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Senate

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The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

The Lord bless you and keep you; the Lord make His face to shine upon you, and be gracious to you; the Lord lift up His countenance upon you, and give you peace.—Numbers 6:24-26.

Father, we begin this day by claiming this magnificent fivefold assurance. We ask You to make this a delightful day filled with Your blessings. May we live today with the esteem of knowing You have chosen us and called us to receive Your love and to serve You. Give us the helmet of salvation to protect our thinking from any intrusion of temptation to pride, resistance to Your guidance, or negative attitudes. Smile on us as Your face, Your presence, lifts us from fear or frustration.

Thank You for Your grace to overcome the grimness that sometimes pervades our countenances. Instead, we want to reflect Your countenance of joy. May Your peace flow into us, calming our spirits, conditioning our dispositions, and controlling all that we say and do.

Help us to experience the peace of a forgiven, forgiving heart, the peace of a heart completely open to You, and the peace of a pure heart filled with Your spirit. You are the sole source of perfect peace. So help us to say to others, "Have a blessed day," and to expect nothing less for ourselves. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator SESSIONS of Alabama, is recognized.

Mr. SESSIONS. Thank you, Mr. President.

SCHEDULE

Mr. SESSIONS. Mr. President, on behalf of the majority leader, I announce that the Senate will be in a period of morning business today until the hour of 12 noon. Following morning business, it is the majority leader's intention to begin consideration of the Department of Defense authorization bill. If an agreement cannot be reached to proceed to the DOD authorization bill, the Senate will, hopefully, begin consideration of the intelligence authorization bill. Therefore, Senators can expect rollcall votes throughout today's session on these matters. As always, Senators will be notified accordingly when any rollcall votes are scheduled. I thank my colleagues for their attention.

Mr. FORD addressed the Chair.

RECOGNITION OF THE ACTING DEMOCRATIC LEADER

The PRESIDING OFFICER (Mr. ROBERTS). The assistant Democratic leader is recognized.

DOING THE BEST WE CAN WITH GOD'S GUIDANCE

Mr. FORD. Mr. President, I want to take just one moment, if I may. Yesterday, the Chaplain very eloquently asked for God's blessing on our Democratic leader in the loss of his father. It indicates that all of us are human, and we are here just attempting to do the best we can with God's guidance.

Today, the Democratic leader's father will be laid to rest in his home of South Dakota. I hope that all of us will give some thought to the leader and his family as they gather to mourn the loss of his father.

I do thank the Chair for allowing me to express my concern for our leader, and I know all of us feel basically the same way. I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for up to 5 minutes each. The Senator from Alabama is recognized to speak for up to 60 minutes.

Mr. SESSIONS. Thank you, Mr. President.

WE SHARE IN THE PAIN

Mr. SESSIONS. Mr. President, I appreciate the remarks of the Senator from Kentucky about the death of the minority leader's father. We all share in that pain. There is a sense of sadness in this body, and as we contemplate that, maybe it helps us all reflect on the fact that we are all human beings who share the same goals for the betterment of this country. I think that is a good thing for us to contemplate.

JUVENILE CRIMINAL JUSTICE

Mr. SESSIONS. Mr. President, S. 10, the juvenile justice bill that will shortly be before this Senate, is one of the best pieces of legislation for law enforcement that I have seen in a number of years. I am absolutely convinced that it is the finest reform of criminal justice in at least 20 years.

This bill was crafted last term by Senator HATCH, who is a prime sponsor

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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of it and who is chairman of the Judiciary Committee. I have had the dual honors of serving as the chairman of the Juvenile Violence Subcommittee of the Judiciary Committee and also of working with him on this legislation. We are very proud of the bill that has been produced. We think it will do tremendous things for law enforcement. It is the kind of bill that does what it ought to do. It is not designed to get headlines; it is designed to improve the system of criminal justice in America.

Mr. President, I served for 17 years, the better part of my professional career, as a prosecutor. It has been a particular honor for me to be able to have the opportunity to participate in reforming juvenile justice in America, because I know from my firsthand personal experience, gained as a U.S. attorney and as attorney general of Alabama, that this system is not working well.

I am pleased at this time to be able to recognize Senator JOHN ASHCROFT of Missouri to speak on this issue. He is a former attorney general of Missouri, and spent two terms, 8 years, as Governor of that great State. He is a student of juvenile crime and the crime issue in general. He has spoken eloquently on it in our committee. He will be having hearings later this week in Missouri on this issue, and I will be pleased to join with him at that time.

He has some remarks that he would like to share about this bill. At this time, I am honored to recognize the Senator from Missouri, Mr. JOHN ASHCROFT.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Thank you, Mr. President, and I thank the Senator from Alabama.

I, too, am eager to express my appreciation for the reminder and the sobering thoughts expressed by the Senator from Kentucky. Each of us has a sense of loss whenever any of us suffers in our families the kind of challenge that comes when a father is deceased.

I remember very well my father coming to this Chamber to witness my swearing in as a Senator some 2½ years ago. My father was on his "last legs," and he died before he made it home. But he had the sense of knowing that I had come here to do and to support things in which both he and I believed. I think that meant a lot to my father.

I know that at this time, the minority leader, Senator DASCHLE, is very proud of his father and grateful for his father. I think he can have some sense of assurance that his father was grateful for him and appreciated a son who would devote himself in the national interest to doing what was, in his judgment, best for his country.

It is in that sense that each of us has the profound privilege of shaping public policy. Perhaps that is as great a privilege as any of us enjoys from the Creator, that He allows us literally to participate in creating the world in which we will live. We are all destined

to live in some tomorrows, and our children are destined to live in some tomorrows, and we have a chance to shape those tomorrows. I believe that is what the process of developing plans involves; it is the process of developing legislation to try to build a framework in which our community respects the ability of individuals to reach the potential that God has placed within each of us.

