



New Jersey State Legislature

ASSEMBLY TASK FORCE ON AUTO THEFT

Report and Recommendations

February 18, 1993

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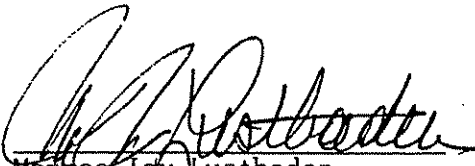
New Jersey State Legislature
ASSEMBLY TASK FORCE
ON AUTO THEFT
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February 18, 1993

Honorable Garabed "Chuck" Haytaian, Speaker
General Assembly of New Jersey

Dear Mr. Speaker:

The Assembly Auto Theft Task Force herewith respectfully
submits its report and recommendations pursuant to Assembly
Resolution No. 1.


Monroe Jay Lustbader
Co-Chairman

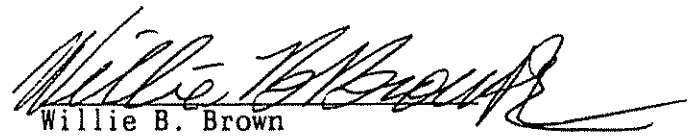

Willie B. Brown
Co-Chairman

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EXECUTIVE SUMMARY

The Assembly Task Force on Auto Theft was created in October, 1992 with a mandate to study the auto theft problem in New Jersey and to report back to the Assembly with recommendations.

Members of the public, including law enforcement personnel, social service workers, educators and private individuals, gave testimony and offered proposals for reform during three public hearings held in December, 1992 and January, 1993.

After considering the testimony and studying the issue, the Task Force makes the following recommendations:

- *Penalties for auto theft and related offenses must be increased. These penalties must include mandatory minimum prison terms for serious offenses.*
- *Juveniles who are repeat offenders must receive mandatory sanctions, including fines, community service and, in the most serious cases, incarceration.*
- *Innovative approaches should be used to intervene with at-risk juveniles and those who are first offenders. These approaches include boot camps, apprenticeship and job-training programs.*
- *The State must make a commitment to reduce prison overcrowding through innovative corrections programs as well as the construction of new prison facilities.*
- *Parents who fail to exercise reasonable supervision and control over their children should be required to pay restitution to victims of car thefts committed by their children.*

- *The courts and welfare agencies should join forces to help juveniles who are at risk, by exchanging names of juvenile offenders so that the agencies can determine if the juveniles' families could benefit from assistance.*

- *Anti-theft devices must be installed in all newly purchased vehicles, with purchasers receiving rebates for the cost and mandatory reductions in auto insurance premiums.*

- *Measures must be enacted to combat false claims of auto theft and other types of auto insurance fraud. These measures should include improved electronic communication among law enforcement, the Division of Motor Vehicles, and auto insurance companies; the inclusion of auto insurance information with auto registrations, and submission of auto arson claims to local fire departments.*

In the body of this report, the Task Force specifically refers to several legislative proposals which embody our recommendations. But we also note that the many other bills dealing with auto theft and related issues which are now pending before the Legislature are also worthy of consideration, since they may serve to close any gaps which may remain.

ASSEMBLY TASK FORCE ON AUTO THEFT

REPORT AND RECOMMENDATIONS

INTRODUCTION

Assembly Resolution No. 1, sponsored by Assemblymen Monroe Lustbader and Willie Brown, created a bipartisan, six member task force to study and make recommendations concerning the issue of automobile theft in New Jersey. The resolution, which passed the Assembly by voice vote on October 15, 1992, authorized the Task Force on Auto Theft to meet and hold hearings, and to report its findings and recommendations to the Assembly, including any recommendations for legislation, within three months.

The task force held three public hearings. The dates and locations of the hearings were as follows:

- December 8, 1992, Livingston Council Chambers;
- December 15, 1992, Essex County Hall of Records, Newark;
- January 6, 1993, Bloomfield Council Chambers.

This report is the final work of the task force.

BACKGROUND

According to the National Insurance Crime Bureau, five New Jersey cities rank among the top 10 in the country with the highest rates of car theft. The city of Newark is number one on the list, with the highest car theft rate in the United States. Irvington is number two, with the second-highest rate, and the cities of Camden, East Orange and Trenton are numbers four, eight and nine, respectively. The 1991 Uniform Crime Report, prepared by the New Jersey State Police, reports that 71,868 motor vehicles were stolen in the State in 1991, worth a total of over \$437 million. (The 1992 figures were not yet available at the time this report was written.)

Of the New Jersey thefts, 56% occurred in urban areas, with roughly one-third taking place in Essex County.

Although car theft has been a serious problem in the State for a number of years, the violence that has accompanied many cases is a recent phenomenon. Not long ago, a new word entered the public vocabulary: "carjacking." The armed hijacking of occupied automobiles seems to be the latest trend in car thievery.

The public has been gripped by fear and concern over the issue, as newspaper headlines like the following have become common:

"Carjacking Spreads to Nation's Suburbs, Raising Fear There Are No Safe Havens"

(Wall Street Journal, 9/30/92);

"Willing to Kill for a Car"

"Auto theft is booming, and carjacking makes it a deadly menace all over"

(U.S. News & World Report, 9/21/92);

"When Cars Are No Longer Havens From Fear"

"Amid Series of Hijackings, Motorists Ponder Security of Their Vehicles"

(New York Times, 11/9/92).

Along with the increase in violence, another striking feature of the car theft problem is the large number of offenses committed by young people. The percentage of auto thefts committed by juveniles has increased sharply over the past several years. Between 1990 and 1991, for example, the number of adults arrested for auto theft in New Jersey fell by nine percent, while the number of juveniles arrested for auto theft increased by 10 percent.

Tragically, police pursuits have led to deaths and injuries among juveniles who were driving or riding in stolen cars.

Juvenile arrests currently account for 60 percent of all auto theft arrests in the State. According to the Uniform Crime Report, the typical car theft offender is 16 years old.

CURRENT LAW

STATE LAW:

The following is a summary of current New Jersey statutes dealing with car theft and related offenses.

Juvenile Offenders

Under the provisions of the "New Jersey Code of Juvenile Justice," N.J.S.A. 2A:4A-20 et seq., a juvenile adjudicated delinquent for auto theft may be sentenced to a maximum term of imprisonment of two years. The court may also impose a fine or restitution, order probation or community service, place the juvenile with the Department of Human Services or require the juvenile to enroll in a vocational training program. Alternatively, the court may waive jurisdiction in the case and transfer the juvenile to adult court, provided that the juvenile was 14 years of age or older at the time of the delinquent act. The adult penalties outlined below would then be applicable.

Additional Fines and Penalties for Juvenile and Adult Offenders

Generally, auto theft is a crime of the third degree. Crimes of the third degree are punishable by a term of imprisonment of three to five years, a fine of up to \$7,500 or both. In addition, N.J.S.A. 2C:20-2.1 provides for additional mandatory penalties for those convicted of auto theft.

A first offender is subject to a penalty of \$500 and a one year driver's license suspension; a second offender is subject to a penalty of \$750 and a two-year suspension, and a subsequent offender receives a \$1,000 penalty and a 10-year suspension. Additionally, under the provisions of N.J.S.A. 2C:20-2.2, if the fair market value of the car and its contents exceeds \$7,500 (the statutory fine for a crime of the third degree) and the car is not recovered, the court may fine the defendant for the fair market value of the car and its contents. Monies resulting from these additional penalties are collected by the law enforcement agency which prosecuted the offense and divided among the agencies which participated in the investigation.

Leader of Auto Theft Trafficking Network

Under the provisions of N.J.S.A. 2C:20-18, a person is guilty of being a "leader of an auto theft trafficking network" if that person participates as an organizer, supervisor, financier or manager of an operation designed to sell, distribute or dispose of stolen automobiles. "Leader of an auto theft trafficking network" is a crime of the second degree. Crimes of the second degree are punishable by a term of imprisonment of five to 10 years, a fine of up to \$100,000 or both. In addition to these fines, N.J.S.A. 2C:20-18 authorizes the imposition of a fine not to exceed \$250,000 or five times the retail value of the cars seized at the time of arrest.

Under the provisions of 2C:20-18, the prosecutor does not have to prove that profit was actually realized from the auto theft operation in order to sustain a conviction for the crime. It is not a defense to the crime that the automobiles were brought into New Jersey solely for ultimate distribution in another jurisdiction. A conviction for this offense cannot merge with any other offense which is the object of a conspiracy, and thus must be treated separately for sentencing purposes.

Adults Employing Juveniles to Commit Auto Theft

Under the provisions of N.J.S.A. 2C:20-17, any adult who knowingly uses, solicits, directs, hires or employs a juvenile, 17 years of age or younger, to commit auto theft is guilty of a crime of the second degree. Crimes of the second degree are punishable by a term of imprisonment between five and 10 years, a fine of up to \$100,000 or both. A conviction for employing a juvenile to commit auto theft cannot merge with a conviction for any other offense. It is not a defense to this crime that the accused mistakenly believed that the person used to commit auto theft was over 17, even if that mistake was reasonable.

Related Offenses:

Joyriding

N.J.S.A. 2C:20-10, "unlawful taking of means of conveyance," is the statutory section that prohibits joyriding. The section provides that a person commits a disorderly persons offense if, with purpose to withhold temporarily from the owner, he takes, operates or exercises control over any means of conveyance without consent of the owner or other person authorized to give consent. "Means of conveyance" includes boats, bicycles, horses, surfboards and other items, in addition to motor vehicles. A disorderly persons offense is punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

A passenger in the motor vehicle (or other conveyance) who knows it is being driven unlawfully is guilty of a petty disorderly persons offense, punishable by a term of imprisonment of up to 30 days, a fine of up to \$500, or both.

Eluding a Law Enforcement Officer

N.J.S.A. 2C:29-2 provides that a person who, while operating a motor vehicle on any street or highway in the State, knowingly flees or attempts to elude any police or law enforcement officer after having received any signal from such officer to bring the vehicle to a full stop, is guilty of a disorderly persons offense.

In addition to any other penalties imposed for a disorderly persons offense, the court will also order the person's driver's license to be suspended for a period between six months and two years. However, under the recently enacted provisions of P.L. 1991, c. 341 (effective January 7, 1992), if the flight or attempt to elude creates a risk of death or injury to any person, the person is guilty of a crime of the fourth degree. This law provides that there shall be a permissive inference that the person's conduct during a flight or attempt to elude creates a risk of death or injury, if the conduct involves a violation of chapter 4 of Title 39 (traffic offenses). Crimes of the fourth degree are punishable by a term of imprisonment of up to 18 months, a fine of up to \$7,500, or both.

FEDERAL LAW:

In response to the growing problem of car theft and carjackings across the nation, the federal "Anti Car Theft Act of 1992" (P.L. 102-519; 106 Stat. 3384) was recently enacted. Signed into law on October 25, 1992, the Act makes carjacking a federal crime, providing that using a firearm to forcibly take a motor vehicle is punishable by imprisonment of up to 15 years. The sentence of imprisonment is up to 25 years if serious bodily injury results from the crime, and up to life imprisonment if a death results. (Under the commerce clause of the U.S. Constitution, this statute covers any car which has been transported in interstate or foreign commerce. Thus, it is possible, though unlikely, that some cars would not be covered by the statute.)

The "Anti Car Theft Act of 1992" also provides that major parts of motor vehicles would be labeled with identification numbers. Certain car lines that carry auto theft devices would be exempt. The Attorney General would determine whether the labeling program is effective. The law also requires auto repair shops to check labeled parts through an FBI parts registry before buying them, requires the U.S. Customs Service to check for stolen cars being shipped overseas, and links state motor vehicle bureau computers to allow officials to cross-check titles.

WITNESSES

12/8/92

Edward Sullivan
Mayor
Township of Livingston, NJ

Michael Chertoff
U.S. Attorney

Frederick P. DeVesa
First Asst. Attorney General
NJ Department of
Law and Public Safety

Robert T. Winter, Director
Division of Criminal Justice
NJ Department of
Law and Public Safety

Andrew K. Ruotolo
Prosecutor
Union County, NJ

James S. Mulvihill
Acting Prosecutor
Essex County, NJ

James S. Mulvihill
Acting Prosecutor
Essex County, NJ

Senator Ronald L. Rice
District 28

Assemblywoman Maureen B. Ogden
District 21

Samuel A. Spina
Mayor
West Orange, NJ

Edward M. Palardy, Chief
Police Department
West Orange, NJ

Ronald Park
Private Citizen

John Budzash
NJ Taxpayers' Task Force

Louis Gerstein
Private Citizen

Louis R. Zembeno
Private Citizen

Joseph D. Menza
Private Citizen

12/15/92

Clynthia Trueitt, Director
Contemporary Needs Program
East Orange YMCA

Thomas J. D'Alessio
County Executive
Essex County, NJ

Patricia Williams
Drug Elimination Coordinator
Father Rasi Homes
Housing Authority of the
City of Orange, NJ

Ronald H. Manzella
Acting Director
Division of Youth Services
Department of Citizen Services
Essex County, NJ

Alan Zalkind, Director
Dept. of Citizen Services
Essex County, NJ

Bernice J. Davis
Superintendent of Schools
City of Orange Township, NJ

John A. Clarke, Jr.
Trial Court Administrator
Essex County, NJ

Ty Hodanish
Executive Director
Juvenile Delinquency Commission

Carmen Restaino
Administrative Assistant to
Superintendent of Schools
East Orange, NJ

Dr. Gerard Lee
Supervisor of Guidance and
Coordinator of At-Risk Programs
East Orange School District

David Weiner, President
CWA Local No. 1081, and Family Service Worker
Essex County Division of Welfare

1/6/93

Special Agent James C. Esposito
Director
FBI Newark Office

Lydia Davis Barrett
President and CEO
Urban League of Essex County

Freeholder Arthur L. Clay
Essex County, NJ

Philip Costello
Executive Director
Project U.S.E.

Lt. Colonel Ferdinand V. Marrone
Executive Office
Division of State Police
NJ Department of
Law and Public Safety

Chip Duane, President
Salerno Duane Automotive, President
Pontiac Tristate Dealers, and
National Chairman
Jeep/Eagle Dealer Body

Chief Jack McNiff
Bloomfield Police Department

Cathy Haggerty
Trek Program
Project U.S.E.

Asst. Prosecutor Theodore A. Brown
Director, Chronic Auto Theft
Prosecutions Unit
Essex County, NJ

Patricia Mahon
Private Citizen
Bloomfield, NJ

TESTIMONY

The task force heard testimony from a number of witnesses at the three public hearings. Witnesses included State, federal and municipal law enforcement personnel; county and municipal officials; legislators; representatives of social service agencies; school administrators, and private individuals. All of the witnesses expressed concern about the auto theft problem and offered a variety of suggestions for solutions. The following discussion includes highlights of the testimony at the three hearings.

U.S. Attorney Michael Chertoff stressed the importance of swift and sure punishment of offenders. He noted that, the Federal system uses pretrial detention for individuals who pose a danger to the community. These defendants are held without bail prior to trial. This system ensures speedy trials, with defendants going to trial within three months of their arrest. New Jersey law does not provide for pretrial detention. Mr. Chertoff noted that this swift action incapacitates the criminals and acts as a deterrent to others. He suggested that the State use procedural devices which are already available, such as ensuring quicker trials, and allowing pre-trial detention of violent and dangerous criminals. He noted that speeding up the criminal justice process might mean hiring more judges, holding court at night, and building more jail space and boot camps for offenders.

Mr. Chertoff also suggested a state plan which provides that businesses and merchants get actively involved in preventive measures, such as contributing resources for supplemental security systems.

Mr. Chertoff noted that, while the measures he suggested are expensive, society is already paying high costs because of crime and the fear of crime.

First Assistant Attorney General Frederick P. DeVesa, Division of Criminal Justice Director Robert T. Winter, Union County Prosecutor Andrew K. Ruotolo, and Essex County Acting Prosecutor testified as a panel. They stressed that current State laws and procedures do not provide a strong enough deterrent to car thieves. Mr. DeVesa noted that the Attorney General had previously suggested a number of proposals for legislative reform which are embodied in pending legislation, and requested that the Legislature enact them. (See Attorney General's statement and bill recommendations in Appendix).

Mr. DeVesa noted that the Attorney General's proposals have four components: a presumption of incarceration for repeat auto theft offenders; increased penalties for eluding law enforcement officers; extended terms for the commission of certain dangerous offenses with stolen vehicles, and reasonable mandatory terms for juvenile offenders.

Union County Prosecutor Ruotolo stated that we must examine our juvenile justice program if we are looking at auto theft. He said that if the only achievement of legislative reform is to warehouse the offender, then the legislation becomes merely "cynical legislation." Much more than warehousing is needed. Mr. Ruotolo noted that the problem of the repeat offender is critical to understanding the problem of juvenile justice: 80% of the juveniles arrested for auto theft have prior convictions; 75% of them had been arrested four or more times. He recommended programs for juveniles which are tailored to the juveniles' specific problems, such as the boot camp program in California. He noted that California has the lowest juvenile recidivism rate among the urbanized states.

Essex County Acting Prosecutor Mulvihill stressed the urgent need for more resources and funding for juveniles programs. He noted that there are only four judges in Essex County that work with juveniles, and that many more are needed.

Senator Ronald L. Rice stated that the juvenile justice system should focus more on rehabilitation of those offenders who can be reached, but that punishment of repeat offenders must be swift and certain. Parents must be held accountable for their children's behavior, by imposing sanctions like community service.

Senator Rice stated that the number of spaces for incarcerated juveniles must be increased, because youngsters are often released just because there is no place to put them. He also suggested that the installation of anti-auto theft devices be mandated in New Jersey.

