access juvenile records. The records should only be released if the schools can establish a compelling need to protect the safety of other students.
Confidentiality of RECORDS. (FEDERAL) (18 U.S.C.	Records of juvenile proceedings may be released to: other courts, an agency preparing a report for another court, law enforcement agencies for use in an investigation or law enforcement	Sec. 207. **Juvenile Records and Fingerprinting**. A juvenile delinquent's records shall be made available for official purposes, including communications with any victim	Sec. 108. **Use of Juvenile Records**. When a juvenile is adjudicated delinquent, courts shall transmit such records to the FBI, which will maintain an adult-equivalent records	Oppose language in BOTH bills and remove in Conference.

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§§ 5038(a),(c))	employment check, the treatment agency or facility to which a juvenile has been committed, an agency conducting a national security employment check, the victim of the juvenile's act of delinquency indicating final disposition. They may NOT be released for any other employment check, license, bonding, or similar request.	or, in the case of a deceased victim, such victim's representative, or school officials, and to the public to the same extent as court records of adult criminal prosecutions are available. When a juvenile has been adjudicated delinquent for an act that, if committed by an adult, would be a felony or for a violation of section 924(a)(6), the court shall transmit to the FBI information concerning the adjudication, including name, date of adjudication, and notation that it was a juvenile adjudication.	system. These records will be available to schools/colleges, provided that their content is not used for the sole purpose of denying admission. - In addition to all the ways that juvenile records can be released under current law, there is an additional provision that requires juvenile records to be made available to a law enforcement agency for a position within that agency. If a juvenile is adjudicated delinquent, the records are transmitted to the FBI. Records of the most serious felony offenses shall be maintained and disseminated in the same manner as adult criminal records. Records of any other felony offense will also be transmitted to the FBI but will only be made available within the criminal justice system or for purposes of responding to a national security clearance. - A juvenile may petition the court after 5 years to have such records removed from the FBI database if they can establish by clear and convincing evidence that they are no longer a danger to the community.	However, of the two we prefer the Senate version which limits records sharing and contains a provision that allows the juvenile to petition to have his or her records removed from the database after 5 years if he or she can establish they are no longer a danger to the community. Additionally, we recommend restricting information sharing to courts and law enforcement agencies with a requirement that schools can only access information with the court's permission. We also recommend that schools be required to go to the courts to access juvenile records. The

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				records should only be released if the schools can establish a compelling need to protect the safety of other students.
PROSECUTING JUVENILES in FEDERAL COURT: Expanding Federal Jurisdiction. (18 U.S.C. §§ 5032(a)(2)-(4))	Under current law, federal prosecutors are required to defer to state courts for prosecuting youth that have violated Federal law. In order to overcome this presumption and bring a case in federal court, the U.S. Attorney must certify that the following conditions exist: 1) The State court does not have jurisdiction or refuses to assume it; 2) The State does not have available services for the juvenile offenders, OR 3) The offense is a felony crime of violence, AND 4) There is a substantial Federal interest to warrant Federal jurisdiction.	Sec. 201. A juvenile may be proceeded against as a juvenile in Federal court if the Attorney General, after investigation, certifies that the State or Indian tribe does not have jurisdiction or declines to assume it or there is a substantial Federal interest in the case. If the Attorney General does not certify, or if the Attorney General does not have jurisdiction, then the case shall be surrendered to state or tribal authorities. **The juvenile proceeding is opened to the public unless good cause is shown why certain people should be excluded.**	Sec. 101. The juvenile will be proceeded against in Federal court if there is a substantial Federal interest in the case to warrant Federal jurisdiction or if the ends of justice so require. **The United States Attorney certifies to these conditions but the certification is not reviewable by the court**. If there is concurrent jurisdiction between the States and the Federal system, the United States Attorney shall exercise a presumption in favor of State Court jurisdiction unless the State or Tribal Court cannot or will not take the case and there is a substantial Federal interest. **The juvenile proceeding is opened to the public unless good cause is shown why certain people should be excluded.**	Oppose language in BOTH bills and remove in Conference. There does not appear to be a significant difference between House and Senate versions, nor does it appear that either bill significantly alters current law. However, we recommend rejecting House and Senate versions and maintain current law which is easier to understand, and maintains presumption of prosecuting juvenile cases in state courts.
TRYING JUVENILES as ADULTS in	The Attorney General may seek to prosecute a juvenile as an adult if: -when over 16 years of age and accused of	Sec. 201. A juvenile shall be prosecuted as an adult in Federal court under the following	Sec. 102. By Federal law, youths 14 and older accused of a serious violent	Oppose language in BOTH bills and remove in

