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Office of the Assistant Attorney General

Washington, D.C. 20530

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Honorable Joseph R. Wright, Jr.
Acting Director
Office of Management and Budget
Washington, D.C. 20530

Dear Mr. Wright:

In compliance with your request, I have reviewed a facsimile of the enrolled bill H.R. 5210, the Anti-Drug Abuse Act of 1988, as printed in the Congressional Record for October 21, 1988. The Department of Justice (DOJ) strongly recommends Executive approval of the bill.

The passage of H.R. 5210 represents a considerable achievement for the Department and the other member agencies of the National Drug Policy Board who worked in conjunction with an exceptionally large number of Congressional committees and working groups to help craft this legislation. The scope and magnitude of the bill reflect the significant bipartisan effort that went into its development. While less than perfect, this bill includes a wide range of key demand-side tools and supply-side weapons with which to combat the scourge of drug abuse in our country.

The Department was particularly pleased that the final bill provides constitutionally sound procedures extending a federal death penalty to murder during the course of a Continuing Criminal Enterprise, drug trafficking or importation offense and to drug related killings of federal, state or local law enforcement officers engaged in, or on account of, their official duties (Sections 7000-7002).

A large number of other enhanced penalties and long sought key technical law enforcement provisions were addressed in Titles IV, VI, and VII, including important provisions on money laundering, asset forfeiture, essential and precursor chemical diversion, international drug trafficking, and offenses involving juveniles.

Section 6480 of the bill will permit civil penalties of up to \$10,000 to be assessed for simple possession of controlled substances, and still retain all criminal sanctions for such offenses. This additional sanction fills a gap in present law, and provides a potential civil fine twice as high as the maximum first offense possession penalty currently available. In concert with the "user accountability" provisions of Sections 5001-5301, which provide for a loss of certain federal benefits up to 5 years for repeat "users" and lifetime for repeat "dealers," the provisions send an unmistakable message making it clear that such conduct will no longer be tolerated; and that all offenders can expect to be penalized, including the use of sanctions to hit them where it really hurts -- in the pocketbook.

Section 7603, in effect, overturns McNally v. United States, 107 S.Ct. 2875 (1987), returning to federal prosecutors a key tool for pursuing public corruption. Unfortunately, significant enhancements to anti-corruption law contained in the Senate version, which increased penalties and addressed narcotics-related corruption and election fraud, were stripped from the bill in the final compromise.

The bill does include a number of features strongly opposed by the Administration, most notably the so-called "drug czar" and "innocent owner" provisions in Titles I and VI, respectively, as well as a host of reporting requirements. An unsatisfactory compromise, the "Coordination of National Drug Policy," or "drug czar," section (Title I) imposes layers of new bureaucracy and regulatory procedures which doubtlessly will slow progress and otherwise be counterproductive to focusing federal drug efforts effectively. At best, the bill language may provide enough flexibility for this section to be workable.

Similarly objectionable are the "innocent owner" provisions governing forfeitures of conveyances. These provisions are not only unnecessarily cumbersome and difficult to implement, but they essentially overturn hundreds of years of Admiralty law and afford large loopholes to drug traffickers.

Significant provisions sought by the Department were, unfortunately, deleted from the final compromise bill. The House provision extending the decision of Leon v. United States, 468 U.S.897 (1984), which would have provided exceptions to the "exclusionary rule" for good faith warrantless searches, was dropped when the Senate refused to recede to the House language.

A federal debt collection provision sought by the Department would have enhanced the remedies available to the United States and established uniform procedures in all federal judicial districts for the collection of debts owed to the United States.

It was expected that this provision would account for \$17 million in additional revenue this fiscal year alone. The section was defeated because some members claimed that the garnishment provisions were "too harsh" and that hearings were needed on the subject.

Significant additions to existing law, criminalizing additional aspects of child pornography and adding new provisions dealing with interstate receipt or possession for sale of obscene material (Sections 7511-7526), were made by the bill. These provisions captured most of the recommendations of the Meese Commission on Pornography and were among the most fiercely contested in the bill. The major provisions of this Administration-supported legislation were preserved in the final bill through the untiring efforts of Senators Strom Thurmond and Orrin Hatch and Congressmen Bill McCollum, Dan Lungren and Chris Smith.

The funding portion of the bill, Title X, provides \$330.4 million in badly needed supplemental appropriations for the Department. Also included are some \$90 million for Office of Justice Programs which the Department did not request. In terms of resources for prisons and priority drug enforcement programs originally requested by the President that will not be funded, the Department's shortfall for FY 1989 is now about \$190 million.

The \$30 million to be transferred by the bill from the Asset Forfeiture Fund to U.S. Attorneys will be used to establish 640 additional field positions (320 prosecutors and 320 support). It is imperative, however, that funds for these positions also be budgeted in out years.

Assuming full annualization of the Justice Department enforcement-related funding provisions in the President's 1990 budget, this bill will help address the most serious obstacle to the success of Departmental drug initiatives, inadequate resources. To do otherwise would be viewed as a retreat from our enforcement commitment.

Implementation of the Organized Crime and Drug Enforcement Task Forces' expense and budget provision (Section 1055) will require the active assistance of OMB.

On balance, the Anti-Drug Abuse Act of 1988, as enrolled, can be counted as a major success for the Administration, the National Drug Policy Board, and the Department of Justice.

We have attached proposed language in the event the President issues a signing statement regarding the Bill.

Sincerely,



Thomas M. Boyd
Assistant Attorney General

Enclosures

**DRAFT PRESIDENTIAL SIGNING STATEMENT ON
H.R. 5210 - ANTI-DRUG ABUSE ACT OF 1988**

Today I sign H.R. 5210, the Anti-Drug Abuse Act of 1988. The passage of H.R. 5210 represents a considerable achievement for the Department of Justice and the other member agencies of the National Drug Policy Board who worked in conjunction with an exceptionally large number of Congressional committees and working groups to help craft this legislation. The scope and magnitude of the bill reflect the significant bipartisan effort that went into its development.

While less than perfect, this bill contains virtually all of the provisions that I recommended that the Congress adopt, including a wide range of key supply-side tools and demand-side weapons with which to combat the scourge of drug abuse in our country.

I am particularly pleased that the bill provides constitutionally sound procedures extending a federal death penalty to murder during the course of a Continuing Criminal Enterprise, drug trafficking or importation offense and to drug related killings of federal, state or local law enforcement officers engaged in, or on account of, their official duties (Sections 7000-7002).

A large number of other enhanced penalties, and long sought key technical law enforcement provisions, were included in Titles IV, VI, and VII, including important provisions on money laundering, asset forfeiture, essential and precursor chemical diversion, international drug trafficking, and offenses involving juveniles.

Section 6480 will permit civil penalties of up to \$10,000 to be assessed for simple possession of controlled substances, and still retains all criminal sanctions for such offenses. This additional sanction fills a gap in present law, and provides a potential civil fine twice as high as the maximum first offense possession penalty currently available. This section, and the "user accountability" provisions of Title V, which provide for the loss of certain federal benefits up to 5 years for repeat "users" and lifetime for repeat "dealers", send an unmistakable message, making it clear that such conduct will no longer be tolerated. These provisions hit offenders who otherwise not be penalized and ensure that our precious tax dollars no longer subsidize benefits for those who continue to abuse drugs.