Louis Gerstein, a private citizen, suggested lowering the age of "adult" for juvenile delinquency purposes to 16, because many juvenile offenders are between the ages of 16 to 18 and just manage to slip through the system.

Clynthia Trueitt, director of the "Contemporary Needs" program at the East Orange YMCA, spoke of the positive impact of community programs on at-risk youths. The YMCA currently offers programs for children and youth, working with the police department, that encompass job training and community service. She stated: "We cannot simply ask our youth to just say, 'No.' It is not enough. Without providing them with viable avenues, we close the cell door." She stressed the importance of summer employment programs, entrepreneurial programs, college preparedness, school-based community service and alternative education programs.

Ronald H. Manzella, Acting Director of the Division of Youth Services in Essex County, stated that the problem with imposing mandatory terms on juveniles is that it will increase the number of jury trials, the number of offenders moving through the system, and overcrowding. Although county detention facilities are meant to be short-term, they are currently being used for post-conviction incarceration, and resources are strained. He noted that, since most of the prosecuted juveniles are repeat offenders, the number of car thefts would decrease substantially if that segment of juveniles was removed from society.

Orange Township Superintendent of Schools Bernice J. Davis noted that the schools can provide a major role in helping children and juveniles at risk, since the schools are an established structure, and children spend a good part of their day there. But the schools must receive the resources they need in order to do the work, she said.

John A. Clarke, Jr., Essex County Trial Court Administrator, stated that the different types of offenses related to car thefts require programs that are geared specifically to those types. Simple joyriding or violent carjacking must not be grouped together as "car theft" offenses, but need approaches specifically tailored to them.

He noted that Essex County began an innovative program in March, 1992 for hard-core juvenile offenders, where juveniles come with their parents, have group discussions with prosecutors, police officers, ex-prison inmates and auto theft victims.

Mr. Clarke also noted that there is simply not enough space to incarcerate all serious offenders; there are only about 1,400 beds for juveniles in the entire State (700 secure, and 700 residential) at a time when there are about 99,000 cases of juvenile delinquency a year. He noted that only the most violent, dangerous juveniles are incarcerated, and stated that juveniles who commit simple car thefts do not belong in incarceration. Other approaches must be used.

Ty Hodanish, Executive Director of the Juvenile Delinquency Commission, agreed that offense-specific dispositions for juveniles are needed. He noted that the results of a recent JDC study of Essex County auto theft defendants revealed that most of the juveniles had no prior court record, but that a small percentage of the juveniles are serious, repeat offenders. This small group - between 6% and 14% of all juvenile offenders - is responsible for a vast amount of the juvenile crime in this State, and intensive efforts must focus on them.

Special Agent James Esposito of the Federal Bureau of Investigation stated that the FBI has taken an aggressive approach to the recent rise in carjacking, and noted that the new Federal "Anti Car Theft Act of 1992" mandates a 15 year term of imprisonment for carjacking, with no parole, and up to life imprisonment if a death results. He urged that similar legislation be enacted on the State level.

Lieutenant Colonel Ferdinand V. Morrone of the State Police described the new public-awareness campaign being waged by the State Police to encourage people to take safety measures to prevent carjackings. He played a short public-service videotape prepared by the State Police which demonstrates safety techniques, and distributed copies of brochures currently being distributed to the public which also contain advice for the public. Lieutenant Colonel Morrone noted that 42 troopers have been assigned to give lectures on safety to civic groups, businesspeople and others. (A copy of the State Police brochure is included in the Appendix.)

Chip Duane, president of Salerno Duane Automotive, noted that, as an automobile dealer, he has been heavily affected by the auto theft and carjacking problem. He stated that he has lost 100 automobiles from his sales lots to auto thieves, and that salesmen who worked for him had been carjacked. One of these salesmen was murdered during the carjacking. Mr. Duane said that action is urgently needed to stop repeat offenders.

PENDING LEGISLATION

As of this writing, a number of bills on auto theft and related topics are pending in the Legislature. Following are summaries of the bills' key provisions.

A-45

Catania/R.Brown

S-1205

Girgenti

These bills would upgrade the offense of eluding a law enforcement officer from a disorderly persons offense to a crime of the third degree (3 to 5 years imprisonment; a fine of up to \$7,500.00 or both).

If the offense creates a risk of injury or death, the bill would grade eluding as a crime of the second degree (5 to 10 years imprisonment, a fine up to \$100,000.00 or both).

The bill also strengthens the penalties for the offense of aggravated assault when the illegal operation of a motor vehicle is involved. Under present law, aggravated assault is graded as a crime of second degree when serious bodily injury results from an attempt by a person to elude law enforcement in a motor vehicle. Aggravated assault is graded as a crime of the third degree if bodily injury results from an attempt to elude. This bill would eliminate the requirement that serious bodily injury result in order for aggravated assault involving the eluding of law enforcement officers to be graded as a crime of the second degree. Any bodily injury would be sufficient to support a conviction for a second degree crime. The bill would also provide that a person is guilty of aggravated assault when bodily injury to another results from operation of a motor vehicle while joyriding in a reckless manner. This offense would also be graded as a crime of the second degree.

In addition to these enhanced penalties, the bill clarifies the present mandatory driver's license revocation procedures applicable when a person is convicted of eluding. The bill also provides that the term "motor vehicle" as used in Title 2C has the same meanings as that term is used in Title 39.

A-45 has been referred to the Assembly Judiciary, Law and Public Safety Committee. S-1205 passed the Senate 39-0 on 10/19/92 and has been referred to the Assembly Judiciary, Law and Public Safety Committee.

A-46

DiGaetano/Kelly

S-1206

Bassano/Corman

These bills would establish the following mandatory dispositions for juveniles adjudicated delinquent for certain motor vehicle related offenses:

- 60 days incarceration for any juvenile adjudicated delinquent for aggravated assault if an injury is caused as the result of joyriding or eluding a law enforcement officer; for eluding if the offense creates a risk of injury and for motor vehicle theft by a repeat offender.
- 30 days incarceration for repeat offenders adjudicated delinquent for the unlawful taking of a motor vehicle or for eluding which does not create a risk of injury.
- 60 days mandatory community service for first offenders adjudicated delinquent for motor vehicle theft, for the unlawful taking of a motor vehicle which creates a risk of injury and for eluding which does not create a risk of injury.
- 30 days mandatory community service for the unlawful taking of a motor vehicle which does not create a risk of injury.

These mandatory dispositions under A-46/S-1206 would be in addition to any other disposition presently authorized by the Code of Juvenile Justice.

In addition to these dispositions, the bills provide that parents who neglect to exercise reasonable supervision and control over juveniles may be ordered to pay restitution to car theft victims.

A-46 has been referred to the Assembly Judiciary, Law and Public Safety Committee. S-1206 passed the Senate 38-0 on 10/19/92 and has been referred to the Assembly Judiciary, Law and Public Safety Committee.

A-47

Crecco/Hartmann

S-1207

Bubba/Rice

These bills would classify "joyriding" when a motor vehicle is involved as a crime of the fourth degree. If the unlawfully taken motor vehicle is operated in a manner which creates a risk of injury or property damage, the bill would grade joyriding as a crime of the third degree.

(A-47/S-1207, continued)

The bills would also provide that a person commits a crime of the fourth degree if the person rides in motor vehicle which he knows to be taken without permission.

A-47 has been referred to the Assembly Judiciary, Law and Public Safety Committee. S-1207 passed the Senate 39-0 on 10/19/92 and has been referred to the Assembly Judiciary, Law and Public Safety Committee.

A-48

Lustbader

S-1208

Kosco/Sinagra

These bills would establish a presumption of incarceration for repeat offenders who have been previously convicted of motor vehicle theft or joyriding. The bill would also provide that the present presumption of nonincarceration for certain first offenders would be inapplicable to first offenders convicted of auto theft, joyriding or eluding.

A-48 has been referred to the Assembly Judiciary, Law and Public Safety Committee. S-1208 passed the Senate 39-0 on 10/19/92 and has been referred to the Assembly Judiciary, Law and Public Safety Committee.

A-258/1042ACS

Stuhltrager/Roma

Kelly/DiGaetano

This bill requires the Department of Corrections to establish, staff, and maintain a shock incarceration correctional facility for inmates between the ages of 18 and 26. The shock incarceration program is to consist of 180 days of a highly structured, disciplined, and regimented daily routine.

The bill is intended to divert young criminal offenders from long-term incarceration by providing a short term period of punishment in a confined setting which involves demanding regimentation and discipline, military-style drill and ceremony, physical activity, and structured work programs as well as a disciplined atmosphere for vocational training, education, and counseling.

A shock incarceration program provides punishment for young offenders, but allows for a more creative use of correctional facilities than the simple warehousing of prisoners which leads to intolerably high rates of recidivism. The bill provides that an inmate who successfully completes the shock incarceration program would be immediately paroled.

The bill appropriates \$13,000,000 to the Department of Corrections.

Released from the Assembly Judiciary, Law and Public Safety Committee on 11/23/92. Referred to the Assembly Appropriations Committee.

A-314

Crecco

This bill would impose a mandatory minimum term for juveniles adjudicated delinquent for a second or subsequent offense of theft of an automobile. Repeat juvenile offenders would be sentenced to a mandatory term of incarceration of at least 90 days.

Referred to the Assembly Judiciary, Law and Public Safety Committee.

A-315

Crecco/Roma

This bill would create a new criminal offense of employing a juvenile for the commission of a theft. A person commits this crime if, being at least 18 years of age, he knowingly uses, solicits, directs, hires or employs a person 17 years of age or younger to commit certain theft offenses. Included are theft by unlawful taking, theft by deception, theft by extortion, theft of property lost, mislaid or delivered by mistake and shoplifting.

A person convicted under A-315 would be guilty of an offense one degree higher than the underlying offense. For example, auto theft is generally a crime of the third degree. Under the provisions of this bill, an adult who employs a juvenile to commit an auto theft would be guilty of a crime of the second degree.

The bill also provides that it is no defense that the adult mistakenly believed the person employed was over 18, even if such a belief was reasonable.

Referred to the Assembly Judiciary, Law and Public Safety Committee.

A-586

Impleveduto

This bill would provide mandatory waiver to adult court of certain criminal cases involving juveniles.

Currently, prosecutors have the option to request waiver of a juvenile case to criminal court when there is probable cause to believe that the juvenile committed certain delinquent acts which, if committed by an adult, would constitute certain serious and violent crimes or second offenses.

This bill would require the court, at the prosecutor's request, to waive the case when the juvenile has previously been adjudicated delinquent for, or convicted of, committing any of these acts.

A-586 would not change current law concerning waiver of a juvenile who is a first offender. A juvenile who was never adjudicated delinquent for, or convicted of, any of the acts listed Referred to the statute could not be waived to another court if he can show that the probability of his rehabilitation before the age of 19 substantially outweighs the reasons for waiver.

Referred to the Assembly Judiciary, Law and Public Safety Committee.

A-1068

McEnroe

This bill would provide that a parent, guardian or other person having custody of a juvenile under 18 years of age who fails or neglects to exercise reasonable supervision and control of the juvenile is liable in a civil action for any theft committed by the juvenile, including automobile theft.

The bill also amends the Code of Juvenile Justice by authorizing the court to order a parent to make restitution to any person or entity who has suffered any loss as a result of a juvenile adjudicated delinquent for an offense which, if committed by an adult, would constitute the crime of automobile theft.

Finally, the bill amends the statute governing eviction for cause to permit the eviction of a tenant who is found guilty or pleads guilty to the crime of theft of an automobile. The bill also provides that a tenant could be evicted if the tenant harbors another person who has been convicted or pleaded guilty to automobile theft. It is the intent of the sponsor to effectuate the purposes of the Code of Juvenile Justice by expanding parents' liability for their children's criminal acts.

Referred to the Assembly Judiciary, Law and Public Safety Committee.

A-1468

Zangari

This bill requires new and used passenger automobiles that are worth at least \$7,000 to be equipped with an anti-theft device. The requirement will apply to vehicles purchased or otherwise acquired after the effective date of the bill and the anti-theft devices must be installed on these vehicles within 12 months of the date of acquisition for new cars and within 60 days of the date of acquisition for used cars.

An "anti-theft device" is defined as a device or system which automatically activates when the ignition is turned off and the key is removed, or when the doors are locked upon exiting the vehicle, causing an alarm, ignition cut-off, or starter interrupt mechanism to engage. The term also includes a device, in addition to an internal steering column lock, that can lock a steering wheel and prevent the vehicle from being steered.

Under A-1468, an owner registering a passenger automobile for the first time with the Division of Motor Vehicles after this bill becomes law will be required to submit a used vehicle to an inspection within 60 days after purchase to verify that a device has been installed. A new automobile will be inspected for compliance at the next annual inspection following its purchase.

The bill also imposes a fine of \$500 on a juvenile adjudicated delinquent for motor vehicle theft, but if a court determines that the parent or legal guardian of the juvenile failed to exercise reasonable supervision or control over the conduct of the juvenile, the parent or legal guardian could be made responsible for the payment of the fine.

Finally, the bill amends N.J.S.2C:20-2 to require that a person convicted of auto theft pay a fine of \$500 and have his or her driver's license suspended for a period of one to two years.

Referred to the Assembly Judiciary, Law and Public Safety Committee.

A-1680

Hartmann/Mikulak

This bill would impose a mandatory two year driver's license suspension in addition to any other penalty authorized by law for juveniles adjudicated delinquent for an offense which, if committed by an adult, would constitute auto theft. If the juvenile is under 17 years of age at the time of sentencing, the suspension would not begin to run until he reaches the age of 17. This penalty is similar to that imposed on both juveniles and adults pursuant to N.J.S.A.2C:35-16 for conviction of drug offenses. The bill would also provide that juveniles adjudicated delinquent for auto theft would also be precluded from obtaining or using a license to operate a motorized bicycle during the period of license suspension or postponement.

Referred to the Assembly Judiciary, Law and Public Safety Committee.

A-1687

Crecco/W.Brown

S-1069

Bubba

This bill would provide mandatory waiver to adult court of any case involving a juvenile who employs a stolen automobile to commit a serious or violent crime. The bill would also require waiver to adult court of any juvenile who in the possession of a stolen automobile is involved in an accident involving death, bodily injury or substantial property damage.

A-1687 has been referred to the Assembly Judiciary, Law and Public Safety Committee. S-1069 has been referred to the Senate Judiciary Committee.

A-1691

J.Smith/Geist

S-1201

Sinagra

These bills require that a juvenile charged with auto theft be tried as an adult if he was at least once before convicted or adjudicated delinquent for auto theft.

A-1691 has been referred to the Assembly Judiciary, Law and Public Safety Committee. S-1201 has been referred to the Senate Judiciary Committee.

A-1719

Crecco

S-1090

Bubba/Rice

This bill would require the imposition of a term of imprisonment on persons who use stolen automobiles to commit certain crimes (i.e. robbery, aggravated assault, manslaughter). The bill also provides that if the offense for which the person was convicted is graded as a crime of the fourth, third or second degree and a stolen automobile was involved, the court shall sentence the defendant to a term appropriate to a crime one degree higher than that of the crime for which the person was convicted. In cases involving crimes of the first degree when a stolen automobile is involved, the court would sentence the defendant to a term of imprisonment of between 15 and 30 years. The normal term of imprisonment for crimes of the first degree is between 10 and 20 years.

A-1719 has been referred to the Assembly Judiciary, Law and Public Safety Committee. S-1090 passed the Senate 38-0 on 10/19/92 and has been referred to the Assembly Judiciary, Law and Public Safety Committee.

A-1821

Impreveduto/R.Brown

This bill provides for additional penalties for the crimes of theft by unlawful taking or disposition and receiving stolen property if the property involved in these crimes is an automobile. This bill is similar to N.J.S.A.2C:20-2.1 concerning additional penalties for auto theft including monetary penalties and periods of driver's license suspension but includes certain minimum mandatory periods of either imprisonment or community service. This bill imposes a graduated scheme of these penalties as follows:

(1) For the first offense, the sentence imposed shall include the imposition of either a mandatory minimum term of imprisonment for one year or the requirement to perform community service for at least 100 days.

(2) For a second offense, the sentence imposed shall include the imposition of either a mandatory minimum term of imprisonment for two years or the requirement to perform community service for at least 270 days.

(3) For a third or subsequent offense, A-1821 provides that the sentence imposed shall include the imposition of either a mandatory minimum term of imprisonment for three years or the requirement to perform community service for at least 365 days.

(A-1821, continued)

The sponsors believe that these provisions may close a gap in pursuing prosecution of auto theft since persons may be charged under N.J.S.A.2C:20-3 or N.J.S.A.2C:20-7 as an alternative to N.J.S.A.2C:20-2. The provisions of this bill will parallel existing penalties provided in N.J.S.A.2C:20-2.1.

Referred to the Assembly Judiciary, Law and Public Safety Committee.

A-1823

Impreveduto/R.Brown

This bill amends N.J.S.A.2C:20-2.1 concerning additional penalties for auto theft to include certain minimum mandatory periods of either imprisonment or community service. This bill imposes a graduated scheme of mandatory penalties as follows:

(1) For the first offense, the sentence imposed shall include the imposition of either a mandatory minimum term of imprisonment for one year or the requirement to perform community service for at least 100 days.

(2) For a second offense, the sentence imposed shall include the imposition of either a mandatory minimum term of imprisonment for two years or the requirement to perform community service for at least 270 days.

(3) For a third or subsequent offense, the sentence imposed shall include the imposition of either a mandatory minimum term of imprisonment for three years or the requirement to perform community service for at least 365 days.

Referred to the Assembly Judiciary, Law and Public Safety Committee.