So it is with that in mind that I think we are compelled to address a significant problem, which is a challenge to America and a threat to our future: The growing problem of violent juvenile crime.

It is not that we say that although there is a problem, there is nothing we can do about it. We believe that we can remediate this situation. We believe that we can address this challenge, and we believe that we can be successful. We believe, however, that to do so we are going to have to change some things, because the things that we have been doing in the past were designed to address a different category of circumstances, a different character of culture. What we have done in the past is not working today.

As a matter of fact, what we do will be instructive to the next generation. The way in which we view violent juvenile crime signals to the next generation how we respect life, what we intend in terms of order and responsibility. If we take crime lightly, they will take order lightly, because an infraction of order by way of criminal activity is something we don't care much about. If we take crime seriously and we impose serious consequences and we demand responsibility, the next generation will say order is something to be valued, because when it is interrupted, that order is restored as a matter of serious concern.

The truth of the matter is, perhaps more important than anything we do in any singular sense is the way in which we transmit values from one generation to the next. More important than any other responsibility of a culture is the transmission of values from one generation to the next. I think that as we have assembled our policy relating to juvenile crime, we have been transmitting the wrong values, we have been saying the wrong things, we have been doing the wrong things, unfortunately, because we tended to say juvenile crime is the equivalent of acts of mischief, that it is to be disregarded like shooting paper wads or spitballs in the hall.

You remember the Charlie Brown rock-and-roll song of the fifties, always doing those kinds of mischief things. We are not talking about mischief in juvenile crime; we are talking about assault and murder, armed robbery and rape. These are the parts of the criminal composite that are escalating; they are not declining.

At the same time that we have been effective in helping to curb a growth rate in violent adult crime, we are

equally alarmed by the evidence that we are not succeeding in reducing juvenile crime. One of the reasons is that our approach to juveniles hasn't been an approach to them as criminals. It has been an approach based on some less-than-accurate understanding of what has really happened. We have thought of it as delinquency; we have thought of it as something less than crime.

If your wife is raped or if you are assaulted or if your child is murdered, you get a sense that this is not delinquency, it is not mischief. It is crime. I think as we try to send the right signal, as we try to make a commitment for the right kind of posture for our culture in the next generation, we need to say that violent crime committed by juveniles will be taken seriously.

That is one of the very important things that Senator SESSIONS has been able to make sure persists as a unifying thread of character through this S. 10 legislation—that violent crime is serious crime and it is not to be taken lightly because someone is less than 16 or less than 17 or less than 18 years of age. A murder is a murder. It involves a death. It involves a tragedy. A rape is the same. And this thread of seriousness is important.

So when we learn that violent crime arrests among juveniles in 1995 were 12 percent higher than they were in 1991, we know that we have not won the battle. And when we learn that they were 67 percent higher than they were in 1986, we know that the challenge remains for us to do something.

When you see the raw data, when you see the statistics and the carnage that happens to real families stacking up, you know that you cannot sit idly by. Although the most recent data may reflect some improvement, the problem is really destined only to get worse given the demographics. Those who tell us about the future say, given that the children who were born during the baby boom of the eighties will start to reach the potential ages for the commission of crimes, that we are in for real problems if we don't adjust the way we approach this problem.

One of the areas that I think needs our attention most radically is the area of juvenile crime records. Because we have thought of juvenile criminal activity as being mischief or inconsequential, we have decided to keep any records of juvenile activities very, very closely guarded. And we have an anomalous situation where we have juveniles who are not treated as criminals even though they have committed crimes like murder, rape, armed robbery, armed assault.

They are sent into our classrooms, and yet the teacher in the classroom has no capacity of knowing what the student has done. As a matter of fact, frequently, with the mobility that exists in the American culture now, people move from one State to another and they take their children with them, or the children move from one

State to another, and their record exists only in one State.

They go into a school room, they go into a community, and the law enforcement community does not know about the heritage of criminal activity, the history of the individual, the threatening nature, the violent proclivities of an individual. They do not have such information because the juvenile records have not been available. Juvenile records have been sealed, and law enforcement officials and school officials simply have not had access.

In the few States where they have had some access, that access is limited to students who committed the criminal activity within the State. We all know about the interstate mobility of people in our culture. As a matter of fact, those individuals who get in trouble frequently are the same individuals who are most active in crossing State lines. Our law enforcement officials need better access to juvenile records.

Our school officials need access. I talked to a teacher who said that individuals were assigned to her classroom who were wearing electronic shackles. You know, that is the new technology where you put a bracelet around someone's foot. It is very durable plastic and cannot be cut off easily. It has a transmitter so law enforcement officials can know the whereabouts of the person wearing the electronic shackle.

The teacher says that the students are capable of coming into the room and the teacher cannot know what they have done. I would be very, very reluctant as a teacher to see a student with an electronic shackle on his or her ankle reflecting the likelihood that some kind of very serious offense had taken place and still not have any ability to know what that student had done.

The student comes from another State and has been assigned to a juvenile facility in your State but the record is sealed. You are supposed to turn your back on such a student and write on the board, not knowing whether the student is a rapist or a murderer. I find that to be a very serious challenge to the kind of atmosphere we need in the classrooms. At least I think school officials have a special need.

I talked to a judge one time who was sentencing an individual for a very, very serious crime and did not have access to the records of this individual, who had lived in another State previous to the crime, and later learned that the individual had been involved in previous homicides.

I think judges, when they are issuing penalties, need to know what the history of an individual is, what kind of criminal activity has filled the past of that individual—not just the things that have happened since the person turned 18—because some of these individuals, given the violent criminal nature that pervades some components of the juvenile community, have a rap sheet that would extend from here to Cincinnati in terms of detailing violent

activity that ought to be before the sentencing authority.

