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The Gang Bill

Congress has fast-tracked some tricky legislation. Now comes the tough part: pegging discrimination.

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By Brian Gilmore

At a sparsely attended Congressional briefing on Capitol Hill recently, Wayne McKenzie, a former prosecutor, and now Director of the Vera Institute's Prosecution and Racial Justice Program, spelled out an initiative that was almost unheard of just a few years ago. The Prosecution and Racial Justice Program is, for lack of a better description, a new direction at the intersection of criminal justice and race. It helps prosecutors collect data on race and crime within their own offices in the hope that it will stop the discriminatory racial patterns so pervasive these days.

The Vera Institute, a 40-year-old organization that seeks solutions to problems with the criminal justice system, says the initiative "seeks to offer...prosecutors a mechanism for being proactive by monitoring the exercise of discretion" with their offices. In addition, McKenzie's bold effort of technical management, it is hoped, will promote "fairness" and enhance "consistency" while guarding against "biased decision making" in the criminal justice system. In other words, if there is racism in the criminal justice system, McKenzie's program will try to help prosecutors, through technical support and information gathering, identify the problem with hard data.

The program is especially welcome now as the Democratic controlled Congress fast tracks a crime bill called "The Gang Prevention, Intervention, and Suppression Act." The bill, already approved by unanimous consent by the Democratic controlled Senate, is just the kind of potential law that could promote what has been described in McKenzie's briefing as "mistrust" between prosecutors and Black communities across the nation as they play God with the lives of so many people of color.

"The Gang Prevention, Intervention and Suppression Act," as the title suggests, aggressively targets gangs, gang activity and crime, but in the process, targets juveniles of color, mainly African-Americans and Latinos. It is simple criminal justice work: many gang associated crimes will be federal crimes now so federal prosecutors with the full weight of Uncle Sam's deep pockets, can start filling up adult federal prisons with African-American and Latino youth, who comprise a large number of gang members. It is the same formula that has been incredibly successful in filling up state and federal prisons during the failed War on Drugs.

The bill re-defines gangs broadly and vaguely and also makes the penalties for gang crimes and gang activity more severe than they are now. This includes life sentences in prison without parole for some crimes.

Of course, many states already have laws to deal with gang activity, but it is nearing election time, and the Democrats in Congress, who were too cowardly to stop the war in Iraq, and cannot deliver health care for some children living on the edge, have to deliver something to the people. This year's political sacrifice: thousands of African-American and Latino youth in prison if the

bill passes.

For the record, it is mostly those “Blue-Dog Democrats” who want to stick it to the country’s youth under the guise of solving the country’s gang problems, but the opposition so far has been shallow from anyone up there. Everyone on Capitol Hill, as an election approaches, loves a hard nosed crime bill. Congressman Adam Schiff, Democrat, California, pushed this one upon us.

“[F]or those who do engage in gang violence,” Congressman Schiff, Democrat, mused when he introduced it, “the bill will give law enforcement an enhanced ability to crack down on gang offenders and increase penalties for those gang members who terrorize our communities.”

Schiff, a well known Blue Dog, also boasted of the bill’s prevention funding in his press release although anyone reading the bill can see quickly: this is really about locking up as many people as possible for long sentences and even life without parole if necessary.

The U.S. Sentencing Commission knows the deal. It reported recently that 75 percent of those incarcerated because of the enactment of the bill into law will be African-American or Latino. This is consistent with most of the available statistics on this issue.

Note, of the more than 2200 individuals in the world sentenced to life in prison without parole as a juvenile, all but 12 of these individuals are in U.S. prisons. No other country in the world thinks this is credible criminal justice policy.

A lot of political heavyweights are against this bill and it is easy.

The American Civil Liberties Union called it “disastrous” for minority youth. The National Juvenile Justice and Delinquency Coalition, an association of 80 national groups advocating for children, said the bill is “fundamentally flawed with its misguided emphasis on punishment and incarceration over prevention and early intervention.” Even the right wing Heritage Foundation hates it. They describe it as “overbroad” and add that it “disregards the constitutional framework underlying America’s state and federal criminal justice systems.”

The best argument for opposing this bill, however, is contained in a competing bill – “The Youth Promise Act” introduced by Congressman Bobby Scott of Virginia.

Rep. Scott is not interested in locking up more and more people only to see them released, without skills, direction, or hope, and watch them get arrested over and over for the rest of their lives. He wants to get at the root causes: poverty, alienation, lack of jobs, training, or direction.

“‘The Youth Promise Act’ will provide resources to communities to engage in comprehensive prevention and intervention strategies to decrease juvenile delinquency and criminal street gangs,” wrote Rep. Scott when the bill was introduced on October 17, 2007. It is a much different approach as it provides significant funding for prevention programs rather than incarceration efforts.

The act, Scott adds “implements the recommendations of researchers, practitioners, analysts,

and law enforcement officials from across the political spectrum...to reduce gang violence and youth crime.”

These findings have been well known for years. Throw young people in adult prisons and you are harvesting career criminals who you will have to incarcerate for decades. Throw them a lifeline and they might just climb out of hell.

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