

When left alone for a mere 15 minutes, nearly three quarters of the groups found the handgun. Of those groups, more than three quarters handled the guns. And 16 boys—one out of every four in the study—actually pulled the trigger. And none of these boys knew that the gun was not loaded. Perhaps most distressing is the fact that more than 90 percent of those who handled the gun or pulled the trigger had some form of gun safety instruction.

Despite this study and countless other examples of the potentially lethal implications of mixing kids and guns, the National Rifle Association has not strayed from its mantra. When asked about the Emory study, an NRA spokesman was reported to have said simply “You can certainly assume that the findings are artificial.”

But I think Emory’s Dr. Arthur Kellermann, a co-author of the study, had it right. Dr. Kellermann said, “Since we can’t make kids gun proof, why can’t we make guns kid proof?” That makes sense to me. So while the NRA is free to bury its head in the sand, we are not. We in the Congress have a moral responsibility to stand up for what’s right, close the loopholes in our gun laws, and make our nation a little safer for our children and our grandchildren.

THE OKLAHOMA CITY BOMBING CASE

Mr. LEAHY. Madam President, we are all familiar with the recent developments in the Oklahoma City bombing case. Last month, just 6 days before Timothy McVeigh was to be executed, we learned that the FBI had withheld thousands of pages of documents from McVeigh’s defense team. The execution was then postponed until June 11 to give McVeigh and his lawyers time to review the evidence that should have been provided to them before the trial began.

The bombing of the Oklahoma City Federal Building 6 years ago left 168 people dead and hundreds more injured.

The Federal Government spent millions investigating and prosecuting McVeigh, and millions more on his defense. The prosecution and the courts bent over backwards to ensure that he got a fair trial—one in whose outcome all Americans would have confidence. A member of the prosecution team once called McVeigh’s trial “a shining example . . . of how the criminal justice system should work.”

I have great respect for the dedicated team of prosecutors and law enforcement agents who worked on the Oklahoma City bombing case. I honor their commitment and I commend their accomplishments. But I agree with the trial judge that the FBI’s belated discovery of thousands of pages of documents that were not turned over to the defense was “shocking.” And I believe

that this shocking incident holds some lessons for us about our criminal justice system.

First, something we all know, even if we do not want to admit: Mistakes happen. Even in the highest of high profile cases, where the world is watching every step of the way, and even when the government devotes its most talented personnel and spares no expense, you cannot eliminate the possibility of human error or, as appears to be the case here, an unreliable computer system.

That should tell us something about other less infamous cases. The average case, even the average death penalty case, does not get the benefit of intense media scrutiny, and is not litigated by the best lawyers in the land. In the average death penalty case in Alabama, for example, the defense does not get millions of public dollars. Sometimes, defense lawyers are paid less than the minimum wage for defending a man’s life. Too often, in the average death penalty case, corners are cut.

We saw what comes of corner cutting last month, when Jeffrey Pierce was released from prison in Oklahoma. He served 15 years of a 65-year sentence for a rape he did not commit, because a police chemist claimed his hair was “microscopically consistent” with hair found at the crime scene. Turns out it was someone else’s hair. Whoops: Mistakes happen.

The second lesson to be learned from the McVeigh case is this: Process matters. The new documents that the FBI discovered may have no bearing on McVeigh’s guilt or sentence, but that does not excuse the FBI’s initial oversight in failing to produce them.

The right to a fair trial is not some arcane legal technicality. It is the bedrock constitutional guarantee that protects us all against wrongful convictions. The fair trial violation in Jeffrey Pierce’s case did have a bearing on his guilt or innocence, and cost an innocent man 15 years of his life.

Finally, the McVeigh case reminds us that however much we may long for finality and closure in criminal cases, our first duty must always be to the truth. While I am dismayed by the FBI’s failure to produce evidence 6 years ago, I would be far more troubled if it had tried to cover up its mistake. It appears that the FBI and the Department of Justice acted responsibly under the circumstances, by turning over the materials in an orderly manner and giving McVeigh time to consider his response. The Government’s willingness to acknowledge its mistake and uphold the rule of law was proper and commendable.

