OK agents or informants to assume false identities, wear body wires, or engage in undercover activities. ''In effect,'' says David Szady, special agent in charge of the FBI's Portland office, ''we now have to go to a drug dealer and say, 'FBI! Would you sell us some drugs, please?' '' The FBI, Szady says, has had to suspend 50 investigations, including probes of Internet child pornographers, A Russian organized-crime group, and a massive check-fraud ring.

Federal prosecutors despise the McDade law. David Margolis, a senior Justice Department official and a veteran organized-crime prosecutor, says McDade has had a major chilling effect. ''Even I wouldn't go out on a limb,'' he says. Justice officials are trying to gut the law before Congress goes out of session this week. The department warned lawmakers in 1998 that prosecutors would be lost in a morass of quirky state ethics laws—especially during complicated multistate investigations. But defense lawyers won the day. ''Why should prosecutors be exempt from rules that apply to all other lawyers in that state?'' says Mark Holscher, lawyer for former Los Alamos scientist Wen Ho Lee. So far, no court has dismissed a case or excluded evidence on the basis of McDade. ''These are crocodile tears,'' says veteran defense lawyer Irv Nathan.

Major headache. The biggest headache for prosecutors is the American Bar Association's controversial Model Rule 4.2, adopted by many states. It prohibits prosecutors from contacting people represented by lawyers without first talking to the attorneys. Remember when Kenneth Starr's prosecutors ignored Monica Lewinsky's tearful entreaties to call her lawyer? They got away with it because, since 1989, Justice had defied Rule 4.2.

No more. Prosecutors now say adhering to 4.2 has hurt white-collar probes, where securing the cooperation of informers in often vital. In an investigation of Alaska Airlines last year, company lawyers barred federal agents from questioning employees. Sen. Patrick Leahy of Vermont says, ''The pendulum has swung too far in the other direction.'' But House Judiciary Committee Chairman Henry Hyde of Illinois says he's not inclined to repeal McDade. ''That doesn't mean I'm for crooks,'' Hyde says. ''I'm for ethical behavior both by law enforcement and by defense counsel.'' Watching the fight from the sidelines in Joe McDade, now 69. ''I didn't read about it. I lived it,'' he says, of prosecutorial zealotry. ''The effort is not justice. The effort is to break a citizen.''

STUDENT PLEDGE AGAINST GUN VIOLENCE

Mr. LEVIN. Mr. President, on Tuesday, thousands of young people observed the Fifth Annual Day of National Concern About Young People and Gun Violence. Students across the country who participated in the day's activities were given the chance to make a strong statement renouncing the violent use of guns by signing a voluntary pledge.

In my own State of Michigan, high school senior Vince Villegas of Lansing worked to ensure that the anti-gun violence pledges were distributed to students in his own school district. Vince is the co-founder and current president of Students Against Firearm Endangerment, SAFE, USA, an organization whose mission is to reduce the number of gun casualties by increasing gun education in America's schools. With help from students like Vince, more than one million young people have signed the Student Pledge Against Gun Violence during this year alone.

Here is what that pledge says: ''I will never bring a gun to school; I will never use a gun to settle a dispute; I will use my influence with my friends to keep them from using guns to settle disputes. My individual choices and actions, when multiplied by those of young people throughout the country, will make a difference. Together, by honoring this pledge, we can reverse the violence and grow up in safety.''

Vince and students like him around the country have pledged to do what they can to reduce the toll of gun violence in their lives. Now it's up to Congress to learn from our young people and pledge to combat the gun violence that plagues the Nation's schools and communities.

VICTIMS OF GUN VIOLENCE

Ms. MIKULSKI. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read the names of some of those who have lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

October 19, 1999:

Jerry G. Bowens, 25, Memphis, TN;

Nathaniel Bryan, 20, Washington, DC;

Wayne Butts, 43, Atlanta, GA;

Arnold Handy, 19, Baltimore, MD;

Paul Johnson, 31, New Orleans, LA;

Russell Manning, 52, Dallas, TX;

Rebecca Rando, 25, Houston, TX;

Mark Smith, 31, Dallas, TX;

Kirk Tucker, 32, Chicago, IL;

Jermaine Wallace, 22, Baltimore, MD; and

George Williams, 19, Pittsburgh, PA.

We cannot sit back and allow such senseless gun violence to continue. The deaths of these people are a reminder to all of us that we need to enact sensible gun legislation now.