Juvenile records simply do not survive the juvenile's 18th birthday, and in many situations people start out with a clean slate. I think it is great to allow people to start over again in life. I think that is the marvelous part of what America has meant through the years. We let people get new starts in this country. But I think we have to protect ourselves. We should not say to anybody, "You can do anything you want up to the time you are 18, and then you get to wipe it all clean and you'll be considered to be an Eagle Scout until your first offense, and then, even then, the judge won't be able to find what's happened to you."

I really believe that inadequate records hamper law enforcement authorities. According to Police Chief David G. Walchak, who is the immediate past president of the International Association of Chiefs of Police, law enforcement is in desperate need of access to juvenile criminal records. The police chief said:

Current juvenile records (both arrest and adjudication) are inconsistent across [State lines], and are usually unavailable to the various programs' staff who work with youthful offenders.

It seems to me that if we are going to try to work with young people to have them change what they have done, allowing the juvenile justice system to hide what they have done is not really a way for us to confront the past and to change it. We cannot be clouding it and concealing it if we want to change it. I think to make real change you have to confront what has happened and move forward.

Chief Walchak also notes:

If we in [law enforcement] don't know who the youthful offenders are, we can't appropriately intervene.

Part of our ability to prevent criminal behavior by the individuals is to have the ability to identify people who have had problems in the past. He has put it very clearly. Here is a police chief who wants to do what is right. That is not just to punish crime, but to prevent it, to try to intervene to make sure we do not have these challenges over and over again. We have his hands tied because we have an outdated approach to juvenile records.

Well, Senate bill 10, which the Senator from Alabama has so appropriately noticed as a bill of monumental change and reconstruction in terms of our capacity to address these challenges, makes some serious reforms that will help us solve these problems.

The bill would provide incentive grants for States to fingerprint and photograph juveniles who are arrested for or charged with violent crimes and to send those fingerprints and photographs to the FBI and to create and maintain records of juvenile convictions and to share those with criminal courts, law enforcement agencies, and school officials.

If we really want our schools to do well, we cannot have them operating in the dark as to who is populating the classroom.

For States to qualify for these funds, States would have to maintain juvenile records that are equivalent to adult records and to make those records available to the FBI, to law enforcement officers of any jurisdiction, to school officials, and to courts for use in sentencing.

It is the kind of thing that I suppose the average American says, "That's common sense. I wonder why we haven't been doing that." We ought to do it for people who are committing acts which are felonious in nature and which, if committed by an adult, would result in long-term incarceration. At a minimum, we ought to allow schoolteachers to know if individuals in their classrooms have been involved in that kind of activity.

The bill will also make records available across State lines. Given the mobility of the American population, it does not make sense to think we can compartmentalize our approach to individuals who are not going to be compartmentalized and should not be.

Senate bill 10 mandates that States send records to the FBI. It will enable State and Federal authorities to make assessments based on the juvenile's entire record. That is not only in the best interest of the culture and the best interest of the society, but, frankly, it is in the best interest of an accused juvenile. It does not serve anyone's interest to have a judgment rendered on the basis of inadequate data.

We do not make good decisions when we do not have the facts. And courts cannot make good decisions when they do not have the facts. And schools cannot make good decisions when they do not have the facts. The truth is, all we are asking is that the records be made available to individuals so that they make better decisions, and we can do a better job of curtailing a problem that threatens us sorely. This bill would help get that done.

A Federal solution is critical. Only if all States participate can we ensure that critical law enforcement and judicial decisions are based on the entire record. This is a concept which has been agreed to for centuries in America. In law enforcement, crime records have been shared because of the responsibility for public safety. They are clearly matters that are of interest to every State, and they are indeed matters which have long and traditionally been understood as matters in which the States need to cooperate and coordinate.

The bill ensures that juvenile records do not disappear when juveniles turn 18. The truth of the matter is, law enforcement and other officials need to make sure that that information is still available. The bill ensures that juvenile records are made available to those who need them. Courts will be able to sentence criminals based on

their entire record, not just what has happened since their 18th birthday.

Law enforcement officials will be able to monitor the behavior of individuals in their community who are known to be violent and to have criminal predilections. Teachers and other school officials will know who they have in their classrooms.

To think that we have to do that to address this problem is a little bit of a shock to me. I would be much more at ease to say to schoolteachers, "We're going to let you find out and know about the individuals that populate your classrooms." I cannot imagine that they would not want that.

Records sharing. This whole concept of helping us have an orderly culture where we send a clear message about the nature of criminal activity and the fact that it is unacceptable and we will not tolerate it. It is not something that is a partisan issue. This is something that compels all of us to unite, to send the right message to the young people of America that we take crime seriously because we view their personal integrity and safety as a serious matter and that we will not treat them lightly if they are involved in rape, murder, armed robbery, armed assault, major drug trafficking, or other felonious activity, because we care about their future and care about the future of the country in which they live.

I look forward to the debate on this measure, to continuing with this measure in committee to make sure that we shape the bill properly as it comes to the floor of the U.S. Senate. I look forward to a time when the President of the United States will sign into law this kind of bill, which would help us send a message about the kind of tomorrow that we have the privilege and prerogative of shaping by developing public policy that respects not only the future of juveniles but also the present of individuals who have been victimized as a result of juvenile crime and violence, which is far too prevalent in our society.

I commend the Senator from Alabama for his excellent work in this respect. I look forward to working with him and welcoming him to the State of Missouri this weekend where we will be conducting hearings regarding the serious challenges with youth violence which we all face.

Mr. President, I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I want to express my appreciation for the exceptional remarks made by the Senator from Missouri, Senator ASHCROFT. He has talked to us as one who has authority. He has spoken from his heart. He has spoken the truth. He has identified a problem in criminal justice, and he is absolutely correct. If you had 5,000 law enforcement officers and prosecutors in here and they were listening to that, they would say, "Yes, that is correct. He is telling the truth."