It also stands in sharp contrast to the actions of certain State and local authorities. The sad truth is that in America in the 21st Century, with the most sophisticated law enforcement and truth-detection technologies that

the world has ever seen, there are still some law enforcers who would rather keep out critical evidence, and hide the system’s potential mistakes from the public, than make sure of the truth. There are still people playing “tough on crime” politics with people’s lives, at the expense of truth and justice.

A prosecutor’s duty is to the truth, the whole truth, and nothing but the truth. That duty does not end just because the defendant has been convicted. As Attorney General Ashcroft said in announcing the postponement of McVeigh’s execution: “If any questions or doubts remain about this case, it would cast a permanent cloud over justice, diminishing its value and questioning its integrity.”

One cannot think of the Oklahoma bombing case without thinking of the hundreds of victims whose lives that bomb shattered. We as a society cannot give the families back their loved ones, but we can and should give them closure. As the Attorney General acknowledged, you cannot have real closure without a fair and complete legal process that ensures that all of the evidence has been properly examined.

We cannot achieve infallibility in our criminal justice system, and we cannot spend millions of dollars on every trial. No one suggests that we should. But if we want real justice for those defendants, like Jeffrey Pierce, who happen to be innocent, and real closure for victims of violent crime, we must ensure that we as a society do not cut corners in the administration of criminal justice. That requires, at a minimum, that we provide competent counsel to capital defendants and make DNA testing available in all cases where it could demonstrate the defendant’s innocence.

Process matters, for victims and defendants alike, and I hope that we will take real action in this Congress to pass the Innocence Protection Act and stop cutting the corners.

I ask unanimous consent to print in the RECORD a recent Wall Street Journal article discussing the growing support for stronger protections against wrongful executions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DESPITE McVEIGH CASE, CURBS ON EXECUTIONS ARE GAINING SUPPORT

(By John Harwood)

WASHINGTON.—Americans last year elected an enthusiastic proponent of capital punishment to the White House. And they’re applauding the resumption of federal executions next month, when mass murderer Timothy McVeigh is scheduled to die by lethal injection.

Yet, paradoxically, the dawn of George W. Bush’s presidency is bringing a swing in the pendulum away from executions in America. Though most Americans continue to back capital punishment, support has been dropping in recent years in tandem with declining rates of violent crime. Advances in DNA testing and scandals involving the prosecution of major offenses have underscored the fallibility of evidence in capital cases.

One state, Illinois, has placed a moratorium on the death penalty. Others, including Arkansas and North Carolina, have indirectly curbed its application by beefing up standards or taxpayer funds for the representation of indigent defendants. The number of people annually sentenced to death in the U.S. has fallen in three of the last four years for which statistics are available, to 272, in 1999, since peaking at 319 in 1994 and 1995.

Just last week, the Texas House voted to create the state's first standards for court-appointed lawyers. The Texas Senate had already passed similar legislation. The Supreme Court this fall is scheduled to revisit whether to bar the execution of mentally retarded inmates. In the Republican-controlled Congress, support is building for stronger protections against the execution of defendants who may be innocent.

SHIFT IN OKLAHOMA

The pendulum swing is occurring even in Oklahoma City, where Mr. McVeigh bombed the Alfred P. Murrah Federal Building six years ago, killing 168 people. There is early evidence that Oklahoma convicts are receiving fewer death sentences in the wake of the state's decision to improve legal counsel for poor defendants and expand access to DNA testing. Recent allegations of misleading testimony by an Oklahoma police chemist who served as a frequent prosecution witness, as well as the FBI's mishandling of records in the McVeigh case, are only adding to pressure for better safeguards.

"The politics of the death penalty are clearly changing . . . because of the blunders of the system," says Oklahoma Gov. Frank Keating. Though he staunchly supports capital punishment, the conservative Republican says he favors establishing a higher standard of proof in capital cases, even if that makes death sentences more difficult to obtain.

Just five years ago, such a change was unthinkable. But it reflects a broader reconsideration taking place across the spectrum of criminal-justice issues.

Since crime rates began to soar in the 1960s, voters and politicians have responded with an increasing array of get-tough measures, from more-aggressive police practices to longer sentences to sterner jails. But now, questions about the wisdom of America's get-tough approach are coming from state officials straining to finance the prison boom, leaders of poor neighborhoods depleted by the incarceration of rising numbers of drug offenders and criminologists concerned about the long-term effect of inmates of harsher jail practices.