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FEDERAL COURT (18 U.S.C. § 5032)	committing a serious violent felony or a drug offense, -when 13 years of age or older and alleged to have committed murder, attempted murder, or armed robbery, -when 16 years of age or older and alleged to have committed a felony involving the use of physical force against the property of another, drug felonies, or serious firearm offenses. In such cases, the juvenile court may transfer the case from juvenile court to adult court when it is in the interest of justice to do so, upon written findings with respect to the juvenile's age, prior record, maturity, past treatment, and nature of the alleged offense.	conditions: If the juvenile has requested in writing at the advice of counsel to be prosecuted as an adult; or the juvenile is at least 14 years old (or 13 at the approval of the Attorney General) and commits an act, which if committed by an adult, would be a serious violent felony or crime of violence (or a conspiracy or attempt to commit that felony or offense) or a serious drug offense. Under these circumstances, the United States Attorney does not have the discretion to prosecute a child in juvenile court, nor does the court have the authority to review the decision. A juvenile may be prosecuted as an adult for any felony offense if the Attorney General decides to do so. This decision is also not reviewable in any court.	felony/drug offense or previously tried as an adult can be prosecuted as adults in Federal court at the discretion of the US Attorney which decision is generally not reviewable in a court. Juveniles 14 and older may be prosecuted for less serious offenses at the discretion of the Attorney General. The juvenile may seek an order to have the case transferred back to juvenile court under the following conditions: 1) 14 and 15-year-old youth may seek an order in all cases; 2) 16 and 17-year-old youth may seek an order in cases that are not serious violent felonies or drug offenses.	Conference. The court, not the prosecutor, should decide if and when children should be prosecuted as adults. However, between the two versions, we recommend the Senate version which maintains at least minimal judicial review and provides more discretion to the prosecutor to decide when to prosecute a child as an adult.
FEDERAL SENTENCING GUIDELINES	The maximum term of probation and/or official detention for a juvenile found delinquent and who is less than 18 years of age is the lesser of: - the juvenile's 21st birthday, OR - the maximum term available had the juvenile been convicted as an adult. Several drug trafficking crimes (for which	Sec. 206. **Disposition; Availability of Increased Detention, Fines and Supervised Release for Juvenile Offenders**. (Amends 18 U.S.C. § 5037). The United States Sentencing Commission, in consultation with the Attorney General, shall develop a list of possible sanctions for	Sec. 111. **Federal Sentencing Guidelines**. (Amending 28 U.S.C. § 994). (Sec. 102 contains a similar provision Amending 18 U.S.C. § 3553). The United States Sentencing Commission must set guidelines within one year that effectuate a policy of an accountability-based juvenile	Senate provision should be rejected. The Senate should cede to the House. The House provision does not require courts to impose mandatory

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	juveniles may be tried as adults) carry mandatory minimum sentences. (e.g. 21 U.S.C. §§ 841, 848). In calculating a convicted defendant's criminal history for purposes of the Sentencing Guidelines, 3 points are assigned for prior sentences of 1 year and 1 month or more regardless of the age of the defendant, but other prior sentences for conduct committed prior to the age of 18 (whether imposed after juvenile or adult proceedings) are only scored if they were served within 5 years of the "instant" offense (2 points for confinement of at least 60 days; 1 point in other cases). (U.S.S.G. §§ 4(A)(1) 1, 4(A)(1) 2). The Sentencing Commission is authorized to study the feasibility of guidelines for the disposition of juvenile delinquents. (28 U.S.C. § 995(a)(19).) Current law only permits the use of juvenile convictions that occurred within the last 5 years.	juveniles adjudicated as delinquent. Such list shall: (a) be comprehensive in nature and encompass penalties of varying levels of severity; (b) include terms of confinement; AND (c) provide punishments that escalate in severity with each additional or subsequently more serious delinquent conduct. The maximum term for which probation may be ordered for a juvenile found delinquent is the maximum term for an adult (5 years). The term for which official detention may be ordered for a juvenile found delinquent may not extend beyond the lesser of the maximum term of imprisonment if the juvenile had been convicted as an adult, ten years, or the date at which the juvenile turns 26 years old.	justice system that provides substantial and appropriate sanctions that are graduated to reflect the severity or repeated nature of violations, for each delinquent act, and reflect the specific interests and circumstances of the juvenile defendants. In calculating a criminal history score, prior juvenile records within the past 15 years may be considered. The Sentencing Commission should amend the guidelines to provide that the computation of a career offender should include previous convictions or adjudications as a juvenile. The Senate bill changes current law and requires judges to impose mandatory sentences on juveniles when applicable. However, there is an exception to the application of minimum sentences-for juveniles under the age of 16, the court is not required to impose mandatory sentences if the court finds, after consultation with the government, that the juvenile does not have a previous conviction or adjudication for a serious violent felony or a serious drug offense.	sentencing on juveniles.
LIMITS ON PRISONER LITIGATION (28 U.S.C. §§ 3626(a)(c))	The Prison Litigation Act of 1996 already establishes strict limits on the use of consent decrees in prison cases. The few consent decrees that remain are those in which a court has found clear evidence of ongoing constitutional violations in the prison system.	Sec. 110. **Limitation on Prisoner Release Orders**. This amendment would strike down all consent decrees in prison condition cases and prohibit federal judges from entering prisoner release orders.	(No such Provision)	House provision should be rejected. The House should cede to the Senate. This version would strike down consent decrees that

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				currently operate to improve inhumane prison conditions. By forcing states to litigate cases they would rather settle through consent decrees, the provision infringes on state prerogatives. By unconstitutionally depriving federal judges of authority to remedy violations of the Eighth Amendment in prisons, it would worsen overcrowding and other unhealthy prison conditions. It would have an especially deleterious effect on the conditions in which vulnerable prisoners such as women, juveniles and the mentally ill are incarcerated.
MANDATORY MINIMUM SENTENCES:	Mandatory Life Imprisonment for: **2 Serious Violent Felonies** (sex offenses) <u>OR</u> **1 Serious Violent Felony** AND **One**	<u>Sec. 104</u>. Person convicted of Federal sex offense in which a minor is the victim shall be sentenced to **life imprisonment** if the	(No such Provision)	House provision should be rejected. The House should