We do not do a favor to young offenders or to the justice system or to judges or to probation officers or to mothers and fathers, if we do not allow the full truth of people's criminal backgrounds to be known. All over America, police officers—many may not know this—are denied the right to maintain fingerprints and photographs of young offenders. This information cannot be held anywhere outside of the juvenile court because of the secrecy laws.

This bill does not mandate the elimination of secrecy laws. This bill does not eliminate that great tradition that we adhere to of trying to give young offenders a chance to get their lives back in order and to live life without a criminal record held over their heads. But it does say that records ought to be made available to the criminal justice system. When a young offender at age 17 commits armed robbery, and is later arrested in another State at age 19, that police chief, that prosecutor, or the judge who sentences him for his acts in the second State, needs to know what kind of prior criminal history he has.

The National Crime Information Center houses confidential criminal records solely for law enforcement purposes. I think it is a needed tool and a tremendous step forward.

The Director of the FBI appeared before the Judiciary Committee just 2 weeks ago. I asked him this very question. He said: "Yes, law enforcement needs that information. Yes, the FBI will receive it if it's sent to us from the States. We need it, and we do not need any additional money to process it."

Now, some have said it will cost huge sums of money for the States to implement this. That is, in my opinion, clearly incorrect. We have had this claim studied by a professional group. Their results show that \$50 million is more than enough to handle implementation, and this bill has \$50 million in it for this purpose.

I doubt it will cost that much. In many areas of our Nation, it costs very little for a local juvenile court to simply report an arrest or conviction and send it off to the FBI. There is almost no cost whatsoever. Some of the cities may want to have computer terminals and dedicated personnel. The money this bill provides will be more than adequate.

Previous funding for juvenile justice in America was \$170 million. Under this bill, it would go to \$700 million, a more than threefold increase in expenditures because we want to do something about the crime problem.

Adult crime has been dropping for the last half-dozen years. We have made some real progress in that regard. One of the main reasons for that decrease is that we have doubled and tripled prison space for repeat adult offenders. Prison does work to reduce crime, but we have not done anything in the realm of juvenile crime to compensate for the dramatic increases that are occurring.

According to the Department of Justice's own study, juvenile crime will double by the year 2010. We need to begin to deal with that. It has already doubled in the last 10 years. Juveniles are committing serious crimes, as the Senator from Missouri said, including robbery, murders, rapes. Those are the kind of crimes we must crack down on.

One thing that is important for us, as U.S. Senators to understand, is that juvenile justice has historically been and will remain a province of the States. Mr. President, 99.99 percent of juvenile crime cases are tried in State courts. We need to improve the ability of Federal courts to prosecute certain selected juvenile crime cases. This bill will do that. Still, juvenile crime cases will remain the province of the States. So if we want to improve juvenile justice, Mr. President, we need to help these States improve their system. That is what this bill does.

Now, what is the problem with the Federal system? As a U.S. attorney for 12 years, I know the problem. If you wanted to prosecute a young offender in Federal court, an offender who appropriately should be prosecuted in Federal court, a number of things have to occur for this to happen. First, you have to get approval from the U.S. Department of Justice. Second, you have to seek certification of that young offender as an adult to be tried in the Federal system. Before you can do that, the offender has the right to appeal. Often when that appeal takes place it goes to the circuit courts of the United States and a year or more may go by before the case ever comes up for trial. As a practical matter, it is virtually impossible to effectively prosecute routine or even significant juvenile cases in Federal court. We have shut the door to Federal court.

I do not believe that the Federal courts should take over juvenile prosecutions throughout America, but they ought to be able to prosecute certain cases that are appropriate to be prosecuted in Federal court. We need to reform that system. This bill does it. It removes the appeal process. It would allow a U.S. attorney, in many circumstances, to make the decision on his own as to whether or not to prosecute and bring that case to trial, just like any other criminal case. So we are going to have some very good improvements in that regard in the Federal system.

In addition, Senator HATCH and Senator FEINSTEIN have worked hard on a proposal to crack down on the violent gang activity that is disturbing so many areas of this country. In fact, gang activity occurs in every State in America. This bill includes very good, very tough, Federal antigang legislation that will help us break up these organized activities and will help us put an end to that kind of dangerous gang activity. We are pleased this bill will do that.

The Senator from Missouri mentioned a very important thing and that

is the question of intervention. Professionals in counseling talk about it frequently. By intervention they mean that a person who is on a bad road, who is heading down the road to destruction, who is making serious mistakes either in term of drugs, alcohol, or criminality, needs something to happen to intervene in that process or that person will end up being destroyed by that problem.

That is what this bill attempts to do, both by recordkeeping, so we can identify whether or not this is a repeat offender so that the judge and the prosecutor will know that when they deal with sentencing, and also through drug testing. We know that in the District of Columbia, where drug testing of every arrestee is done today, 66 percent of the persons tested test positive for some sort of drug in their system. That is a significant statistic. Do not think, Mr. President, that this is only true of Washington. There are cities all over America that have been involved in testing programs like this, typically to determine the connection between drugs and crime, and their results consistently show that from 60 percent to 70 percent of their arrestees for criminal activity test positive for drugs in their system.

When a young offender appears before a juvenile judge, that judge needs to know, if he wants to help that child—by crafting a penalty or a sanction that will help change his lifestyle—whether or not that person is drug free or whether he is using drugs.

This bill will mandate that the States test every offender upon arrest, and it provides more than enough money to pay for that mandate. We are not doing an unfunded mandate. The bill provides more than enough money to pay for that provision. To me, drug testing is an essential aspect of any criminal justice system. When a young person is arrested, the judge needs to know, his probation officer needs to know, his parents need to know, whether or not drugs are a contributing factor to that young person's criminal activity.