VOICE OF AMERICA EDITORIAL

Mr. BIDEN. Mr. President, on October 18 the Voice of America broadcast an editorial entitled ''Terrorism Will Fail,'' strongly condemning the terrorist bomb attack on the U.S.S. *Cole* in Aden harbor, which took the lives of 17 U.S. sailors. The editorial concluded: ''U.S. policy remains unchanged. The U.S. will make no concessions to terrorists. The U.S. will bring to justice those who attack its citizens and interests. The U.S. will hold state sponsors of terrorism fully accountable.''

This is unambiguous language, which reflects not only United States government policy but also the feelings of all Americans. Unfortunately, however, the bureaucratic road from writing, to approval, to broadcasting this editorial was anything but unambiguous. In fact, it revealed both initial bad judgment by the State Department, and the need for better vetting procedures of VOA editorials by the appropriate authorities.

VOA editorials are statements of American policy, so they are rightly cleared by the State Department for consistency with official U.S. Government policy. Regrettably, in this case the State Department initially vetoed the editorial's language. The reason for stopping the editorial was totally unjustified. It was dead wrong to stop the editorial because of fighting and casualties that were occurring elsewhere in the Middle East. American service men and women were tragically killed in this terrorist attack and a clear statement by Voice of America condemning the action should have gone out immediately.

Subsequently, the State Department fortunately disavowed the earlier veto of the editorial memo, saying that the initial veto memorandum ''in no way reflects the views of the Secretary of State, the Department or the Bureau of Near Eastern Affairs.'' Moreover, it stated that the initial veto memorandum had not been vetted or approved through appropriate channels.

It is inconceivable to me how anyone could advocate deleting an editorial condemning the cruel, cowardly, terrorist murder of American service men and women.

I hope and trust this occurred because of the understandable stress officials at the Department of State were under due to the tragic deaths from this dastardly act of terrorism in Yemen occurring at the same time the crises in the Middle East was also absorbing the attention of the Department.

Fortunately, as I mentioned earlier, the Voice of America did broadcast the editorial in its entirety.

AGRICULTURE APPROPRIATIONS BILL

Mr. BINGAMAN. Mr President, I rise today to clarify my position on the vote we are about to take on the Agriculture Appropriations bill. I voted for the bill because it contains funding for a broad range of programs that are very important to farmers in New Mexico and the rest of the United States. But that said, I would like to express my opposition and disappointment at this time to the way this bill frames our national policy toward Cuba.

First, let me say that this bill is remarkable in that it represents a dramatic step forward in how the United States deals with restrictions on sales

of food and medicine to designated terrorist states. After considerable debate among my colleagues on this issue, relative consensus has been attained that suggests that unilateral sanctions against countries like North Korea, Sudan, Iran, and Libya are not effective, and that any future economic policy in this regard must include the multi-lateral cooperation of other like-minded governments. Even more importantly, many of my colleagues have come to the conclusion that official sanctions on food and medicine is an inappropriate way to achieve our foreign policy goals. The logic here is straightforward: not only do these sanctions hurt those individuals most in need in these countries—the innocent civilians who are being oppressed by oftentimes ruthless regimes—but they also hurt American businesses that would directly gain from such exports. American farmers in particular suffer under these constraints, and I am convinced those constraints should be removed immediately.

I should emphasize here that the elimination of sanctions does not imply that we as a deliberative body agree with the policy pronouncements or activities of terrorist countries. Quite the contrary, they are reprehensible and, as such, we will continue to register our opposition to them at every opportunity. But as a practical matter the elimination of the sanctions does suggest that we finally recognize that we cannot effectively punish dictators or despots through their own people. Perhaps more significantly in this regard, the United States should not be placed in the difficult position of defending such policies as, in my view, they run against some of our most basic values and traditions.

It is for this reason that the Agricultural Appropriations bill as it relates to Cuba is seriously flawed. What we have done in this bill is permitted the sale of food and medicine to most of these countries and, moreover, authorized U.S. public and private financing that would allow this to occur. But we have refused to apply these exact same provisions to Cuba. In the case of Cuba, we have permitted the sale of food and medicine, but we have prohibited U.S. financial institutions from assisting in this process. Of course, Cuba can still purchase food or medicine from the United States, but it must do so with its own capital, or with assistance from third-party financial institutions. In short, Cuba must somehow convince a foreign bank to lend it money to purchase food or medicine, an obvious liability given its current situation. Clearly this limitation placed on Cuba defeats the basic rationale underlying the bill, and makes the exercise of sanctions reform almost entirely symbolic in nature. The bottom line is that our farmers will gain little or nothing in terms of increased sales to Cuba, and that is just plain wrong.

