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Federal Crime Control: Background, Legislation, and Issues

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Summary

States and localities have the primary responsibility for prevention and control of domestic crime, while the federal government's role is limited. As crime became more rampant, the federal government has increased its involvement in crime control efforts. Over a period of 20 years, Congress enacted five major anti-crime bills and increased appropriations for federal assistance to state and local law enforcement agencies. Since the terrorist attacks, however, federal law enforcement efforts have been focused more on countering terrorism and maintaining homeland security. Amid these efforts, however, Congress continues to address many crime-related issues.

Many have attributed the increased attention the federal government gave to crime issues in the 1980s and 1990s to rising crime rates. The violent crime rate began to increase in the 1960s, peaking in the late 1980s and mid-1990s and began to decline in the late 1990s, continuing to the present day. The decline in the violent crime rate coincides with national attention being focused away from domestic crimes and more on securing the homeland against terrorism. The declining violent crime rate coupled with the recent terrorist attacks have led Congress to focus federal funding to first responders, while federal funding to state and local law enforcement for more traditional crime fighting activities has seen a mix of increases and decreases. The 108th Congress consolidated two popular grant programs into a newly created grant program, but funded at a lower level — raising questions about the amount and shape of federal support to state and local law enforcement in the future.

Other crime-related issues have also surfaced in recent years. For example, the federal sentencing guidelines were called into question when the U.S. Supreme Court struck down a provision in law that made them mandatory. Congress may consider legislation that would address the Court's concern with respect to the guidelines. Congress may also revisit the issue of sentencing disparity with respect to crack and powder cocaine. In addition to sentencing-related issues, other crime-related legislation may be the subject of oversight or further refining by Congress. For example, legislation that seeks to raise the standards of crime labs may continue to be an interest to the Congress, reflecting the wide variability in quality in the labs.

Recently passed legislation aimed at protecting the public from sex offenders has come into question with respect to its effectiveness. Congress may want to examine more closely registration and notification laws and the sufficiency of federal funding for state registration enforcement. Other possible issues include providing oversight to the Department of Justice with respect to the development of national standards for preventing sexual assaults in prisons. Additionally, Congress may consider broadening the federal definition of hate crimes. Congress has begun to consider a measure (H.R. 1279) that would broaden the scope of the federal government's role in prosecuting violent crimes committed by members of youth gangs. With respect to gun control, Congress may consider legislation that would extend the semiautomatic assault weapons ban, which expired last year, as well as legislation that would regulate gun shows, among other things. This report will be updated as legislation warrants.

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Federal Crime Control: Background, Legislation, and Issues

Recent Legislative Developments

The Gang Deterrence and Community Protection Act of 2005 (H.R. 1279) was reported out (with amendments) of the House Judiciary Committee on May 5, 2005. Among other things, the measure would amend current law to include a new section that would define a criminal street gang. It would also subject several categories of gang-related offenses to mandatory minimum sentences. H.R. 1279 would authorize appropriations for gang-related investigations and grant programs to assist state and local prosecutors to combat violent crimes, among other things.

Introduction

The 108th Congress considered, and in some cases passed, a variety of crime-related legislation. This report focuses on some of the legislation considered (and in some cases acted upon) in the 108th Congress that may continue to be of interest to the 109th Congress as well as other crime-related issues. Following is a list of possible issues the 109th Congress may consider with respect to crime-related matters that are covered in this report, including:

- oversight of the federal grant programs that assist states and localities in testing DNA samples in relevant criminal cases, including those cases where the defendant has already been convicted of a crime;
- oversight of federal assistance to states for the purpose of improving death penalty representation;
- reforming the Federal Prison Industries system;
- oversight of federal assistance to states to reduce the incidence of prison rape;
- assessing the effectiveness of sex offender registration and notification laws and the adequacy of federal assistance to states for such programs;
- the federal role in combating youth gangs;
- the federal role in combating hate crimes;
- oversight of the consolidation of several federal grant programs that assist state and local law enforcement efforts to prevent and control crime;
- reauthorization of the Community Oriented Policing Services (COPS) program;

- amending the Constitution to include an amendment on crime victims rights;
- reforming the federal sentencing system, including addressing the sentencing disparities between crack and powder cocaine;
- reauthorization of the ban on the manufacture, transfer, or possession of semiautomatic assault weapons; and
- regulating of gun shows.

This report focuses on crime-related issues that may be of interest to the 109th Congress.¹ This report, however, does not cover issues related to homeland security, terrorism, abortion and drug control.²

Background

Traditionally, states and localities have the primary responsibility for prevention and control of domestic crime, while the federal government's role is limited. As crime became more rampant and diverse (i.e., transnational and white-collar crimes), the federal government increased its involvement in domestic law enforcement through a series of grant programs to encourage and assist states and communities in their efforts to control crime. Over a period of 20 years, Congress enacted five major anti-crime bills³ and increased appropriations for federal assistance to state and local law enforcement agencies. Moreover, prior to the September 11, 2001 terrorist attacks, the Federal Bureau of Investigations (FBI) had seen an expansion of its role in fighting domestic crime as Congress began to add more crimes that were previously under the sole jurisdiction of state and local governments to the federal criminal code.⁴ Within the past several years, however, some federal assistance to state and local law enforcement has declined and federal post 9/11 law enforcement efforts have focused primarily on protecting the nation against terrorist attacks, as discussed below.

¹ **Appendix B** lists other crime-related measures that were passed in the previous Congress.

² For information on these topics, please see the CRS website at [<http://www.crs.gov/>] for related reports and the following issue briefs: CRS Issue Brief IB95095, *Abortion: Legislative Response*, by Karen J. Lewis and Jon O. Shimabukuro; and CRS Issue Brief IB10113, *War on Drugs: Legislation in the 108th Congress and Related Developments*, by Mark Eddy.

³ See for example, the Crime Control Act of 1984 (P.L. 98-473); the Anti-Drug Abuse Act of 1986 (P.L. 99-570); the Anti-Drug Abuse Act of 1988 (P.L. 100-690); the Crime Control Act of 1990 (P.L. 101-647); and the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322).

⁴ Beginning in 1986 and continuing well beyond the passage of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322), Congress passed legislation that made some crimes a federal offense (in addition to their existing state violation). These crimes had been under the sole jurisdiction of states.

Post 9/11 Era and Crime Control

With somewhat lower levels of funding, federal crime control efforts focus on fighting domestic crime and providing state and local law enforcement with supplementary resources (i.e., funding for hiring, equipment and training). The Department of Justice (DOJ) administers several federal grant programs for state and local law enforcement that are aimed at preventing or controlling crime. In addition to these programs, DOJ has authority over several federal law enforcement agencies, including the FBI; the Drug Enforcement Agency (DEA); the Bureau of Alcohol, Tobacco, Firearms and Explosives; and the U.S. Marshals Service. While the 107th Congress passed legislation that reauthorized many of the programs and agencies that fall under the DOJ's jurisdiction,⁵ many of these programs and agencies will be up for reauthorization in the near future.

Federal Law Enforcement. As stated previously, since the terrorist attacks, federal crime control efforts have primarily focused on counterterrorism measures and providing state and local law enforcement with tools and resources to fight terrorism. At the federal level, law enforcement agencies like the FBI reorganized to focus its resources on terrorism-related investigations. While officials in the FBI contend that the shift in focus has not impacted its ability to carry out its traditional role of investigating domestic crime, resources may have been diverted away from traditional crime fighting areas to strengthen counterterrorism capabilities, leaving a deficit only state and local law enforcement can fill. Whether or not the FBI's focus on counterterrorism measures interferes with its ability to carry out its traditional role remains an issue. According to the Government Accountability Office (GAO), "data examined are inconclusive about the effect of the shifts in the FBI's priorities after September 11 on federal efforts to combat drug, white-collar, and violent crime."⁶

Federal Funding to State and Local Law Enforcement. State and local law enforcement agencies had seen a steady increase in federal support during the 1980s and 1990s. Since the terrorist attacks, however, some federal funding to state and local law enforcement for traditional crime fighting activities has declined. For example, the Local Law Enforcement Block Grant (LLEBG) Program and the COPS program have seen a mix of slight increases and decreases in appropriations over the past five years (see **Appendix A**). Appropriations for the Edward Byrne Memorial State and Local Law Enforcement Assistance formula grant program, however, had remained constant over the past five years until it was consolidated with the LLEBG, see discussion below and in **Appendix A**. The Edward Byrne Memorial State and Local Law Enforcement Assistance Discretionary grant program, however, has seen an increase in appropriations (see **Appendix A**). While some federal funding for state and local law enforcement has declined somewhat in recent years, federal

⁵ See the Department of Justice Reauthorization Act, P.L. 107-273.