Eric Holder, who just appeared before the Judiciary Committee as the nominee for Deputy Attorney General of the United States, a position which is second in command at the U.S. Department of Justice, was a former Federal judge in the District of Columbia and is the current U.S. Attorney for the District of Columbia. I asked him about drug testing, specifically whether he thought it was a good idea. He said, "Absolutely. We did it regularly in Washington, DC. As a judge, that is the kind of information I had to have to make the right kind of decisions about whether offenders should be released, how they should be treated, and what kind of punishment they should have."

Mr. President, drug testing is not designed to set up a situation where juvenile offenders would be prosecuted again for another crime. That is not the purpose. It does not sustain a pros-

ecution for a crime. But what it does do is provide the judge, the probation officer, the prosecutor, and the family, with the knowledge that the young person has a problem with drugs. To me, any effective juvenile justice system that does not have regular drug testing as a part of it is an ineffective system. It fails to meet the basic requirements of what a legitimate criminal justice system is. We are trying to reach out all over America by supplying funds to help the States and the localities have the kind of resources they need to do drug testing and improve the current system.

Some have raised the question that this is a violation of civil rights; that you cannot make an arrestee be tested. Well, they are being tested all over America already upon arrest. They have been tested in the District of Columbia every day for over 20 years. Jay Carver, who just resigned from that program, had led it for 20 years. He knows how that program works and he supports it. It is not a civil rights violation. When a person is arrested for a crime, a judge has the discretion to determine whether or not to release that individual from custody. If the judge has the power to keep a person's very liberty, to deny him his right to walk out of court and be a free person, he certainly has the right to say you can be released from custody on probation or on bail but you have to maintain certain curfew hours and you have to submit to drug testing. That is a far less intrusive intervention in that person's life. Also, we find the cost of those tests are \$5 to \$6 for initial drug screening. We believe that is a very inexpensive way to deal with this.

Again, as I view the drug testing program, it is a diagnostic tool. It is a tool to help identify the real problem that a child might be facing and to help the justice system and the parents develop a strategy to deal with that.

There are a number of other parts of this bill that we think are extremely important and will help to actually reduce juvenile crime in America. Those things include removing unnecessary and burdensome mandates that law enforcement tells me cause young offenders to be released routinely for offenses they should never be released for. They tell me over and over that the young offenders are laughing at them because of their inability to carry out sanctions.

Mr. President, I am delighted to take this opportunity to recognize the distinguished Senator from New Mexico, Senator DOMENICI. He has had a very strong interest in juvenile justice. He has submitted legislation on that that has been made a part of this legislation. I am delighted he is here.

I am prepared to yield any time he desires to share his thoughts on this important subject.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Senator, how much time do you have?

Mr. SESSIONS. We have until the end of the hour.

The PRESIDING OFFICER. The Chair observes that the Senator has 23 minutes and 30 seconds remaining.

Mr. DOMENICI. Mr. President, I will try to use less than 10 minutes.

First of all, Mr. President, let me commend the Judiciary Committee, and in particular, the subcommittee chaired by the distinguished Senator from Alabama, Senator SESSIONS.

Frankly, I am of the opinion that it takes us too long to address issues that are obviously important to the American people. That is why I urge we not let this year pass without passing a major Federal reform of our Nation's juvenile justice system.

The Federal juvenile justice system is a very small part of the overall justice system, but it does have a very big impact on how things are going out in the States, and in many instances needs reform so it does not stand in the way of the difficult job that our cities and States have in this new evolving era of juvenile crime. I am sure some of the talks on the floor of the Senate today have indicated some of the areas we must reform. I will leave that to those who are on the committee. Those are patent. They are clear. But they will be highly controversial.

Nonetheless, we should do something to make sure that our laws are not in the way of cities, counties, and States—reasonable, rational efforts to control this major, major criminal epidemic.

Having said that, I believe we also ought to take a lead role in suggesting to our States that if they want some Federal help, then they must modernize their juvenile justice systems.

It is very strange in America, that we have had for many, many years an adult system of justice, a penal system, probation, and the like. What is new to America is that more and more of the crime is being committed by young people from 13 to 18 years of age. The proportions are exponential in terms of growth of juvenile crime of a serious nature.

I am not talking about when we were growing up, maybe shoplifting or truancy, which is probably 90 percent of what the police were concerned about with kids. Now it is murder, it is gangs, it is thievery, it is drive-by shootings, it is all kinds of violent criminal acts that are scaring the adult population for two reasons. They are fearful for their own lives, and they also wonder what will happen to this generation of teenagers if that group committing these crimes grows and grows. Where will we end up incarcerating them?

Mr. President and fellow Senators, there is no question the system is not working. Go to your States and ask how many times must a teenager commit a serious, serious crime before they are taken from society and put into some kind of penal system to try to keep them from committing more

crimes and try to help them. It is startling. In many jurisdictions they commit as many as 10 to 15 serious crimes before anything is done to them. It is amazing how ancient, archaic, and broken down the juvenile justice system is. It didn't come into being and take a long, long time to perfect itself. It was put together in little pieces and patchwork, where it actually, in many instances, just doesn't work.

Now, what we have tried to do—Senator JOHN ASHCROFT and I have introduced a bill that does a lot of things. But after participating in a series of hearings in New Mexico and talking to victims, it was absolutely something that, as long as you are a Senator, you won't hear anything worse than hearing from the victim of teenage violence. I heard from a beautiful young girl who is a dancer, who for no reason was just stabbed in the throat. She was doing nothing, not causing any commotion at all. We heard about the trauma that beset that young woman and her family and the way the juvenile justice system treated her and the family. It is as if the only thing that counted was the accommodation of the criminal, not the victim.