A-1824

Impreveduto/R.Brown

This bill provides for certain mandatory dispositions for any juvenile adjudicated delinquent for theft of an automobile in a scheme similar to that provided for adults or juveniles who are waived to adult court who are convicted of the crime of theft of auto as provided in N.J.S.A.2C:20-2.1. This bill imposes a graduated scheme as follows:

(1) For the first adjudication, the sentence imposed shall include a penalty of \$500.00 and the suspension or postponement of the juvenile's license to operate a motor vehicle over the highways of this State for a period of one year and the imposition of either incarceration for one year or the requirement to perform community service for at least 100 days.

(2) For a second adjudication, A-1824 provides that the sentence imposed shall include a penalty of \$750.00 and the suspension or postponement of the juvenile's license to operate a motor vehicle over the highways of this State for a period of two years and the imposition of either incarceration for two years or the requirement to perform community service for at least 270 days,

(3) For a third or subsequent adjudication, the sentence imposed shall include a penalty of \$1,000.00, and the suspension or postponement of the juvenile's license to operate a motor vehicle over the highways of this State for 10 years and the imposition of either incarceration for two years or the requirement to perform community service for at least 365 days.

Subsection d. of N.J.S.A.2A:4A-44 sets forth certain maximum terms for incarceration for juvenile offenders. For crimes of the third degree the maximum term set forth is two years. This bill imposes this two year maximum term for juvenile offenders who are adjudicated for a second time (alternatively, 270 days of community service) or a third or subsequent time (alternatively, 365 days of community service). The monetary penalties and license suspension periods set forth in this bill for juveniles are identical to those for adult offenders as set forth in N.J.S.A.2C:20-2.1.

Referred to the Assembly Judiciary, Law and Public Safety Committee.

A-1841

Lustbader/Ogden

S-543

Rice

These bills require the imposition of a mandatory minimum three year prison term against a person who causes the death of, or causes seriously bodily harm to, another person while stealing an automobile or while possessing a stolen automobile. This mandatory sentence requirement is modeled after the mandatory sentence requirements in current law for the commission of a crime with a firearm and for the manufacture and distribution of drugs.

A-1841 has been referred to the Assembly Judiciary, Law and Public Safety Committee. S-543 has been referred to the Senate Judiciary Committee.

A-1874

Oros/Ogden

This bill requires the owner of record of an insured motor vehicle which suffers fire loss or damage to submit to the insurance company and to the appropriate fire department, or other authority, as determined by the Commissioner of Insurance, a signed statement containing such information concerning the burning of the vehicle as the Fire Safety Commission may require. An insurance company would then be required to review this statement and would only pay such claims after the insurance company had determined that no fraud was involved.

This bill is modeled after a similar statute enacted in Massachusetts in 1987. The Massachusetts statute has been reported to lead to a drop in auto arson in that state of approximately 30%.

Referred to the Assembly Insurance Committee.

A-1875

Oros/Ogden

This bill requires the following information to be included on automobile and motorcycle registration certificates: the name, street address or business address of the owner; a description of the character of the motor vehicle; the name, maker, and vehicle identification number (VIN) of the vehicle; the driver's license number of the owner; the National Association of Insurance Commissioners (NAIC) insurance company code of the insurer of the vehicle, the insurance policy number and any other information deemed appropriate by the Director of the Division of Motor Vehicles. The bill further requires that this information be maintained by the division on an electronic data base and that it be accessible, on line, to law enforcement agencies, the New Jersey Division of Insurance Fraud Prevention, and special investigation units established by insurance companies under fraud and theft prevention plans which have been filed with and approved by the Commissioner of Insurance pursuant to requirements set forth in the section 56 of the "Fair Automobile Insurance Reform Act of 1990," P.L.1990, c. 8 (C.17:33B-46). Currently, insurance company information is not included on the registration certificate and is not available to fraud investigators on an electronic data base. These steps would greatly expedite the investigation of automobile insurance fraud cases.

Referred to the Assembly Insurance Committee.

A-1876

Oros/Ogden

This bill provides that a motor vehicle insurance policy shall be void and any premium paid therefore forfeited if the person making application for coverage or providing information to an insurer knowingly makes any false, misleading or incomplete statement, either orally or in writing. The bill also requires insurance companies to clearly and conspicuously print in 10-point boldface type, a statement to that effect on all application forms, policy forms, and renewal forms. The bill further requires an applicant for motor vehicle insurance to personally sign a statement certifying that he understands the meaning of this statement, and the insurance application form before the insurance coverage can become effective.

Referred to the Assembly Insurance Committee.

A-1963

R. Brown/Kelly

This bill establishes the New Jersey Summer Youth Employment Program in the Department of Community Affairs. The purpose of the program is to provide exposure to the world of work for eligible youth, encourage school completion by the youth and, as needed, enhance their basic educational skills. The program would implement its purpose by distributing grants to applying municipalities throughout the State. The grants would be used to pay the costs of employing eligible youth and providing them classroom education stipends.

The employment provided to youth by a municipality under a grant may include job tryout and job shadowing employment, employment in community service projects, and employment which is coordinated with vocational education. The classroom education may include education which encourages or assists the continuation or completion of school, enhances educational skills, contributes to occupational education or assists the youth's transition from school to work. The total grant for each eligible youth is limited to \$1,000 during one summer.

A youth who receives a grade of "D" or "F" for any class during the prior school year may not be employed unless the youth enrolls in a summer school class to retake the course. Priority for employment is given to those youths who receive no grade of "F" and the smallest number of "D" grades during the school year. The bill requires that at least 90% of the moneys appropriated to the program be paid as wages or education stipends.

(A-1963, continued)

The bill prohibits the approval of any grant unless the commissioner finds that the employment of youth under the grant will not result, directly or indirectly, in the displacement of any other person from employment.

The bill appropriates \$100 million for the program during the summer of 1993 and requires the return to the General Fund of any of those funds not expended before September 30, 1993.

A-2047

Zangari/R. Brown

S-1324

Codey

These bills would establish carjacking as a criminal offense. Under the bills, a person is guilty of carjacking if in stealing or attempting to steal a motor vehicle, the person harms or threatens to harm an occupant or operates the motor vehicle with an occupant remaining in the vehicle.

Carjacking would be graded as a crime of the first degree punishable by between 10 and 30 years imprisonment. The bill mandates that the sentence imposed on a person convicted of carjacking must include a term of imprisonment with a period of parole ineligibility of at least 5 years.

A-2047 has been referred to the Assembly Judiciary, Law and Public Safety Committee. S-1324 has been referred to the Senate Judiciary Committee.

A-2058

Oros

This bill requires insurance companies writing automobile insurance policies in this State to maintain on an electronic data base the following information: the vehicle identification number of the insured vehicle; the name, address and driver's license number of the owner of the insured automobile; the registration number of the insured automobile; the name, address and driver's license number of the holder of the policy insuring the automobile and the name and address of the title holder of the automobile, if other than the owner of the automobile; and the name and address of the insurance producer issuing the insurance policy. The bill requires that this information remain accessible, on-line, for a period of seven years after the automobile is scrapped or shredded.

The bill also authorizes the Commissioner of Insurance to establish a network system in the Division of Fraud which would have the capability of interfacing electronically with other departments and agencies in this State and other states and with other organizations for the purpose of exchanging information necessary for the investigation and prevention of automobile insurance fraud.

Referred to the Assembly Insurance Committee.

A-2153

R. Smith/Green

S-1461

Lynch

These bills set mandatory minimum penalties for motor vehicle-related kidnappings. Under current law, kidnapping is a crime of the first degree, punishable by a term of imprisonment of between 15 and 30 years. If the defendant releases the victim unharmed and in a safe place prior to apprehension, kidnapping is a crime of the second degree. Crimes of the second degree are punishable by a term of imprisonment of five to 10 years.

(A-2153/S-1461, continued)

The bills provide that if, in the course of the kidnapping, the defendant unlawfully removes the victim from a motor vehicle or unlawfully confines the victim in a motor vehicle, the defendant will serve a mandatory minimum term of eight years imprisonment (for first degree kidnapping). If the defendant releases the victim unharmed and in a safe place prior to apprehension, (second degree kidnapping), the defendant will be sentenced to a mandatory minimum term of imprisonment of three years.

A-2153 has been referred to the Assembly Insurance Committee. S-1461 has been referred to the Senate Judiciary Committee.

A-2154

R. Smith/Green

S-1460

Lynch

These bills make it a crime of the second degree to forcibly enter an occupied motor vehicle, to enter an unoccupied motor vehicle in order to wait for a person to enter so that a crime can be committed against that person, or to use force, or the threat of force, to compel a person to enter a motor vehicle.

A-2154 has been referred to the Assembly Insurance Committee. S-1460 has been referred to the Senate Judiciary Committee.

S-51

Rice

This bill requires new and used passenger automobiles that are worth at least \$5,000 to be equipped with an anti-theft device. The requirement will apply to vehicles purchased or otherwise acquired after the effective date of the bill and the anti-theft devices must be installed on these vehicles within 12 months of the date of purchase for new cars and within 60 days of the date of purchase for used cars. An "anti-theft device" is defined as a device or system which automatically activates when the key is removed from the ignition or when the doors are locked when exiting the vehicle and causes an alarm, ignition cut-off, or starter interrupt mechanism to engage or a device that can lock a steering wheel and prevent the vehicle from being steered.

(S-51, continued)

The bill provides State reimbursement to individual resident vehicle owners for an anti-theft device or a signal activated vehicle recovery system equal to 60% of the cost of the device or system, excluding sales tax, or \$180, whichever is less. In addition, the bill amends section 53 of P.L.1990, c.8 (C.17:33B-44) to require the Commissioner of Insurance to mandate a 10% reduction in the base rate for the comprehensive, collision, or physical damage components of automobile insurance coverage for any private passenger automobile equipped with an anti-theft device.

An owner registering a passenger automobile for the first time with the Division of Motor Vehicles after this bill becomes law will be required to submit a used vehicle to an inspection within 60 days after purchase to verify that a device has been installed. A new automobile will be inspected for compliance at the next annual inspection following its purchase.

The bill also imposes a fine of \$500 on a juvenile adjudicated delinquent for motor vehicle theft, but if a court determines that the parent or legal guardian of the juvenile failed to exercise reasonable supervision or control over the conduct of the juvenile, the parent or legal guardian could be made responsible for the payment of the fine.

Finally, the bill amends N.J.S.2C:20-2 to require that a person convicted of auto theft have his or her driver's license suspended for a period of one to two years.

Referred to the Senate Law and Public Safety Committee.

S-52

Rice

This bill requires the Department of Corrections to establish, staff, and maintain a shock incarceration correctional facility. The department is to develop administrative, supervisory, and custodial procedures for the facility and the daily program to be implemented by the staff and followed by the inmates. The shock incarceration program is to consist of 180 days of a highly structured, disciplined, and regimented daily routine.

(S-52, continued)

The bill is intended to divert young criminal offenders from long-term incarceration by providing a short term period of punishment in a confined setting which involves demanding regimentation and discipline, military-style drill and ceremony, physical activity, and structured work programs as well as a disciplined atmosphere for vocational training, education, and counseling.

The bill appropriates \$13,000,000 to the Department of Corrections.

Referred to the Senate Law and Public Safety Committee.

S-140

Cowan

This bill establishes the Automobile Theft Prevention Council which will be administered by a seven member board of directors. The members of the board, appointed by the Governor with the advice and consent of the Senate, will include representatives of law enforcement, automobile insurers and consumers of automobile insurance. The activities of the council will be funded by an annual assessment on automobile insurance companies of \$1.00 multiplied by the total number of car years of automobile insurance provided by the insurer. The term "car year" is defined as a unit of exposure. The money will be deposited into a non-lapsing automobile theft prevention fund and the council will award grants from this fund to public and private agencies or organizations for programs aimed at reducing the incidence of automobile theft in this State.

This bill is modeled after a law enacted in 1986 by the state of Michigan. According to the Michigan Automobile Theft Prevention Authority's 1991 annual report, auto theft rates in Michigan have decreased every year from 1985 to 1989 and this is attributed to the work of the authority.

Referred to the Senate Law and Public Safety Committee.

S-443

Bubba

This bill would permit judges to issue orders prohibiting unlicensed juveniles from obtaining licenses to drive under circumstances where they have illegally driven motor vehicles, committed a related offense and have, as a consequence, been adjudged delinquent. The purpose is to permit dispositions of juvenile delinquency cases to be rationally tailored to the offense committed. In serious cases, where a juvenile has caused serious bodily injury or death, the judge would be required to issue an order for a minimum period of five years from the date the person would ordinarily be permitted to obtain a license.

Referred to the Senate Judiciary Committee.

S-1093

Bassano

This bill would impose mandatory minimum terms for juveniles adjudicated delinquent for the crime of theft of an automobile. A first offense would include a mandatory term of at least 30 days incarceration but not more than one year. A second offense would include a mandatory term of at least 90 days but not more than two years. And a third or subsequent offense would include a mandatory term of at least two years incarceration.

Referred to the Senate Judiciary Committee.

S-1163

Rice

This bill would require the Department of Corrections to establish, staff, and maintain a shock incarceration correctional facility for juvenile delinquents. The program would consist of 90 days of a highly structured, disciplined, and regimented daily routine for juveniles between the ages 15 and 17 and one-half. Only juveniles adjudicated delinquent for non-violent offenses would be eligible for the program. A juvenile who successfully completes the program would be automatically paroled.

(S-1163, continued)

The shock incarceration correctional program would provide a short term period of punishment in a confined setting which involves demanding regimentation and discipline, military-style drill and ceremony, physical activity, and structured work periods as well as a disciplined atmosphere for vocational training, education, and counseling.

The bill would appropriate \$13,000,000 to the Department of Corrections to implement the program.

Referred to the Senate Law and Public Safety Committee.

S-1256

Rice

This bill would prohibit the release of a juvenile on his own recognizance who is charged with auto theft and related offenses. The bill would permit a juvenile who is charged with delinquency for committing automobile theft, receiving a stolen automobile or theft of means of conveyance to be released only to a parent, guardian or other suitable person.

Referred to the Senate Judiciary Committee.

S-1358

Rice

This bill would appropriate \$13,470,800 to the Department of Corrections from the "Correctional Facilities Construction Fund of 1987" for a facility for the shock incarceration program for juvenile delinquents as established pursuant to S-1163. (See above.)

Referred to the Senate Law and Public Safety Committee.

S-1402

Sinagra

This bill would require the Department of Corrections to create and operate a shock incarceration correctional facility for convicted offenders between 18 and 24 years of age. The program would be six months, and participation would be voluntary. Successful completion of the program would entitle an inmate to immediate parole release.

(S-1402, continued)

Shock incarceration would be an alternative form of correctional life stressing a highly structured and regimented daily routine of extensive discipline and counseling. The program would be designed as a resocialization and learning period, with an inmate expected to participate in considerable physical work, exercise and therapeutic programs. The daily inmate schedule at the shock incarceration facility would include an early morning regimen of physical training, military style drilling, cleaning of residence areas, a complete workday, daily group meetings, high school equivalency education, substance abuse counseling and organized physical recreation.

This bill is modeled after the law which established the shock incarceration program in the state of New York.

Referred to the Senate Law and Public Safety Committee.

FINDINGS AND RECOMMENDATIONS

During the course of the three public hearings, the Task Force recognized that the many issues arising out of the auto theft problem present a variety of challenges. The findings set out in this report have led the task force to suggest both short-term and long-term recommendations for solutions.

-
- (1) FINDING: Criminal penalties must be increased.

RECOMMENDATION: The task force recommends passage of pending legislation which upgrades criminal offenses related to auto theft, such as eluding, joyriding, and aggravated assault, and imposes mandatory minimum prison terms.

These concepts are embodied in the following five bills, which have passed the Senate and have been referred to committee in the Assembly: S-1205 (Identical to A-45); S-1206 (Identical to A-46); S-1207 (Identical to A-47); S-1208 (Identical to A-48); and S-1090 (Identical to A-1719). The task force notes that the proposals embodied in these bills have also been endorsed by the Attorney General. (Details of these bills are set out in pages 18-20 and page 25 of this report; details of the Attorney General's proposals are attached, in Appendix.)

•(2) FINDING: A small number of chronic juvenile offenders is responsible for a large number of car thefts in New Jersey.

RECOMMENDATION: Impose mandatory sanctions on juveniles who are repeat offenders, including mandatory terms of incarceration. These concepts are embodied in the following bills:

A-46/S-1206, which provides for 60 days mandatory incarceration for juveniles who commit aggravated assault resulting from joyriding or eluding a law enforcement officer and for motor vehicle theft by a repeat offender. The bill also provides for 30 days mandatory incarceration for juveniles who are repeat car theft offenders where the offense does not create a risk of injury, and for a mandatory term of community service* for first offenders. The task force notes that this bill encompasses the recommendations of the Attorney General;

A-1824, which sets out penalties ranging from a fine of \$500 and either one year's incarceration or 100 days community service, to a fine of \$1,000 and either two years' incarceration or 365 days community service, depending on the juvenile's offense, and

S-1093, which sets out mandatory terms of 30 days to one year's incarceration for a first offense of auto theft, and 90 days to two years' incarceration for a second offense.

*The Task Force notes that some legislation concerning community service describes the length of the sentence to be served in terms of "hours," rather than "days." In the interests of clarity and ease of administration, we recommend that all such legislation be structured in terms of "days" to be served.

•(3) FINDING: Many juvenile car thieves are first offenders, and can be prevented from committing further crimes by appropriate interventions.

RECOMMENDATIONS:

(a) The task force endorses the creation of short-term shock incarceration programs ("boot camps") for juvenile offenders, using existing facilities such as Scout camps, National Guard armories and other military installations. Length of the programs would range from a summer to three or six months, depending on the severity of the juvenile's offense and a determination by the court.