⁶ U.S. Government Accountability Office, *FBI Transformation: Data Inconclusive on Effects of Shift to Counterterrorism-Related Priorities on Traditional Crime Enforcement*, GAO-04-1036, Aug. 2004.

funding to state and local law enforcement for counterterrorism-related training and equipment has increased since the terrorist attacks.⁷

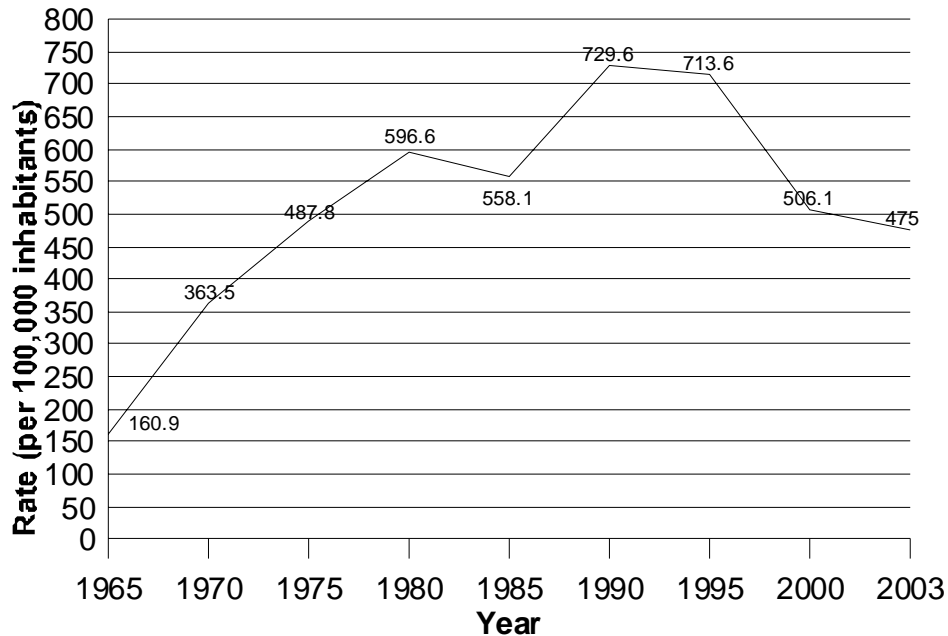
Crime Statistics

While many attributed the increased attention the federal government gave to crime issues in the mid to late 1980s and throughout the 1990s in part to the rising crime rate, questions about police effectiveness in responding to the problem and limited funds at the state and local levels have also been cited. Crime statistics are collected at the state and local levels and disseminated by the federal government. The FBI's Uniform Crime Report (UCR) program compiles data from monthly reports transmitted directly to the FBI from local police departments or to state agencies that compile such data and then report the data to the FBI. Of interest to law makers are the two indexes of crimes that are the basis for the UCR and are detailed in it. The Part I Index includes the four major *violent crimes* of homicide and nonnegligent manslaughter, forcible rape, robbery and aggravated assault. The Part II Index includes the *property crimes* of burglary, larceny-theft, motor vehicle theft and arson.

According to the UCR, Part I Index crimes (violent crimes) began to increase sharply in the 1960s, peaking in the late 1980s to mid 1990s and began to decline in the late 1990s, continuing to the present day (see **Figure 1**). The UCR shows that violent crime continued to decline in 2003, with the exception of the murder rate, which increased by 1.3% in 2003.⁸ Despite an increase in homicide, the UCR suggests that the nation's violent crime declined 3.2% in 2003 when compared to the previous year. Violent crime in urban areas (cities with more than one million inhabitants) had an even greater reduction (6.5 %) when compared to 2002 data.

⁷ For additional information on federal funding for first responders, see [<http://www.congress.gov/erp/legissues/html/isdhs6.html>].

⁸ The 2003 UCR contains the latest data available.

Figure 1. Violent Crime Rate, 1965-2003

Source: FBI's UCR for each respective year (see 1965, 1970, 1980, 1985, 1990, 1995, 2002 and 2003 Federal Bureau of Investigation U.S. Department of Justice, *Crime in the United States Uniform Crime Report*).

The decline in the crime rate has led recent Congresses, in part, to take another look at federal funding for state and local law enforcement, as discussed below. Despite the declining crime rates, however, Congress continues to pass “get tough” measures for certain categories of offenders by increasing existing penalties or creating new categories of penalties (i.e., mandatory minimum sentences), as also discussed below.

Following is a discussion of recently enacted legislation and selected ongoing issues with respect to the legislation that may be of interest to the 109th Congress.

DNA Testing for Law Enforcement Legislation⁹

The analysis of deoxyribonucleic acid (DNA) evidence has been an important tool in law enforcement. DNA analysis has significantly changed the way crime scenes are investigated and how prosecutions are conducted. The FBI started its DNA database in 1988. Since then, the FBI has led law enforcement agencies throughout the United States to standardize DNA analyses to be entered into the Combined DNA Index System (CODIS).

⁹ See CRS Report RL32247, *DNA Testing for Law Enforcement: Legislative Issues for Congress*, by Cindy Hill.

The collection of DNA for use in criminal investigations has grown much faster than the capacity to analyze it. As a result, many publicly funded laboratories across the country have been experiencing tremendous difficulty in meeting the demand and reducing the backlog of requests. Meanwhile, all states and the District of Columbia have enacted legislation to require DNA samples to be taken from those convicted of certain criminal offenses. During the 1990s and more recently, congressional concern over the need for federal assistance to crime laboratories led to the enactment of several measures, including the Justice for All Act in the 108th Congress.

Among other things, the Justice for All Act (P.L. 108-405) improves and expands DNA testing capacity of crime laboratories. The act authorizes funding for training relevant law enforcement personnel in the collection, handling, and use of DNA evidence and creates several grant programs related to DNA training, education, research and development among other things. While participation in these grant programs is voluntary, in order to receive funding, state and local government crime laboratories are required to receive professional accreditation within two years of passage of the act and must undergo external audits to demonstrate compliance with the standards established by the FBI at least every two years. With respect to maintaining the privacy of DNA evidence, the act expands the criminal code provisions that criminalize unauthorized disclosure of DNA information and sets penalties for such violations.

The act also requires the Attorney General to appoint a Commission to assess the needs of the forensic science community, provide a forum for the exchange and dissemination of ideas and information regarding forensic science technologies and techniques, and make recommendations to the Attorney General regarding such technologies.

The act authorizes funding for various DNA activities administered by the FBI. It also authorizes funding to promote the use of DNA technology to identify missing persons and unidentified human remains; and requires each entity that receives such funding to submit the DNA profiles of missing persons and unidentified human remains to the National Missing Persons DNA Database of the FBI.

DNA Backlog

The Justice for All Act reauthorizes an existing grant program that provides funding to states to assist with eliminating certain types of DNA backlogs. The act amends current law¹⁰ by providing formula grants to state and local governments to perform DNA analysis of samples collected from convicted individuals and violent crime scenes, including sexual assaults. It also amends current law¹¹ by allowing states to include in the CODIS the DNA profiles of persons whose DNA samples have been collected under applicable legal authorities, including those authorized by state law as well as all felons convicted of federal crimes and qualifying military

¹⁰ See the DNA Analysis Backlog Elimination Act of 2000 (P.L. 106-546).