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Mandatory Life Imprisonment for Repeat Sex Offenders. (18 U.S.C. § 3559)	**Serious Drug Felony**. Child Molestation (i.e. sex offense) is considered a **Serious Violent Felony** if: 1) Victim is under 14 years old. 2) Victim Dies. 3) Offense involves conduct outlined in § 3591(a)(2).	person has a prior sex conviction in which a minor was a victim, (unless the sentence of death is imposed).		cede to the Senate. In the alternative, all sentencing enhancements should be referred to the United States Sentencing Commission to insure uniformity and fairness.
Transfer of Firearm to Juvenile. (18 U.S.C. § 924)	Under current law, the transfer of a firearm to a juvenile is punishable by up to 1 year in jail. If person knows the firearm will be used in a crime of violence, the maximum sentence is 10 years. Current law only applies to handguns and ammunition, not assault weapons or large capacity ammunition loading devices.	Sec. 402. A person, **other than a juvenile**, who transfers handgun, ammunition, large capacity ammunition feeding device or semiautomatic assault weapon **to a juvenile** in violation of § 922 (x) knowing the juvenile intended to **posses** these items in a school zone shall receive a mandatory minimum sentence of at least 3 years and as much as 20 years if the person knows the juvenile intended to **use** the firearm in the commission of a serious violent felony, the mandatory minimum sentence is 10 years with a maximum of 20 years	Sec. 851. **Mandatory Minimum sentence of not less than 1 year** and not more than 5 for transferring a weapon to a juvenile (in violation of § 922(x)). - NO "school zone" mandatory minimum. - **Mandatory minimum of 10 years** if person knows juvenile intended to commit violent felony, maximum of 20 years. - Provision that states NO juvenile shall be released after conviction simply because they have turned 18. Sec. 210. (18 U.S.C. § 924(e)(2)(A)). Any person who knowingly transfers a firearm to a person under 18 knowing that person intended to commit a drug trafficking crime shall be sentenced **not less than 3 years**, not more than 10 years.	Oppose language in BOTH bills and remove in Conference. In the alternative, all sentencing enhancements should be referred to the United States Sentencing Commission in order to insure uniformity and fairness.
Career Criminal Predicates for Juveniles	Juvenile prosecutions for drug offenses are not currently used for calculating career criminal predicates.	(No such Provision)	Sec. 210. Juvenile adjudications for serious drug offenses are included under the	Senate provision should be rejected.

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(18 U.S.C. § 924(e)(2)(A)(ii))			definition of armed career criminal.	The Senate should cede to the House. Including juvenile adjudications as predicate offenses would have the effect of sentencing young people to life imprisonment for crimes they committed while they were children, thus foreclosing any possibility of rehabilitation.
Discharging Firearms in a School Zone. (18 U.S.C. § 924(a)(4))	Penalty for discharging firearm in a school-zone is up to five years in jail.	Sec. 601. Any person who **knowingly discharges** a firearm in a school zone shall receive a mandatory minimum sentence of at least 10 years, if serious **bodily injury results**, at least **15 years**; or if **death results** and the person has attained 16 years but **not 18** years, shall be sentenced to **life imprisonment**; if person is **over 18** shall be sentenced to life imprisonment or to **DEATH**.	(No such Provision)	House provision should be rejected. The House should cede to the Senate. **We oppose any expansion of the federal death penalty**. In the alternative, all sentencing

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				enhancements should be referred to the United States Sentencing Commission to insure uniformity and fairness.
Using a Firearm to Commit a Crime of Violence or a Drug Trafficking Crime. (18 U.S.C. § 924)	If firearm is **discharged**, mandatory sentence of at least **10 years**. Whoever knowingly transfers a firearm to a juvenile, knowing it will be used to commit a crime of violence, will receive a **maximum** sentence of 10 years.	Sec. 604. If the firearm is **discharged** in the commission of a crime of violence or a drug trafficking crime, the person will be imprisoned for **not less than 12 years**; AND if the firearm is **used to injure** another person, a mandatory sentence of at least 12 years; AND whoever **knowingly transfers** a firearm, knowing that it will be used to commit such crime, shall be imprisoned at least **5 years**, not more than 10.	(No Such Provision)	House provision should be rejected. The House should cede to the Senate. In the alternative, all sentencing enhancements should be referred to the United States Sentencing Commission to insure uniformity and fairness.
Using Minors to Distribute Drugs. (21 U.S.C. § 861)	First Offense: At least 1 year or 2X the imprisonment or supervised release authorized for distribution to adults,. Second Offense: At least 1 year or 3X the imprisonment or supervised release authorized for distribution to adults. (Mandatory sentences do NOT apply to marijuana offenses involving five grams or less.)	Sec. 701. Any person over 18 years who knowingly and intentionally employs, hires, uses, persuades, induces, entices or coerces a person under 18 to distribute drugs, or assist in avoiding detection or apprehension for distributing drugs, shall be imprisoned for **not less than 3 years for their first offense**; and **not less than 5 years for any subsequent offense**.	Sec. 202. SAME as House Bill. (Included in GANGS provisions).	Oppose language in BOTH bills and remove in Conference. In the alternative, all sentencing enhancements should be referred to the United State Sentencing Commission to insure uniformity