Section 6480 of the bill will permit civil penalties of up to \$10,000 to be assessed for simple possession of controlled substances, and still retain all criminal sanctions for such offenses. This additional sanction fills a gap in present law, and provides a potential civil fine twice as high as the maximum first offense possession penalty currently available. In concert with the "user accountability" provisions of Sections 5001-5301, which provide for a loss of certain federal benefits up to 5 years for repeat "users" and lifetime for repeat "dealers," the provisions send an unmistakable message making it clear that such conduct will no longer be tolerated; and that all offenders can expect to be penalized, including the use of sanctions to hit them where it really hurts -- in the pocketbook.

Section 7603, in effect, overturns McNally v. United States, 107 S.Ct. 2875 (1987), returning to federal prosecutors a key tool for pursuing public corruption. Unfortunately, significant enhancements to anti-corruption law contained in the Senate version, which increased penalties and addressed narcotics-related corruption and election fraud, were stripped from the bill in the final compromise.

The bill does include a number of features strongly opposed by the Administration, most notably the so-called "drug czar" and "innocent owner" provisions in Titles I and VI, respectively, as well as a host of reporting requirements. An unsatisfactory compromise, the "Coordination of National Drug Policy," or "drug czar," section (Title I) imposes layers of new bureaucracy and regulatory procedures which doubtlessly will slow progress and otherwise be counterproductive to focusing federal drug efforts effectively. At best, the bill language may provide enough flexibility for this section to be workable.

Similarly objectionable are the "innocent owner" provisions governing forfeitures of conveyances. These provisions are not only unnecessarily cumbersome and difficult to implement, but they essentially overturn hundreds of years of Admiralty law and afford large loopholes to drug traffickers.

Significant provisions sought by the Department were, unfortunately, deleted from the final compromise bill. The House provision extending the decision of Leon v. United States, 468 U.S. 897 (1984), which would have provided exceptions to the "exclusionary rule" for good faith warrantless searches, was dropped when the Senate refused to recede to the House language.

A federal debt collection provision sought by the Department would have enhanced the remedies available to the United States and established uniform procedures in all federal judicial districts for the collection of debts owed to the United States.

Similarly objectionable are the "innocent owner" provisions governing forfeitures of conveyances. These provisions are not only unnecessarily cumbersome and difficult to implement, but they essentially overturn hundreds of years of Admiralty law and afford large loopholes to drug traffickers.

I also regret that other key provisions sought by the Administration were deleted from the final compromise language. The House provision extending the decision of Leon v. United States, 468 U.S.897 (1984), which would have provided exceptions to the "exclusionary rule" for good faith warrantless searches, was dropped when the Senate refused to recede to the House language.

A federal debt collection provision sought by the Administration would have enhanced the remedies available to the United States and established uniform procedures in all federal judicial districts for the collection of debts, including criminal fines for narcotics offenses, owed to the United States. It was expected that this provision would account for \$17 million in additional revenue this fiscal year alone. This section was cut from the bill because some members felt the garnishment provisions were "too harsh" and that House hearings were needed on the subject. I completely disagree with this position, and wonder how it could be justified in light of \$17 million in revenue already owed to the United States that will be lost this year as a result.

Despite its shortcomings, on balance, the drug bill as enacted is a major success for this Administration and the American people as a whole. I will look to the 101st Congress and the next Administration to build upon this foundation and to enact those key initiatives omitted from this bill.



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

November 7, 1988

MEMORANDUM

TO: Dick Thornburgh
Attorney General

FROM: Thomas M. Boyd
Assistant Attorney General
Office of Legislative Affairs

SUBJECT: Summary of H.R. 5210 - "The Anti-Drug Abuse Act
of 1988"

As we discussed last week, the attached is a summary of selected provisions contained in the Anti-Drug Abuse Act of 1988 with portions of particular interest highlighted for your perusal.

Our thought was to circulate this summary to the U.S. Attorneys, over your name, as a follow-up to the telex being prepared by the the Criminal Division, which lists by the most important law enforcement provisions by U.S.C. section. A more detailed monograph covering all of the bill's provisions would follow later.

Due, no doubt, to the nudge provided by your comments to the Los Angeles Times last Friday, the bill was signed by Senator Stennis yesterday morning and delivered to the White House at 5:45 p.m. last night.

Though the attached does not specifically refer to provisions we sought, but did not get in the bill, for your information, the major items not included following:

1. The House provision extending the decision of Leon v. United States, 468 U.S.897 (1984), which would have provided exceptions to the "exclusionary rule" for good faith warrantless

searches, was dropped when the Senate refused to recede to the House language.

2. A federal debt collection provision sought by the Department which would have enhanced the remedies available to the United States and established uniform procedures in all federal judicial districts for the collection of debts owed to the United States. It was expected that this provision would account for \$17 million in additional revenue this fiscal year alone. The section was defeated because some members claimed that the garnishment provisions were "too harsh" and that hearings were needed on the subject.

3. A Concurrent Jurisdiction provision long sought by U.S. Attorneys from districts which include large federal enclaves with uncertain and confusing, "patchwork quilt," jurisdictional boundaries. The provision, a Departmental initiative, included in the bill originally passed by the Senate, was dropped without explanation during the compromise negotiation process.

cc: Frank Keating
Alan Kranowitz
Phil Brady
Dick Weatherbee

ANTI-DRUG ABUSE ACT OF 1988

Summary of Selected Provisions

Title I -- Coordination of National Drug Policy

Subtitle A, the "National Narcotics Leadership Act of 1988" would:

Establish in the Executive Office of the President the Office National Drug Control Policy, headed by a director with two deputies -- one for demand reduction and the other for supply reduction. A bureau of state and local affairs, headed by an associate director for drug-control policy, would also be established. (Section 1002)

Require that the director, deputies and associate director be appointed by the President and confirmed by the Senate. No person in any of these positions can serve in any other capacity within the federal government. (Section 1003)

Allow the director to advise the National Security Council (NSC) and to attend NSC meetings at the direction of the President. (Section 1003)

Require the director to prepare a national drug-control strategy and make recommendations to the President on changes in the organization, management and budgets of federal departments and agencies engaged in drug enforcement. (Sections 1003-1006)

Direct the President to submit the national drug-control strategy to Congress not later than 180 days after the first drug-control director is confirmed. The strategy would have to be submitted by Feb. 1 of each year thereafter. (Section 1005)

Require the director to develop each fiscal year, with advice of the appropriate program managers in the federal agencies, a consolidated drug-control budget and to certify the adequacy of each department's budget request to implement the drug-control strategy. The drug-control program budget would be submitted along with the annual budget request of the president. (Section 1003)

Provide no operational control over any Dept/Agency assets, except where expressly authorized by head of Dept/Agency; "Certification" of anti-drug budget requests by involved Dept/Agency, but no veto power over budget formulations; can only make budget recommendations to President. (Sections 1003-1006)

Provide Director with "veto" authority over reprogramming of anti-drug funds greater than \$5 million. (Section 1003)

Provide for the termination of the National Drug Enforcement Policy Board, National Narcotics Border Interdiction System and the White House Drug Abuse Policy Office. These terminations are effective 30 days after the first director of National Drug Control Policy is confirmed by the Senate. Require Executive Reorganization Study to improve cost-effectiveness and coordination. (Section 1007-1009)

Authorize appropriation of \$3.5 million for fiscal 1989 for the office of drug-control policy and such sums as necessary for each of the four succeeding fiscal years. (Section 1011)

Subtitle B, the "Justice Department Organized Crime and Drug Enforcement Enhancement Act" (Sections 1051-1055) would:

Require that not later than one year after enactment, the drug control policy director and the Attorney General report to Congress on possible organizational changes with the Department of Justice to promote better civil and criminal law enforcement. (Section 1053)

Require that the Attorney General insure that the Department's organized crime and narcotics enforcement efforts make a priority of the use of civil statutes creating ancillary sanctions and remedies, such as forfeitures, civil penalties, fine collection, and injunctions. Also would require an annual report on such civil enforcement efforts. (Section 1054)

Require beginning in Fiscal Year 1990, that the Attorney General submit a separate appropriation's request for expenses relating to all federal agencies participating in the Organized Crime Drug Enforcement Task Forces (OCDETF). Appropriations shall be made to the Justice Department to make reimbursement to the agencies involved. (Section 1055)

Title II--Treatment and Prevention Programs

Subtitle A, Programs relating to the Public Health Services Act

Chapter 1 -- Revision and Extension of the Alcohol and Drug Abuse and Mental Health Services Block Grant:

Section 2021 would authorize \$1.5 billion for Fiscal Year 1989; Section 2025 would prohibit use of AIDs related funding for distribution of sterile needles or bleach;

Chapter 2 -- Programs of the Alcohol, Drug Abuse and Mental Health Administration:

Section 2051 would authorize \$95 million for Fiscal Year 1989;

Chapter 3 -- Reports and Studies:

Section 2071 would authorize HHS study on relationship between mental illness and substance abuse;

Chapter 4 -- Miscellaneous:

Section 2074 would provide for use of military facilities for treatment purposes;

Subtitle B, Employee Assistance Programs (EAPs)

Section 2101 would provide for Department of Labor grant program for employers to provide EAPs;

Subtitle C, Indian Alcohol and Substance Abuse Prevention and Treatment

Subtitle D, Native Hawaiian Health Care

Subtitle E, Provisions Relating to Certain Drugs

Sections 2401-2405 would:

Require any person who distributes or possesses with intent to distribute any anabolic steroid for use in humans, other than as directed by a physician, to be imprisoned for not more than three years - or not more than six years in the case of intent to distribute to anyone under 18 years of age. Provide for forfeiture related to steroid trafficking. Amend 21 U.S.C. 333. (Section 2401-2403)

Require that butyl nitrite be considered a banned hazardous product, under 15 U.S.C. 2057, except in cases where its use is approved under the Federal Food, Drug and Cosmetics Act. (Section 2404)

Require a GAO Report on the use of anabolic steroids and human growth hormones. (Section 2402)

Establish a Joint EPA/DEA Federal Task Force on Illegal Drug Laboratories to formulate and implement a plan for the cleanup and disposal of hazardous waste produced by illegal drug laboratories. Require a report to Congress and the President within 270 days of enactment. (Section 2405)

Establish an Attorney General demonstration grant and contract program for State and local governments to clean up and safely

dispose of substances associated with illegal drug laboratories which may present a hazard to public health or the environment.

Subtitle F, Veterans Administration Programs

Subtitle G, Miscellaneous Health Amendments

Title III--Drug Abuse Education and Prevention

Subtitle A, Drug and Alcohol Abuse education Programs

Chapter 1 -- Alcohol Abuse Education Programs (Section 3101)

Chapter 2 -- Prevention Education for Participants in the Women, Infants and Children Supplemental Food Program (Section 3201)

Chapter 3 -- Drug Free Schools and Communities Act Amendments (Sections 3301-3311)

Chapter 4 -- ACTION Volunteer Demonstration Project (Sections 3401-3402)

Subtitle B, Drug Abuse Education and Prevention

Chapter 1 -- Drug Education and Prevention Relating to Youth Gangs would:

Authorize \$15 million for fiscal 1989, and such sums as necessary for 1990 and 1991, for HHS grants to non-profit private and public organizations to prevent and reduce the youth participation in gangs that engage in drug-related activities. The grants could also be used to prevent drug abuse by youths, to refer for treatment and rehabilitation members of gangs who abuse drugs, and to support local police departments and other agencies that have educational outreach programs in communities where gangs commit drug-related crimes. (Sections 3501-3505)

Chapter 2 -- Program for Runaway and Homeless Youth would:

Authorize \$15 million for fiscal 1989, and such sums as are necessary for 1990 and 1991, for HHS grants to public and non-profit private agencies to provide individual counseling to runaway youths and their families, and to develop community-education activities and support research on drug use by runaway and homeless youths. (Sections 3511-3515)

Title III cont.

Chapter 3 -- Community Programs for Youth would:

Authorize \$40 million in fiscal 1989 to create HHS block grants for state community-youth-activity programs. The bill authorizes \$55 million for the programs in 1990 and \$60 million in 1991. (Sections 3521-3522)

Title IV--International Narcotics Control Act of 1988

Subtitles A through J
would:

Authorize \$101 million in fiscal 1989 for international narcotics-control programs. (Section 4107)

Direct the U.S. ambassador to the Organization of American States (OAS), under the direction of the Secretary of State, to begin diplomatic discussions with members of the OAS on the formation of a multinational force to conduct operations against international illegal drug smuggling. The Secretary of State must report to Congress within six months of the date of enactment on progress toward establishing such a force. (Section 4101)

Encourage the United Nations (UN) to establish an international force. (Section 4103)

Encourage the President to convene an international drug conference. (Section 4104)

Require the Secretary of State to report to Congress within six months of enactment on the feasibility of creating a comprehensive, integrated, multinational plan to substantially reduce or eliminate the international cocaine trade. (Section 4105)

Earmark \$1 million for defensive arming of helicopters and planes that the United States has provided to foreign countries for use in their narcotics-interdiction efforts. (Sections 4201-4203)

Earmark \$2 million Defense Department anti-narcotics training of law enforcement agencies in foreign countries. The bill also earmarks \$3.5 million for weapons, ammunition and other supplies for those agencies. And it waives, for purposes of the anti-narcotics program, a controversial 1975 law that bars U.S. aid to foreign police agencies. However, the waiver is allowed only for countries that have democratic governments and for police agencies that do not engage in a "consistent pattern of gross violations" of human rights. (Sections 4204-4206)

Title IV cont.

Allow the President to transfer foreign aid money withheld because of a country's failure to meet certain anti-narcotics standards, to other countries that are meeting the standards. (Section 4206)

Tighten restrictions imposed by Congress in previous years on aid to Bolivia. (Sections 4301-4302)

Earmark up to \$15 million for narcotics-control aid to Mexico. (Section 4304)

Earmark \$15 million of a new fiscal 1989 supplemental appropriation for military aid to Colombia, with the money to be used for supplies to help the Colombian armed forces combat narcotics trafficking and production. The bill earmarks \$5 million in economic aid to Colombia to provide protection against "narco-terrorist" attacks on judges, other government officials and journalists. (Section 4305)

Expand the list of issues that the President must cover each year when he reports to Congress on the extent of anti-narcotics cooperation by countries that are major producers or transit points for narcotics. If the President cannot make the required certification for any given country, he must suspend all U.S. aid to the nation and order U.S. representatives to the multilateral development banks to vote against loans to that nation. Congress can overturn the President's certification by passing a joint resolution within 45 days. (Sections 4401-4408)

Require the Secretary of State to notify the appropriate congressional committees no later than Oct. 1 of each year of the countries that appear likely to be major drug-transit or drug-producing locations for that year to determine which countries could face sanctions under the Foreign Assistance Act. (Section 4405)

Make the Secretary of State responsible for coordinating all assistance provided by the United States to support international efforts to combat illegal drug distribution and issue annual reports to Congress on such efforts. (Section 4601)

Allow the State Department to offer rewards for information concerning narcotics-related offenses committed outside the United States. (Section 4602)

Title IV cont.