¹¹ See the DNA Identification Act of 1994 (42 U.S.C. 14132).

offenses. CODIS “keyboard searches” are also permitted by authorized state or federal users.¹²

The issue of raising the standards of state and local crime laboratories to that of the FBI standards may continue to be an interest of the Congress. Under the Justice for All Act, state and local crime laboratories that desire to receive federal funding to test DNA samples are required to be accredited through a private source and such accreditation is required to meet the FBI’s standards. While it is not clear how many crime laboratories there are in the United States,¹³ experts approximate that there are between 400 and 450 crime laboratories,¹⁴ of which only 174 meet the FBI standards for testing DNA technology.¹⁵ Concerns may continue to exist with respect to those laboratories that are not accredited and the potential for DNA evidence tested in the non-accredited laboratories providing inaccurate results. With respect to the newly created grant programs, Congress may choose to exercise its oversight role in making sure the programs are meeting their objectives.

Post-Conviction DNA Testing

In recent years, there has been an increasing number of offenders sentenced to death at the state level who have been exonerated through DNA testing. While most states have made provisions for post-conviction DNA testing, they do not currently permit new trials based on newly discovered evidence more than three years after conviction. Title IV of the Justice for All Act, the Innocence Protection Act, amends current law by requiring the Attorney General to provide DNA testing of material evidence for federal prisoners who assert their innocence. Among other things, the act sets forth conditions under which federal prisoners could obtain post-conviction DNA testing and a requirement that the government preserve such biological evidence, unless otherwise specified under the act. In addition to federal post-conviction DNA testing, the act requires the Attorney General to establish a grant program for states to “... to help defray the costs of post-conviction DNA testing.”¹⁶ The act also established incentive grants to states to encourage DNA testing of offenders sentenced to death by an accredited laboratory. As a condition for receiving the grant, states must develop plans to ensure that there is prompt DNA

¹² A keyboard search is an online effort to match a DNA sample that can be collected under state law but not added to CODIS (e.g., an arrest sample) with a DNA sample in CODIS (e.g., samples collected from convicted offenders or at a crime scene).

¹³ According to Keith Kenneth Coonrod, Chair of the Consortium of Forensic Science Organizations, “We actually don’t know how many forensic laboratories exist in the United States as many facilities never before considered as crime laboratories are now providing forensic examinations in one or more forensic disciplines and therefore, should be included.” U.S. Congress, Senate Committee on the Judiciary, *DNA Crime Labs: The Paul Coverdell National Forensic Sciences Improvement Act*, 107th Cong., 1st sess., May 15, 2001 (Washington: GPO, 2001).

¹⁴ *Ibid.*

¹⁵ Conversation with the FBI’s Congressional Affairs Office, Jan. 2005.

¹⁶ P.L. 108-405, §412.

testing of people who may have been wrongly convicted, while at the same time ensuring that procedures are in place to discourage frivolous testing. In addition to the grant program, the act establishes post-conviction DNA testing standards and procedures for federal offenders who could not have obtained such forensic testing at the time of their trials.

The act requires the Attorney General to submit DNA test results to the National DNA Index System under the following circumstances:

- if the current test results are inconclusive;
- if the results show that the offender was the source of the DNA evidence; or
- if the results show that the offender's DNA matches the DNA collected from another offense.

The act requires that if the results from the DNA sample of the offender do not match the DNA evidence sample or that of another offense, the DNA sample of the offender must be destroyed. The act also specifies who should incur the cost of the testing under which circumstances and establishes a threshold for granting a motion for a new trial.

Death Penalty Representation Grants

In addition to the DNA testing grants previously mentioned, the Innocence Protection Act also authorizes grants to states for the following: (1) to improve the representation of indigent defendants by defense attorneys in capital cases; and (2) to improve the ability of prosecutors to represent the public in capital cases.

The Innocence Protection Act may be one of the most contentious sections in the act. Its expressed aim is not only to exonerate the innocent through DNA testing in the form of post-conviction DNA testing and incentive grants to states to ensure consideration of claims of actual innocence; it is also aimed at improving the quality of representation in state capital cases through capital representation improvement grants and capital prosecution improvement grants. As the provisions under the Innocence Protection Act are being implemented, Congress may want to exercise its oversight role in making certain the various grant programs are meeting their objectives. It is not yet clear to what extent the grant programs will assist jurisdictions in providing DNA testing in relevant cases and to what extent, if any, these programs may lead to disparities across jurisdictions (in particular for those jurisdictions that declined to obtain funding).

Prison Legislation

The 108th Congress considered several pieces of legislation (and passed two laws) that (1) affected the way in which federal prisons provide training, job skills and manage inmates; (2) provide incentives to states to begin addressing rape in

prisons;¹⁷ and (3) require the establishment of a grant program that supports cooperative efforts by state or local criminal justice and mental health agencies to provide services to incarcerated mentally ill offenders.¹⁸ While the latter two pieces of legislation were enacted into law in the 108th Congress, legislation that would have reformed Federal Prison Industries (FPI) failed to pass the Senate in the 108th Congress. The 109th Congress may consider similar legislation. This issue is discussed below.

Federal Prison Industries¹⁹

UNICOR, the trade name for Federal Prison Industries, Inc., is a government-owned corporation that employs offenders incarcerated in correctional facilities under the Federal Bureau of Prisons. FPI manufactures products and provides services that are sold to executive agencies in the federal government. The question of whether FPI is unfairly competing with private businesses, particularly small businesses, in the federal market has been and continues to be an issue of debate. At the core of the debate is FPI's preferential treatment over the private sector. FPI's enabling legislation and the Federal Acquisition Regulation require federal agencies, with the exception of the Department of Defense, to procure *products* offered by FPI, unless authorized by FPI to solicit bids from the private sector. It is this "mandatory source clause" that has drawn controversy over the years and is the subject of current legislation. While federal agencies are not required to procure *services* provided by FPI they are encouraged to do so.

Although the Administration has recently made several efforts to mitigate the competitive advantage FPI has over the private sector, Congress has taken legislative action to lessen such impact on the private sector. For example, in 2002 and 2003, Congress passed legislation that modified FPI's mandatory source clause with respect to procurements made by the Department of Defense and the Central Intelligence Agency;²⁰ and in recent years, Congress passed legislation limiting federal agencies use of appropriated funds for the purchase of products or services manufactured by FPI unless the agency determines that the products or services provide "... the best value to the buying agency pursuant to government-wide procurement regulations...."²¹

Legislation introduced in the 108th Congress would have, in essence, eliminated FPI's mandatory source clause. For example, the House passed the Federal Prison Industries Competition Act of 2003 (H.R. 1829), which would have phased out over

¹⁷ See discussion below on Prison Rape Elimination Act (P.L. 108-79).

¹⁸ See **Appendix B** for a description of the Mentally Ill Offender Treatment and Crime Reduction Act of 2004 (P.L. 108-414).

¹⁹ For additional information, see CRS Report RL32380, *Federal Prison Industries*, by Lisa M. Seghetti.

²⁰ See the National Defense Authorization Act for FY2002 (P.L. 107-107); the Bob Stump National Defense Authorization Act for FY2003 (P.L. 107-314); and the Intelligence Authorization Act for FY2004 (P.L. 108-177).

²¹ See §637 of the Consolidated Appropriations Act, 2005 (P.L. 108-447).

five years FPIs' mandatory source clause with respect to *products* produced by FPI and would have ceased treating FPI as a preferential provider for *services*. A similar measure (S. 346) was reported out of the Senate Committee on Governmental Affairs, but not enacted. The issue for Congress is whether it wants to reform the FPI, and if so, to what extent.