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(Adults) **Distributing Drugs to Minors**. (21 U.S.C. § 859)	First Offense: At least 1 year or 2X the imprisonment or supervised release authorized for distribution to adults,. Second Offense: At least 1 year or 3X the imprisonment or supervised release authorized for distribution to adults. (Mandatory sentences do NOT apply to marijuana offenses involving five grams or less.)	Sec. 702. Any person at least 18 years of age who knowingly distributes drugs to a person under 21 shall be imprisoned **not less than 3 years for a first offense**; and **not less than 5 years for a second offense**.	Sec. 904. SAME as House Bill.	Oppose language in BOTH bills and remove in Conference. In the alternative, all sentencing enhancements should be referred to the United States Sentencing Commission to insure uniformity and fairness.
Drug Trafficking in or near a School or Other Protected Location. (Section 419 of Controlled Substances Act, 21 U.S.C. § 860)	First Offense: **Not less than one year**, or 2X imprisonment or supervised release for adults. Second Offense: **Not less than three years**, or 3X imprisonment or supervised release for adults.	Sec. 703. Any person who distributes, possesses with intent to distribute, or manufactures a controlled substance in, on, or near a school or other protected facility shall be imprisoned **not less than 3 years for a first offense**; and **not less than 5 years for a second offense**.	Sec. 905. SAME as House Bill.	Oppose language in BOTH bills and remove in Conference. In the alternative, all sentencing enhancements should be referred to the United State Sentencing Commission to insure uniformity

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				and fairness.
ECO TERRORISM/ DEATH PENALTY: (18 U.S.C. § 3591)	Previous maximum penalty for an act of animal enterprise terrorism, resulting in death, was a **life sentence**. NO DEATH SENTENCE currently exists.	(No such Provision)	Section 1620. Expands **Death Penalty** for a violation of 18 U.S.C. § 43. (Act of Animal Enterprise Terrorism).	Senate provision should be rejected. **We oppose any expansion of the federal death penalty**.
PROJECT EXILE	The Federal Government has established a pilot program in Richmond, Virginia called **Project Exile**. Project Exile is meant to "exile" persons who commit firearms offenses from their communities. It requires the federal government to work with states to establish a program where most firearms offenses are prosecuted in federal court. The rationale behind this program is that tougher federal sentencing will deter persons from committing firearms offenses. Critics of Project Exile point out a number of problems. First, prosecuting so many state criminal cases in federal court clogs the federal courts and prevents judges from handling important matters traditionally reserved to the federal courts. Contrary to the rationale behind Project Exile, the sentences imposed in federal court are the same as those which would be imposed in state court, but prosecuting the cases in federal court is 3X more expensive. Lastly, federal prosecutors have used	Sec. 301. **Armed Criminal Apprehension Program**. Requires the Attorney General to establish within 90 days a program in each office of the US Attorney. The program shall: 1) Coordinate State and local law enforcement officials in identifying violations of Federal firearms laws. 2) Require agreements with State and local law enforcement officials to refer cases to ATF for violations of federal firearms laws (18 U.S.C. § 921 et seq.) and violations of the IRS code relating to firearms. 3) Requires US Attorney to designate AT LEAST one Asst. US Attorney to prosecute firearms laws. 4) Requires hiring of ATF agents. 5) Requires the US Attorney to charge the most serious Federal firearm offense possible. AUSA must also establish, in designated "high crime" areas, a "Public Education	(No such Provision)	House provision should be rejected. The House should cede to the Senate. We oppose this bill, which would require establishing a Project Exile program in every US Attorney's office across the country. Project Exile is another example of the federal courts taking over prosecution of state criminal law cases, creating a crisis in the federal courts according to Chief Justice Rehnquist and former Attorney General Meese. We also oppose forum shopping to prevent

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	Project Exile to skew the jury pool and keep African Americans from serving on juries. The federal jury pool is drawn from a larger area which is majority white while the state jury pool is 75% African American. The program also requires identification of a "high crime" area, which will have the effect of focusing attention on bringing cases in urban, largely minority, communities. Along with establishing a "high crime" area, the program establishes a public education campaign aimed at encouraging neighbors to "turn in" their neighbors. Again, this provision will target communities of color. Ironically, the recent school shootings have been in rural areas, not urban ones, yet this broad change in federal law will impact urban areas, not rural ones.	Campaign" in coordination with the local community that educates public about severity of penalties and encourages citizens to report possession of illegal firearms to authorities.		minorities from serving on juries.
Cross-Designation of Federal Prosecutors.	(SEE ABOVE)	Sec. 304. Authorizes US Attorney's Office to designate Asst. US Attorneys to prosecute firearm offenses under STATE law in State and Local COURTS.	(No such Provision)	House provision should be rejected. The House should cede to the Senate. Authorizing federal prosecutors to prosecute cases in state court using state law is a huge usurpation of state power.
GANG PROVISIONS:	A gang is "an ongoing group, club, organization or association of **5** or more	Sec. 704. **Definition of Criminal Street Gang would**	Sec. 204.	Oppose the language in BOTH