Deny or revoke the passport of anyone who is convicted of a federal or state felony drug offense or who used a passport or crossed an international border in committing such an offense. The offender is ineligible for a passport while he is imprisoned or is legally required to be imprisoned or is on parole or other supervised release after having been imprisoned as the result of the conviction. (Section 4603)

Require the State Department, Customs Service, and Immigration and Naturalization Service to submit a detailed implementation plan to Congress and the president on how to develop a machine-readable travel and identity document border security program. The bill authorizes \$23 million for the program in fiscal 1989. (Section 4604)

Require advance notification and reports on the transfer of forfeited property to other countries. (Sections 4501, 4601)

Require the Attorney General and Secretary of State develop model MLATS, a model narcotics violator extradition treaty (including provision for host country nationals), and model comprehensive anti-narcotics legislation. (Section 4605)

Urge the Secretary of State to permit the assignment of more DEA agents to diplomatic missions abroad. (Section 4606)

Subtitle H, International Banking Requirements
would:

Urge the Treasury Secretary to negotiate with foreign finance ministers to establish an international currency control agency to encourage the adoption of uniform cash transaction and money-laundering statutes. (Sections 4701-4702)

Provide for international negotiations with foreign banks and other financial institutions to maintain adequate records of large U.S. currency transactions and establish a procedure for making such records available to U.S. law enforcement officials. If the Treasury Secretary determines that a foreign country's financial institutions are substantially involved in international money laundering and the country is not negotiating in good faith to exchange records of such financial transactions, the President can impose appropriate sanctions, including prohibiting the foreign institutions from participating in U.S. dollar clearing or wire-transfer systems or prohibiting them from maintaining an account in a U.S. bank. These penalties could be waived in the national interest. (Section 4702)

Title IV cont.

Provide that foreign financial institutions that maintain adequate records, which include the identity and occupation of anyone making a financial transaction in excess of \$10,000, are exempt from any penalties or sanctions. (Section 4702)

Allow for Export-Import Bank financing, guarantee or insurance for the sale of defense articles and services if the president determines that the articles will be used primarily for anti-narcotics efforts and the sale is made on or before September 30, 1990, and meets several other conditions. (Section 4703)

Subtitle I, Miscellaneous Provisions
would:

Express the Sense of the Congress regarding Youth Gangs and the Airwing Operations of the Bureau of International Narcotics Matters in the department of State direct the Director of National Drug Control Policy to review these matters and make appropriate resource recommendations. (Sections 4801-4803)

Title V -- User Accountability

Subtitle A, Opposition to Legalization (Sections 5011-5012)

Subtitle B, National Commission on Drug Free Schools (Section 5051)

Subtitle C, Preventing Drug Abuse in Public Housing
would:

Terminate the tenancy of any public-housing tenant who, while a resident of public housing, engages in criminal activity, including drug-related activity, on or near public-housing premises. Tenants would also lose their public housing if any member of their household, guest or other person under their control also engaged in criminal activity, on or near public-housing premises. (Sections 5101-5105)

Require the Housing and Urban Development (HUD) secretary to conduct a study on the extent to which public-housing agencies have been compelled to shift funds from tenant services and building maintenance to security activities, and estimate the additional cost necessary to enable all public-housing agencies to provide adequate security. (Section 5102)

Authorize \$8.2 million for fiscal 1989 for the HUD secretary to make grants available to public-housing agencies for use in eliminating drug-related crime in public-housing projects. (Sections 5121-5129)

Title V cont.

Subtitle D, the "Drug Free Workplace Act of 1988"
would:

Require that any individual or contractor procuring property or services valued at \$25,000 or more from any federal agency certify that he will provide a drug-free work place by publishing a statement and giving it to all employees notifying them that the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited in the work place and specifying what actions will be taken against violators. The contractor must establish a drug-free awareness program, and employees must be notified that as a condition of employment they must abide by the terms of the statement. Contracts awarded by a federal agency are subject to suspension of payments or termination, or both, if the agency determines that the contractor made a false certification or failed to carry out the certification requirements, or that enough employees have been convicted of violations to indicate that the contractor has failed to make a good-faith effort to provide a drug-free work place. A contractor in violation will not be eligible for any federal contract for a period not to exceed five years. The head of any agency may waive termination under certain circumstances. (Sections 5151-5160)

Establish similar drug-free work place requirements for federal grant recipients. (Section 5153)

Require that, within 30 days of receiving notice from an employee of the violation of drug-free work place requirements, a federal grantee or contractor take appropriate personnel action, up to and including termination, or require that the employee satisfactorily participate in a drug-abuse assistance or rehabilitation program. (Section 5154)

Subtitle E, President's Media Commission on Alcohol and Drug Abuse Prevention (Section 5201)

Subtitle F, Drug Free America Policy
would:

Declare that it is the policy of the United States government to create a drug-free America by 1995. (Section 5251)

Subtitle G, Denial of Federal benefits to Drug Traffickers and Possessors would:

Deny certain federal benefits to anyone convicted of distributing illegal drugs. At the court's discretion, the violator could be ineligible for any or all federal benefits for up to five years after the first conviction, up to 10 years after the second, and permanently after the third. The denied benefits

would not include those related to long term drug treatment for anyone who declares himself an addict and submits to a long-term treatment program, or is deemed to be rehabilitated under rules established by the HHS secretary. (Section 5301)

Deny certain federal benefits to anyone convicted of possessing illegal drugs. On the first conviction, the violator could be ineligible for any and all federal benefits for up to one year, be required to successfully complete and approved drug-treatment program that includes periodic drug testing, be required to perform appropriate community service, or any combination of these three sanctions. After a second or subsequent conviction, the individual could be ineligible for all federal benefits for up to five years. The benefits would be returned to anyone who declares himself an addict and submits to a long term drug-treatment program or is deemed to be rehabilitated under rules established by the HHS secretary. (Section 5301)

Allow the period of ineligibility to be suspended if the person completes a supervised drug-rehabilitation program, has otherwise been rehabilitated, or has made a good-faith effort to gain admission to a supervised-rehabilitation program. (Section 5301)

Define "federal benefit" to mean any grant, contract, loan or professional or commercial license provided by a U.S. government agency or by appropriated government funds. The term does not include any retirement, welfare, Social Security, health, disability, veteran's benefit, public housing, or other similar benefit for which payment or services or required for eligibility. The term "veteran's benefit" means all benefits provided to veterans, their families, or survivors by virtue of service in the U.S. armed forces. (Section 5301)

Require that before May 1, 1989, the President transmit to Congress a report outlining the role of the state courts in implementing these penalties. Congress will consider the report no later than Sept. 1, 1989, and enact such changes as necessary. The denial of federal benefits would take effect for convictions occurring after Sept. 1, 1989. (Section 5301)

Subtitle A, Chemical Diversion and Trafficking Act of 1988
would:

Require those individuals who manufacture, distribute, import or export certain chemicals, and who engage in regulated transactions involving specific chemicals that can be used in manufacturing a controlled substance to keep a record for four years of any transaction involving a precursor chemical and for two years involving any essential chemical. The records must be available to the Attorney General, and regulated persons must also report to the Attorney General on any transaction involving an extraordinary quantity of a specific chemical or uncommon method of payment or delivery or any unusual or excessive loss or disappearance of a chemical. (Sections 5052, 6053-6061)