But what we would like to do is to set up a \$500 million program that is essentially an incentive grant program. Part of it will go to the States just to help them with juvenile justice, and the other part will go to States who choose certain options to modernize their system and make it work better. What we heard over and over again is that we wait too long before we do anything to correct the situation among teenagers.

Now, anybody that has been a parent—and I have, and I note the occupant of the chair has, my dear friend, because I hear about them often. If you let them get away with little things and more little things and more little things, and you do nothing, when they do something a little worse, it is too late. If you wait long enough, without some corrective measures, you will find yourself engulfed in serious misbehavior. Kids learn by receiving some kind of punishment for every misdeed and wrong act they do. Even if it is a tiny punishment, to know that they are not getting away with it and they must shape up is obvious to everyone who has raised children. The justice system must do that also. No misdeed must go unattended, regardless of how small, even though the punishment would be small. We call this graduated sanctions, and it is an important part of our bill.

We have set out in our bill, which we hope will be incorporated, a number of things like that. And many, many other important reforms that we found out there in our hearings would have to be adopted by our States if they desire to receive additional money to help them in this, what must be a war on teenage crime.

If we wait too much longer, we are going to, once again, be a joke as the

Federal Government. We are going to come along and society is hit with this pending disaster. They are will wonder where the Federal Government was. Some Senators are going to come to the floor—I hope not many—and say it is none of our business. The States ought to take care of crime.

I will tell you, I have learned that there is no easy way to draw a line about what is our business as a Nation and what is a State's business as a State. But we can all say that the one thing that is not getting any better in America is juvenile crime. It is getting worse. As statistics show, some of the adult crimes are coming down a bit. The Senator has been part of these hearings. But, juvenile crime continues to go up and up.

So I am very hopeful, and I challenge our leadership—I already know what our distinguished leader TRENT LOTT thinks about this. But I think at the first opportunity we have we ought to get this bill reported out and get it to the floor. The public would be very excited about a debate on this issue. We debate many things they aren't interested in. But they would be interested in this and in the philosophy, and perhaps the difference in philosophy between the two parties on this, too.

I thank the Senator for yielding time and for arranging this morning's discussion on this very, very important issue.

I yield the floor.

Mr. SESSIONS. Mr. President, I appreciate very much the comments of the Senator from New Mexico. People are angry. We need to do better. There was a case in Alabama 2 years ago where three juveniles murdered a man. Those 3 offenders had 7, 8 and 15 prior arrests each and yet they were out on the streets murdering somebody. He is exactly correct. We need a system of increased sanctions, and this bill calls for graduated sanctions. That means increasing the punishment for each offense to send a message that juvenile offenders are not going to walk free.

Mr. President, I am delighted to have Senator DEWINE from Ohio here. He is a former prosecutor, former Lieutenant Governor of the State of Ohio, who has great knowledge in these law enforcement matters. He is a leader on the Judiciary Committee, a leader on our committee to reform juvenile justice. I am pleased to yield to him at this time.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, I thank my colleague from Alabama for the great work he has done as the subcommittee chairman. Let me also compliment my colleague from New Mexico, as well as my colleague from Missouri, for the great work that they have done to call the attention of the Senate to an issue that is certainly on the minds of the American people, and that is the issue of juvenile crime.

We always have the question, as my colleague from New Mexico has pointed

out, of what is the proper role of the Federal Government in what has historically been a matter that has been dealt with by the States. I think there is a role. I think what is important, as we look at Senate bill 10, which is currently in the Judiciary Committee, awaiting markup—as we look at that draft, it's important for us, with the finite amount of money that we do have to spend, that we spend that money wisely, and that we spend it with an understanding that the criminal justice system, particularly the juvenile justice system, is inherently a local system. So what we need to do in Congress is to do those things that matter, to do those things that maybe only the Federal Government can do to try to give assistance to the local communities. So we need to sit back, I think, and think about what that is, what can be our unique contribution.

I want to talk this morning about one particular area that we have been able to get in the draft of the bill, which the chairman of the subcommittee, Senator SESSIONS, has been very much supportive of. It is an area that I have worked on for a number of years, going back to the time when I was a county prosecutor, and that is the sorry state—if I can use that term—of our criminal records system in this country. I have worked long and hard to try to improve that system. It is an area where the Federal Government can be of assistance because the reality is that what happens in Ohio affects what happens in New Mexico and what happens in Alabama, as far as the keeping of criminal records. If Ohio doesn't put our records in the system and someone from Ohio goes to New Mexico and commits a crime, then New Mexico is the loser because the local law enforcement does not have that information. So this is an area where we have a national system, administered by the FBI—a criminal records system for adults, administered by the FBI. But if we don't get the local input and information, then it doesn't do any good.

That same principle applies to juveniles. The only difference is, historically, we have not shared records of juvenile offenders. We have proceeded under the assumption that a person who commits a crime in Ohio before the age of 18 is a juvenile. Their records are sealed. They are not available to anyone. In fact, they may not even be available outside the county in which the individual committed the crime, or with the individual in Ohio, where that person resides. That is where the records are kept.

I think we now understand that, with violent crime increasing among 15-year-olds, 16-year-olds, 17-year-olds, even 13- and 14-year-olds, it makes absolutely no sense and is very counterproductive and dangerous for us to continue that old mindset that says we are going to protect the record of this juvenile, even if this juvenile has committed murder, even if this juvenile has committed rape, or a whole series of

what would be felonies if committed by an adult.

What this bill does is it says enough is enough. We have to change the policy in this country that says we protect these records, and we have to make these records available to law enforcement for legitimate law enforcement purposes—which means prosecutors, police, sheriff departments—so that when a 16-year-old commits a crime in Greene County, OH, and they show up a year later in New Mexico and commit another crime, there is a national database, and that there has been information put in that database so the officials in New Mexico know that this is not a first-time offender, that this person has a bad track record, and they have committed whatever they have committed in the State of Ohio.