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Change in Definition of "Criminal Street Gang." (18 U.S.C. § 521)	persons" - that has as one of its primary purposes to engage in a criminal offense (violation of controlled substance act for which maximum penalty is not less than 5 years; Federal felony crime of violence, or conspiracy to commit above offenses.) - members of which engage, or have engaged within the past 5 years, in a continuing series of these described offenses AND - the activities of which affect interstate or foreign commerce.	**be changed to include** **<u>3</u> people or less**.	SAME as House Bill.	bills and remove in Conference. Lowering the number of persons required to trigger prosecution under gang laws creates an overbroad provision that sweeps in persons who may have committed a crime together, but are not part of a gang. This will have the effect of imposing unduly harsh punishment on persons who are not part of a gang.
Interstate and Foreign Travel or Transportation in Aid of Criminal Gangs. (Travel Act Amendment, 18 U.S.C. § 1952)	Does not exist in current law.	<u>Sec. 706</u>. - Expands **RICO** to cover Gang activities. Adding: "**Sec. 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises**." Followed by general definitions and guidelines. - **Sentence Enhancement** for a person who in violating **section 522 of title 18** (see below) recruits, solicits, induces, commands or causes a person residing in another state to be or to remain a member of a criminal street gang, or crosses a state line with intent to do same, travels in interstate commerce or uses the mail to promote, establish, manage	<u>Sec. 209</u>. SAME as House Bill.	Oppose language in BOTH bills and remove in Conference. **We oppose any expansion of the federal death penalty** and an expansion of RICO.

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		(etc.) illegal activity shall be imprisoned not more than 10 years, if it is a crime of violence, up to 20 years, if death results, life imprisonment or the **Death Penalty** may be imposed.		
Gang-Related Witness Intimidation and Retaliation. (18 U.S.C. § 1512)	Whoever kills or attempts to kill to prevent the testimony of a witness: -In the case of murder, life imprisonment or **Death Penalty**; any other killing, punishment same as manslaughter, attempted killing, up to 20 years. -Influencing, preventing or delaying testimony, up to 10 years. -Harassing, up to 1 year.	Sec. 707. Sentence of up to 10 years for interstate travel to engage in witness intimidation or obstruction of justice **or conspiracy to do same**, up to 20 years if bodily injury results, life imprisonment or **Death Penalty** if death results. - (Adding) Establishes guidelines for a witness protection program overseen by the Attorney General in conjunction with State & Local Authorities that coordinates interstate programs with each other.	Sec. 206. Same penalty of up to 20 years for using physical force or attempting murder against a witness as House Bill. - Same **conspiracy provisions** as House Bill. - NO new Death Penalty	House provision should be rejected. The House should cede to the Senate. **We oppose any expansion of the federal death penalty**.
Solicitation or Recruitment of Persons in Criminal Street Gang Activity. (18 U.S.C. § 521 et seq.)	No provision exists under current law.	Sec. 801. Adding: "**Sec. 522** (a) PROHIBITED ACT- it shall be unlawful for any person, to use any facility in, or travel in, interstate or foreign commerce, or cause another to do so, to recruit, solicit, induce, command, or cause another person to be or remain as a member of a criminal street gang, or conspire to do so, with the intent that the person being recruited, solicited, induced, commanded or caused to be or remain a member of such gang participate in an offense described in section 521(c)." - Any person who violates this section, if the	Sec. 201. SAME as House Bill.	Oppose language in BOTH bills and remove in Conference. In the alternative, refer any sentencing enhancements to the United States Sentencing Commission to insure uniformity and fairness.

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		person recruited is a minor (under 18), shall have **mandatory minimum sentence** of **not less than 4 years** and **not more than 10**. If the person recruited is NOT a minor, **mandatory minimum sentence of 1 year** and not more than 4. - The person is also liable to the federal, State or local government, if the person recruited is a minor, for the **COSTS** of housing, maintaining and treating the minor until the minor turns 18.		
ASSET FORFEITURE: **Special Forfeiture of Collateral Profits of Crime**. (18 U.S.C. § 3681)	Upon request of the Attorney General, the defendant must forfeit anything gained, used, intended for use in or facilitating the occurrence of a crime against the United States.	(No such provision)	Sec. 1614. Government can seize a broad range of property for violations of § 794 (espionage): Any felony offense against the United States or a State, or any misdemeanor offense against the United States or a State that results in physical harm.	Senate provision should be rejected. The Senate should cede to the House. This drastic expansion of federal forfeiture law would enable the federal government to seize property where the crime occurred, even in situations traditionally considered inappropriate for

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				forfeiture. For example, under certain circumstances, the government could seize a person's home where a misdemeanor assault took place.
MANDATORY 24-HOUR DETENTION	Does not exist in current law.	(No such Provision)	Sec. 222. **State Plans**. In order to receive formula grants under this part, a State must: "(28) demonstrate that the State has in effect a policy or practice that requires State or local law enforcement agencies to— (A) present before a juvenile officer any juvenile who unlawfully possesses a firearm in school; and (B) detain such juvenile in an appropriate juvenile facility or secure community-based placement for not less than 24 hours for appropriate evaluation, upon a finding by the judicial officer that the juvenile may be a	Senate provision should be rejected. The Senate should cede to the House. The Senate version adds a new "core mandate" on States requiring them to detain juveniles who bring guns to school. The core mandates requirements have been used to make sure that children's rights within state systems are