Allow the Attorney General to order the suspension of any importation or exportation of a listed chemical or to disqualify any regular customer or supplier on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance. (Section 6053)

Provide that any person who knowingly or intentionally imports or exports a listed chemical with intent to manufacture a controlled substance, or has reasonable cause to believe that the listed chemical will be used to manufacture a controlled substance will be fined or imprisoned not more than 10 years, or both. In addition to other penalties, any person convicted of a felony violation relating to the receipt, distribution or importation of a listed chemical may not engage in any regulated transaction involving such a chemical for not more than 10 years. (Sections 6053, 6055-6057)

Define terms precursor and essential chemicals. (Section 6054)

Subtitle B, The Asset Forfeiture Amendments Act of 1988
would:

Establish in the Treasury Department a special fund to be available to the Attorney General for the payment of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise or sell property under seizure or detention pursuant to any law enforced or administered by the Department of Justice. Payments from the fund can also be used for awards for information or assistance related to violation of criminal drug laws or to equip for drug-law enforcement any government-owned or leased vehicle or aircraft. Deposits to the fund will be from the forfeiture of property under any law enforced or administered by the Department of Justice. The fund is subject to annual audit by the comptroller general. (Section 6072)

Title VI cont.

Establish a Special Forfeiture Fund for use by the Director of National Drug Control Policy. (Section 6073)

Require "Innocent Owner" federal regulations for expedited administrative pre-cost and claim bond procedures for seizures of conveyances for violations involving personal-use quantities of a controlled substance. The regulations shall provide for final administrative determination of the case within 21 days of seizure and require the owner had no knowledge and did not consent to the property being used in violation of law; or if the owner had knowledge or reason to believe the property would be used in violation of the law, he did what reasonably could be expected to prevent the violation and acted in a normal and customary manner to ascertain how the property would be used. (Sections 6075-6080)

Require a written notice at the time of seizure be presented specifying the procedures under this section. (Section 6079)

Provide a post-cost and claim bond innocent owner defense standard that a vessel, vehicle or aircraft be returned immediately in a personal-use drug-related offense that the owner establishes was committed without his knowledge, consent, or willful blindness. (Sections 6075-6076)

Provide for joint regulations by the Attorney General, and the Secretaries of Treasury and Transportation, after a public comment period of 30 days, to provide for the issuance of a summons to appear in lieu of seizure of a commercial fishing boat for violations involving the possession of personal-use quantities of drugs. (Sections 6078-6080)

Specify that traces or sweepings or other evidence of greater than personal use amounts shall not be considered personal use amounts for the purposes of this section. (Section 6079)

Authorize equitable sharing of forfeited assets with state and local law enforcement agencies, and require, effective October 1, 1989, that adoptive seizures not circumvent any requirement of State law that prohibits forfeiture or limits disposition or use of property forfeited. (Section 6077)

Title VI cont.

**Subtitle C, State and Local Narcotics Control and Assistance
Improvements**

Part 1 would:

Authorize the Bureau of Justice Assistance with a Presidentially appointed Director within the Department of Justice to encourage the targeting of state and local resources on efforts to reduce drug abuse, and establish a program of state and local law-enforcement grants to improve the functioning of the criminal justice system with an emphasis on violent crime and serious offenders. (Sections 6091-6092)

Authorize \$275 million for fiscal 1989, \$350 million for fiscal 1990, and \$400 million for fiscal 1991 to carry out the local law-enforcement grant program. (Section 6093)

Require that local applications for state funds from the grants program be approved not less than 45 days after first received unless the state informs the applicant in writing of specific reasons for disapproval. States must make the funds available to local governments whose applications have been approved within 45 days. The 45-day requirement may be waived under some circumstances. (Section 6091)

Part 2 -- Regional Information Sharing Systems Grants would:

Continue RISS rules, authorities, proceedings, including grant and contract programs. (Section 6101)

Part 3 -- Public Safety Officers Death Benefits Improvement would:

Raise the benefit level from \$50,000 to \$100,000 and extends benefits to surviving family members. (Sections 6105-6106)

**Subtitle D, Authorizations of Appropriations for Department of
Justice, Prisons and Related Law Enforcement Purposes**

would authorize the following additional spending over levels already approved for fiscal 1989:

\$12.3 million for salaries and expenses for the Immigration and Naturalization Service (INS), including 44 million to increase the number of INS inspectors by no fewer than 70. (Section 6151)

\$10.7 million for salaries and expenses of the Bureau of Alcohol, Tobacco and Firearms to be used to increase the number of Armed Career Criminal Apprehension enforcement personnel by no fewer than 244 full-time equivalent positions. (Section 6052)

\$60 million for salaries and expenses of the Drug Enforcement Administration (DEA), including \$4.9 million to increase DEA operations against criminals involved in youth gang-related organized crime. Also authorizes \$10.8 million for the DEA Airwing Facility. (Sections 6153, 6168)

\$30 million for salaries and expenses of FBI drug-enforcement personnel. (Section 6154)

\$21.5 million for salaries and expenses for the U.S. Marshals Service to be used for asset seizure and forfeiture activities and for protection of the federal judiciary and court facilities needed as a result of increased numbers of drug-related trials. (Section 6155)

\$21.5 million for support of U.S. prisoners. (Section 6156)

\$36 million for salaries and expenses for U.S. attorneys of the Justice Department, and \$16.4 million for salaries and expenses of the Border Patrol. (Sections 6158, 6161, 6162)

\$200 million for the building and facilities account of the Federal Prison System. (Section 6157)

Appropriations not to exceed \$440 million for the salaries and expenses of the U.S. Customs Service incurred in non-commercial operations. At least \$26 million is to be used to increase the number of customs inspectors.

\$200 million in fiscal year 1989 for acquisition, construction and improvements of the Coast Guard.

Provide federal law enforcement language training improvement for DEA, INS, Customs personnel. (Section 6165)

Provide for Bahamas interdiction taskforce program. (Section 6166)

\$820,000 authorized for INTERPOL-United States National Central Bureau. (Section 6167)

Subtitle E, the Money Laundering Prosecution Improvements Act of 1988, would:

Apply 18 U.S.C. 1957 forfeiture to attorneys fees insofar as 6th Amendment right to counsel is not infringed upon. (Section 6182)

Define monetary instrument. (Section 6183)

Title VI cont.

Amend Bank Secrecy Act to require that no financial institution may issue or sell a bank check, cashier's check, traveler's check or money order in amounts of \$3,000 or more to any individual unless that person has an account with the financial institution, verifies that fact through a signature card or furnishes such forms of identification as the Treasury Department may require. (Section 6185)

Allow the Treasury Secretary to require any domestic institution or any institutions in a geographic area to maintain additional records for such period of time as he requires, if he finds that such record-keeping and reporting is needed to prevent evasions by financial institutions. (Section 6185)

Provide that any insured institution and any director or employee of any such insured institution who willfully or through gross negligence violates any regulation set by the secretary shall be liable to the United States for a civil penalty of not more than \$10,000. (Section 6185)

Require the Treasury Secretary, in consultation with appropriate law-enforcement agencies, to study the feasibility of withdrawing the legal-tender status of \$100 Federal Reserve notes. (Section 6187)

Amend Right to Financial Privacy Act (RFPA) to authorize transfer without notice of records to Attorney General for criminal investigative purposes by amending 12 U.S.C. 3412, and provide an exception to requirement of actual presentation of voluminous financial records to Grand Jury by amending 12 U.S.C. 1120(1). (Section 6186)

Subtitle F, Sense of the Congress Opposing Legalization Proposals
(Section 6201)

Subtitle G, Interdiction of Supply of Firearms to Traffickers,
would:

Require that a person who transfers a firearm, knowing that it will be used to commit a crime of violence or drug trafficking, be imprisoned for not more than 10 years, fined, or both. (Section 6211)

Define drug trafficking crimes in which use of or carrying of firearms and armor piercing ammunition is prohibited. (Section 6212)

Title VI cont.