Pending bills which would implement boot camp programs for young offenders include A-258/1042ACS and S-52. In addition, S-1163 and S-1358 would create shock incarceration programs specifically for juveniles.

(b) The task force recommends the establishment of other innovative programs for juveniles at risk, such as job-training and apprenticeship programs. A-1963, which would establish a summer youth employment program, embodies this recommendation.

We also endorse the creation of a community-based, year-round apprenticeship and job-training program for first-time juvenile offenders and high school dropouts under the age of 18. Local businessmen, such as carpenters, electricians, printers and auto mechanics, would receive tax credits in exchange for providing mentoring and training for eligible youths.

We also recommend exploring other innovative options for juveniles at risk, such as wilderness programs which emphasize self-reliance and survival skills.

•(4) FINDING: Juvenile auto theft is frequently a problem of dysfunctional families. Often, parental responsibility and supervision are inadequate.

RECOMMENDATION: The task force recommends that parents who fail to exercise reasonable supervision and control be required to pay restitution to victims of car thefts committed by their children or pay fines. These concepts are embodied in A-1068, A-46/S-1206 and S-51.

The task force notes that the Attorney General has endorsed A-46/S-1206.

•(5) FINDING: There is not enough coordination between the courts and social service agencies concerning the juveniles under their jurisdiction.

RECOMMENDATION: The task force suggests that the names of young first-time auto thieves be submitted to local welfare departments, so that officials can determine if the juvenile's families are receiving benefits. If so, the welfare department's social workers should investigate and seek ways to assist the juvenile and his family, including referrals to community and school-based programs.

•(6) FINDING: False claims of auto theft and other auto insurance fraud are serious problems. In the long run such fraud results in increased auto insurance costs for all consumers.

RECOMMENDATION: The task force recommends that legislation be enacted to fight auto insurance fraud. Law enforcement agencies, the Division of Motor Vehicles and auto insurance companies must be linked by on-line computer access. Auto insurance information must be included on auto registration certificates; auto arson claims must be submitted to local fire departments; auto insurance policies must warn policyholders that any knowingly false or misleading statement made to the insurance company will result in the policy being void. These concepts are embodied in A-1874, A-1875 and A-1876.

•(7) FINDING: Automobiles must be made more difficult to steal.

RECOMMENDATION: The task force recommends the enactment of pending legislation which would require newly purchased automobiles to be equipped with anti-theft devices, and mandate reductions in insurance rates for automobiles equipped with the devices. These concepts are embodied in A-1468 and S-51.

The task force also endorses the provisions of the federal "Anti Car Theft Act of 1992" (P.L. 102-519; 106 Stat. 3384) which require that major automobile parts be marked with the vehicle's identification number.

OFFENSE

CURRENT LAW

PROPOSED LAW

AUTO THEFT

3rd degree crime (3-5 years' imprisonment or fine up to \$7,500 or both). First offender is also subject to \$500 penalty and 1 year driver's suspension; 2nd offender to \$750 penalty and two-year suspension, and subsequent offender to \$1,000 penalty and 10-year suspension. If car's value exceeds \$7,500 offender may be fined this amount (instead of the \$7,500 fine). No mandatory dispositions; presumption of non-incarceration for this crime (as for all 3rd and 4th degree crimes).

Establish presumption of incarceration for repeat offenders, and eliminate presumption of non-incarceration for first offenders. (See A-48/S-1208.)

JOYRIDING

Driver: Disorderly persons offense (up to 6 months imprisonment or fine up to \$1,000, or both).
Passenger: Petty disorderly persons offense (up to 30 days imprisonment or fine up to \$500, or both).

Driver: 4th degree crime (up to 18 months imprisonment or fine up to \$7,500 or both.) 3rd degree crime if auto is operated in a manner which risks injury damage.
Passenger: 3rd degree crime (3-5 years' imprisonment, or fine up to \$7,500 or both.)
(See A-47/S-1207.)

ELUDING A LAW ENFORCEMENT OFFICER

Disorderly persons offense.

3rd degree crime. If eluding creates risk of injury or death, it would be a 2nd degree crime (5-10 years imprisonment or \$100,000 fine or both).
(See A-45/S-1205.)

AGGRAVATED ASSAULT RESULTING FROM ATTEMPT TO ELUDE

3rd degree crime if bodily injury results; 2nd degree crime if serious bodily injury results.

2nd degree crime if any bodily injury results.
(See A-45/S-1205.)

JOYRIDING IN A RECKLESS MANNER WHICH RESULTS IN BODILY INJURY

Not separately categorized in current law.

Would constitute aggravated assault and a 2nd degree crime.
(See A-45/S-1205.)

OFFENSE

CURRENT LAW

PROPOSED LAW

USING STOLEN AUTOMOBILE
TO COMMIT A SERIOUS CRIME
(such as robbery,
aggravated assault or
manslaughter).

Not separately categorized.

Would require imposition of term of imprisonment and upgrade the sentencing one degree. For example, a person convicted of a 4th degree crime who used a stolen automobile in the crime would be sentenced for a 3rd degree crime. (See A-1719/S-1090.)

OFFENSES COMMITTED BY
JUVENILES

Incarceration, fine, probation, residential program or any other disposition authorized by Code of Juvenile Justice. Auto theft by juvenile may result in sentence of up to two years incarceration in addition to any other dispositions.

Mandatory dispositions for motor vehicle related offenses, in addition to any other dispositions:

Aggravated assault caused by joyriding or by eluding; eluding which creates risk of injury; motor vehicle theft by repeat offender; 60 days incarceration.

No mandatory dispositions for any juvenile offense.

Repeat joyriding offense or repeat eluding: 30 days incarceration.

Motor vehicle theft (1st offense), or joyriding which creates risk of injury, or eluding: 60 days community service.

Joyriding (1st offense): 30 days community service.

(See A-46/S-1206.)

Create shock incarceration ("boot camp") programs for juveniles as an additional option in sentencing. (See S-1163 and S-1358.)

Require parents to make restitution for their children's car thefts if parents do not reasonably supervise and control the children. (See A-1068, A-46/S-1206 and S-51.)

OTHER PROPOSALS

Implement innovative corrections programs to help reduce prison overcrowding, such as short-term shock incarceration programs ("boot camps") for non-violent offenders, which would allow early parole in exchange for successful completion of the program. (See A-258/1042 ACS and S-52.)

Mandate anti-theft devices in newly purchased cars.
(See A-1468 and S-51.)

Tighten auto insurance fraud prevention efforts.
(See A-1874, A-1875 and A-1876.)

Enact summer youth employment programs.
(See A-1963.)

Enact year-round apprenticeship and job-training programs for first-time juvenile offenders and young high-school drop-outs.

APPENDIX

- A. Assembly Resolution No. 1
- B. News Articles
- C. Chart: "Auto Theft: 10 Worst U.S. Cities"
- D. Juvenile Delinquency Commission:
 - 1. "Briefing Paper"
 - 2. "The Chronic Juvenile Offender"
- E. Federal "Anti Car Theft Act of 1992" (P.L. 102-519)
- F. Department of Law and Public Safety:
 - 1. Summary of Measures Endorsed by Attorney General Del Tufo
 - 2. Pamphlet: "Carjacking: Minimizing the Risk"
- G. Assembly Bills Endorsed by the Attorney General:
A-45, A-46, A-47, A-48, A-1719

APPENDIX

PART A

Assembly Resolution Number 1

ASSEMBLY RESOLUTION No. 1

STATE OF NEW JERSEY

INTRODUCED OCTOBER 8, 1992

By Assemblymen LUSTBADER and W. BROWN

1 AN ASSEMBLY RESOLUTION creating an Assembly Task Force
2 on auto theft.

3
4 WHEREAS, According to a recent Uniform Crime Report,
5 prepared and issued by the New Jersey Division of State Police,
6 there were 71,686 motor vehicle thefts, over 90 percent of
7 which were auto thefts, reported in 1991; and

8 WHEREAS, Motor vehicle theft affects all segments of the
9 population, comprising 65% of the total value of property
10 stolen during 1991 with a value exceeding \$437 million; and

11 WHEREAS, In addition to the financial impact, automobile theft
12 creates disruption and inconvenience in the lives of persons
13 affected; and

14 WHEREAS, A number of diverse initiatives have been proposed to
15 combat motor vehicle theft by juveniles including legislation to
16 impose enhanced penalties and a separate plan of action by the
17 Attorney General; now, therefore,

18
19 BE IT RESOLVED by the General Assembly of the State of
20 New Jersey:

21 1. There is created a task force of the General Assembly to
22 study and make recommendations concerning automobile theft.
23 The task force shall meet as soon as practicable after the
24 appointment of its members.

25 2. The task force shall consist of six Assembly members
26 appointed by the Speaker of the General Assembly no more than
27 three of whom shall be from the same party. The Speaker of the
28 General Assembly shall appoint two co-chairpersons from among
29 the task force members, one from each political party. The
30 members of the task force shall appoint a secretary who need not
31 be a member of the task force. Vacancies in the membership
32 shall be filled in the same manner as the original appointments
33 were made.

34 3. The task force may meet and hold hearings at any place or
35 places it shall designate during the sessions or recesses of the
36 General Assembly.

37 4. The task force shall report its findings to the General
38 Assembly upon completion of its work, but not later than three
39 months after the passage of this resolution, accompanying the
40 report with any legislation or recommendations for legislation
41 which it may desire to have adopted by the Legislature.

STATEMENT

42
43
44
45 This Assembly Resolution creates a task force to study and
46 make recommendations concerning automobile theft.

AR1

2

1

2

3 Creates a task force to study automobile theft.

APPENDIX

PART B

News Articles

11/10/92

When Cars Are No Longer Havens From Fear

Amid Series of Hijackings, Motorists in Region Ponder Security of Their Vehicles

By IVER PETERSON
Special to The New York Times

NEW BRUNSWICK, N.J., Nov. 9 — Sarah White of Scarsdale, N.Y., always thought she was being sensibly cautious, waiting in her locked car for someone else to appear for an evening writing class at a Briarcliff church before crossing the unlighted parking lot.

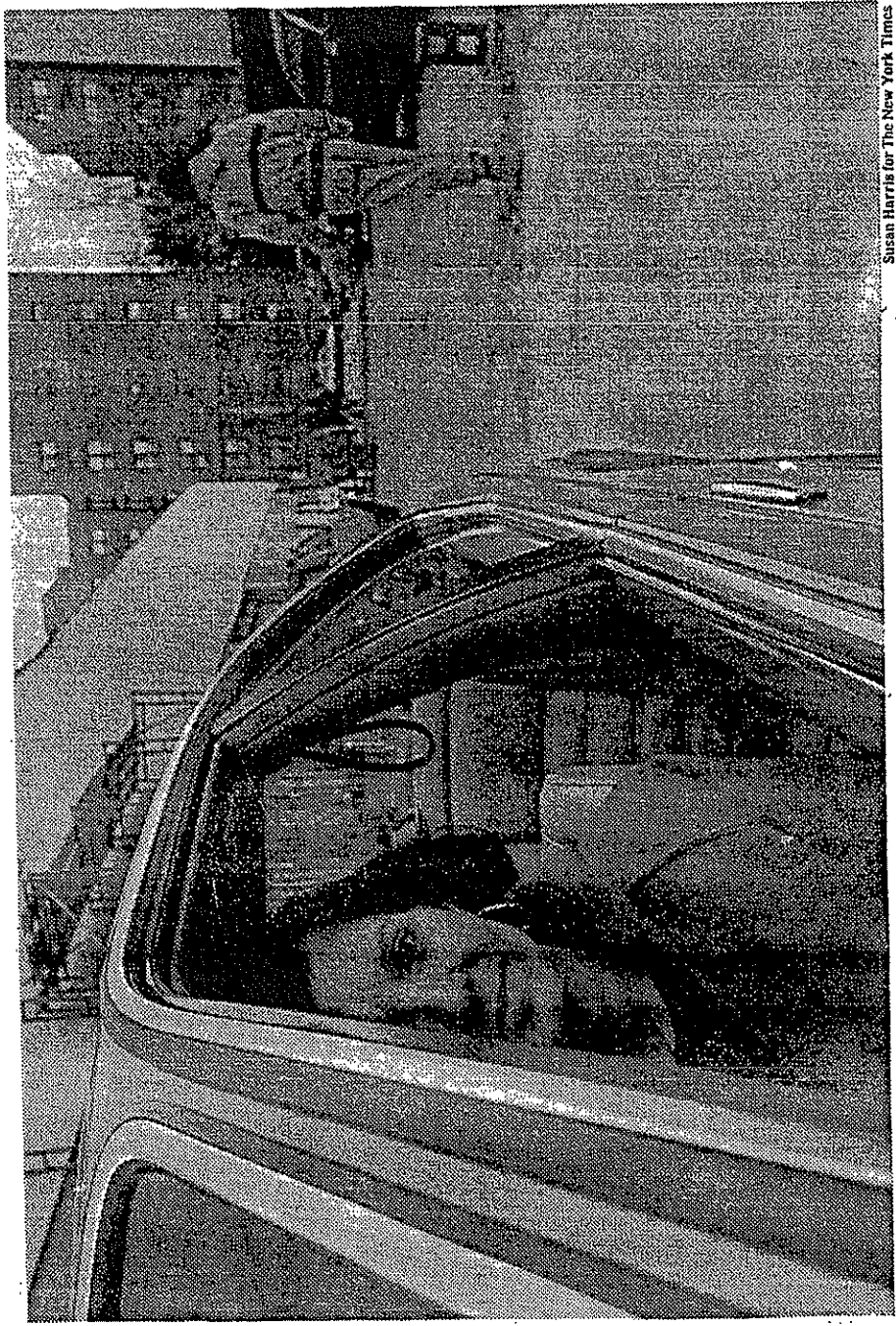
Now she isn't so sure that her locked car will keep her safe.

The abduction and killing of Gail F. Shollar Tuesday while she and her young daughter were running errands in Piscataway, N.J., the spate of carjackings up and down the East Coast and the sometimes-fatal attacks on moving cars by vandals on overpasses all have begun to strip away another layer of security in American life, the sense of being invulnerable as well as independent behind the wheel of a car.

'Their Private Space'

"People consider their cars an extension of their private space," said Michael Maxfield, a professor at Indiana University who has written extensively on the fear that crime begets. "So an attack when you are in your car, where you feel you are safe, can be particularly traumatic."

Across the metropolitan New York City region, motorists have been tasting that fear when they stop at red lights, when they wonder if the car has enough gas to get home, when they weigh the benefits of a shortcut against the perceived dangers



Susan Harris for The New York Times

"Sometimes I'm stopped at a red light, and I have my heart in my mouth," said Nancy Vorel, a financial analyst with Merrill Lynch in White Plains. Her 1986 BMW is equipped with a coded alarm system and a panic button in case she doesn't have time to dial her code. She is also planning to get a mobile telephone.

Continued on Page B8

When the Car No Longer Provides a Sense of Security

Continued From Page B1

of driving down an unfamiliar street.

Suddenly, auto alarms that were installed to protect cars from theft while they were parked are viewed as armor for drivers on the road. Some motorists, particularly women who feel a special vulnerability in a crime that seems to have singled them out, are talking about the benefits of cellular telephones, of toy guns, of dogs.

Everyone, it seems, checks the back seat for intruders before entering a parked car, and many people are rethinking the purchase of a new automobile if the car's price is part of its allure to highwaymen.

"That dent stays right where it is," said Nancy McPartlin, the 30-year-old public relations manager for Phelps Memorial Hospital in North Tarrytown, indicating her faithful, slightly damaged 1987 Toyota. Ms. McPartlin was considering a "nice, new, expensive car," she said, until the carjackings changed her mind. "I'm going to keep this car until it drops," she said. "I don't want anyone to think I have a desirable car."

Law-enforcement officials differ on the criminal dynamics of carjacking. Some have said they are the work of professional car thieves who attack occupied cars because they have been foiled by increasingly sophisticated electronic locks and alarms on luxury automobiles.

'More Seasoned Criminals'

"Teen-age joy riders who account for most of the car thefts are not going to do this," said Ronald Clarke, dean of the School of Criminal Justice at Rutgers University. "These are more determined and more seasoned criminals who are looking for large profits."

Others believe the attacks are a natural evolution of criminal behavior as would-be robbers move out to suburban streets, highway rest areas and shopping mall parking lots, making victims of people who long ago stopped driving in high-crime areas.

After all, it was the very banality of Mrs. Shohar's trip, visits to a video store and a Pathmark supermarket, that in many minds tainted the familiar with fear.

"It is very scary to think of where the New Jersey incident happened, to a woman going out to rent a video," Ms. White said. "What is happening now is, the normal places, the bank, the post office, the supermarket, the shopping center, have now become dangerous."

Here in New Brunswick, today, Scott R. Johnson, 23, was arraigned in the killing of Mrs. Shohar. He was held on \$1 million bail, and Thomas Kapsak, the assistant Middlesex County prosecutor, said the state would seek the death penalty against him.

Ms. White said waiting for a red light to change is a new experience in the age of carjackings. "I'm always thinking if I have to get out of that spot, what would I do?" she said. "It used to be when I stopped at a red light, I would listen to the radio and think other thoughts. Now I strategize."

Nancy Vorel, a financial analyst with Merrill Lynch in White Plains, knows that feeling. "Sometimes I'm stopped at a red light, and I have my heart in my mouth," she said.

Thursday evening, a New York woman stopped for coffee at the Fairfield, Conn., rest area on Interstate 95 and was kidnapped at knifepoint by a man who robbed her of her money and coat and left her in Stamford before driving off in her 1990 Lincoln.

State police reported today that they had a suspect in custody in that case. His identity had not been released by this evening.