Prison Rape Elimination Act (PREA)

While prison violence in general is documented, sexual assaults in prisons have not been well documented. Prison rape may be a symptom of a larger problem that faces many prisons throughout the country. Overcrowded and understaffed prisons as well as prisons that lack sufficient services may, among other things, lead to idle inmates without adequate supervision and contribute to violence.

The 108th Congress considered and passed legislation that requires the Attorney General to develop national standards for preventing sexual assaults in prisons. Among other things, the PREA²² requires the Attorney General to (1) begin gathering national statistics about the prevalence of prison rape; (2) develop guidelines for states about how to address the problem; (3) create a commission to study the effects of prison rape and correctional policies on rape reduction; and (4) provide grants to states to combat the problem. In making such grants, however, the act requires the grantee (state administrator) to certify that the state has adopted national rape prevention standards (as promulgated by the Attorney General), among other things.

While PREA has been viewed as a necessary step to begin to correct the problem of prison rape, until Congress and the federal government provide a mechanism for independent oversight of state prison facilities, other issues may continue to persist. For example, conditions and services in state prison facilities are not monitored by an independent, centralized entity. Responsibility for oversight of prison conditions varies from state to state, with some jurisdictions having few if any monitoring mechanisms. The American Correctional Association (ACA) provides accreditation for state correctional facilities, however, it is done on a voluntary basis.²³ The issue for Congress is whether it wants to monitor conditions in state prison facilities, and if so, in what manner and degree. One option Congress may consider is to tie existing federal assistance to state prisons to accreditation, similar to the requirements set forth for funding for DNA testing mentioned above.

²² P.L. 108-79.

²³ According to the ACA, approximately 80% of state departments of corrections and youth services are accredited.

Sex Offenders²⁴

The 108th Congress passed legislation that strengthened penalties for certain categories of sex offenders. The Prosecuting Remedies and Tools Against the Exploitation of Children Today (PROTECT) Act of 2003 (P.L. 108-21) was designed to prevent the abduction and sexual exploitation of children. It includes provisions that (1) increase penalties for sexually abusing a minor; (2) permit a maximum life term of supervised release for sexual offenders convicted of sexually exploiting a minor; (3) provide a life imprisonment penalty after two-strikes for repeat offenders who commit certain crimes against children; and (4) provide funding to assist state and local law enforcement agencies in enforcing registration of convicted sex offenders and apprehending and prosecuting anyone who fails to register. In addition, it requires each state to establish and maintain, within three years, an internet site for the release of information on a sex offender and to create a process for correcting allegedly erroneous information on the internet site. The act permits the Attorney General to extend for an additional two years the time-frame for completing this requirement. The act requires child pornographers to register in the national sex offender registry. It also authorizes funding for assistance to states in enforcing sex offender registration requirements.

Another provision of the law which could affect the identification of sex offenders involves the use of DNA. The act provides that within a five-year statute of limitations, federal prosecutors can issue an indictment identifying an unknown defendant by a DNA profile. If the indictment is issued within this time frame, the statute of limitation is nullified until the perpetrator is identified at a later date through the DNA profile.

Measures relating to sex offender registration were considered but not acted upon in the 108th Congress. These measures contained provisions that would have (1) maintained a DNA database for high risk sex offenders; (2) removed the statute of limitations for child abduction and sex crimes; (3) denied pretrial release for those charged with raping or kidnapping a child; (4) imposed the death penalty for kingpins of child sex slave trafficking enterprises; (5) revoked probation or supervised release for those who commit a felonious crime or have sex with anyone under age 16; (6) provided grants to assist states in registering convicted sex offenders; and (7) clarified standards for state sex offender registration programs.²⁵

Congress has passed legislation to protect the public from sex offenders by confining them, and upon their release, tracking their movements. Policy arguments concerning these laws, however, question their effectiveness, and their strengths and

²⁴ For additional information on sex offender legislation, see CRS Report RL32800, *Sex Offender Registration and Community Notification Law: Enforcement and Other Issues*, by Garrine Laney; CRS Report RS21597, *Federal Mandatory Minimum Sentencing Statutes: the PROTECT Act and Legislative Proposals in the 108th Congress*; CRS Report RL31917, *The PROTECT (Amber Alert) Act and the Sentencing Guidelines*, both by Charles Doyle.

²⁵ See for example the following bills that were introduced in the 108th Congress: H.R. 89; H.R. 351; H.R. 456; H.R. 889; H.R. 1362; H.R. 2539/S. 1123; H.R. 3913; H.R. 3929/S. 2154; H.R. 4150; H.R. 4489; S. 644; S. 797; S. 798; S. 807; S. 810; and S. 1102.

weaknesses. The issue for Congress is whether these laws have proven to be effective. The 109th Congress may want to examine more closely registration and notification laws, the sex offender recidivism rate, state procedures for tracking sex offenders, and the sufficiency of federal funding for state registration enforcement.²⁶

Youth Gangs

Gang activity in the United States has been traced back to the early 19th century when youth gangs emerged from some immigrant populations. It has been estimated that in 1855, New York City alone had more than 30,000 gang members.²⁷ According to the findings of the Juvenile Justice and Delinquency Prevention Act of 2002 (P.L. 107-273), in 1970 only 19 states reported youth gang problems. Congress found that by the late 1990s, all 50 states and the District of Columbia were reporting gang problems.²⁸ Youth gangs continue to be a pervasive problem, particularly in large cities across the country. While there is no single definition of what constitutes a “gang” or gang activity, some researchers agree that such a definition would include violent gangs, drug-dealing gangs, entrepreneurial or money-making gangs, and delinquent gangs. Gangs contribute to high rates of violent crime, instill fear in citizens, and engage in a wide range of troublesome behavior that can include vandalism and graffiti to drug dealing, property crime, weapons violations and violence.

According to the most recent survey of law enforcement agencies on the characteristics of youth gangs conducted by the National Youth Gang Center (NYGC)²⁹, gang activity is pervasive in both urban and rural America. Cities with populations of 250,000 or more all reported youth gang problems in 2002. Of cities with populations between 100,000 and 249,999, 87% reported youth gang problems. Among responding suburban county agencies, 38% reported gang activity, as did 27% of responding smaller city agencies, and 12% of responding rural county agencies. Youth gangs were active in more than 2,300 cities with a population of 2,500 or more and in more than 550 jurisdictions served by county law enforcement agencies. The survey also estimated that approximately 731,500 gang members and 21,500 gangs were active in the United States in 2002. Larger cities and suburban counties accounted for approximately 85% of the estimated number of gang members in 2002.

Policymakers have long considered comprehensive approaches to youth gangs, generally that involve a combination of prevention, intervention, and suppression

²⁶ See CRS Report RL32800, *Sex Offender Registration and Community Notification Law: Enforcement and Other Issues*, by Garrine Laney.

²⁷ Kenneth J. Peak and Timothy Griffin, *Gangs: Origin, Status, Community Responses, and Policy Implications*, Roslyn Muraskin and Albert R. Roberts in *Visions for Change Crime and Justice in the Twenty-First Century*, Fourth Edition, 2004, p. 44.

²⁸ P.L. 107-273, *21st Century Department of Justice Appropriations Authorization Act*, Nov. 2, 2002, Division C, Title II, §12202.

²⁹ See [<http://www.iir.com/nygc/>].

efforts. The Congress has been concerned with the problem of youth gangs and over the years enacted enhanced criminal penalties for gang activities and programs designed to prevent gang activities. As was the case in the 108th Congress, several bills targeting the youth gang problem have been introduced in the 109th Congress. The Gang Deterrence and Community Protection Act of 2005 (H.R. 1279), however, is the only measure that has received legislative attention. H.R. 1279 would amend the federal criminal code by including language that would enhance penalties for individuals participating in a *criminal street gang* who have committed certain violent crimes, among other things. It would also expand federal authority to prosecute gang members under a certain age as adults. H.R. 1279 would authorize grant programs that would enable prosecutors to more effectively address gang violence or gang prevention activities, among other things.³⁰ On May 5, 2005, an amended version of H.R. 1279 was reported out of the House Judiciary Committee.