"Maybe we have gone too far," says U.S. Rep. Ray LaHood, a member of the GOP leadership on Capitol Hill, whose downstate Illinois district includes a federal prison. He is co-sponsoring the Innocence Protection Act, which would encourage states to provide capital defendants with "competent counsel" and death-row convicts with access to DNA testing.

Mr. LaHood says federal judges—both Republicans and Democrats—are urging him to ease stiff "mandatory-minimum" drug-sentencing laws and the 1987 U.S. sentencing guidelines that took away most discretion from judges. One of those judges, Michael Mihm of Peoria, Ill., a Ronald Reagan appointee, says that with experience on the bench, he has concluded that some mandatory minimums are excessive. At sentencing time, "I am saying, 'All right . . . could we accomplish all of the legitimate concerns of the society with 10 years rather than 20, with 10 years rather than 30?'"

"We're filling up our prisons," Mr. LaHood adds. More than 1.9 million people reside in the nation's prisons and jails. "When people think about the number of prisons," the congressman says, "they really wonder if this is what we should be doing."

LOOKING AT MINIMUMS

President Bush himself has raised similar questions about prison policy. "Long minimum sentences may not be the best way to occupy jail space and/or heal people from their disease," he told a CNN interviewer just before taking office in January. "And I'm willing to look at that." The administration is expected to propose sentencing changes later this year.

On capital punishment, the shift has occurred in spite of Mr. Bush, not because of him. In Texas, he presided over 152 executions, more than any other U.S. governor in the last quarter-century. He said earlier this month that the one-month delay in Mr. McVeigh's execution is "an example of the system being fair," as he has long maintained.

But that hasn't stopped the development of an unusual community of interest across the political spectrum as debate has shifted from whether capital punishment should exist to how it is applied in practice. Opponents want stronger safeguards because it will mean fewer executions. Supporters will tolerate fewer executions as a means of stemming the erosion of public confidence in the death penalty. The result is an emerging consensus resembling a goal former President Bill Clinton once articulated concerning abortion, which he said should be "safe, legal and rare."

It isn't the first time that post-World War II America has reconsidered capital punishment. Before public attention focused on the rising crime rates of the 1960s, and amid that decade's optimism about liberal social goals, support for capital punishment dropped below 50%, notes Pew Center public-opinion analyst Andrew Kohut. The supreme Court halted executions across the country in 1972, declaring the death penalty's application arbitrary and capricious.

But that was followed by years of steadily increasing support for capital punishment, as crime levels rose. In the 1970s, state legislatures scrambled to pass new death-penalty statutes designed to meet the Supreme Court's constitutional objections. Today, capital punishment is legal in 38 states. In 1977, Utah became the first state to resume executions after the high-court ruling, and 30 others have followed suit.

In the late 1980s, moderate Democratic strategists said fielding a presidential nominee who supported the death penalty was crucial to the party's hopes of recapturing the White House after three consecutive Republican victories. They found such a candidate in then-Arkansas Gov. Clinton, who left the campaign trail at one point in 1992 specifically to preside over the execution of murderer Ricky Ray Rector.

Public support for the death penalty crested at 80% in 1994, following another decade of rising violent-crime rates. Legislation passed that year by a Democratic-controlled Congress and signed by Mr. Clinton made some 60 additional categories of crime, such as major narcotics trafficking, subject to the federal death penalty. Two years later, an antiterrorism bill signed by Mr. Clinton placed new limitations on federal appeals by death-row inmates, while the new GOP majority in Congress cut federal funding that aided defense lawyers in capital cases in many states.

THEMES OF THE 1990S

But the tide of opinion turned under the influence of two of the most powerful themes running through American society in the late 1990s. One was improving social trends, including a steady drop in rates of murder, rape and assault. Fear of violent crime likewise fell. The other was technological advancement, which in the forensic field led to DNA evidence being used to exonerate some long-serving inmates, including some on death row.

In 1996, two death-row prisoners in Illinois were freed after an investigation by journalism students at Northwestern University led to DNA testing that exonerated the inmates. A year later, the American Bar Association called for a national moratorium on the imposition of the death penalty.