We live in a very mobile society. We live in a society where families are broken down, which means, tragically, young children move from community to community. For our own self-protection, it is vitally important that this information follow that individual. This is what this bill addresses. We will have the opportunity on the floor later to talk in much greater detail about what this does.

I want to use a real life example, if I could, which I think illustrates the need for this type of tracking and for the money that this bill provides for the local communities to have this kind of tracking.

Let me tell the story about "Jack." That is not his real name. What he did was very, very real. When Jack was 12 years old, he was arrested for vandalizing a neighbor's house, wrecking the furniture and drowning the neighbor's pet bird in the bathtub. When Jack was 14, he was burglarizing another apartment. The elderly man who owned the apartment came home and found Jack there and confronted him. Jack and the elderly man struggled, as a result of which the elderly man broke his hip, and, tragically, this man then died a few days later of pneumonia. Jack was convicted of involuntary manslaughter.

Let's go forward, Mr. President, 5 more years. Jack is now 19. He breaks into a house and severely beats a 45-year-old woman who lives there. Jack is arrested for this. It is his first adult crime because now he is 19. A Cleveland judge has to sentence Jack, and because all his juvenile offenses aren't available to the court, the judge is dealing with a person who he thinks is a first-time offender. Jack got probation. This is a true story. Two months later, he burglarized another home and killed the 81-year-old man who lived there. The judge had to make a crucial decision in this particular case where we are talking about Jack, a decision vitally affecting the public safety of the judge's community. But he had to make that decision, which turned out to be a decision which cost someone their life; he had to make it in a state

of legally enforced mandatory ignorance. It wasn't the judge's fault, it was the system's fault.

What we intend to do by this legislation is to help change that culture, change that system, so that a judge who is faced with making a life-or-death decision will know whether or not this person is a first offender or whether, as in the case of Jack, he had a long record of not just scrapes with the law but a long record of violence. If a judge knew that, the judge's decision would be very different than if he did not know that fact.

I see that my time is about up. Again, I thank the Chair. I thank my colleague from Alabama for the great work he has done on this piece of legislation. I have taken a few minutes to talk about just one of the aspects of the legislation. There are many other parts that have been discussed. I look forward to working with him and the other Members of the Senate as we bring this bill to the floor this year, as we pass it, as we send it on to the President.

Mr. SESSIONS. If the Senator will yield a moment, I think it would be instructive if he would share, from his personal experience as Lieutenant Governor and working in this area, the importance of records. He, more than any Member of this body, has firsthand experience in that area.

Mr. DEWINE. I will do this very briefly in the time we have. When I was Lieutenant Governor of Ohio, I was in charge of the seven different agencies in our administration that had anything to do with law enforcement. One of the things that we tried to do is to improve our criminal records. This was, as I said, a longstanding interest of mine that went back to the time when I was a county prosecutor. When I first started looking at this as Lieutenant Governor, I was shocked by what I found. What I found is that the accuracy of the adult criminal records system in Ohio left a lot to be desired, and that is a nice way of saying it.

I was even further shocked when I found that Ohio was pretty typical. It is pretty much the same as we find in most other States.

When I first started looking at it, I asked the question to our State employees: How accurate are criminal records? I got something back like, "Well, we think they are about 40 percent accurate." Six months later, after they really look into this, they found they were about 12 percent totally accurate.

What happens is, as people are arrested it goes into the system but you don't get the final disposition going in. You don't get the information, if the person is convicted, or, in some cases, if the person is acquitted. So you try to determine how totally accurate the records are.

What we find in most States is that clearly less than 50 percent of the criminal records are accurate. That is the adult system. But what we are

dealing with here is the juvenile system. And in most States we are just barely beginning to establish the juvenile recordkeeping system.

The money in this bill will help the States establish that system, help put it online, and help make it accurate.

Mr. SESSIONS. I thank the Senator from Ohio very much.

Mr. President, I believe our time has about expired. I ask unanimous consent for 2 minutes to wrap up.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Chair observes that the Senator from Alabama still has approximately 4 minutes remaining.

Mr. SESSIONS. Very good.

Mr. President, first I would again like to thank the Senator from Ohio for his support and for his insight, certainly shared by the Director of the FBI, on the importance of having a national crime information center for the criminal history of violent young offenders.

Mr. President, Senator HATCH, the chairman of the Judiciary Committee, is today in the Finance Committee markup—a very, very important meeting. He could not be with us. But we are both proud of this bill. The Hatch-Sessions bill has the potential to really reduce crime.

One of the things that has been talked about and that we have heard a lot about is prevention money. I will assert with absolute confidence that the certainty of swift punishment is a necessary tool in the prevention of crime.

As other Senators have said, our juvenile justice system in this Nation is broken. Ask your local police officer anywhere in this Nation, and they will tell you that it is not working effectively. We cannot allow that to continue.

This legislation will mandate certain reforms. It will help fund other reforms. And it will do one thing that we have to do, and that is to increase bed space and detention space for violent juvenile offenders. We have not spent that kind of money in the past. We have increased adult detention space three and fourfold, but we have not acted accordingly for young offenders.

This bill will provide matching money, which acts as the biggest source of our money in this bill. And we will have a lot of money in the bill that will help go towards prevention in a lot of different ways.

But I want to make this point for all of America to understand. Clearly this Congress and this Nation is involved already in prevention. This bill is designed to fix a broken juvenile justice system. We have to do that. And we cannot allow people to have 7, 8, 15 different arrests and not be held accountable for that.

Let me show you this chart. The title of it is across the top: "Federal Programs for At-Risk or Delinquent Youth."