Hate Crimes

The Hate Crime Statistics Act became law in 1990, P.L. 101-275, and required the collection of information on crimes motivated by a bias based on race, religion, sexual orientation or ethnicity. In 1994, P.L. 103-322 amended the law to include bias against the disabled as a hate crime. The Attorney General designated the FBI, working cooperatively with state and local law enforcement agencies, to establish a uniform method for gathering hate crime data. Hate crime data collection became a permanent part of the FBI's UCR in 1996.

In 2003, more than 17,000 city, county and state law enforcement agencies reported data on hate crimes to the national UCR program. Before a crime is labeled a hate crime, law enforcement must reveal sufficient evidence to lead a reasonable and prudent person to conclude that the offender's actions were motivated, in whole or in part, by his or her bias. There were 7,489 reported hate crimes in 2003, four of which were multiple-bias hate crime incidents, with the remaining 7,485 reported as single-bias incidents. Within the 7,485 incidents, 51.4% of the single-bias hate crime incidents were committed because of the offenders' racial bias (66.3% were an anti-black bias, 21.2% were an anti-white bias); 17.9% were due to religious bias (69.2% were an anti-Jewish bias, 10.9% were an anti-Islamic bias); 16.6% were attributed to sexual-orientation bias, and 13.7% occurred because of an ethnicity/national origin bias. Disability bias motivated 0.4% of the single-bias incidents.³¹

For several Congresses, attempts have been made to stiffen penalties for crimes of violence motivated by bias. The 108th Congress considered legislation, the Local Law Enforcement Act of 2003 (S. 966/H.R. 4204) that would have broadened the federal definition of hate crimes and provided federal assistance to investigate and prosecute such acts; and included offenses involving animus toward the victim's actual or perceived gender, sexual orientation, or disability as among the qualifying

³⁰ Other bills that have been introduced include The Gang Prevention and Effective Deterrence Act of 2005 (S. 155/H.R. 970).

³¹ FBI's Hate Crime Statistics, 2003, see [<http://www.fbi.gov/ucr/03hc.pdf>].

factors. The current definition includes offenses based on animus toward the victim's actual or perceived race, color, religion, national origin, or disability. The Local Law Enforcement Act became a part of the National Defense Authorization for FY2005 (S. 2400). But during the conference between the House and the Senate to settle the differences between the two versions of the defense authorization bills the conference report was agreed to without including the hate crimes provision.³² The issue for Congress is whether it wishes to reopen the hate crime issues considered but not enacted during the 108th Congress.

Consolidation of Certain Office of Justice Programs³³

The structure of federal funding for state and local law enforcement assistance efforts has recently received Congressional attention. While the Administration has proposed decreasing the funding amounts and reorganizing some of these programs for several years, it wasn't until the 108th Congress that two federal grant programs were consolidated into a newly created program, as discussed briefly below.

For several years, the Administration had proposed consolidating the Edward Byrne Memorial Formula and Local Law Enforcement Block Grant (LLEBG) programs into a new Justice Assistance Grant (JAG) program. Congress, however, first considered consolidating the two grant programs in the 108th Congress when the House passed the Department of Justice Appropriations Authorization Act, FY2004 - FY2006 (H.R. 3036). A similar measure was introduced in the Senate (S. 2863), however, no action was taken on it. Through an appropriations act (the Consolidated Appropriations Act, FY2005; P.L. 108-447), the 108th Congress consolidated the grant programs into a newly created Edward Byrne Memorial Justice Assistance Grants (JAG) program. In addition, overall funding for both programs in the FY2005 appropriations decreased 12% (or \$268 million) from FY2004 (see **Appendix A**). The Administration's FY2006 budget request proposes to eliminate the JAG program. Congress may wish to exercise its oversight powers to determine whether the needs of state and local governments are being met through the new JAG program.

Community Oriented Policing Services (COPS)

During the 103rd Congress, legislation was passed that encouraged community policing approaches (i.e., placing more police officers "on the beat") for state and local law enforcement agencies by creating a federal grant program for community policing. Funding for the newly created Cops on the Beat program (now more commonly known as the COPS program) was authorized through FY2000. The

³² For a detailed discussion on hate crimes, see CRS Report RL32850, *Hate Crimes: Legal Issues*, by Paul S. Wallace.

³³ See **Appendix A** for a discussion of the funding history for the major Office of Justice Programs (OJP).

COPS program provides assistance to eligible police departments to help improve community policing efforts and law enforcement support activities. The program requires that at least 85% of the grant money be used for the following: (1) to hire or rehire police officers; (2) procure equipment; (3) pay overtime; or (4) build support systems.

The authority for the COPS grant program lapsed at the end of FY2000, Congress, however, has continued to appropriate funding for the program. In the 108th Congress, the House Appropriations Committee recommended a new COPS Enhancement Grants program as authorized by the Department of Justice Appropriations Authorization Act, FY2005 through FY2007 (H.R. 3036/S. 2863).³⁴ The program would have consolidated some of the COPS activities. The Consolidated Appropriations Act (P.L. 108-447), however, does not include language that was in the House passed authorization act (H.R. 3036). P.L. 108-477 includes \$606 million in funding for the COPS program for FY2005 (excluding a \$99 million rescission), a reduction from the \$748 million appropriated by Congress for FY2004 (see **Appendix A**). The issue for Congress is whether it wants to reauthorize the program. The 109th Congress may consider legislation to reauthorize COPS or restructure its activities still further, or to maintain the status *quo* — with the possibility that the program may be maintained through appropriations action or even terminated by lack thereof.

Crime Victims Rights

As has occurred since the 104th Congress, several Constitutional Amendments (S.J.Res. 1, H.J.Res. 10 and H.J.Res. 48) were introduced in the 108th Congress to protect the rights of crime victims.³⁵ When it became apparent in the 108th Congress that the necessary two-thirds super-majority needed to pass a Constitutional Amendment was not available, efforts were initiated to introduce a bill that proposed a statutory alternative. It was argued that the provisions in the *Victims' Rights Bill* (S. 2329) would serve to strengthen the statute that already existed and also serve as a test to determine if a statute, rather than a constitutional amendment, could work to provide the necessary protection for victim rights. S. 2329 passed the Senate on April 22, 2004. The provisions of S. 2329 were included in H.R. 5107, Justice for All Act of 2004, and became P.L. 108-405 on October 30, 2004.

The crime victims rights listed in P.L. 108-405 are similar to the rights listed in the proposed constitutional amendment (i.e., to be reasonably protected from the accused; to reasonable, accurate and timely notice of any court proceeding or parole proceeding affecting the accused; to be heard at any public court proceeding; to

³⁴ The provision in both the House and Senate bills pertaining to the COPS program is similar.

³⁵ For more information on the Constitutional Amendments, see CRS Report RL31750, *Victims' Rights Amendment: A Proposal to Amend the United States Constitution in the 108th Congress*; and CRS Report RS21434, *Victims' Rights Amendment: A Sketch of a Proposal in the 108th Congress to Amend the United States Constitution*, both by Charles Doyle.

confer with the Attorney for the Government; to full and timely restitution; to proceedings without undue delay; and to be treated with fairness and with respect to victim's dignity and privacy). It was observed during Senate debate that the states might look to the federal statute as a model and incorporate it into their own systems because the federal statute encourages legal assistance grants and victim notification grants to states that have laws substantially equivalent to the federal statute. Enforcement mechanisms are more stringent in the legislation than is present in the statute it replaces. Victims with standing are able to apply for a writ of mandamus to a court of appeals to enforce the rights outlined in this law. An administrative procedure is established in the Justice Department to receive and investigate victims' claims of unlawful or inappropriate action on the part of criminal justice and victims' service providers. Also, Department of Justice employees could face disciplinary sanctions, including suspension or termination of employment if they fail to comply with the law pertaining to the treatment of crime victims.