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			danger to himself or herself, to other individuals, or to the community in which that juvenile resides." 	protected. This new provision changes the focus of the core requirements by imposing a particular statutory requirement on states which may or may not be appropriate for their jurisdictions.
INDIVIDUALS WITH DISABILITIES EDUCATION ACT (20 U.S.C. § 1415(k) sec. 615(k)(10)(A))	IDEA was amended in 1997 to strengthen protections for special education and disabled students by giving more flexibility to school officials when disciplining students with disabilities, especially in situations involving drugs or weapons. The new regulations, promulgated after the 1997 amendment, provide guidance and clarification on behavioral assessment and development of intervention plans. School administrators and staff are not required by law to take any immediate disciplinary action.	Sec. 118. Permits school personnel to discipline students with disabilities who carry or posses ***weapons*** in the same manner as those students without disabilities. Any weapons infraction would result in cessation of educational services.	Sec. 1699. Amends current law so that schools can cease all educational services to a student with a disability who carries or possesses a ***firearm*** in school. A child expelled or suspended under this provision shall not be entitled to continued educational services during the term of expulsion/suspension. However, a school can choose to provide educational services even though it is not required to do so. Sec. 1636(b). Schools can and should remove children who bring guns to school and should be allowed to report such crimes to law enforcement authorities.	Oppose the language in BOTH bills and remove in Conference. Current law is preferable because expelling or suspending students without providing education only increases drop-out rates, incarceration rates, and drug use rates. However, between the two versions,

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			Additionally, immediate mental health intervention services must be provided for any child removed from school for any act of violence, including carrying or possessing a weapon.	we prefer the Senate version because it provides some mental health services, which are essential for maintaining safe learning environments in schools and preventing future violence.

II. FREE SPEECH

TOPIC AREA	CURRENT LAW	HOUSE BILL (H.R. 1501)	SENATE BILL (S. 254)	Recommendations
FIRST AMENDMENT/ FREE SPEECH: **Internet Filtering**	Does not exist in current law.	**'Children's Internet Protection Act'** Sec. 1402. **No Universal Service for Schools or Libraries that Fail to Implement A Filtering or Blocking Technology for Computers with Internet Access**. (Amends 47 U.S.C. § 254) (§ 254 of the Communications Act of 1934). An elementary school, secondary school, or library, to be eligible for universal assistance, shall certify to the Commission that it has selected a technology for computers with Internet access to filter or block: child pornographic materials, obscene materials, and materials deemed to be harmful to minors, and has installed or will install, and uses or will use, such technology. - The school or library must give NOTICE to the Commission if it CEASES to use such technology, and must have POSTED near its computers the type of filtering or blocking technology it uses, a statement of its filtering or blocking policy and a copy of its filter or block certification. A school that fails to comply is liable to repay all universal assistance after date of failure. - The determination of what material is to be filtered (i.e. what is harmful to	Sec. 1604. **Provision of Internet Filtering or Screening Software by Certain Internet Service Providers**. NOT the same as House Bill. Concerns PRIVATE Internet software providers to RESIDENTIAL customers. "(a) REQUIREMENT TO PROVIDE- Each Internet service provider shall at the time of entering an agreement with a residential customer for the provision of Internet access services, provide to such customer, either at no fee or at a fee not in excess of the amount specified in subsection (c), computer software or other filtering or blocking system that allows the customer to prevent access of minors to material on the Internet." Other provisions include surveys to make sure service providers comply, fees that may be charged and dates of applicability.	House provision should be rejected. The House should cede to the Senate. We prefer Senate provision. House provision is an unwise Federal mandate that will unconstitutionally impose flawed filtering technology on schools and libraries across the country. The Senate provision is ALSO an undesirable mandate, but it is far less sweeping.

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		minors) is LOCAL. It is to be made by the school, school board, library or other responsible authority. The federal government can NOT set criteria OR review the local decision. This act shall not preempt, limit or supersede any requirements more stringent than the ones in this act nor supersede or limit any otherwise applicable Federal or State child pornography or obscenity laws.		
Using the Internet to Engage in Unlawful Firearms and Explosives Transactions.	Current law already establishes criminal penalties for unlawful firearms and explosives transactions.	(No such Provisions)	**Subtitle F—INTERNET PROVISIONS** Secs. 1661-1664. Sec. 1661. **Internet Firearms and Explosives Advertising Act of 1999**. In light of the fact that a great deal of commerce involving the selling of firearms and explosives takes place on the Internet, Congress intends to pass a law punishing those who violate the applicable explosive and firearms laws. Sec. 1663. **Prohibitions on Uses of the Internet**. In General-(Amends Chapter 44 of Title 18 of U.S.C.) Adding: **"Sec. 931. Criminal firearms and explosives solicitations."** Any person who, over the Internet, makes, prints, publishes or causes to be made, printed or published any advertisement seeking or offering to receive, exchange, buy, sell, produce, distribute, or transfer— " (A) a firearm knowing that such	Senate provision should be rejected. The Senate should cede to the House. Current law already makes criminal illegal transactions on the Internet. A new criminal law unnecessarily stigmatizes legitimate Internet commerce. This provision also adds new mandatory sentencing provisions and a **new death penalty**. **We oppose any expansion of the**

TOPIC AREA	CURRENT LAW	HOUSE BILL (H.R. 1501)	SENATE BILL (S. 254)	Recommendations
			transaction, if carried out as noticed or advertised, would violate subsection (a), (d), (g), or (x) of section 922 of this chapter, or (B) explosive materials knowing that such transaction, if carried out as noticed or advertised, would violate subsection (a), (d) and (i) of section 842 of this title" (The person must know or have reason to know that such advertisement or notice will be carried through interstate or foreign commerce by computer, and this must happen). **PENALTIES** shall be: One year maximum for first offense, 5 year maximum if previously convicted for this offense or a similar offense, **if TWO prior convictions then Mandatory sentence of at least 10 years up to 20 years.** If DEATH of juvenile results because of an offense committed under this section then offender can be imprisoned for any term of years, for life, or be **sentenced to DEATH**. It is an **AFFIRMATIVE DEFENSE** if the person charged can prove by a preponderance of the evidence that they are a LICENSED manufacturer, importer or dealer under section 923 or 40 of this title AND that the site on the Internet, before offering the sale of the	**federal death penalty**.