These are juvenile prevention programs. There are 131 of these programs

that have been funded by this Government. We spend \$170 million on juvenile crime. We already spend \$4 billion on prevention programs through virtually every agency and department of Government.

Look at these things. The Department of Interior: Indian child welfare groups; Department of Housing and Urban Development: The 4-H groups, youth apprenticeships, youth sports programs; Department of Labor: Job training for homeless demonstration projects, summer youth employment training, school to work opportunities, Youth Fair Chance; Department of Transportation: Youth-impaired driving techniques projects; gang resistant education and training in the Department of the Treasury.

So it is just on and on. One of the things Senator THOMPSON talks about a lot is his belief that we have no idea about what works in terms of prevention. He is very frustrated by all of these programs with no real belief in whether or not we know that they work.

So, in consultation with him—and Senator HATCH has agreed—we have added to this bill a substantial sum of money for research to analyze these programs to see which ones work.

We want to prevent crime, and we care about young offenders. But the most crucial thing we are facing today is a situation like that of the young lady who Senator DOMENICI mentioned who was stabbed in the throat by a young violent offender, in which the juvenile justice system did not work. Those offenders are not being properly processed, and when apprehended are not properly punished.

This bill will mandate a series of graduated sanctions. We want to make sure that the first brush of a young offender with the law is his last. I believe we can do that. This bill is a major step forward in that regard.

I appreciate the opportunity, Mr. President, to share these thoughts and ideas with my colleagues.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, what is the regular order?

The PRESIDING OFFICER. The Senator from Massachusetts has an order to speak for up to 15 minutes.

Mr. KERRY. Mr. President, I thank the Chair.

Mr. President, I will not use that full amount of time because other colleagues are waiting.

(The remarks of Mr. KERRY pertaining to the introduction of S. 929 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERRY. Mr. President, I yield whatever time remains, and I thank my colleague.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I ask unanimous consent to address the Senate for 7 minutes under morning business, and following that, extend 10 minutes to my colleague from Arizona, Senator KYL, under morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESTATE TAX REFORM

Mr. ALLARD. Mr. President, I rise to make a few comments concerning estate tax reform.

There are a number of things I support in the House tax bill. I am pleased to see cuts in the capital gains tax, and I am pleased to see tax relief for families with children. However, I am very concerned with the proposed adjustment of the estate tax. The estate tax has seen a significant change since 1981, and the current \$600,000 exemption has never been adjusted for inflation. If it had been adjusted, it would be worth \$840,000 today. The recommended adjustment in the House bill would not even keep pace with inflation and would not ease the substantial economic burden placed on family businesses and farms.

The proposed Senate version is better but still needs improvement. It raises the exemption to \$1 million to all estates by 2008 and would exempt an additional \$1 million on family farm and business assets.

At the time of a person's death, their farm or business has already been subjected to Federal, State, and local tax. The estate tax is a double tax. The estate tax not only places a burden on assets that have already been taxed but it does not discriminate between cash funds and the nonliquid assets and property that make daily activities possible for a family business or farm. These asset-rich, cash-poor businesses can have their livelihood eliminated in order to pay a tax of up to 55 percent—up to 55 percent—of market value of the property left to them. Ironically, the estate tax raises only 1 percent of the Federal Government's revenue but helps to prevent up to 75 percent of family businesses from being passed to a second generation. This practice threatens the stability of our families and communities while inhibiting growth and economic development.

I strongly support estate tax relief. The current estate and gift tax system poses a great threat to family-owned businesses and farms. I am a cosponsor of legislation to increase unified credit and to index it for inflation. I am also a cosponsor of legislation to eliminate the estate tax entirely.

Repeal of the estate tax would benefit the economy. George Mason University Professor Richard Wagner has stated that the elimination of the estate tax would enhance the output of the country by \$79.2 billion—I repeat, by \$79.2 billion—and would create up to 228,000 jobs. Unfortunately, under the current system, the energy that could go into greater productivity is ex-

pendent by selling off businesses, dividing resources and preparing for the absorption of an estate by the Government.

The current system leads to the views of an Arizona citrus farmer who said of his family business, "Instead of an inheritance, it's an albatross."

We must insist that no more American families lose their businesses because of the estate tax. We must assure that when a family is coping with all the inevitable transition costs of passing a business from one generation to the next, the Federal Government is not there as an added burden. The working people of the United States deserve better.

Until we accomplish total repeal, I will be working to reduce the burden of this tax. I believe the exemption should be dramatically increased and that the current 17 rates should be reduced to one low, flat rate. The estate tax should then be effectively abolished for family businesses and farms for as long as the assets remain in the family. No family business or farm should ever have to be liquidated just to pay the estate tax.

I look forward to working with the Senate Finance Committee to reform this outdated and punitive tax system.

Mr. President, I yield back the remainder of my time.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I thank the Chair.

INTELLIGENCE AUTHORIZATION

Mr. KYL. Mr. President, I wish to follow up on some comments that my colleague from Colorado made. First, however, I should like to address a subject briefly which has relevance to one of the bills we will be taking up, if not today, then later this week, and that is the intelligence authorization bill.

This is a bill which should not have a great deal of controversy surrounding it. It provides for the funding of the intelligence agencies of the United States and the substantive policy that governs our intelligence activities, but it is especially relevant and propitious, I think, that we take up that bill this week following the news accounts of the arrest and incarceration of a man whose name is Kanzi, ostensibly from Pakistan, who is the alleged perpetrator of a violent crime against employees of the CIA a few years ago here in the Washington, DC, area.

The reason I bring this up now is to make two points. One, we frequently hear the stories when things go wrong in law enforcement and in particular in operations involving our intelligence agencies. We try to learn from those lessons, but there have been bitter experiences with which we have had to deal. What we do not hear so much about are the many, many successes that go unreported, frequently because they involve law enforcement or intelligence activities that simply cannot