This bill is also flawed in that it further restricts travel to Cuba, this after several years of moving forward in areas related to increased scientific, academic, social, and cultural exchange. I find this to be an ill-advised provision in that it runs counter to everything we have experienced in Eastern Europe, East Asia, and Latin America in terms of the dynamics of freedom and democratization. For a number of years now I have supported the right of Americans to travel to Cuba, and I continue to do so at this time. I have also suggested that we allow non-governmental organizations to operate in Cuba and to provide information and emergency relief when needed. Furthermore, I believe that Cuban-Americans with relatives still in Cuba should be permitted to visit Cuba to tend to family emergencies.

Let me state clearly that I personally deplore the Castro regime and its heavy-handed tactics toward its people. The lack of freedom and opportunity in that country stands in direct contrast to the United States, as well as most countries in the Western Hemisphere. Cuba now stands alone in the West in its inability to allow the growth of democracy and the protection of individual rights.

In my view, Cuba is ripe for change, and the best way to achieve positive change is to allow Americans to communicate and associate with the Cuban people on an intensive and ongoing basis, to re-establish cultural activities, and to rebuild economic relations. To allow the Cuban system to remain closed does little to assert United States influence over policy in that country and it does absolutely nothing in terms of creating the foundation for much-needed political economic transformation. The spread of democracy comes from interaction, not isolation.

So for all the positive attributes contained within this bill, I see the provisions as they relate to Cuba to represent a serious step backward that will ultimately harm, not help, the U.S. national interest. This is an anachronistic policy that does no one any good. It is my hope that what some of my colleagues are saying today on the floor is true, that this is merely an initial compromise that lays the foundation for more significant change through legislation in the future. If this is correct, I look forward to working with them to ensure that more constructive policy is indeed enacted. I am convinced it is long overdue.

THE INNOCENCE PROTECTION ACT

Mr. LEAHY. Mr. President, I have come to the floor several times this year to focus attention on the national crisis in the administration of the death penalty. I rise today, in what I hope are the closing days of the 106th Congress, to report on how far we have come on this issue in Congress and across the country, and to discuss the important work that is yet to be done.

In recent years, many grave flaws in the capital punishment system nationwide have come to light. Time and again, across the nation, we have heard about racial disparities, incompetent counsel who make a mockery of our adversarial process, testimony and scientific evidence that is hidden from the court, and the ultimate injustice, the conviction and sentencing to death of innocent people.

In the last quarter century, some 88 people have been released from death row, not on technicalities, but because they were innocent. Those people were the ''lucky'' ones; we simply do not know how many innocent people remain on death row, and how many have been executed.

Earlier this year, after it came to light that his State had sent more innocent people to death row than it had executed guilty people, Governor Ryan announced a moratorium on executions in Illinois and launched a systematic inquiry into the crisis and to consider possible reforms.

At around the same time, along with colleagues from both sides of the aisle, from the Senate and from the House, I introduced the Innocence Protection Act as a first step to stimulate a national debate and inquiry and begin work on national reforms on what is a nationwide problem.

Almost a year later, our informal national public inquiry has yielded a wealth of evidence. The American people have reached some compelling findings. And our reform effort has gained the endorsement, and—more important—the wisdom and insight, of Republicans and Democrats, of judges, law enforcers and defense attorneys, and of scholars and ordinary people who have experienced the system first hand.

The evidence has shown that the system is broken, and the American people are demanding that it be fixed or scrapped. We have meaningful, carefully considered reforms ready to be put into place. It is now time for Congress to act.

Let me first review just a few highlights of the evidence that has mounted since we first introduced the bill.

On June 12, Professor James Liebman of the Columbia Law School released the most comprehensive statistical study ever undertaken of modern American capital appeals. This rigorous study, which was nine years in the making, revealed a death penalty system fraught with error reaching crisis proportions. It revealed a system that routinely makes grave errors, and then hopes haphazardly and belatedly to correct them years later by a mixture of state court review, federal court review and a large dose of luck.

During the 23-year study period, courts across the country threw out nearly seven out of every ten capital sentences because of serious errors that undermined the reliability of the outcome. The single most common error, the study showed, was egregiously incompetent defense lawyering.