As noted, while there was an unsuccessful effort to pass a Constitutional amendment regarding victims of crime in the 108th Congress, a measure was passed in its place, as discussed above. The 109th Congress, however, may reconsider whether or not to pursue the Constitutional Amendment path or provide oversight on the effectiveness of the statutory approach.

Other Possible Issues

The 109th Congress may also consider several measures that have either been a long standing concern or have recently begun to receive attention, as discussed below.

Federal Sentencing Structure³⁶

In 1984, Congress passed legislation that led to the creation of federal sentencing guidelines. The Sentencing Reform Act of 1984 (Chapter II of the Comprehensive Crime Control Act of 1984; P.L. 98-473), in essence, eliminated indeterminate sentencing at the federal level. The act created the United States Sentencing Commission, an independent body within the judicial branch of the federal government and charged it with promulgating guidelines for federal sentencing. The purpose of the commission was to examine unwarranted disparity in federal sentencing policy, among other things.³⁷ In establishing sentencing guidelines for federal judges, the commission took into consideration factors such as (1) the nature and degree of harm caused by the offense; (2) the offender's prior record; (3) public views of the gravity of the offense; (4) the deterrent effect of a

³⁶ For additional information on this subject, see CRS Report RL32766, *Federal Sentencing Guidelines: Background, Legal Analysis, and Policy Options*, by Lisa M. Seghetti and Alison M. Smith.

³⁷ The commission was also mandated to examine the effects of sentencing policy upon prison resources (e.g., overcrowding) and the use of plea bargaining in the federal criminal justice system.

particular sentence; and (5) aggravating or mitigating circumstances.³⁸ In addition to these factors, the Commission also considered characteristics of the offender, such as age, education, vocational skills, and mental or emotional state, among other things.³⁹ Prior to the recent Supreme Court ruling, the guidelines were binding, and they were also subjected to statutory directives, including mandatory minimum penalties for specific offenses set by Congress.⁴⁰

On January 12, 2005, the U.S. Supreme Court ruled that the Sixth Amendment right to a trial by jury requires that the current federal sentencing guidelines be advisory, rather than mandatory.⁴¹ In doing so, the Court struck down a provision in law that made the federal sentencing guidelines mandatory⁴² as well as a provision that governed the standards of appellate review of departures from the guidelines.⁴³ In essence, the Court's ruling gives federal judges discretion in sentencing offenders by not requiring them to adhere to the guidelines; rather the guidelines can be used by judges on an advisory basis.⁴⁴ As a result of the ruling, judges now have discretion in sentencing defendants unless the offense carries a mandatory sentence (as specified in the law). While some may view the ruling as an opportunity for federal judges to take into consideration the circumstances unique to each individual offender, thus handing down a sentence that better fits the offender, others may fear that such discretion may result in unwarranted disparity and inconsistencies in sentencing across jurisdictions that led to the enactment of the guidelines in the first place.⁴⁵

³⁸ See 18 U.S.C. §994(c).

³⁹ See 18 U.S.C. §994(d).

⁴⁰ Mandatory minimum sentencing laws are separate from the federal sentencing guidelines. Over the years, Congress has directed the U.S. Sentencing Commission to integrate mandatory minimum penalties it has passed into the federal sentencing guidelines. Examples of federal mandatory minimum sentencing laws include the 1986 and 1988 Anti-Drug Abuse Acts (P.L. 99-570 and P.L. 100-690). In addition to mandatory minimum penalties for certain drug violations, Congress has passed mandatory minimum penalties for certain gun violations and sex offenses.

⁴¹ See *U.S. v. Booker*, 125 S.Ct. 738 (2005).

⁴² According to the ruling, a provision in current law makes the guidelines binding on all judges. The provision, 18 U.S.C. §3553(b), requires courts to impose a sentence within the applicable guidelines range.

⁴³ See 18 U.S.C. §3742(e).

⁴⁴ While the Court struck down a provision that made the federal sentencing guidelines mandatory, the Court also noted that current law "... requires judges to take account of the guidelines together with other sentencing goals." See 18 U.S.C. §3553(a). The Court also struck down a provision that governed the standard of appellate review of sentences that were imposed as a result of a judge's departure from the guidelines. The Court noted, however, that current law "... continues to provide for appeals from sentencing decisions (irrespective of whether the trial judge sentences within or outside the guidelines range)." See 18 U.S.C. §3742(a),(b).

⁴⁵ See for example, Erik Luna, "Misguided Guidelines: A Critique of Federal Sentencing," *Policy Analysis*, no. 458, Nov. 1, 2002.

In light of the ruling, the issue for Congress is whether to amend current law to require federal judges to follow guided sentences, or permit federal judges to use their discretion in sentencing under certain circumstances. Possible congressional options include (1) maintain the sentencing guidelines by placing limits on a judge's ability to depart from the guidelines, by establishing escalating mandatory minimums and increasing the top of each guideline range to the statutory maximum for the offense; (2) require jury trial or defendant waiver for any enhancement factor that would increase the sentence for which the defendant did not waive his rights; or (3) take no action, thus permitting judicial discretion in sentencing in cases where Congress has not specified mandatory sentences.

Separate from the federal sentencing guidelines are mandatory minimum sentencing laws. Over the years, Congress has directed the U.S. Sentencing Commission to integrate mandatory minimum penalties it has passed into the federal sentencing guidelines. A notable example of federal mandatory minimum sentencing laws includes the 1986 and 1988 Anti-Drug Abuse Acts (P.L. 99-570 and P.L. 100-690), which created mandatory minimums for drug trafficking and simple possession of crack cocaine, as discussed below.

Mandatory Minimum Sentencing

Beginning in the 1970s and continuing into the 1990s, Congress passed legislation that revised sentencing laws and required, in many cases, the mandatory imprisonment of offenders for committing certain types of crimes. Mandatory minimum sentences require an offender to serve at least a portion of his term in prison and essentially eliminate correctional officials or a parole board's ability to determine when an offender should be released from prison. While a judge's discretion may be limited under these measures and correctional officials may no longer decide *when* an offender can be released from prison, many contend that the discretion is actually shifted to the charging or prosecuting attorney *or* the sentencing commission.⁴⁶

While the intent of mandatory minimum sentencing and other similar measures is to punish the most serious offenders by sending them to prison for a long period, critics contend that the laws are disproportionately applied to nonviolent, minority offenders.⁴⁷ They argue that "... mandatory minimums are inconsistent with the notion that sentences should consider all relevant circumstances of an offense and an offender..."⁴⁸ Proponents of these measures, however, contend that such efforts decrease crime and ensure certainty in the criminal justice system.⁴⁹ Moreover, in

⁴⁶ See for example, Michael Tonry, *Sentencing Matters* (New York: Oxford University Press, 1996).

⁴⁷ See, for example, the Sentencing Project at [<http://www.sentencingproject.org/>]; and Families Against Mandatory Minimums at [<http://www.famm.org/index2.htm>].

⁴⁸ American Bar Association, Justice Kennedy Commission, *Reports with Recommendations to the ABA House of Delegates*, Aug. 2004, p. 26.

⁴⁹ The Rand Corporation, *Three Strikes and You're Out: Estimated Benefits and Costs of* (continued...)

addition to serving as a specific deterrence, proponents argue that these measures serve as a general deterrence to potential criminals.⁵⁰

The 1986 and 1988 Anti-Drug Abuse Acts (P.L. 99-570 and P.L. 100-690, respectively) played a pivotal role in the current mandatory minimum sentencing structure applicable to federal drug offenses. The passage of these acts was the first time Congress distinguished drug traffickers by the quantities of drugs they had in their possession. Both acts required a mandatory minimum sentence for offenders who were convicted of trafficking specific quantities of cocaine and other controlled substances. The acts also required different mandatory minimum penalties for different forms of the same drug (i.e., cocaine base, commonly referred to as crack cocaine, and cocaine hydrochloride, HCL, commonly referred to as powder cocaine), which has been commonly referred to as the “100:1 disparity.” The 1988 act required a mandatory minimum penalty for simple possession of crack cocaine, which was the only drug that could generate a mandatory minimum sentence for simple possession.