Authorities said another carjacking at the same rest stop on Saturday night involved two teen-agers who

Youths Arrested In Carjacking

WESTPORT, Conn., Nov. 9 (AP) — Two teen-agers charged in a carjacking outside a McDonald's restaurant on Interstate 95 were cooks there, and stole the car because they did not have a ride home, the state police said today.

The youths, Donovan West, 19 years old, and Shawn Boswell, 17, both of Bridgeport, were charged with first-degree robbery in the theft of a Chevrolet Blazer on Saturday night from the westbound I-95 rest stop in Fairfield, the police said.

The state police also said they had a suspect in the abduction of a New York businesswoman from the same rest stop on Thursday, one of three carjackings in Connecticut in three days. The other was in West Hartford.

The suspect in the abduction was in the custody of the Bridgeport police today, after being arrested in a robbery, the police said. His identity was not released.

In the abduction, the carjacker told the woman that he needed money to buy crack, that he would not harm her, but that he had AIDS and had nothing to lose, said Master Sgt. Thomas Brown, a state police detective.

were cooks at a McDonald's restaurant there. The police said the two decided to steal the car of two Bronx men because they did not have a ride home.

Last month a 58-year-old woman was shot in the thigh by a man who stole her car in a South Orange, N.J., supermarket parking lot. On Long Island in December, three men approached a 49-year-old woman in a Carle Place parking lot, dragged her by the hair from her car, took her keys and drove off. In New York City, gunmen have taken cars from people on busy roads like the Grand Central Parkway in Queens and East 69th Street in Manhattan, while in East New York, Brooklyn, on Thursday night, a 36-year-old man's car was stolen at gunpoint at the corner of Montauk and Hegeman Avenues.

Nor is the problem limited to the New York area. National Guardsmen are patrolling a section of interstate highway around Jacksonville, Fla., after a spate of sniper shootings and thrown rocks that have taken one life and injured several people.

According to the American Automobile Association, there were 245 carjackings, five of them fatal, between Jan. 1 and Aug. 16 in the Washington area. One of the attacks, in which a woman was dragged to her death by robbers fleeing in her car with her baby in the back seat, galvanized police action against the crime. On Oct. 25, a national anti-carjacking law was signed by President Bush. It mandates 15 years in jail for the crime and a life term if a death is involved.

In the face of widespread violence, some women speak of buying toy guns to brandish in case of emergency or of bringing their dogs on trips.

Ms. Vorel, the White Plains financial analyst, was one of several women interviewed today who mentioned cellular telephones. She has a \$700 alarm system on her 1986 BMW, she said, and the alarm has gradually evolved in her mind from a device that protects the car to one that protects her. A telephone would add an extra margin of protection, she said. "I don't want to be at anyone's mercy. If, God forbid, someone is trying to get into my car, I can call the police on the phone."

Carjacking Spreads to Nation's Suburbs, Raising Fear There Are No Safe Havens

By CATHY THIST

Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON — Richard Waysdorf has a new attitude toward his car these days. He drives a stodgy station wagon, keeps the doors locked and avoids bad areas of town. For all his precautions, though, he knows he isn't immune from danger, even in his leafy neighborhood in one of this city's safest sections.

Earlier this year, Mr. Waysdorf, 39 years old, was getting into a Nissan Maxima in front of his house when a man with a gun appeared, demanded the keys and took the car. Mr. Waysdorf had come face to face with a carjacker — a ruthless and often violent breed of auto thief.

Responding to a wave of carjackings, President Bush this week urged that carjacking be made a federal crime punishable in some cases by life imprisonment and, if a victim is killed, by the death penalty. "I want thugs who take cars at gunpoint to stay in a cell so long that when they get out they're too old to drive," he said in a campaign speech Monday. Yesterday, the Senate, as part of a catchall tax bill, voted to make armed carjacking a federal crime punishable by 15 years in prison. A similar measure is pending in the House.

Carjacking isn't new in big cities. "We see it every day," says Deputy Inspector Charles DeRienzo of the New York Police

Guarding Against Carjacking

The American Automobile Association and law enforcement authorities offer this advice to motorists concerned about carjacking:

- When you are out in public, look around and get a good view of the entire surrounding area.
- Choose well-lighted, busy facilities if you stop to use a pay phone or buy gas.
- When returning home, be aware of all vehicles and pedestrians. Keep your house and driveway well lighted. Beep your horn and have someone inside turn on lights or open the door.
- If your car is bumped from behind and you do not feel comfortable getting out, motion to the other driver and go to the nearest police station, service station, hospital or fire station.
- Keep your vehicle locked and the windows rolled up enough so it will be difficult for someone to reach in and take your purse, wallet or keys.

Department's auto crime division.

But the crime's rapid spread to more tranquil urban and suburban streets is creating a wave of fear among Americans who felt distanced from inner-city strife. Carjackings are still rare by comparison with car theft — more than 1.7 million vehicles valued at \$8 billion were stolen nationally last year, and only a small percentage were taken by carjackers. The crime is drawing attention, though, because of its intrusiveness. "Our geographic zones of security are shrinking," says John Stein, deputy director of the National Organization for Victim Assistance.

Carjacking is particularly frightening, experts say, because of its violence and unpredictability — and its violation of one of modern life's sanctuaries, the car. "There are two places you probably feel safest, in your home and your car," says Ann Evans, a police spokeswoman in suburban Montgomery County, Md., which has experienced 39 carjackings this year, one of them resulting in the death of a driver. "Now you have to worry that you could be anywhere and somebody is going to come up and put a gun in your face and take your car."

Concerned by the growing trend, Federal Bureau of Investigation Director William Sessions this month launched a plan to fight carjacking through joint federal, state and local task forces already battling gang and drug-related violence in 42 cities. Carjackings are getting so much publicity that the American Automobile Association this month advised motorists: "Remember the primary rule: 'If a gunman wants your car, give it up.'"

Earlier this month, a group of women in Savage, Md., gathered at a community health center to discuss their fears after a carjacking that drew national attention. A neighbor, 34-year-old Pamela Basu, was killed when her BMW was carjacked with her toddler daughter in the back seat. Ms. Basu, caught in a seatbelt, was dragged outside the car for more than a mile. The two carjackers stopped only to throw the baby, still in her carseat, into the street. The child wasn't injured.

Many residents of the Savage neighborhood moved there to escape urban violence in nearby Washington and Baltimore. New townhouses there start at \$130,000, tree frogs sing noisily in the surrounding woods, and street signs warn of children playing. Ms. Basu's death shattered that serenity.

"This kind of froze it right in your face—that anything can happen and sometimes does," says Helen Lann, director of community mental-health services in the county where Savage is located.

Police in many areas have only re-
Please Turn to Page B14, Column 1

Auto Thieves Have Wide-Ranging Tastes

By DOUGLAS LAVIN

Staff Reporter of THE WALL STREET JOURNAL

Last summer, Wall Street financier Henry Kravis's Mercedes-Benz 500SEL was hijacked from his driver in Manhattan. Last weekend, carjackers in Detroit killed Terry Norris, a handyman, for his 1979 Chevrolet Malibu.

As carjacking spreads across the country, no car makes or models seem to be immune.

Houston robbers tend to take "sporty looking vehicles like Corvettes, BMWs and Mercedes in bright colors like red," says Lt. Allen Tharling of the Houston Police Department's armed robbery division.

In Fort Worth, Texas, carjackers are more likely to steal a moderately priced domestic sedan for basic transportation. In Southern California, carjackers are frequently auto thieves looking for an easy way around expensive alarm systems. They appear to prefer Lexuses, but a Honda Accord will do in a pinch.

In greater Washington, D.C., 19 of the 245 vehicles hijacked from motorists this year were Nissan 300ZXs. Several other Nissan models, including Maximas, Sentras and Pathfinders, were also stolen, apparently partly because

Nissan models are considered status symbols by drug dealers.

Pathfinders are called "crackfinders" in Washington because "they are the car of preference for making deals," says Kirk Bell, a 30-year-old legislative assistant on Capitol Hill. In May, a friend of his, Gray Lidell, was shot in the back of the head and killed when his Pathfinder was stolen by two assailants.

"Since then, I'm telling anyone I can, don't buy something ostentatious. Don't buy something anyone would covet," says Mr. Bell.

But at least one carjacking victim shrugs off worry about a repeat attack. Mitch Sherman, 43, had left his job as a Xerox facsimile specialist and was heading toward a Baltimore Orioles game in early September when he pulled into an Exxon station to put some gas into his white 1991 Nissan Maxima. Two young men with a gun interrupted him and stole the car, but they didn't steal Mr. Sherman's brand loyalty.

"I don't want to feel intimidated, that I have to give up a car that I like driving just because some hoods have a gun," Mr. Sherman says. He intends to purchase a new Maxima as soon as he can.

Carjacking Spreads to Suburbia, Suggesting There Is No Safe Haven

Continued From Page B1

cently started keeping track of carjackings, and the FBI doesn't yet collect national statistics. But in some areas, the numbers are skyrocketing. So far this year, more than 300 carjackings have been reported in Washington and adjoining Maryland, according to the Maryland State Police, with eight related deaths. Houston had 628 carjackings last year, but a concerted police effort reduced the number to 221 during the first half of this year. In Sacramento, Calif., where police began compiling statistics last year, there were 139 reported carjackings in 1991. This year's numbers are keeping pace, with 87 reported by the end of last month.

"It happens all over town, in good areas and bad areas," says Claudia Evans, a spokeswoman for the Sacramento Police Department. "Mainly, it seems to be a crime of opportunity."

California State Assemblyman Lloyd Connelly discovered that on a recent Sunday as he was on his way to a special legislative session. He had stopped his state-owned Ford Tempo at a convenience store just a few blocks from the capitol and had gone in to buy a newspaper and a diet soda. When he returned to his car, a man Mr. Connelly describes as nicely dressed, well groomed and armed with a knife, demanded Mr. Connelly's keys, threatening to slash him if he didn't comply.

Such a crime indelibly changes the lives of some victims. Diane Robb, a 38-year-old Denver mother, lost her \$25,000 Volvo last year when she was carjacked at gunpoint in a Kmart parking lot. Afterward, she was afraid to go out alone at night. "I got mad thinking, how dare they take that freedom away from me," she says.

Her car was later used in a bank robbery and eventually recovered, but Mrs. Robb quickly sold it because she was too nervous driving it. Instead, she bought a seven-year-old Hyundai.

Anti-Theft Devices

Law enforcement experts think carjacking is increasing for a variety of reasons. Some experts blame the effectiveness of anti-theft devices, which make parked cars harder to steal, for carjacking. And law enforcement has always been behind the curve on auto theft. Thieves are rarely caught and typically serve little prison time, experts say. In 1991, 14% of car thefts nationally were resolved by arrests.

Experts believe most cars are stolen by professionals who either chop them up for parts or sell them to individuals or dealers. "The profit is enormous," says Arnold Schlossberg, president of the National Insurance Crime Bureau, a non-

profit, industry-supported agency. "When they chop up a car they get two to four times its value by selling the parts to a body shop or chop shop."

New York Democratic Rep. Charles Schumer, sponsor of House legislation to make armed carjacking a federal crime and require identification numbers on car parts, contends that some crooked scrap dealers and chop shops, often with organized-crime connections, contract with youths to steal certain cars simply so they can supply parts to auto repair shops. He hopes that by requiring repair shops to call a toll-free FBI number to see if a used part is stolen, as his bill would require, "you will dramatically cut into the profits made from stealing cars."

Some parts of theft-prone vehicles are already marked by car makers, and Nissan Motor Corp. voluntarily began etching vehicle identification numbers on the windshield, rear and side windows of its 300ZX model last year as a theft deterrent.

But some police departments say many carjackers show little interest in selling cars for profit. Typically young, male drug users, they rob victims, hijack their cars and use the automobiles as getaway vehicles to the next crime.

'Bump and Robs'

Houston police started tracking the phenomenon in 1978 as "bump and robs," where thieves would bump cars and rob drivers who got out to investigate the damage. Now they're seeing other scenarios, including shoving a gun into the face of a motorist pumping gasoline at a service station or trailing a driver home.

In New York, tough law enforcement has put a crimp in carjacking. The city reported 2,087 armed robberies of vehicles last year, down 9% from 2,278 in 1990. The police also recovered 180 luxury cars valued at nearly \$3.5 million in a sting operation focused on a gang of thieves who were shipping the cars to West African ports for resale. Nine of the cars had been taken at gunpoint.

Alarmed by growing numbers of local carjackings, the American Automobile Association in Washington earlier this summer offered a reward of up to \$20,000 for information leading to the arrest and conviction of a perpetrator of an armed robbery of an AAA member's car.

Some drivers are taking their own precautions, says Robert Krebs, an official with the local AAA. To counter the threat of armed thieves, they have told him, "they were deliberately going to pack a concealed weapon." But that, Mr. Krebs says, is "illegal and ill-advised and we recommend against it."



Victim. Michael Wargo's BMW was carjacked outside his Alexandria, Va., home. "What scares me is that it's just so random."

Willing to kill for a car

Auto theft is booming, and carjacking makes it a deadly menace all over

Late one afternoon in July 1991, 48-year-old Cecile Ham was abducted from a drugstore parking lot in a well-to-do Houston neighborhood. Her kidnapper, Spencer Corey Goodman, later told police he was after her car, a red 1991 Cadillac. While taking her keys, he hit her in the head, breaking her neck. He then drove around Texas in Ham's car while her body—in the trunk—decomposed in the midsummer heat. He finally dumped her in rural Frio County southwest of San Antonio.

They call it "carjacking"—the latest, most frightening version of auto theft, a crime that occurs every 20 seconds or so in America. While other property crimes like burglary have leveled off since the mid-1980s, auto theft has continued a stubborn climb. In 1991, some 1.5 million vehicles were stolen nationwide—55 percent more than in 1983. Car theft costs at least \$8 billion yearly and accounts for almost half of the total property lost to crime each year.

Many reasons are cited for the steady rise of auto theft, but behind them all is this disturbing bottom line: Stealing cars is a lucrative, easy, low-risk proposition. "There really was no car hard for me to

break into," says former New York auto thief Terry Price. "The longest it takes is five minutes." Deluged by violent crime, America's police agencies don't have much time for auto theft—and the thieves know it. By one reliable estimate, fewer than 3,000 of the nation's 500,000 police officers are investigating auto theft. The odds of a car thief being arrested and serving more than one year in prison are 1 in 100. In Texas, prisons are so overcrowded with violent offenders that it's rare for a first- or second-time car thief to serve any time at all. "A lot of times all the courts do is put them on probation," says police Sgt. Brett Baumgartner of San Bernardino, Calif. "Word gets around. Nowadays, auto thieves don't even run."

Deadly trend. It wasn't until recently that auto theft regularly raised the specter of violence. Carjacking mushroomed last year in cities like Detroit and Houston and has since spread around the country. Between late July and early Sep-

Targeted cars

Vehicles stolen most often

1. '86 CHEVROLET CAMARO
2. '84 OLDSMOBILE CUTLASS SUPREME
3. '87 CHEVROLET CAMARO
4. '85 OLDSMOBILE CUTLASS SUPREME
5. '85 CHEVROLET CAMARO
6. '84 BUICK REGAL
7. '88 HYUNDAI EXCEL
8. '84 CHEVROLET CAMARO
9. '86 OLDSMOBILE CUTLASS SUPREME
10. '86 PONTIAC FIREBIRD
11. '86 CHEVROLET MONTE CARLO
12. '88 CHEVROLET CAMARO
13. '85 BUICK REGAL
14. '87 PONTIAC FIREBIRD
15. '87 CHEVROLET CAPRICE

Note: Rating is for 1991.
USN&WR: Basic data: CCC Information Services Inc.

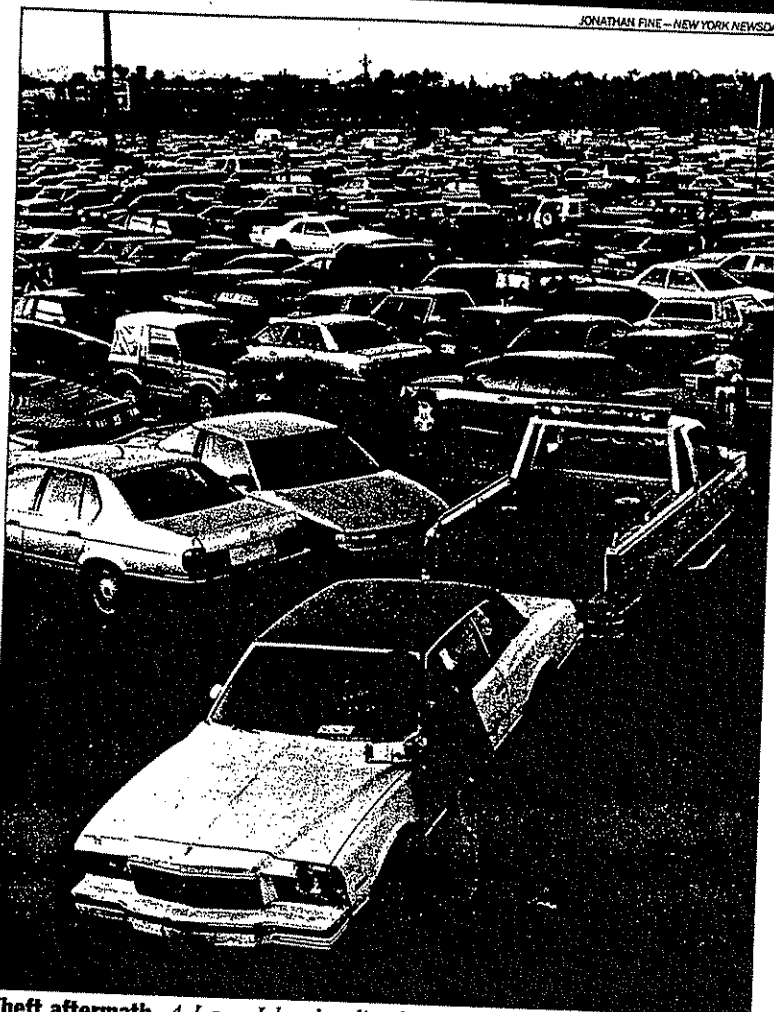
■ U.S. NEWS

tember of 1991, there were 375 carjackings in the Motor City—and at least 40 more in surrounding suburbs. Three people were killed and several beaten severely before area police agencies formed special task forces that reduced the problem this year. In Los Angeles, some 4,000 carjackings were recorded in 1991, and the practice is spreading into affluent neighborhoods. Among the victims: rock star Rod Stewart and comedian Don Rickles. In Savage, Md., last week, Pamela Basu, 34, was dragged to her death, entangled in the seat belt of her BMW, which carjackers had stolen with her 22-month-old daughter inside.