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			product, advised consumer at least once that sales or transfers would be made in accordance with all applicable Federal, State and local laws.	

III. CHURCH/STATE

TOPIC AREA	CURRENT LAW	HOUSE BILL (H.R. 1501)	SENATE BILL (S. 254)	Recommendations
FIRST AMENDMENT/ **CHURCH/ STATE:** **Constitutionality of Memorial Services and Memorials at Public Schools**. **(& <u>Fee Shifting</u>)** (42 U.S.C. § 1988 (1999 supp.) & Title II of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000(a)-3(b) (1999 supp.))	Under current law attorney's fees may be recovered in successful challenges arguing that the First Amendment's Religious Clauses have been violated. Additionally, many States have statutory fee-shifting provisions for State law claims.	<u>Sec. 112</u>. The Congress of the United States finds: - The saying of a prayer, the reading of a scripture, or the performance of religious music, as part of a memorial service that is held on the campus of a public school to honor the memory of a person slain at that school does not violate the First Amendment. - The design and construction of any memorial to honor the same that includes religious symbols, motifs, or sayings that is placed on the campus of a public school likewise does not violate the First Amendment. **<u>FEE SHIFTING</u>** ■ In any lawsuit claiming the type of memorial or memorial service violates the Constitution each side must pay their own attorney's fees AND the Attorney general is authorized to provide legal assistance to the school district or other government entity that is defending the legality of such memorial or memorial service.	<u>Sec. 1606</u>. SAME as House Bill. Includes FEE SHIFTING provisions.	Oppose language in BOTH bills and remove in Conference. These amendments would remove the ability for claimants to recover fees in certain religious liberty cases **even when they have won their case**. This provision will discourage bringing litigation to challenge important First Amendment violations.
Fee Shifting	SEE ABOVE.	<u>Sec. 1101</u>. **Limitation on Recovery of**	(No such Provision)	House provision

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(Section 722 (b) of the Revised Statutes of the United States 42 U.S.C. § 1988(b))	Same as Sec.'s 112 & 1606 but broader. No recovery of fees in most student religious expression cases.	**Attorneys fees in Certain Cases**. Adding: "Attorneys' fees under this section may not be allowed in any action claiming that a public school or its agents violates the constitutional prohibition against the establishment of religion by permitting, facilitating, or accommodating a student's religious expression".		should be rejected. The House should cede to the Senate.
RELIGIOUS NON-DISCRIMINATION (Juvenile Justice and Delinquency Protection Act of 1974. 42 U.S.C. § 5601 et seq.)	Under current law only "religiously affiliated" organizations can receive funds to provide services. Religiously affiliated organizations that receive public funds to provide services can NOT discriminate in Employment. Because they are using public funds the Title VII exemption does not apply. Additionally, service providers cannot discriminate against beneficiaries or coerce them to participate in religious activities. Under current law states are not required by federal law to give grants to pervasively sectarian organizations.	Sec. 114. Adding: "**Sec. 299J**. a) A governmental agency that receives a grant under this title and that is authorized by this title to carry out the purpose for which such grant is made through contracts with, or grants to, nongovernmental agencies **may use such grant to carry out such purpose through contracts with or grants to religious organizations**. For purposes of subsection (a), subsections (b) through (k) of section 104 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. § 604a) shall apply with respect to the use of a grant received by such entity under this title in the same manner as such subsections apply to States with respect to a program described in section 104(a)(2)(A) of such Act."	Sec. 292. **RELIGIOUS NONDISCRIMINATION;** **Restrictions on use of Amounts; Penalties**. Mirrors the language of paragraph (b) of 299J in House Bill, but does NOT include paragraph (a). Text reads: "(a) RELIGIOUS NONDISCRIMINATION- The provisions of section 104 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. § 604a) shall apply to a State or local government exercising its authority to distribute grants to applicants under this title."	Oppose language in BOTH bills and remove in Conference. Amendment language is preferred. The House and Senate should amend this section with Senator Kennedy's proposed amendment. His amendment would clarify the language in this section and provide the necessary civil rights and constitutional protections.
Power to Display the Ten Commandments	Displaying the Ten Commandments is an issue which the Supreme Court has addressed in numerous decisions. There	Sec. 1202. **Religious Liberty Rights Declared**.	(No such Provision)	House provision should be rejected.