Congress, through the Violent Crime Control and Law Enforcement Act of 1994,⁵¹ directed the commission to study federal sentencing policy as it relates to possession and distribution of all forms of cocaine. Congress was particularly interested in the commission’s examination of “the current federal structure of differing penalties for powder and crack cocaine offenses and to provide recommendations for retention or modification of these differences.”⁵² In 1995, the commission reported to Congress on the disparity found in the sentencing structure for crack and powder cocaine. It called for Congress to equalize the quantities between crack and powder cocaine that triggers a mandatory minimum penalty. Congress, however, did not accept the commission’s recommendation.

The issue for Congress is whether it wants to address the sentencing disparity that exists with respect to crack and powder cocaine. Among other matters, the 109th Congress may wish to consider legislation that would re-examine the 100:1 ratio between crack and powder cocaine.

Gun Control

The 10-year ban on the manufacture, transfer, or possession of “semiautomatic assault weapons” and “large capacity ammunition feeding devices” expired on September 13, 2004. The 108th Congress considered a variety of legislation with respect to this issue but failed to act before adjournment. The 109th Congress may consider legislation, including whether to make the ban permanent or extend the ban, and if so, for how long. In the process, Congress may also choose to review the

⁴⁹ (...continued)

California’s New Mandatory-Sentencing Law, 1994; Ronald J. Pestritto, *In Defense of Three Strikes: Analyzing the Impact of California’s 1994 Anti-Crime Measures* (Assembly Publications Office, 1996).

⁵⁰ *Ibid.*, both articles.

⁵¹ P.L. 103-322.

⁵² See P.L. 104-38.

definition of “semiautomatic assault weapon” and decide whether or not to include additional firearms.⁵³

While federal law does not regulate gun shows, it does regulate the transfer of firearms. Moreover, while federal firearm licensees are required to conduct background checks on nonlicensed persons seeking to obtain firearms from them, nonlicensed persons who transfer firearms, under certain circumstances, are not required to conduct such checks. Several pieces of legislation aimed at regulating gun shows and the transfer of firearms have been introduced in previous Congresses and may be of interest to the 109th Congress.⁵⁴

⁵³ For further information, see CRS Report RL32585, *Semiautomatic Assault Weapons Ban*, by William J. Krouse; and CRS Report RL32077, *The Assault Weapons Ban: Legal Challenges and Legislative Issue*, by T.J. Halstead.

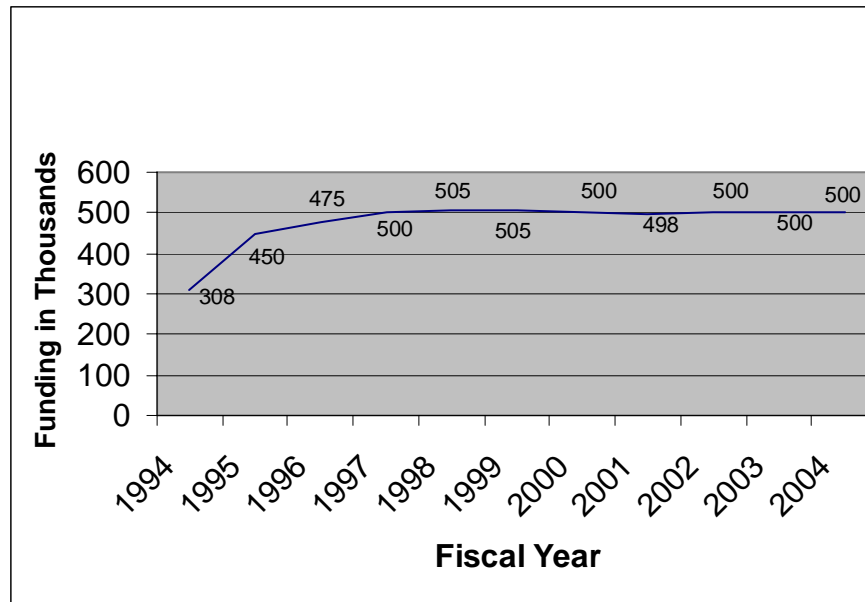
⁵⁴ For further information, see CRS Report RL32249, *Gun Control: Proposals to Regulate Gun Shows*, by William J. Krouse.

Appendix A: Funding Trends for Selected DOJ Grant Programs

The Edward Byrne Memorial Formula Grant Program. As discussed previously, the Edward Byrne Memorial Formula Grant (Byrne Formula Grant) and the Local Law Enforcement Block Grant programs were consolidated into an Edward Byrne Memorial Justice Assistance Grant (JAG) program in the Consolidated Appropriations Act, FY2005 (P.L. 108-447). At the same time, the act reduced the overall funding for the two grant programs combined by \$268 million from FY2004. The Administration's FY2006 budget request proposes to eliminate the JAG program.

Appropriations for the Byrne Formula Grant program were first cut in FY2000 by five million. In FY2001, Congress cut the program's appropriations by two million, however, in FY2002 Congress increased the program's appropriations by two million. the program's appropriations remained stable at five million until it was consolidated with the Local Law Enforcement Block Grant program (see **Figure 2**).

Figure 2. Byrne Formula Grant Appropriations, FY1994 to FY2004

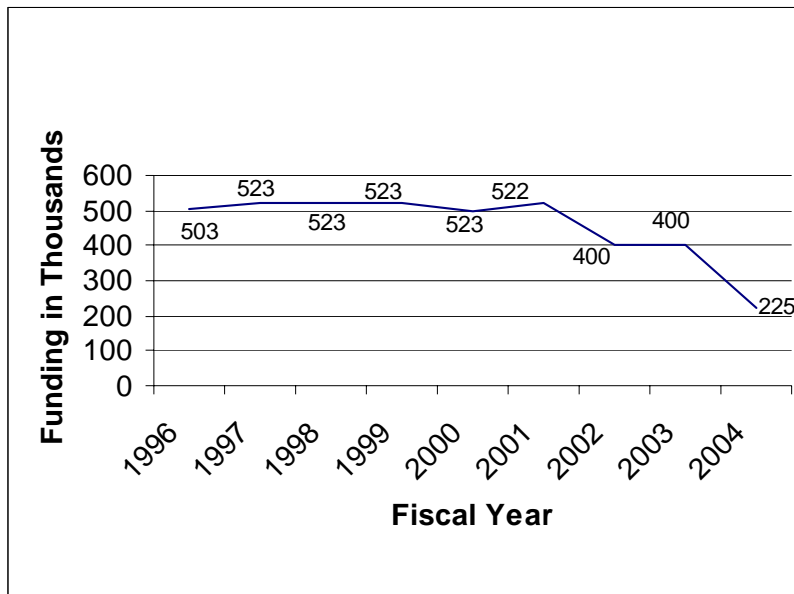


Sources: The following laws were referenced: FY1995, P.L. 103-317; FY1996, P.L. 104-134 (H.Rept. 104-134); FY1997, P.L. 104-208 (H.Rept. 104-863); FY1998, P.L. 105-119; FY1999, P.L. 105-277; FY2000, P.L. 106-113; FY2001, P.L. 106-553; FY2002, P.L. 107-77; FY2003, P.L. 108-7; FY2004, P.L. 108-199; and FY2005, P.L. 108-447.

Note: Numbers are rounded. Appropriations may not include relevant rescissions.

The Local Law Enforcement Block Grant (LLEBG) Program. The Local Law Enforcement Block Grant (LLEBG) program received its first congressional appropriations in FY1996, at \$503 million. Appropriations for subsequent years remained constant at \$523 million until FY2001, when LLEBG received its first cut in appropriations, by one million. In FY2002 the program received a \$122 million reduction in appropriations from the previous year. Congress continued to cut appropriations for the program in FY2004, when it received its largest cut of \$175 million from the previous year (see **Figure 3**). LLEBG was consolidated with the Byrne Formula Grant program into a newly created JAG program in P.L. 108-447, and as stated previously, received a combined appropriations for FY2005 that was \$268 million less than what the two programs received in FY2004. The Administration's FY2006 budget request proposes to eliminate the JAG program.