Stoplights, garages, fast-food outlets, gas stations and parking lots are among the most popular venues for carjackers. Typically, a single gunman puts a pistol to the head of a startled driver. But there are variations like the "bump and run," in which thieves stage a minor rear-end accident. When the unsuspecting motorist gets out to inspect the damage, he is held up by one thug while the other drives off.

Most carjackers are young, brazen predators, often seeking a car to help them commit other crimes. Ironically, say police, security devices may actually encourage carjacking. They don't stop the professional, but for amateurs, the increasing sophistication of alarms, steering-wheel locks and ignition-control systems has "made it easier to just pull the robbery at gunpoint than to steal the car when it's parked somewhere," says Los Angeles detective Lou Koven.

Improved security around other common robbery targets, like convenience stores, may also be contributing to carjack-



Theft aftermath. A Long Island police lot full of recovered stolen autos

ing. "If you hold up a 7-Eleven, chances are you could get shot. You're on film. And the most you get is \$40," says former

Los Angeles car thief Michael Scott. "So with carjacking, the risk is less and the payoff is bigger—you get the car plus whatever they have in their wallet."

Meanwhile, more-traditional auto theft has become much more the province of professionals seeking big payoffs. "It's all about dinero," adds Cesar, 23, a former Denver car thief. One reason: a thriving export market. Experts say up to 200,000 cars a year may be shipped abroad. Many are headed for the Middle East or Western Europe. But last December, authorities in New York broke up a ring they believe shipped \$4.4 million worth of stolen cars to Ghana. And some

to 40 percent of the stolen-car business is exclusively for parts. Thieves link up with "chop shops," where stolen vehicles are diced up so their parts can be sold separately to repair shops or salvage yards. For a recent vintage auto, a chop shop might pay as much as \$1,000. The incentive for repair shops to deal with chop shops is strong, since the parts they provide will likely be cheaper, and the delivery time faster, than in dealing with the manufacturer.

Parts shopping. Early this year, undercover cops in California's San Fernando Valley offered stolen parts to some 20 body shops; 12 agreed to buy them. An honest body shop owner may be unaware he's dealing in stolen parts, because many are sold through regional networks that resemble a Turkish bazaar. Up to now, shop owners have had no responsibility to check the origin of the parts, and there are sharp differences of opinion on the deterrent effect of a 1984 law requiring the marking of certain parts.

Insurance fraud accounts for an ever-larger portion of the stolen-car busi-

Auto-theft meccas

Cities with the highest rate of stolen cars

1. NEWARK, N.J.
2. LAWRENCE, MASS.
3. IRVINGTON, N.J.
4. HUNTINGTON PARK, CALIF.
5. BRIDGEPORT, CONN.
6. CAMDEN, N.J.
7. EAST ORANGE, N.J.
8. DETROIT
9. ELIZABETH, N.J.
10. ATLANTA
11. PROVIDENCE, R.I.
12. WEST PALM BEACH, FLA.
13. TRENTON, N.J.
14. MIAMI
15. NEW HAVEN, CONN.
16. GARY, IND.
17. BOSTON
18. HOUSTON
19. NATIONAL CITY, CALIF.
20. NEW ORLEANS

Note: Rating is for 1991 of cities with more than 50,000 population. USN&WR—Basic data: National Insurance Crime Bureau

U.S. NEWS

ness—15 to 20 percent. The owner may contract with a middleman to steal the car and sell the parts, abandon the vehicle on city streets in hopes it will be stolen or stripped, or simply run the car into a river. The aim is the same: collecting insurance money. Often, says Commander Roy Newman of the Texas Department of Public Safety's auto-theft division, "we smell fraud, but we can't prove it." And "every time the economy goes down, the fraud goes up," adds Charley Evans of the National Insurance Crime Bureau, an investigative group sponsored by insurers. Also on the upswing is "VIN switching": Thieves transfer the vehicle identification sticker from a junked vehicle to a similar stolen model, making it appear legitimate.

Growing protections. Car makers, insurers and entrepreneurs are slowly fighting back. General Motors has won high marks for its PASS-Key system, which is available on some Cadillacs and Buicks and on often stolen Corvettes, Firebirds and Camaros. The system uses a pellet-size resistor in the key that is



Suspect. Rodney Solomon is charged with killing Basu.

"read" by electronic sensors in the ignition lock. Use of an improper key causes a 2- to 4-minute delay before another attempt is possible; attempts to bypass the ignition disable the starter and fuel-delivery system. But consumer and insurance-industry advocates argue that car makers have moved too slowly and have focused on the high-priced models. "I find it hard to believe that we can't develop a car that can't be stolen by a 12-year-old car thief in under a minute," said Richard Jeffares, chairman of the New York-New Jersey Anti-Car Theft Committee, a group of concerned citizens,

police and insurers. The auto makers counter that antitheft systems are expensive and that costs must be weighed against price sensitivity and consumer convenience.

A booming \$400 million annual business exists in add-on security devices. Many insurers give premium discounts of 5 to 15 percent for antitheft devices; 10 states mandate such price breaks. Experts say alarms, steering-wheel locks and "kill switches" that disable fuel or ignition systems may at least deter amateur thieves. And authorities are cautiously optimistic about a new generation of electronic hom-

ing devices hidden in the vehicle that can be tracked after a theft.

Tougher law enforcement might help more than anything. In Bridgeport, Conn., and Newark, N.J., task forces have reduced the theft rate, but many cities cannot afford such efforts. The most innovative solution was initiated in Michigan, where a \$1 surcharge on insurers for each auto policy statewide supports the Michigan Automobile Theft Prevention Authority. The authority uses the money—\$7.4 million in 1991—to fund 83 cops and seven prosecutors who fight auto thievery full time. Since it was created in 1986, Michigan's auto theft rate has dropped 17 percent. Texas, Louisiana, Illinois, Arizona, New York and Florida now have similar programs.

Congress, too, is getting into the act. In July, the House Judiciary Committee approved an antitheft bill sponsored by New York Democrat Charles Schumer; it would toughen penalties, create a new federal crime of carjacking, crack down on auto title fraud by linking state computer systems and direct the Customs Service to spot-check cars being shipped abroad. Most important, the bill extends to all car models a requirement that some parts be marked with the vehicle identification number. It also insists that repair shops certify the legitimacy of parts by checking the identification number against an FBI database of stolen cars.

Parts of the Schumer bill have broad support. But powerful Michigan Rep. John Dingell, the repair industry and the auto makers are concerned that the parts-marking provisions may be overly burdensome, and a House clash looms in a few weeks. No one will bet on the outcome. The only sure thing is that between now and then, thousands of cars will be stolen. And not many thieves will be caught. ■

BY GORDON WITKIN WITH AIMEE STERN IN NEW YORK,
JOAN BORAM IN DETROIT, BARBARA BURGOWER HORDERN IN
HOUSTON AND MONIKA GUTTMAN IN LOS ANGELES

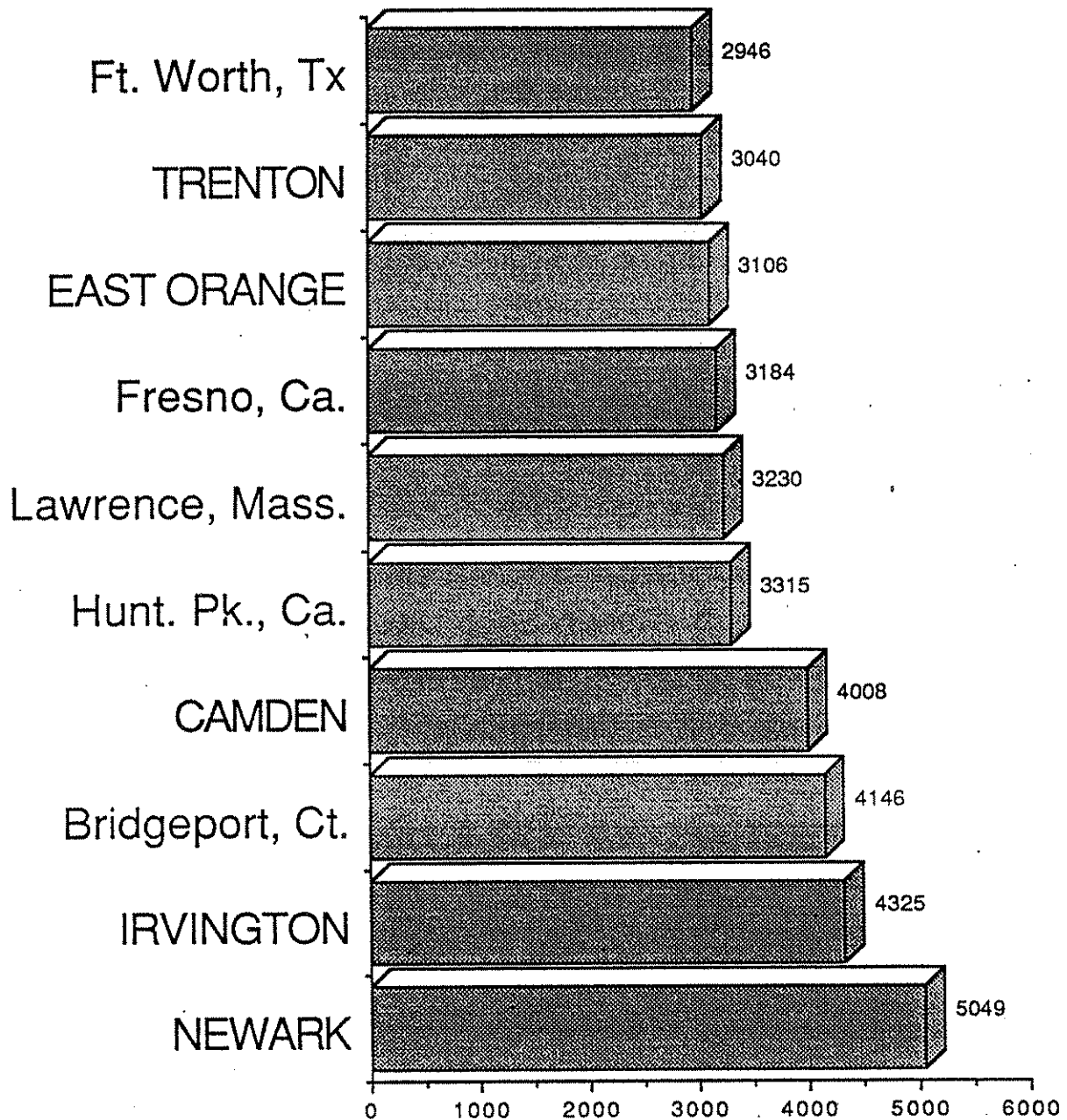
APPENDIX

PART C

Chart: "Auto Theft: 10 Worst U.S. Cities"

AUTO THEFT - 10 WORST U.S. CITIES

CAR THEFTS PER 100,000 POPULATION*



* according to the National Insurance Crime Bureau -- 1991 figures

APPENDIX

PART D

Juvenile Delinquency Commission:

- 1. *"Briefing Paper"***
- 2. *"The Chronic Juvenile Offender"***

JUVENILE AUTO THEFT

BRIEFING PAPER PREPARED FOR THE ASSEMBLY TASK FORCE ON AUTO THEFT

Prepared By:
The Juvenile Delinquency Commission
December 15, 1992

WHAT WE KNOW

- > In 1991, there were 72,000 motor vehicles stolen in New Jersey.
- > Juveniles are responsible for approximately 60% of motor vehicle arrests.
- > New Jersey has five cities rated among the nations "Top 10" for motor vehicle theft. The cities are Newark, Irvington, Camden, East Orange and Trenton.
- > Previously, motor vehicle theft was considered a "low priority" offense, IT IS NO LONGER.
- > A growing problem is that auto theft sometimes involves or leads to violence and injuries to self and others, or the threat of such injuries.

SOME INITIAL COMMISSION FINDINGS

- > Motor vehicle theft was considered the perfect juvenile crime. It was high profit, little chance of being caught, being incarcerated or receiving a tough response.
- > Youths often begin their criminal career with auto theft and move on to bigger and better things.
- > There are several reasons why juveniles steal cars:
 - > "acting out"
 - > joyriding
 - > for profit
 - > for transportation to commit other crimes
- > There has traditionally been a limited juvenile justice response - the problem was not considered a priority.
- > There is no "offense specific" response to juvenile auto theft - one that targets the problems and effectively turns juveniles away from this behavior.

SOME INITIAL RECOMMENDATIONS

- > We need to take auto theft cases more seriously.
- > We need to hold kids accountable.
- > We need to develop programs specifically geared toward dealing with juvenile auto theft.
- > Senator Rice sponsored legislation for a "First Time Juvenile Auto Theft Offender Program."

MORE RECENT RESEARCH FINDINGS BASED ON A REVIEW OF ESSEX COUNTY JUVENILE AUTO THEFT CASES

- > Close to half of the juveniles involved in auto theft cases had no prior court record -- and most had no prior auto theft charges.
- > More than one-third of the juveniles charged with auto theft related offenses were 17 or older at the time they entered court and more than half of these older juveniles had no prior court record.
- > Juveniles adjudicated delinquent of auto theft and auto theft related charges get a wide variety of dispositions. Incarceration in state correctional institutions is relatively uncommon, although it is utilized -- occurring in 10% or less of the cases. The most common "sentences" were probation, suspended sentences to the Department of Corrections institutions, and formal continuance.
- > While diversion of cases from court hearings was relatively common in the past, this practice has been discontinued. At the same time, use of the specialized Juvenile Auto Theft Program as a disposition (for first time juvenile auto theft offenders) has doubled since last year.
- > While placement in detention centers for juveniles awaiting court response was rare prior to 1992, it has now become the rule rather than the exception.
- > A very small but apparently growing number of auto theft cases involve a violent offense, or potential for physical harm. In recent months, about 14% of the cases involved such offenses.

POLICY IMPLICATIONS

- > There is no single "best" solution.
- > Kids steal cars for all kinds of reasons, therefore, we need a range of responses.
- > An offense specific program for first time auto theft offenders would appear highly desirable, especially if it can combine three things: identification of the specific needs of the juvenile, accountability (e.g., restitution to the victim, community service, temporary curfew/"house arrest") and counseling/treatment services directed at the causes of their auto theft behavior. The current JATPP in Essex County shows promise -- but there is a critical need to evaluate the program's impact on future offending.
- > Getting tough is OK, but our findings indicate that most of the juveniles in court on auto theft related charges have either no prior court record (auto theft or otherwise) or a very limited one. Many of the juveniles are already 17, with no prior record. It appears that the typical profile of juveniles charged with auto theft related offenses is very different from that of the typical juvenile who is currently incarcerated in New Jersey's training school institutions. Incarceration in state institutions would seem inappropriate for a large share of juvenile auto theft cases. However, it is clearly an appropriate response in many cases involving repetitive offenders whose offenses may include an array of auto theft as well as drug or other serious offenses as well.

- > The large majority of juvenile auto theft cases do not involve violence, or physical harm or the threat of harm. At the same time there does appear to be a substantial increase in cases involving aggravated assault and even robbery. It appears to us that if legislation is called for, it should not target the broader category of auto theft related cases. This would be a misdirection of effort. Rather, the legislation should target that special category of auto theft cases that involve violence or potential harm to others.
- > We need to develop good programs to combat auto theft. The juvenile justice system alone CANNOT stop kids from stealing cars. It must be a cooperative effort also involving parents, community, schools and churches.
- > Mandatory terms of incarceration are a radical departure from traditional juvenile justice system philosophy and practice. Such a move, without regard to how we handle the vast array of juvenile cases throughout the state -- whether trivial, serious or even violent -- would be a mistake.
- > We need to offer short-term programs providing a range of services for juveniles and families.

APPENDICES

The following appendices include various documents published by the Commission supporting comments made in this document.



C CLEARINGHOUSE

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November 18, 1988

JUVENILE AUTO THEFT — A FREE RIDE?

There is growing concern about juvenile auto theft and the juvenile justice system's response. The following article reports on a recent "roundtable discussion" held by the Commission at Rutgers University.

In 1987, over 64,000 motor vehicles were reported stolen in New Jersey. This reflects an increase of 57% since 1978; and an increase of 11% over 1986. Many of these vehicles (the vast majority of them cars) were stolen by someone under 18 years of age. In fact, juveniles accounted for 55% of the over 3,300 arrests in 1987 for motor vehicle theft. Many additional juveniles are charged with receiving stolen property since they are caught driving rather than stealing the cars.

The scale of the problem varies greatly from community to community. It is clearly not a "universal" problem. Like other serious crime, auto theft is largely focussed in "urban counties." For example, in 1987 Essex, Camden, Mercer, Union and Passaic counties accounted for 61% of all juvenile arrests for motor vehicle theft; 26% in Essex County alone. Our six largest cities account for 3 of every 10 juvenile arrests for motor vehicle theft.