Require the Attorney General to develop a system to immediately and accurately identify felons who attempt to purchase one or more firearms. The system would be accessible to gun dealers, but only to determine whether a potential purchaser is a convicted felon. The attorney general shall report to Congress with a description of the system and plan including a cost analysis not later than one year after enactment. (Section 6213)

Automatically revoke probation for possessing a firearm. (Section 6214)

Allow that a person who knowingly possesses a firearm or other dangerous weapon, or causes it to be present, in a federal facility, or attempts to do so, shall be fined or imprisoned not more than one year, or both. The sentence could be no more than five years if the weapon is used in the commission of a crime. (Section 6215)

Subtitle H, Investigative Powers of the Postal Service Personnel and National Forest System Drug Control

would:

Extend Postal Service Authority to the extent authorized by the Attorney General pursuant to this section. (Sections 6251- 6253)

Create Postal Service Forfeiture Fund and grant civil forfeiture authority. (Section 6253)

Direct cooperation and authorize cross-designation of Forest Service Personnel and limited Title 21 authority for offenses committed within the National Forest System. Creates broad new authority for investigations outside System Boundaries for offenses committed within System. (Section 6254)

Establish new Title 18 offense and criminal penalties for hazardous or injurious devices on federal lands placed with intent of violating the Controlled Substances Act. Provide criminal penalties for anyone who, with the intent to violate the controlled-substances act, uses a hazardous or injurious device, such as guns or explosives attached to trip wires, sharpened stakes, or tree-spiking devices, on federal lands or an Indian reservation. (Section 5062)

Establish new Title 21 offense and penalties for polluting federal lands. (Section 5062)

Title VI cont.

Subtitle I, Authorization of Appropriations for Expenses of Department of Justice Personnel serving abroad. (Section 6281)

Subtitle J, Authorization of Drug Aftercare Program of the Administrative Office of the U.S. Courts and National Training Center for Prison Drug Rehabilitation Program Personnel for the National Institute of Corrections. (Sections 6291-6292)

would:

Require study of alternative judicial system for prosecuting federal narcotics offenses. (Section 6293)

Subtitle K, Manufacturing Offenses

would:

Establish criminal offense for endangering human life while illegally manufacturing a controlled substance, also provides criminal penalties of a fine or imprisonment of not more than 10 years, or both, for endangering human life while illegally manufacturing a controlled substance. (Section 6301)

Subtitle L, Serious Crack Possession Offenses

would:

Provide increased penalties for serious offenses involving the possession of "crack," a highly potent cocaine derivative, including imprisonment of not less than five years and not more than 20 years, a fine, or both. (This provision does not obviate the use of trafficking charges where appropriate for crack cocaine.) (Section 6371)

Subtitle M, Miscellaneous Drug Enforcement

would:

Authorize payment of bonus of up to 25% of base pay for foreign language capabilities for DEA and FBI personnel (See also, Section 6165.) (Section 6401)

Subtitle N, Sundry Criminal Provisions

would:

Provide life in prison without parole for three-time drug felony offenders. (Section 6452)

Title VI cont.

Provide enhanced penalties for importation by aircraft and other vessels. (Section 6453)

Provide enhanced penalties for offenses involving children. (Section 6454)

Eliminate exceptions to minimum mandatory penalties for second offenses involving five grams or less of marihuana, first time offenses involving five grams or less remain exempt. (Sections 6455-6456)

Provide enhanced penalties for "possession with intent to distribute" within 1,000 feet of school yard, or within 100 feet of playgrounds, youth centers, swimming pools, or video arcades. (Sections 6457-6458)

Provide mandatory minimum penalties to the purchase of controlled substances from minors. (Section 6459)

Provide a 20-year maximum penalty for drug offenses committed within federal prisons; the sentence served at the time of the violation. (Section 6468)

Provide enhanced penalties for the use of certain weapons in connection with a crime of violence or a drug trafficking crime, and for certain other firearms offenses. (Sections 6460, 6462)

Include federal firearms violations as predicate wiretap offense. (Section 6461)

Provide for money laundering-related seizure and forfeitures, including forfeiture of substitute assets. Excludes banks from violation of 31 U.S.C. 5313 (a). Protects defendants who only acted as intermediary agent by limiting the amount of substitute assets that are forfeitable. (Sections 6463-6464)

Authorize undercover sting operations in money laundering cases and amends 18 U.S.C 1956(a) to provide 20 year sentence for attempting to launder money represented by a law enforcement officer to be drug proceeds. (Section 6465)

Provide for minors convicted of drug trafficking. (Section 6467)

Authorize Postal Service investigations of money laundering. (Section 6469)

Title VI cont.

Allow civil fines of up to \$10,000 for convicted drug users found with personal-use amounts of illegal drugs. A civil penalty could not be assessed if the individual previously was convicted of a federal or state drug offense. A civil penalty also could not be assessed on more than two separate occasions. The Attorney general must inform the drug offender in writing of the opportunity to receive a hearing on the proposed order, but the individual must request the hearing within 30 days. Before the expiration of the 30-day period, the individual may also bring a civil action in the appropriate district court, where the trial is by jury, the defendant has the right to counsel and to confront witnesses, and proof must be established beyond a reasonable doubt. (Section 6486)

Provide 10 year mandatory minimum for trafficking in certain quantities of methamphetamine, attempt and conspiracy and other amendments related to controlled substance analogues, and for forfeiture of foreign drug offense proceeds. (Section 6470)

Clarify Ballistic Knife Act. (Section 6472)

Increase the maximum penalty from five to 15 years for operating a locomotive while under the influence of drugs or alcohol. (Section 6463)

Provide explosive offenses amendments. (Section 6474)

Clarify prohibition with intent to distribute on aircraft provisions. (Section 6475)

Restart Speedy Trial Act Time Period for defendants who abscond on the eve of trial. (Section 6476)

Amend Assimilative Crimes Act. (Section 6477)

Amend Federal Rules of Criminal Procedure to add 12.3. Notice of Defense Based Upon Public Authority. (Section 6483)

Provide for measuring marihuana plant quantity by number plants regardless of weight, as well as weights specified in 21 U.S.C. 841 (b) (1). (Section 6479)

Enhance penalties for CCE offenses. (Section 6481)

Provide for Witnesses serving sentences abroad. (Section 6484)

Clarify Drug Paraphernalia provisions of 21 U.S.C. 857 (f) (2) by changing "primarily intended for use with" to "traditionally intended for use with." (Section 6485)

Title VI cont.