Figure 3. LLEBG Appropriations, FY1996 to FY2004



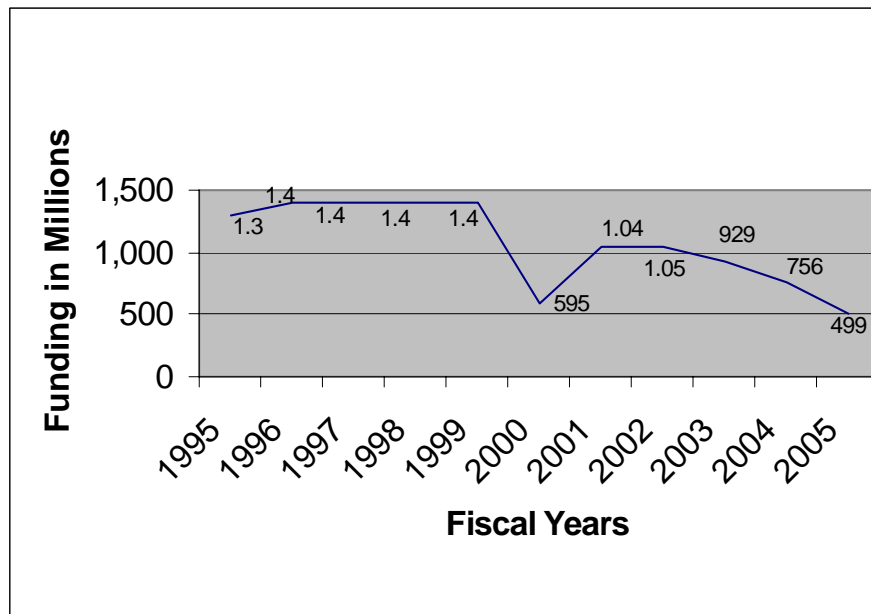
Sources: The following laws were referenced: FY1996, P.L. 104-134 (H.Rept. 104-134); FY1997, P.L. 104-208 (H.Rept. 104-863); FY1998, P.L. 105-119; FY1999, P.L. 105-277; FY2000, P.L. 106-113; FY2001, P.L. 106-553; FY2002, P.L. 107-77; FY2003, P.L. 108-7; FY2004, P.L. 108-199; and FY2005, P.L. 108-447.

Note: Numbers are rounded. Appropriations may not include relevant rescissions.

The Community Oriented Policing Services (COPS) Program. The COPS program received its first appropriations in FY1995 at \$1.3 billion and in subsequent years its appropriations remained at \$1.4 billion. Appropriations for the COPS program were first cut in FY2000 by \$835 million. COPS appropriations subsequently increased by \$435 million in FY2001. In FY2003, appropriations for the program decreased by \$121 million from FY2002. Congress cut funding again in FY2004 by \$229 million. In FY2005, Congress appropriated \$499 million for the program, a \$259 million decrease from the previous year (see **Figure 4**).

For FY2006, the President's budget requests \$117.8 million for the COPS program, along with a rescission of \$115.5 million, a net funding request of \$2.2 million. The President's FY2006 Budget request also includes the realignment of the following COPS programs to other OJP accounts: Bulletproof Vests (\$29.939 million); DNA Backlog/Crime Lab Improvement (\$177.057 million); Offender Re-entry (\$15 million); Gun Violence Reduction (\$73.795 million); and Southwest Border Prosecution Assistance (\$48.418 million).

Figure 4. COPS Appropriations, FY1995 to FY2005



Sources: The following laws were referenced: FY1995, P.L. 103-317; FY1996, P.L. 104-134 (H.Rept. 104-134); FY1997, P.L. 104-208 (H.Rept. 104-863); FY1998, P.L. 105-119; FY1999, P.L. 105-277; FY2000, P.L. 106-113; FY2001, P.L. 106-553; FY2002, P.L. 107-77; FY2003, P.L. 108-7; FY2004, P.L. 108-199; and FY2005, P.L. 108-447.

Note: Numbers are rounded. Appropriations may not include relevant rescissions. The FY2005 funding includes a \$108 million in rescissions.

Appendix B: List of Selected Crime-Related Legislation Enacted in the 108th Congress

The Torture Victims Relief Act of 2003 (P.L. 108-179). P.L. 108-179 amends current law⁵⁵ by authorizing appropriations to the Department of Health and Human Services to provide grants to domestic programs that provide rehabilitative services to victims of torture, among other things.

The Hometown Heroes Survivors Benefits Act of 2003 (P.L. 108-182). P.L. 108-182 amends current law⁵⁶ by providing that if an officer has a fatal heart attack or stroke while on duty, he is presumed to have died in the line of duty for purposes of survivor benefits.

The Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193). P.L. 108-193 contains several provisions that are aimed at stemming human sex trafficking before it reaches the United States. With respect to domestic criminal justice, the act amends current law⁵⁷ by extending the jurisdiction of sex trafficking offenses to acts of trafficking in or affecting interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States. It also amends current law by requiring the Attorney General to report to Congress on the number of people who have been charged or convicted of trafficking-related criminal offenses, among other things.

The Identity Theft Penalty Enhancement Act (P.L. 108-275). P.L. 108-275 amends current law⁵⁸ by establishing penalties for aggravated identity theft. Among other things, this act expands the existing identify theft prohibition to: (1) cover possession of a means of identification of another with intent to commit specified unlawful activity; (2) increase penalties for violations; and (3) include acts of domestic terrorism within the scope of a prohibition against facilitating an act of international terrorism. The U.S. Sentencing Commission is directed to review and amend its guidelines and policy statements to ensure that the guideline offense levels and enhancements appropriately punish identity theft offenses involving an abuse of position. The Department of Justice is authorized funding for the investigation and prosecution of identity theft and related credit card and other fraud cases constituting felonies.

Boys and Girls Club of America (P.L. 108-344). P.L. 108-344 amends current law⁵⁹ by reauthorizing and extending the *Boys and Girls Club of America* (BGCA) program. The BGCA program provides services that promote and enhance the development of boys and girls. The act requires the establishment of 300

⁵⁵ See P.L. 105-320.

⁵⁶ See 42 U.S.C. 3796.

⁵⁷ See P.L. 106-386.

⁵⁸ See Chapter 47 of 18 U.S.C. 1028.

⁵⁹ See 42 U.S.C. 13751 (§401 of the Economic Espionage Act of 1996).

additional boys and girls club in public housing projects and other distressed areas. The act required that there be a plan in place that ensures that at least 5,000 boys and girls clubs be established by 2010 and it also authorized funding for the program through calendar year 2010.

Law Enforcement Officers Safety Act of 2003 (P.L. 108-277). P.L. 108-277 exempts certain law enforcement officers from state laws that prohibit the concealed carry of firearms.

The State Justice Institute Reauthorization Act of 2004 (P.L. 108-372). P.L. 108-372 amends current⁶⁰ law by reauthorizing the *State Justice Institute* (SJI) through FY2008. SJI awards grants to improve the quality of justice in state courts, among other things.

The act also reauthorized the *Bulletproof Vest Partnership grant program* through FY2007. The Bulletproof Vest Partnership grant program awards grants to state, local and tribal law enforcement agencies to assist them in purchasing bulletproof vests for their officers.

The Mentally Ill Offender Treatment and Crime Reduction Act of 2004 (P.L. 108-414). P.L. 108-414 amended current⁶¹ law by creating a new grant program that authorized funding to state and local criminal justice and mental health agencies to established a collaborative effort to provide services to the mentally ill prisoner.

⁶⁰ See 42 U.S.C. §10713.

⁶¹ See 42 U.S.C. §3711 *et seq.*