The fact that some communities are hard hit by this troubling phenomenon has contributed to the introduction of several "get tough" pieces of legislation targetting auto theft by juveniles. The focus and provisions of the bills vary, but one common theme is the need to hold juveniles accountable. Several of the bills include provisions for mandatory minimum penalties, although these vary from bill to bill. The

penalties include mandatory community service, loss of driver's license and incarceration.

LOOKING FOR ANSWERS

Acknowledging the widespread concerns with juvenile auto theft, the Commission recently brought together a small group of individuals to participate in a roundtable discussion. The objectives were to further identify the nature and extent of the problem and to clarify what a unified "system" response would look like. Some key observations and suggestions generated at the roundtable are provided below:

Observations —

- Juvenile auto theft is the "perfect crime": high profit, little chance of getting caught, and little chance of being incarcerated or receiving a stiff punitive response.
- Juveniles are recruited by adults into criminal organizations. Youths often begin with auto theft and graduate to "bigger and better things."
- The insurance industry pays out about \$40 million annually for stolen cars.
- There are several "varieties" of juvenile auto theft. These include: organized crime and "chop shop" related; joyriding; stealing cars for transportation to commit other crimes;

stealing cars to buy drugs; "acting-out" behavior leading to malicious damage to the auto.

- There was a shared dissatisfaction with current handling of juveniles who steal cars. The perception is one of a "revolving door" approach. Juveniles are often diverted from formal court hearings.
- There was dissatisfaction with proposed mandatory penalties. Mandating 200 hours of community service, for example, was seen as impractical within the existing context of the juvenile system. Currently, many juveniles fail to complete their community service order. Further, the number of mandated community service hours likely to be generated far outdistance available and potential community service sites.

Suggestions for the Future –

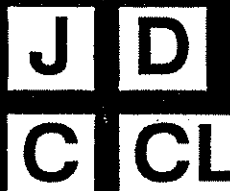
- We need to teach juveniles who steal cars discipline and accountability; this needs to be done earlier on ("the 2nd time not the 20th"). Some suggested specialized programs, or wilderness and "boot camp" type programs that focus on personal responsibility, discipline and the consequences of behavior.
- As an alternative (or in addition) to the above, we need to focus on decreasing the oppor-

tunity for stealing cars. Put the burden on the consumer and manufacturer to prevent auto theft by making cars harder to steal, e.g., providing and publicizing viable incentives for consumers to install "cut-off switches."

- We need to create short-term programs that will provide a continuum of services for juveniles. In addition we need to involve families in the process.
- All juveniles arrested for auto theft need to undergo screening to assess the nature of the problem and the needs of the juvenile; this might require overnight detention. This information is to be utilized in diversion and dispositional decisions.

The operative word of the roundtable discussion seemed to be CREATIVITY! The call was for creativity in finding workable ways to hold juveniles accountable and teach them responsibility, to decrease the opportunities for stealing cars, and to provide an effective continuum of services that will, in part, increase youths' *legitimate opportunities*.

The Commission will continue to follow up on this important issue. If you have any ideas you would like to share on this topic, please let us know. A detailed summary of the meeting is available.



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September 22, 1989

WORKING TO FILL THE GAPS

Juvenile auto theft is a major problem in some of our urban areas. The following describes an attempt to create a first-time offender program meant to reduce juveniles' further involvement in auto theft.

There were, reportedly, almost 69,000 motor vehicles stolen in New Jersey in 1988. Currently, our state ranks second in the nation in its rate of auto thefts — only Massachusetts is higher. Also, nine of the nation's 25 urban areas experiencing the most severe auto theft problems (including the top four) are in New Jersey. The top four include Newark, Irvington, East Orange and Camden.

Juveniles account for a great share of the problem in New Jersey. Last year, 57% of those arrested for motor vehicle theft were under the age of 18. It is estimated, also, that juveniles are responsible for a remarkable 75% of all auto thefts in the city of Newark.

In response to what is locally perceived as a crisis, Essex County has mounted a rigorous, multipronged campaign to combat the problem. This includes an extensive public education campaign including efforts in the schools, as well as an enforcement component, partly implemented by the Essex County Auto Theft Task Force. Among other things, the Task Force is identifying juveniles involved in repeat auto theft offenses for special handling.

In addition, several pieces of legislation have been introduced by legislators representing largely urban areas of the state. The common thread of these proposals is a toughening of auto theft laws, including in some instances mandatory minimum penalties for juveniles.

CALLS FOR AN EARLIER RESPONSE

Many would agree that the juvenile system waits too long before providing meaningful treatment or holding juveniles accountable for their auto

theft-related offenses. It may be that special handling of first-time juvenile auto theft offenders would pay great dividends down the road in a reduced auto theft problem.

In October of 1988, the Commission hosted a "roundtable" discussion on the topic of juvenile auto theft. From this meeting grew a proposal (initiated by Essex County Judge Julio Fuentes) to develop a pilot program in Essex County that would provide an appropriate option for first-time juvenile auto theft offenders (i.e., adjudicated delinquent on auto theft-related charges for the first time).

THE PROGRAM FOR FIRST-TIME OFFENDERS

Through the concerted efforts of a number of people in recent months, a broad outline of the program has been agreed upon. The First Offender Juvenile Auto Theft Program, to be run in Newark, will be one of relatively few programs across the state that provide judges with an offense specific response.

Proposed program goals include:

- To reduce the incidence of auto theft offending by juveniles in Essex County.
- To provide judges in Essex County with a dispositional option that provides first-time juvenile auto-theft offenders a level of programmatic structure and individual accountability consistent with concerns for public safety, and that provides needed individualized therapeutic and rehabilitative services for these juveniles and their families that address the factors contributing to the theft behavior.

- To provide a court-level intervention that can be independently evaluated and, contingent on program effectiveness, can be replicated in other areas of the state.

The program is to incorporate the following important "ingredients": early intervention, an emphasis on personal responsibility and family involvement. The proposed reward for successful completion of all phases of the program will be a recommendation to the court to have the charges against the juvenile dropped. Otherwise, the juvenile will be referred back to court.

WHAT NEXT?

The next step in the process will be the development of an RFP (Request for Proposal) by rep-

resentatives of the Essex County Family Court and the Commission, in consultation with Rutgers University. The RFP will be distributed to a wide array of service providers in Essex County. Applications will then be reviewed by representatives of the Family Court, the Commission, mental health personnel, Essex County Probation, the County Youth Services Commission and Rutgers University. An independent evaluation of the program will be conducted by Rutgers University.

The Commission is currently in the process of canvassing potential sources of funding for the program. The proposed cost for the one-year pilot program, serving approximately 100 juveniles, is estimated at \$120,000.

THE PROGRAM

The program will be structured to address the following issues and concerns:

- » *Early intervention* in the juvenile's criminal career, not after repeated arrests.
- » Emphasis on *personal responsibility* and understanding. Juveniles must appreciate the fact that there are consequences related to antisocial behavior.
- » *Family involvement* will be a critical component of a treatment program.

The reward for successful completion of all phases of the program will be a recommendation to the court to have the charges against the juvenile dropped. If, however, the juvenile does not complete the entire program, the juvenile will be referred back to court.

PROGRAM COST

Cost for a one-year pilot program, to serve approximately 100 juveniles, is estimated at \$120,000. A detailed budget breakout will be developed prior to awarding of a contract to a service provider. Auto theft has reached epidemic levels in many of our urban areas. It is so significant a problem that Mayor Sharpe James of Newark recently issued a proclamation designating 1989 as "Auto Theft Prevention Year."

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JUVENILE AUTO THEFT - WHAT CAN BE DONE?

Car theft is big business. Almost 69,000 vehicles were stolen in New Jersey in 1988. The loss is approximated at 436.7 million dollars. The problem varies greatly from community to community. Like other serious crime, auto theft is focussed largely in our cities and urban counties. In 1988, the counties with the greatest number of motor vehicle theft arrests included Essex (718), Passaic (369), Camden (341), Mercer (229), and Union (208).

What is most astounding is that statistics indicate that auto theft is now largely a juvenile offense. Kids under 18 years old accounted for 57% of the arrests in 1988. And it is estimated that juveniles are responsible for over 75% of all auto thefts in the City of Newark.

What can realistically be done about the problem? Many things. Essex County is currently implementing a rigorous campaign that includes public education and identification and punishment of repeat offenders. But what about dealing with young offenders at an even earlier stage? It is proposed here that a program for first-time offenders may prove to be extremely beneficial.

DEALING WITH JUVENILE AUTO THEFT

There are several reasons why juveniles steal cars. If we are to successfully curtail juvenile auto theft, we must understand the reasons juveniles commit this offense. Experts tell us there are several motivations and that these range from acting out and rebellious behavior to profit related motivations. Then we must develop effective ways to curtail this practice.

One of the problems we face is that auto theft has not been traditionally considered a high priority offense by the criminal justice establishment except in cases involving the most repetitive offenders. The most commonly used disposition for auto theft (or related)

offenses is probation. And our research indicates that there are no programs or dispositional options that deal directly with the offense of auto theft. We simply don't know what works as a deterrent. But we do know that we must involve the court, police and community to effectively deal with the problem.

FIRST STEPS TOWARD A SOLUTION

In October of 1988, New Jersey's Juvenile Delinquency Commission, in consultation with Judge Julio Fuentes (Superior Court, Family Part, Essex County), hosted a "roundtable" discussion on the topic of juvenile auto theft. Legislators, public officials and key juvenile justice system personnel were invited to discuss the problem and to identify promising "system" responses. From this first meeting grew a proposal to develop a pilot program in Essex County that would provide an appropriate response for first-time juvenile auto theft offenders.

THE PROGRAM AND THE PROCESS

A broad outline for a program specifically geared to the early remediation of auto theft by juveniles has been developed. The specifics of the design await completion by various organizations who will be asked to respond to an RFP (Request for Proposal) process. Appropriately, the first step in the process will be the development of the RFP by representatives of the Essex County Family Court and the Juvenile Delinquency Commission, in consultation with Rutgers University. The RFP will be distributed to a wide range of service providers in Essex County.

Applications will be reviewed by representatives of the Family Court, the Commission, mental health personnel, Essex County Probation, the County Youth Services Commission and Rutgers University. Once a contract to administer the program has been developed, a strong evaluation component will be included and independently conducted by Rutgers University.

A PRELIMINARY LOOK AT JUVENILE AUTO THEFT
IN ESSEX COUNTY

Our sample of 118 cases entering the Essex County family court on auto theft related offenses (and not transferred to another county) in late 1991 revealed the following concerning juveniles' court involvement:

- o Many of the juveniles were 17 or 18 at the time of docketing. A majority of the 17 year olds had no prior record.

Average age = 15.4

10-12 year olds = 3%	54% of 17 year olds had no prior
13-14 year olds = 25%	court record.
15-16 year olds = 37%	
17-18 year olds = 34%	17 year olds = 31% of total (most
	common age).

- o Close to half of the juveniles had no prior court record. Most had no prior auto theft related charges; a large majority had no prior adjudications of delinquency on auto theft related (or any other) charges.

45% had no prior docketings

average # of prior charges = 4.3 (45% had none)
average # of prior auto charges = 1.2 (61% had none)
average # of prior adjud. del. charges = 1.0 (71% had none)
average # of prior adj. del. auto charges = 0.4 (79% had none)

19% had 8 or more prior charges; and about 4% had 8 or more prior auto charges.

For those youths adjudicated delinquent on their current case, the above figures were somewhat higher. Significantly, for this group, only 31% had a prior adjudication on auto theft related charges.

- o Few juveniles came to court with multiple auto theft charges.

82% had only one
average # of auto theft charges = 1.2

- o A large majority of the juveniles were charged with receiving stolen property as their most serious charge. None were charged with "theft of an auto."

About 9 of 10 cases had receiving stolen property, 3rd degree

(2C:20-7) as their lead charge. Other auto theft related charges included unlawful taking of means of conveyance, DP (2C:20-10A); theft by unlawful taking, 3rd degree (2C:20-3); and knowingly riding an unlawfully taken means of conveyance, PDP (2C:20-10B). Three additional cases involved a 2nd degree robbery, 3rd degree criminal attempt and a DP possession of CDS as their most serious charge.

- o Nearly half of the juveniles were adjudicated delinquent for the current offense; less than a quarter were diverted, although about half of those with no prior record were diverted. Diverted cases most frequently went to Intake Services Conferences or the new auto theft diversion program.

adjud. del. = 48%	In closed cases:	adjud. del. = 60%
diverted = 22%		diverted = 28%
dismissed = 9%		dismissed = 12%
bench warr. = 20%		
other open = 2%		

For "first timers" in closed cases:	adjud. del. = 29%
	diverted = 65%
	dismissed = 6%

- o Many cases remained open with bench warrants issued against the juvenile or parents. In most of these cases the juvenile had no prior record.

20% of the cases had a bench warrant issued.
78% of such cases involved juveniles with no prior record.

- o For juveniles adjudicated delinquent --
 - o probation was the most common "lead" or most restrictive disposition, followed by
 - o suspended commitment to DOC
 - o formal continuance
 - o DOC commitment and
 - o nonresidential treatment

Frequency of "Lead dispositions":

Probation	= 35%	Total probation use = 71%
Suspended DOC Commitment	= 24%	
Formal Continuance	= 13%	
DOC Commitment	= 7%	
Nonresidential Treatment	= 7%	
"Other" Resid. Treatment	= 6%	
DOC Residential	= 4%	
Community Service	= 2%	
Other Conditional	= 2%	

For first timers: probation (56%); formal continuance (33%); nonresidential treatment (11%).

For juveniles with priors: probation (31%); suspended DOC commitment (29%); DOC commitment (9%); formal continuance (9%); "other" residential treatment (7%); nonresidential treatment (7%); DOC residential (4%); community service (2%); other conditional (2%).

The only juveniles to receive a commitment to a DOC institution were two with 8 prior charges, and two with 30 or more prior charges. One of the four cases receiving a DOC commitment had robbery (2nd degree) as its lead charge.

There were 15 cases involving juveniles with 8 or more prior charges who were adjudicated delinquent for their present offense. Their lead dispositions: suspended DOC commitment (33%); DOC commitment (27%); probation (20%); "other" residential treatment (13%); and nonresidential treatment (13%).

There were 24 cases involving juveniles with at least one prior auto theft adjudication of delinquency. Of that group, 17 were adjudicated on the present offense and received a disposition. Their lead dispositions: suspended DOC commitment (41%); probation (18%); DOC commitment (12%); nonresidential treatment (12%); DOC residential (6%); "other" residential (6%); and community service (6%).

There were four cases involving juveniles with 3 or more prior auto theft adjudications of delinquency. One received a DOC commitment, one got a residential program (other than DOC or DYFS), and two got suspended DOC commitments.

- o Joyriding (2C:20-10A; 2C:20-10B) was not commonly found as the most serious charge in these cases.

Joyriding was the most serious charge in only nine (eight percent) of the cases. An adjudication of delinquency was received in four of the cases with the following "lead" dispositions (one suspended DOC commitment, two probations, and one "other conditional").

- o Eluding/resisting arrest and assault on an officer were not commonly found among the charges in these cases.

Just over half of one percent of all cases involved a charge of eluding/resisting arrest (7 cases) or aggravated assault of an officer (one case). Of this group three juveniles were adjudicated delinquent and received a disposition (including one "lead" disposition of DOC commitment, one probation and one formal continuance).

**FOLLOW-UP ANALYSIS
A LOOK AT 1992**

Because our preliminary analysis reviewed juvenile auto theft related cases entering court in late 1991, we felt it appropriate to examine some more recent cases that should more closely reflect what is happening now in Essex County. Our follow-up analysis included the following:

1. We examined cases finalized by November, 1992 to begin to identify any changes in dispositional (sentencing) patterns since 1991.
2. We examined auto theft cases entering Essex County's family court between August and mid-November of 1992 to begin to identify if there has been a "surge" in auto theft cases that also involve a violent or "potentially violent" charge.
3. We examined detention practices in Essex County with reference to juvenile auto theft cases, comparing late 1991 with 1992.

Relative to #1 above, we found the following:

- o Overall, it does not appear that dispositions have become significantly more restrictive or punitive than they were in cases entering court in late 1991. However, because cases not yet finalized (at the time of our analysis) may tend to be some of the more difficult, our findings may underestimate the occurrence of more restrictive/punitive dispositions.
- o There was a small increase in the use of incarceration in training schools. However, there was also a decrease in the use of non-DOC residential and nonresidential treatment programs.
- o Since the beginning of 1992 the use of traditional court diversion programs has ended. The use of the special "diversion" program, Juvenile Auto Theft Prevention Program, which requires a hearing before the judge, has doubled.

Relative to #2 above, we found the following:

Compared with late 1991, information for August through mid-November reveals a clear increase in the proportion of auto theft related cases that include among their charges a violent or "potentially violent" charge. Violent offenses recorded in our analysis included attempted murder, manslaughter, robbery, aggravated assault of an officer, aggravated assault, and simple assault. For our purposes, we included as "potentially violent" offenses eluding police and resisting arrest.

Of the 750 juveniles that we judged to be involved in auto theft related cases, 102 or 14% were charged with one or more of the above offenses. This is a substantial increase over the figure (8%) based on our re-analysis of the 1991 cases. In addition, while 3% of the juveniles in the 1991 sample were charged with a specifically violent offense, the more current figure is 5%.

It is important to note that, despite the increased incidence of these offenses in auto theft related cases, it is clear that they continue to occur in only a small minority of the cases analyzed.