Increasing opposition to capital punishment among religious leaders helped fuel the shift in opinion. Catholic bishops have called for the abolition of capital punishment as part of the "ethic of life" that leads to their opposition to abortion. In early 1999, then-Missouri Gov. Mel Carnahan commuted the death sentence of one inmate after receiving a personal plea from the Pope. Last year, televangelist Pat Robertson, a former-Republican presidential candidate, called for a moratorium on capital punishment, after earlier unsuccessfully lobbying Mr. Bush to spare the life of convicted Texas murderer Karla Faye Tucker.

Messages in popular culture, including films such as "The Green Mile" and "Dead Man Walking," also helped soften attitudes by depicting the humanity of prisoners facing execution. Sixteen months ago, opponents of capital punishment claimed a striking breakthrough when Republican Gov. George Ryan of Illinois imposed a death-penalty moratorium in the state amid mounting evidence of botched cases.

In Congress, legislation that would create financial incentives for states to expand access to DNA testing and set standards for legal representation of defendants in capital cases is gathering support in both parties. In the Senate, its 19 co-sponsors include four Republicans and last year's Democratic vice presidential candidate, Joseph Lieberman, who declined to back the bill a year earlier. Its 191 co-sponsors in the House include several members of the GOP's conservative wing.

GOP Rep. Mark Souder of Indiana, one of the co-sponsors, says, "I support the death penalty, [but] I'm a little uncomfortable. We want to be more sure."

There's no sign of White House support for such legislation, which if implemented could have the effect of significantly decreasing the number of death sentences handed down. But one Bush adviser says the president "would probably have to sign" a death-penalty-reform bill if it reached his desk.

Moderate GOP lawmaker Sherwood Boehlert of New York says Mr. Bush should affirmatively embrace the cause to "soften" his image after his narrow presidential-election victory. Among other things, such a move could help tamp down hostility among black voters, who are far more inclined to oppose the death penalty than are whites. Though African-Americans make up just 12% of the nation's population, they represent 43% of American inmates now on death row.

States aren't waiting for action from Washington. Florida this year became the 15th state to bar the execution of mentally retarded inmates, in legislation now awaiting the promised signature of Gov. Jeb Bush, the president's brother. Gov. Jim Gilmore of

Virginia, whom Mr. Bush made chairman of the Republican National Committee earlier this year, signed a statute to improve access to DNA testing. In Texas, Mr. Bush's gubernatorial successor has also signed DNA legislation, while lawmakers in Austin move forward on improvements in the state's indigent-defense system.

Perhaps most striking, neighboring Oklahoma, the focus of national attention because of the McVeigh execution plans, began taking similar steps four years ago. A state board controlled by Gov. Keating hired Jim Bednar to run the state agency that provides lawyers for poor defendants. Mr. Bednar had formerly sought the death penalty as a state prosecutor and presided over its imposition as a judge.

In the past, if a lawyer assigned to represent an indigent defendant "had vital signs, he was determined to be competent," says Mr. Bednar. "In theory I'm not opposed to the death penalty. But it's the practice we need to look at. The system is flawed."

He began to overhaul the indigent-defense agency by winning funding increases to hire better-quality lawyers. The agency is now sending the message that attorneys for poor inmates "are really going to show up and do our job," Mr. Bednar says.

Because of stiffer opposition, prosecutors are becoming "more hesitant to seek the death penalty," he adds. In fiscal year 1998, as Mr. Bednar was beginning to reorganize his agency, prosecutors in the area served by his Norman office, which covers roughly the western half of the state, sought death sentences in 36 cases. They obtained the punishment in four cases. Last year, prosecutors sought 26 death sentences and obtained only one.

Doubts about the validity of some prosecution evidence—sown most recently by the scandal involving alleged flaws in the work of Oklahoma City police chemist Joyce Gilchrist—may have also made juries more reluctant to impose the death penalty in the state. Oklahoma Attorney General Drew Edmondson, whose office is reviewing the cases of all 121 death-row inmates in the state to see if additional DNA testing is called for, has declined to set an execution date for any of the 12 against whom Ms. Gilchrist had testified. Ms. Gilchrist, who was suspended by the Oklahoma City police department in March and now faces a state investigation of her work, said in an interview, "I stand by my testimony."