Provide for protection of former federal officials and their families. (Section 6487)

Title VII-- Death Penalty and Other Criminal and Law Enforcement Matters

Subtitle A, Death Penalty would:

Allow the death penalty for any person engaging in or working in furtherance of a continuing criminal enterprise or any person engaging in a drug-related felony offense, who intentionally kills or counsels, commands, or causes the intentional killing of an individual and such killing results. The convicted person shall be sentenced to imprisonment of not less than 20 years, to a life term, or to death. Any person during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence, who intentionally kills or counsels, causes or commands the killing of a local law-enforcement official engaged in official duties would be subject to the same sentence. (Section 7001)

Provide notice that the government intends to seek the death penalty for this offense, setting forth the aggravating factors which the government will seek to prove as the basis for the death penalty. When the defendant is found guilty or pleads guilty to an offense allowing the death penalty, a separate sentencing hearing would be held to determine the punishment to be imposed, and must be held before a judge or jury. (Section 7001)

Require the judge or jury to consider aggravating factors, such as the defendant's prior criminal record or whether the crime was committed in a particularly brutal manner. The judge or jury would also have to consider mitigating factors, such as whether the defendant was under duress, had diminished mental capacity, or was a minor participant in the events that led to the victim's death. To impose the death penalty, the judge or jury must find that the aggravating factors outweigh the mitigating factors. If they do, the judge or jury must make specific recommendation for the imposition of the death penalty, and if the jury makes the decision, it must unanimous. (Section 7001)

Require the government to prove the existence of the aggravating factors beyond a reasonable doubt and the defendant to prove the mitigating factors by a preponderance of the evidence. (Section 7001)

Title VII cont.

Bar the death penalty for anyone who is mentally retarded.
(Section 7001)

Bar a jury from considering the race, religious beliefs, color, national origin, or sex of the defendant or victim in determining whether to impose the death penalty. (Section 7001)

Entitle a defendant who is unable to pay for a lawyer to have one appointed by the court, and require that at least one of the attorneys have at least five years of experience in the court in which the case is being tried and at least three years experience in handling felony trials in the court. (Section 7001)

Require the attorney to represent the defendant through all stages of the judicial proceedings unless he is replaced by a similarly qualified lawyer. (Section 7001)

Authorize the judge to let the defense hire outside investigators and expert witnesses and order payment of their fees if such services are found to be "reasonably necessary." (Section 7001)

Require the General Accounting Office to study the costs of putting the federal death penalty into effect. (Section 7002)

Subtitle B, Minor and Technical Criminal Law Amendments
would:

Correct errors and make technical changes. (Sections 7011-7037)

Provide for emergency pen register or trap and trace authority in those cases of "immediate danger of death or serious bodily injury to any person; or conspiratorial activities characteristic of organized crime" for a 48 hour period or until sought information is obtained, in less than 48 hours. (Section 7092)

Limitations on Certain Furloughs (Section 7043)

Make addition of new RICO predicates, specifically use of interstate commerce facilities in the commission of murder for hire, and relating to the sexual exploitation of children. (Section 7064)

Create a new offense, the obstruction of a federal audit. (Section 7078)

Permit the aggregation for prosecution purposes of certain schemes to defraud multiple victims. (Section 7080)

Title VII cont.

Allow six calendar months for refiling indictment or information following dismissal. (Section 7081)

Make special assessments on persons convicted of certain offenses. (Section 7085)

Authorize arrest warrants be obtained for foreign fugitives whose specific whereabouts are not known. (Section 7087)

Authorize federal prison industries (UNICOR) to borrow and invest funds. (Section 7093)

Subtitle C, Sentencing Amendments

Amend Code regarding prisoners transferred to the United States. (Section 7101)

Provide Standard of Review. (Section 7103)

Subtitle D, Victim Compensation and Assistance
would:

Reauthorize and amend Victims of Crime Act (VOCA), would make Director of Justice Department's Office for Victim's of Crime a Presidential appointee. (Sections 7121-7130)

Subtitle E, FAA Enforcement Assistance
would:

Direct the Federal Aviation Administration (FAA) to modify the aircraft registration system to prevent the registration of private aircraft to fictitious persons, eliminate the use of false or non-existent addresses by persons registering aircraft, prevent a person from registering an aircraft to a post office box, prohibit the submission of names on applications which are not identifiable, prohibit the ability to make frequent legal changes in the registration markings that are assigned to aircraft and create a system to assure a timely and adequate notice of the transfer of ownership of aircraft. (Section 7203-7209)

Allow the assessment of civil penalties not to exceed \$50,000 relating to violations of ownership and registration requirements. (Section 7208)

Coordinate Information related to EPIC, etc. (Section 7210)

Title VII cont.

Allow criminal penalties for forgery of certificates, false marking of aircraft, and other aircraft registration violations. Any person who commits such a violation could be fined no more than \$15,000 or imprisoned for a term of not more than three years, or both. If the violation was in connection with the transportation by aircraft of a controlled substance, a fine of not more than \$25,000 or imprisonment of not more than five years, or both, will be imposed and will be in addition to, and not served concurrently with, any other term of imprisonment imposed on such a person. (Section 7209)

Subtitle F, Juvenile Justice and Delinquency Prevention would:

Reauthorize all titles of the Juvenile Justice and Delinquency Act for four additional years. (Section 7250-7296)

Authorize Office of Juvenile Justice and Delinquency Prevention and a coordinating council to review the reasons why federal agencies take juveniles into custody and make recommendations on how to improve federal practices and facilities for holding juveniles in custody. (Section 7252-7254)

Require the juvenile justice administrator to submit to Congress an annual report detailing the most recent data available regarding the number of juveniles in custody, the types of offenses for which they are charged, the race and gender of the juveniles, their ages, the types of facilities used to hold them, and the number of juveniles who died while in custody and why. (Section 7256)

Allow the administrator to make grants and enter into contracts with public and private agencies to provide special emphasis on prevention and treatment programs for juveniles and to establish and maintain community-based alternatives to traditional forms of institutionalization of juvenile offenders. (Section 7256)

Subtitle G, Provisions Relating to Prisons, Probation, Parole, and Supervised Release would:

Require the revocation of probation, parole and supervised release of anyone found in possession of a controlled substance. (Section 7303)

Title VII cont.

Make it a mandatory condition of probation for offenses occurring on or after Jan. 1, 1989, in certain pilot districts, that a probationer refrain from any illegal use of drugs and submit to periodic drug tests at least once every 60 days. Courts shall report to Congress on the effectiveness of the demonstration project and include recommendations as to whether mandatory drug testing of probationers shall be made permanent. (Section 7304)

Allow for congressional review of a report of the Special Committee on Habeas Corpus Review of Capital Sentences, appointed by the Chief Justice of the United States, and allow the chairman of the Senate Judiciary Committee within 15 days of receiving the report to introduce legislation to modify federal habeas corpus procedure. (Section 7305)

Subtitle H, Provisions Relating to the Courts

Subtitle I, Provisions Relating to the FBI
would:

Authorize FBI to investigate, upon request, felonious killings of state or local law enforcement officers. (Section 7331)

Subtitle J, Deportation of Aliens who Commit Aggravated Felonies
Sections 7341 et seq would:

Define the term "aggravated felony" to mean 1) murder; 2) drug trafficking as defined in 18 U.S.C. 924(c)(2); 3) illicit trafficking in firearms or destructive devices as defined in 18 U.S.C. 921. (Section 7342)

Amend Sec 242(a) of the Immigration and Nationality Act (INA) (8 USC 1252) to require the Attorney General take into custody any alien convicted of committing an "aggravated felony" after completion of his or her sentence, and forbids release of such alien. It also would amend Section 244 of the Act (8 U.S.C 1254) to make voluntary departure unavailable to such alien. (Section 7323)

Add conviction for an aggravated felony to Section 241 of the INA (8 U.S.C. 1251(a)(4)) as a ground for deportation. (Section 7344)

Add to Section 276 of the INA (8 U.S.C. 1326) a criminal penalty of up to 15 years in prison for an alien who, after conviction for an aggravated felony and subsequent deportation, illegally enters the country. (Section 7345)

Amend Section 277 (8 U.S.C. 1327) of the INA to make it criminal conduct to aid or assist an alien convicted of an aggravated felony to enter the United States. (Section 7346)

Title VII cont.