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	is a clear line of precedent barring the display of the Ten Commandments in public places as an unconstitutional violation of the Establishment Clause. This result was held in: *Capital Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753 (1995); *Texas Monthly v. Bullock*, 489 U.S. 1 (1988). More importantly, it is plainly beyond the power of Congress to override constitutional decisions of the courts (including *Stone v. Graham*) by ordinary legislation. *City of Boerne v. Flores*, 117 S.Ct. 2157 (1997).	The power to display the Ten Commandments on or within property owned or administered by the several states or political subdivisions thereof is hereby declared to be among the powers reserved to the States respectively. - The expression of religious faith by individual persons on or within the same is declared to be among the rights secured against laws respecting an establishment of religion or prohibiting the free exercise of religion made or enforced by the US Government AND declared to be among the liberties of which no State shall deprive any person without due process of law made in pursuance of powers reserved to the States. - The courts constituted, ordained, and established by Congress shall exercise the judicial power in a manner consistent with the forgoing declarations.		The House should cede to the Senate. The House provision is unconstitutional and should be removed.

IV. PRIVACY

TOPIC AREA	CURRENT LAW	HOUSE BILL (H.R. 1501)	SENATE BILL (S. 254)	Recommendations
CLONE PAGERS (Section 2511(2)(h), and sections 3124-3129 and chapter 206 of title 18 U.S.C.)	No current law exists.	(No such Provision)	Sec. 211. **Clone Pagers**. The Fourth Amendment requires that the government show "probable cause of crime" to secure an order that allows it to eavesdrop on the contents of electronic communications; the DOJ and some courts have recognized that numeric pagers convey content. -This section substitutes for probable cause of crime mere "relevance to an ongoing criminal investigation" as the standard for interception of the contents of communications sent to a numeric pager. This highly relaxed standard is similar to what law enforcement shows when it seeks to place a pen register or trap and trace device to record phone numbers dialed from and to a phone. -This section sets out Application procedure for Federal and State authorities applying for court orders authorizing use. It sets out criterion for granting Court order authorizing use of clone pagers (etc.). Broadly speaking: **"Probable Cause"** is all the agency must prove to obtain an order. However, NOT probable cause of a crime, but **"probable cause to believe that information relevant to an ongoing criminal investigation"** will be intercepted.	Senate provision should be rejected. The Senate should cede to the House. It would be a dangerous precedent for Congress to authorize law enforcement to intercept the coded contents of an electronic communication under a standard that requires law enforcement merely to show that it is conducting an investigation. The FCC is already considering this issue and Congress should not intervene in the regulatory process.

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			- Clone pagers are essentially treated under the relaxed standards for pen registers and trap and trace devices and NOT like wiretaps even though they intercept the contents of communications. - Because it so erodes personal privacy, electronic surveillance of this type ought to be an investigative technique of "last resort". Under this section, law enforcement officials can use clone pagers to intercept the contents of communications even if other normal investigative procedures would suffice.	
DNA TESTING	No database of DNA samples exists under current law.	(No such Provision)	**TITLE XV—VIOLENT OFFENDER DNA IDENTIFICATION ACT OF 1999**. Sec. 1501-1503. The Director of the FBI, in consultation with State and Federal officials, shall develop a plan to eliminate the backlog of convicted offenders DNA samples awaiting analysis in State or local forensic laboratory storage in an efficient and expeditious manner that will provide for their entry into the Combined DNA Indexing System (CODIS). This body will set up nationwide quality assurance standards that ensure state-of-the-art testing methods are being used. DNA samples will be: ■ Available to criminal justice agencies for law enforcement identification purposes. ■ Admissible in criminal cases if	Senate provision should be rejected. The Senate should cede to the House. This bill would establish a complex system of collecting and storing DNA samples from citizens that could profoundly impact the privacy of Americans. Before establishing a DNA samples database, Congress needs to insure that certain safeguards are met including: plans for destroying samples after testing if they no longer serve a forensic

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			authorized by statute. ■ Available to defendants currently charged with a crime. Sec. 1503 **EXPANDS** Section 811(a)(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (28 U.S.C. § 531 Note) to include the DNA system set up by this act and apply it to federal offenders, military and DC offenders. ALL FEDERAL offenders convicted of a crime of violence (including misdemeanors), either incarcerated or on supervised release, would be required to provide a sample for DNA testing.	purpose, a provision to delete test results when a conviction is reversed or expunged and narrowing the class of offenses from which samples are taken to prevent collecting an unnecessarily overbroad database.
DRUG TESTING. (42 U.SC. § 3796 et seq.)	States are not required to conduct mandatory drug testing of arrestees in order to receive juvenile accountability block grants.	(No such Provision)	Sec. 321. **Block Grant Program**. " **Sec. 1801**. **Program Authorized**." To be eligible for an incentive grant under this section, a State must show in an application to the Attorney General that: "(c)(2) the State has established or will establish a policy of drug testing (including followup testing) juvenile offenders upon their arrest for any offense within an appropriate category of offenses designated by the chief executive officer of the State."	Senate provision should be rejected. The Senate should cede to the House. States should not be permitted to conduct automatic drug testing of arrestees. To conduct a drug test, the Fourth Amendment requires a warrant supported by probable cause.
AIDS TESTING (42 U.S.C.	Under current law, States are not required to conduct HIV testing to be eligible for State Formula Grants.	(No such Provision)	Sec 222. **State Plans**. In order to receive formula grants under	Senate provision should be rejected.

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§ 5633)			this part, a State shall submit a plan, developed in consultation with the State Advisory group, that will establish a program to test sex offenders for HIV.	The Senate should cede to the House. Provision is overly broad and requires testing even when there was no possibility of HIV transmission. The bill does not provide sufficient safeguards to protect the privacy of the person being tested.