Republican Gov. Keating says further steps are needed. He proposes a higher standard of proof—"moral certainty" of guilt—for capital cases, instead of the families' absence-of-reasonable-doubt standard used in criminal trials. "The people now expect moral certainty," says Mr. Keating. "No system can survive if it's fallible."

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY last month. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 19, 2000, in San Francisco, California. Two men

were arrested on charges of stalking, assaulting and robbing men in gay bars in what police say was a "brazen, bicoastal crime spree that included four robberies in Maine and vicious attacks on gays," including slashing one victim's throat, in California. The perpetrators were arrested after a bouncer at a gay bar recognized their distinctive Boston accents after reading about them in a warning flier distributed by police.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

TWO-YEAR ANNIVERSARY OF THE BELLINGHAM WASHINGTON PIPE- LINE EXPLOSION

Mrs. MURRAY. Madam President, on June 10th families in Bellingham, WA and throughout my home State will mark the 2-year anniversary of a pipeline explosion that killed three young people.

That tragic explosion changed three families forever. It shattered a community's sense of security. It showed us the dangers posed by aging, uninspected oil and gas pipelines. That disaster in Bellingham led me to learn about pipeline safety, to testify before Congress, to introduce the first pipeline safety bill of the 106th Congress, and ultimately to pass legislation in the Senate in September 2000 and again in February of this year.

The Senate has done its job. Twice the Senate has passed the strongest pipeline safety measures to ever pass either chamber of Congress. Now it's time for the House and President Bush to do their part.

The bill we passed in the Senate is a major step forward. It isn't everything everyone could want, but it is a significant move in the right direction. Specifically, the bill: Improves the Qualification and Training of Pipeline Personnel, Improves Pipeline Inspection and Prevention Practices, Requires internal inspection at least once every five years, Expands the Public's Right to Know about Pipeline Hazards, Raises the Penalties for Safety Violators, Enables States to Expand their Safety Efforts, Invests in New Technology to Improve Safety, Protects Whistle blowers, and Increases Funding for Safety Efforts by \$13 billion.

Here we are, 2 years after that disaster in Bellingham and the legislation we've passed in the Senate still hasn't become law. That is inexcusable. The Bush Administration just issued an energy plan that calls for 38,000 new miles of pipeline. As I told the Vice President in a letter recently, before we build thousands of miles of pipelines through

our backyards, our neighborhoods and our communities, we must make sure those pipelines are safe.

Unfortunately, the President's energy plan offered some rhetoric about pipeline safety, but no clear progress. I believe he missed an opportunity to articulate the Administration's specific proposals to make pipelines safer. I hope President Bush will agree that we shouldn't replace our current energy crisis with a pipeline safety crisis.

Let me offer three ways President Bush can show his commitment to public safety. The first one is simple. We shouldn't backtrack on safety. Comprehensive new legislation which has passed the Senate and is pending in the House should represent the new minimum of safety standards. President Bush should not send us a proposal that is less stringent than this bill. President Bush should not undo the progress we made last year. And I hope he'll show a sensitivity to safety and environmental concerns that have been absent from his discussions on this issue to date.

Second, President Bush should signal his support of pipeline safety legislation, which I hope will ultimately take the form of him signing a bill into law.

Finally, President Bush's Department of Transportation should continue to issue administrative rules to make pipelines safer. The Clinton administration took several important administrative steps. I hope the Bush administration will show the same level of commitment.

We do need to address our energy needs, but not at the expense of our safety. Let's make pipelines safe first, before we lay down more pipelines.

If we learned anything last year, it's that we must not wait for another tragedy to force us to act. We must pass a comprehensive pipeline safety bill this year.

In the coming weeks and months, as a member of Senate Transportation Appropriations Subcommittee, I will continue to do everything I can to improve pipeline safety by making sure that pipeline regulators have the resources they need to do their jobs effectively.

I know that we can't undo what happened in Bellingham, but we can take the lessons from the Bellingham tragedy and put them into law so that families will know the pipelines near their homes are safe. Two years after the Bellingham disaster they deserve nothing less.

NATIONAL CORRECTION OFFICERS AND EMPLOYEES WEEK

Mr. HUTCHINSON. Madam President, I am proud to rise today as an original cosponsor of Senator JEFFORDS' and Senator FEINSTEIN's resolution designating this week as "National Correction Officers and Employees Week." I commend them for their