Add new language to the INA, Section 242A (8 U.S.C. 1252A), to permit expeditious deportation of aliens convicted of aggravated felonies. The Attorney General is directed to provide "special deportation proceedings" at Federal, state and local correctional facilities, to be conducted pursuant to Section 242 of the INA "in a manner which eliminates the need for additional detention at any processing center of the Service..." (Section 7347)

Provide that a conclusive presumption arises as to the deportability of any alien convicted of an aggravated felony. To the extent possible, deportation proceedings shall be completed, including administrative appeals, before any such alien is released from incarceration for the aggravated felony.

Section 106(a)(1) of the INA (8 USC 1106) would require an alien convicted of an aggravated felony to file his or her appeal within 60 days of any final deportation order (as opposed to 6 months granted to other aliens found deportable to file such appeal). These amendments apply to aliens convicted of aggravated felonies after the date of enactment of this bill.

Amend Section 241(a)(14) of the INA (8 USC 1252(a)(14) to add firearms and destructive devices to the types of weapons which, if an alien is convicted of possessing, is a ground for deportation. (Section 7348)

Amend Section 212(a)(17) (8 USC 1182(a)(17) to bar reentry to the United States for 10 years to aliens convicted of an aggravated felony. (Section 7349)

Direct the Attorney General to establish a pilot program in 4 cities to improve the INS' ability to respond to inquiries from other law enforcement officials regarding aliens involved in violations of laws relating to controlled substances. (Section 7350)

Title VII cont.**Subtitle N, Child Pornography and Obscenity Enforcement Act of 1988**

would:

Make it illegal for any parent, legal guardian or other person having custody or control of a minor to buy, sell or transfer custody of the child, knowing that as a result of the sale the minor will be engaged in a visual depiction of sexually explicit conduct. The offense would cover instances when the child or the adult traveled in interstate commerce, when any offer relating to the child was communicated by mail or telephone or the prohibited conduct took place in "any territory or possession of the United States." The adult would be punished by imprisonment for not less than 20 years to life, and pay a fine of up to \$100,000. (Section 7511)

Require detailed record-keeping by those who produce books, magazines, periodicals, film videotape or other matter that contains visual depictions of sexually explicit conduct, made after Feb. 6, 1978, of the performer's name, date of birth, and any other identification required by regulations determined by the attorney general, and would make the records available to the attorney general for inspection. The producer would also have to determine what other names the performer might have used. (Feb. 6, 1978, was the effective date of a law prohibiting the sexual exploitation of children.) (Section 7511)

Make it illegal for anyone who is "engaged in the business" of selling or transferring obscene material to knowingly receive or possess with intent to distribute obscene materials that have been shipped or transported in interstate commerce. The bill would establish a prison term of up to five years, a fine, or both, as a penalty. (Section 7521)

Specify that if a business sold or transferred at least two obscene items at one time, or a combined total of at least five, then a presumption existed that it was "engaged in the business" of pornography. The business could seek to rebut the presumption. (Section 7521)

Specify that once a person is convicted of an obscenity offense, a judge must order the forfeiture of his interest in any obscene material produced, transported, mailed or shipped in violation of the law and any real or personal property constituting "or traceable to" gross profits or other proceeds from the obscene materials. (Section 7522)

Title VII cont.

The judge has the discretion to order forfeiture of any real or personal property used or intended to be used to commit the crime or promote its commission in obscenity cases. (Sections 7521-7522)

There are also similar civil and criminal forfeiture provisions relating to child pornography, however, the judge does not have discretion in ordering forfeiture in child pornography cases. (Section 7522)

Provide a prison term of up to two years, a fine, or both, for anyone who knowingly utters any obscene language or distributes any obscene material through cable television or subscription services on television. (Sections 7523-7524)

Define "distribute" to include send, transmit, retransmit, telecast, broadcast or "cablecast," including by wire, microwave or satellite. (Sections 7523-7524)

Specify that nothing in this provision or any other federal law is intended to interfere with or pre-exempt states from regulating the uttering or distribution of obscene language or other language not protected by the Constitution by cable television or subscription services.

Establish a fine of up to \$50,000, a six-month prison term, or both, for anyone who sets up a "dial-a-porn" operation for commercial purposes. (Section 7524)

Title VII cont.

Subtitle O, Miscellaneous

Section 7603, The Definition for Mail Fraud Chapter of Title 18,
United States Code
would:

Restore coverage under the mail and wire fraud statutes for prosecuting schemes to defraud that deprive the public of the intangible right to honest services from public officials
Overturn a 1987 Supreme Court decision, McNally v. U.S., that limited the use of a mail-fraud statute federal prosecutors had used to go after allegedly corrupt public officials. Prior to the decision, the government could prosecute a defendant who allegedly deprived the government of the faithful services of its employees and who had used his office for self-enrichment.
(Section 7603)

Section 7604, National Commission on Measured Responses to Achieve a Drug Free America by 1995 Authorization Act.

Section 7608, United States Marshals Service Act
would Make USMS Director and U.S. Marshals
Presidential appointees.

Title VIII--Federal Alcohol Administration

Title IX-- Miscellaneous

Subtitle A, Alcohol and Drug Traffic Safety (Sections 9001-9004)

Subtitle B, Truck and Bus Safety and Regulatory Reform (Sections 9101-9115)

Subtitle C, Comptroller General Study (Section 9201)

Subtitle D, Insular Area Drug Abuse Amendments of 1988 (Sections 9301-9310)

Title X--Supplemental Appropriations
would:

Provide supplemental appropriations for the fiscal year ending Sept. 30, 1989, of \$961.4 million in budget authority and \$500 million in outlays. Outlay figures are as follows: \$205 million for Commerce, Justice and State; \$242 million for Labor, HHS and Education; \$5 million for Department of Agriculture drug approval and enforcement programs; \$24.8 million for the Transportation Department earmarked for the Coast Guard; and \$20 million for the Treasury Department and Postal Service earmarked for U.S. Customs and Alcohol, Tobacco and Firearms programs.

Provide \$330.4 million in supplemental appropriations for the Department of Justice. Also would include some \$90 million for Office of Justice Programs which the Department did not request. In terms of resources for prisons and priority drug enforcement programs originally requested by the President that will not be funded, the Department's shortfall for FY 1989 is now about \$190 million. An additional \$30 million would be transferred from the Asset Forfeiture Fund to the Justice Department for U.S. Attorneys for Fiscal Year 1989. The transfer from the Asset Forfeiture Fund to U.S. Attorneys will permit the Department to establish 640 additional field positions (320 prosecutors and 320 support).

FY 1989 Supplemental outlays for Justice components are:

DEA.....	\$22,500,000	
FBI.....	\$12,000,000	
Prisons		
S&E.....	
Buildings ...	\$ 9,560,000	
INS.....	\$20,960,000	
U.S. Attys.....	\$34,320,000*	(*plus \$30,000,000 transfer)
U.S. Marshals...	\$14,760,000	
Prisoner Support	\$ 9,840,000	
OJP.....	\$33,300,000	
Criminal Div....	\$ 870,000	
INTERPOL-USNCB..	\$ 696,000	