Relative to #3 above, we found the following:

We were able to, in a general way, examine the extent to which juvenile auto theft cases lead to juveniles being placed in Essex County's detention center. What we found was that a change in policy during 1992 led detention placement to become the rule and not the exception in juvenile auto theft cases, as had earlier been the case.

THE CHRONIC JUVENILE OFFENDER

A Challenge to New Jersey's
Juvenile Justice System

November 1991

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Executive Summary

Much debate has centered around the unique problems and challenges posed to the juvenile justice system by chronic juvenile offenders. Past research has indicated that a small number of youths are responsible for a disproportionate number of offenses. Is this true for New Jersey, and if so, what do we know about these offenders?

To add to our understanding of this issue, the Commission examined youths entering Family Court between 1986 and 1989. Our findings revealed that chronic offenders account for just under 13% of all docketed youths. However, this small group was responsible for almost one-half (46%) of all charges and an even larger share of serious offenses. Exploratory research on how chronic juvenile offenders are handled in three New Jersey counties suggested that the handling of these offenders (like juvenile offenders more broadly) differs across counties.

The report's findings shed further light on the extent and nature of the chronic juvenile offender problem in New Jersey. We hope it is useful for policymakers and practitioners in their efforts to devise strategies to more effectively identify, treat and control this offender population.

Chronic Offenders - What We Know

Much of what we know about chronic offenders has come from the work of Wolfgang, Figlio and Sellin. Their influential **Delinquency In a Birth Cohort** was published in 1972. The authors examined a cohort of boys born in 1945 who resided in Philadelphia from their 10th to 18th birthdays. They found that 6% of the cohort's youths were responsible for 52% of the cohort's police contacts and 63% of the contacts for Uniform Crime Report "index offenses." Furthermore, this small group was responsible for a very large share of the cohort's arrests for the violent offenses of homicide (71%), rape (73%), robbery (82%) and aggravated assault (69%). Research following cohorts into adulthood reveals that many of them go on to commit offenses as adults. A follow up of the original Wolfgang group found that 45% of the chronic juvenile offenders also went on to become chronic adult offenders.¹

In 1987, the Commission did a preliminary assessment of New Jersey's chronic juvenile offender problem utilizing the Administrative Office of the Courts' computerized Unit Case Data Base.² We examined a group of juveniles who entered the court system between October 1984 and March 1987. We found that just over one-quarter (25.8%) of the juveniles were docketed in Family Court on two or more occasions during that time. A small group, 6.7% of the total juveniles, had four or more court contacts; these juveniles were considered the chronic offenders. The chronic offenders accounted for 28.0% of all charges brought against juveniles during this period. In addition, they accounted for an even larger portion of the more serious offenses -- 41.2% of all first degree, and 38.6% of all second degree offenses.

The Present Study

With the passage of time, the computerized data base provided us an opportunity to track juveniles for a longer period of time and, so, to provide an updated profile of chronic juvenile offenders in New Jersey. Data on all juveniles entering court between 1986 and 1989 were analyzed. As with our prior study, there were certain limitations. The analysis was limited to court contacts between a juvenile and the court in that juvenile's county of residence; unless a case was referred back to that county, out-of-county and out-of-state incidents were not recorded. In addition, court-involvement outside the study time frames could not be considered. While some prior involvement with the court may still go

¹ Marvin Wolfgang, Terence Thornberry & Robert Figlio. 1987. **From Boy to Man, From Delinquency to Crime**. Chicago: University Press.

² See Juvenile Delinquency Commission. 1987. **The Chronic Juvenile Offender, A Report**. Trenton, NJ.

undisclosed, the current research effort was able to follow juveniles' involvement back to October of 1984, the start of the data base.

One caveat that is important to consider in making between county comparisons is the fact that charging practices may vary from county to county. In other words, juveniles who commit the same acts in two different counties may be charged with different types and numbers of offenses. To the degree that charging practices do differ, county comparisons may not be truly representative of differences between the counties.

The Findings

Our analysis revealed a total of over 118,000 juveniles docketed in Family Court between 1986 and 1989. They averaged 2.1 court contacts apiece. Just over three out of five juveniles (64.8%) were docketed in court only once. The remaining juveniles had more than one court contact: 15.7% were docketed twice and 6.9% were docketed three times. A small group of juveniles, 12.6% of all those docketed, were docketed four or more times -- this is the group we call "chronic offenders." An even smaller portion (3.8%) of juveniles were docketed 8 or more times. For a full county breakdown, refer to Table 1 in Appendix. Most of the analysis below will focus on the 14,900 chronic juvenile offenders.

Number of Juveniles and Charges by Number of Times Docketed

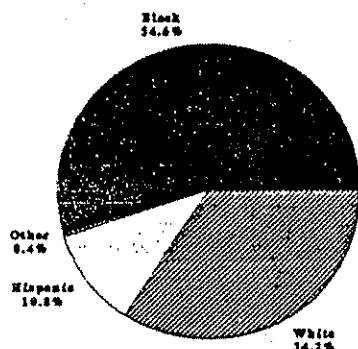
	No. Of Juveniles	% Of All Docketed Juveniles	No. Of Charges	% Of Total Charges
Docketed Once	76,636	64.8	116,795	28.6
Docketed Twice	18,624	15.7	61,793	15.1
Docketed 3 Times	8,143	6.9	42,177	10.3
Docketed 4+ Times	14,900	12.6	188,051	46.0
Total	118,303	100.0	408,816	100.0

Demographics. Chronic juvenile offenders begin their involvement with Family Court at a fairly young age. A majority of the juveniles (51.7%) were 14 or younger when first involved with the court; the average age of initial court involvement was also 14 years of age. The largest portion of juveniles (43.2%) fell into the 15-16 age group. As expected, only a small number (5.1%) were 17 or older at the time of their first court involvement.

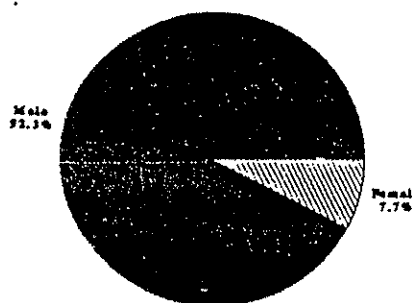
The vast majority (92.3%) of the chronic offenders (whose gender was indicated) were male. In addition, nearly two-thirds of those whose race/ethnicity was indicated (65.8%) were minority youths. More specifically, 54.6% were black, 10.8% were hispanic and less than 1% were "other" minority groups.

Males and minorities comprised a somewhat larger share of chronic juvenile offenders compared with the broader population of court-involved juveniles. According to a recent Commission report, males and minorities comprised 81.8% and 55.7%, respectively, of all youths docketed in Family Court in 1989 (in the cases where the relevant information was indicated).³ For information on sex and race/ethnicity of chronic offenders, by county, refer to Tables 2 and 3 in Appendix.

**Race/Ethnicity of
Chronic Offenders**



**Sex of Juvenile
Chronic Offenders**



Share of Delinquent Charges. These 14,900 chronic juvenile offenders accounted for 188,051 separate charges. This small group (12.6%) of all docketed juveniles, therefore, was responsible for nearly half (46.0%) of all charges. Further, they were charged with an even greater share of the more serious offenses: 61.8% of all first degree, 56.9% of all second degree and 54.3% of all third degree charges. See Table 4 in appendix for a more complete breakdown.

Counties varied greatly in the prevalence of chronic offenders among their court-involved youth. They ranged from highs in Mercer (18.6%) and Essex (17.9%) to lows of 5.5% and 5.9% in Morris and Sussex, respectively. There was also variation in chronic offenders' share of each county's total charges. They ranged from highs in Mercer (59.4%) and Essex (58.3%) to lows in Somerset (21.9%) and Hunterdon (22.1%).

³ Juvenile Delinquency Commission. Winter 1990. Profile 90, A Sourcebook of Juvenile Justice Data and Trends in New Jersey. Trenton, NJ.

**Prevalence of Chronic Juvenile Offenders
(Docketed Four or More Times), by County**

County	#	% of all docketed	# of charges	% of all charges
Atlantic	802	16.4	10,912	55.0
Bergen	653	8.2	6,659	33.2
Burlington	436	8.7	6,143	37.6
Camden	1,139	13.8	12,508	45.3
Cape May	137	5.9	1,997	30.9
Cumberland	559	14.4	7,911	51.4
Essex	3,263	17.9	44,782	58.3
Gloucester	378	10.6	4,334	40.0
Hudson	1,439	15.2	20,348	55.0
Hunterdon	57	6.0	573	22.1
Mercer	897	18.6	13,750	59.4
Middlesex	658	8.5	7,252	33.3
Monmouth	1,001	10.3	12,368	39.5
Morris	277	5.5	3,111	23.3
Ocean	554	10.3	6,863	38.5
Passaic	991	14.1	9,366	43.3
Salem	173	12.1	2,201	46.0
Somerset	161	6.4	1,693	21.9
Sussex	72	5.9	819	24.4
Union	1,107	15.0	12,772	48.3
Warren	146	10.4	1,689	37.1
State Total	14,900	12.6	188,051	46.0

Degrees of Offenses Charged. Chronic offenders were charged with a wide range of offenses. Many were serious offenses but many others were of a much less serious nature. Nearly half (46.6%) of the offenses (for which degree was indicated) charged to chronic offenders were first, second or third degree offenses. In comparison, only about one-quarter (26.0%) of the offenses charged to juveniles docketed once were as serious. Refer to Table 5, in Appendix, for a more comprehensive breakdown.

We created a "mean offense seriousness score" for juveniles docketed once, twice, three times, or four or more times (the chronic offenders), as a way to reflect the relative

seriousness of offenses charged to each of these groups.⁴ As we see in Table 4 (appended), chronic offenders had the highest mean seriousness score (3.20). The scores for the remaining groups of juveniles were as follows: docketed once (2.64), docketed twice (2.81), and docketed three times (2.90). Therefore, chronic juvenile offenders commit more serious offenses, on average, than do non-chronic offenders. But, they clearly do not "specialize" in these serious offenses.

Types of Offenses Charged. The chronic offenders were charged with close to 400 distinct types of offenses. The following lists the most common ones (excluding violations of probation).

**Charges Most Frequently Brought Against
Juveniles Docketed Four or More Times***

Offense	Degree	# of Charges	% of Chronics' Charges
Burglary	3rd	13,854	7.9
Simple Assault	DP	10,888	6.2
Criminal Mischief (\$500 or less)	DP	9,405	5.4
Theft by Unlawful Taking/Disposition	DP	7,210	4.1
Receiving Stolen Property	2nd	7,088	4.0
Theft by Unlawful Taking/Disposition	2nd	6,349	3.6
Theft by Unlawful Taking/Disposition	3rd	5,457	3.1
Shoplifting	DP	4,797	2.7
Aggravated Assault	2nd	4,673	2.7
Possession, Use or Being under the Influence (drugs)	**	4,339	2.5
Receiving Stolen Property	3rd	4,006	2.3
Robbery	1st	3,904	2.2
Improper Behavior	PDP	3,480	2.0
Driving without a License	DP	3,361	1.9
Manufacturing, Distributing or Dispensing (drugs)	**	2,876	1.6
Top 10		74,060	42.2
Top 15		91,687	52.3

* excludes violations of probation

** no degree provided

⁴ Offenses were scored on a range from one to six. First degree charges were scored highest (6) while petty disorderly persons offenses were scored lowest (1).

Burglary (3rd), Simple Assault (DP) and Criminal Mischief - loss of \$500 or less (DP) were the most common charges levied against chronic offenders, accounting for nearly one in five (18.2%) of this group's total charges. The ten most common offenses accounted for 42.2% while the fifteen most common accounted for just over one-half (52.2%) of all charges. Of the fifteen most common chronic offender charges, six were either a disorderly persons or a petty disorderly persons offense, three were a third degree, three were a second degree, and one was a first degree offense. The remaining two offenses had no charge designated.

Are Many Chronic Offenders also Serious Offenders? So far, we have shown that chronic offenders are responsible for a large share of all delinquency charges and that many of the offenses are serious. But, is the typical chronic offender involved with serious crime? The answer appears to be yes - we found that a large portion of the chronic offender group was charged with at least one serious offense. Specifically, looking at the most serious offenses (i.e., first, second and third degree offenses) we found the following:

First degree only - 19.4% of chronic offenders were charged with at least one first degree offense; and 6.7% were charged with two or more of these serious offenses.

First or second degree - A majority (56.1%) of chronic offenders were charged with at least one first or second degree offense; 37.4% with at least two and 26.2% with at least three of these serious offenses.

First, second or third degree - Nearly nine in ten (88.9%) chronic offenders were charged with at least one first, second or third degree offense; 75.8% with two or more; 62.9% with three or more and 50.8% with four or more of these serious offenses.

County Differences. Counties varied greatly in the percentage of chronic offenders who were charged with first, second, and/or third degree offenses.

First degree only - Essex (32.2%) and Hudson (27.2%) counties had the highest percentages of chronic offenders charged with at least one first degree offense. Sussex (0%), Gloucester (5.0%) and Somerset (5.0%) had the lowest.

First or second degree - More than nine in ten chronic offenders in Essex (91.7%) and the vast majority in Hudson (86.9%) were charged with at least one first or second degree offense. Only 13.7% and 14.0% of the chronic offenders in Warren and Hunterdon, respectively, were charged with a first or second degree offense.

First, second or third degree - Large portions of chronic offenders in each county were charged with at least one first, second or third degree offense. Counties

ranged from highs of 98.3% in Essex and 97.6% in Hudson to lows of 68.6% in Bergen and 70.8% in Morris. Twelve of the twenty-one counties had at least 85% of their chronic offenders charged with a first, second or third degree offense.

**Percentage of Chronic Offenders Charged
With Serious Offenses, by County**

County	% of 1st Degree	% of 1st or 2nd Degree	% of 1st, 2nd or 3rd Degree
Atlantic	19.2	54.2	87.5
Bergen	7.7	25.4	68.6
Burlington	11.0	32.3	85.6
Camden	19.6	42.6	90.8
Cape May	8.8	51.1	76.6
Cumberland	10.9	37.0	86.2
Essex	32.2	91.7	98.3
Gloucester	5.0	19.8	74.1
Hudson	27.2	86.9	97.6
Hunterdon	5.3	14.0	75.4
Mercer	23.2	35.3	90.9
Middlesex	11.4	34.5	85.6
Monmouth	9.5	80.9	90.9
Morris	5.1	27.1	70.8
Ocean	8.3	27.4	78.9
Passaic	18.8	42.1	88.2
Salem	6.9	36.4	75.1
Somerset	5.0	18.0	78.9
Sussex	0.0	34.7	86.1
Union	20.1	38.7	85.8
Warren	5.5	13.7	71.2
State	19.4	56.1	88.9

How Are Chronic Offenders Handled?

The above analysis clearly points to the serious nature of the chronic juvenile offender problem in New Jersey. But, how are these offenders handled by the Family Court? Unfortunately, no data currently exists concerning the statewide response to juvenile chronic offenders in New Jersey.

Table 1

**Number and Proportion of Juveniles and Charges by
Number of Times Docketed, by County**

Atlantic County	No. of Juveniles	% of All Docketed Juveniles	No. of Charges	% of Total Charges
Docketed Once	3,002	61.4	4,486	22.6
Docketed Twice	752	15.4	2,494	12.6
Docketed 3 Times	336	6.9	1,938	8.8
Docketed 4+ Times	802	16.4	10,912	55.0
Total	4,892		19,830	
Bergen County	No. of Juveniles	% of All Docketed Juveniles	No. of Charges	% of Total Charges
Docketed Once	5,753	72.1	7,837	39.0
Docketed Twice	1,119	14.0	3,444	17.2
Docketed 3 Times	454	5.7	2,135	10.6
Docketed 4+ Times	653	8.2	6,659	33.2
Total	7,979		20,075	
Burlington County	No. of Juveniles	% of All Docketed Juveniles	No. of Charges	% of Total Charges
Docketed Once	3,435	68.6	5,534	33.9
Docketed Twice	187	16.3	2,851	17.5
Docketed 3 Times	322	6.4	1,798	11.0
Docketed 4+ Times	436	8.7	6,143	37.6
Total	5,010		16,326	

However, below we summarize some findings of an exploratory analysis of "impact offenders" in three counties that was recently conducted by Commission staff for the Attorney General's Impact Offender Committee.⁵ Note that the analysis was done on a group of juveniles who were likely to be, on average, less chronic than the juveniles in the above analysis but were, on average, charged with offenses of a more serious nature.⁶

Utilizing the AOC's Unit Case Data Base, we studied juveniles entering Family Court in Hudson, Passaic and Somerset counties on delinquency charges during 1988 to determine whether or not they were "impact offenders" and, if so, how they were handled.

Briefly, the prevalence of impact offenders varied greatly across the three counties. Nearly two in ten (17.8%) of the Hudson juveniles were impact offenders while the figure was nearly one in twenty in Passaic (4.7%) and less than 1 in 100 in Somerset (0.5%). In addition, Hudson impact offenders accounted for 59.8% of the county's target ("serious") charges while the figures for Passaic and Somerset were 27.0% and 5.0%, respectively.

How they were handled. According to the data available, it appears that handling varies across the three counties.⁷ Even so, in the majority of cases analyzed for each county, the juveniles were adjudicated delinquent and received a formal disposition.

As we see in the table below, Passaic and Somerset counties appear to have utilized custodial dispositions (commitment to DOC; short-term commitment to a county detention facility; residential placement) more often than did Hudson (**but note that Somerset had few cases (5) for analysis**). Passaic committed more than one in five of its cases to DOC and placed an additional 11.5% in DOC or other residential programs. Among the sample of Hudson cases studied, Hudson committed 5.1% to DOC and none to

⁵ A copy of the report, **An Assessment of Impact Offenders in Three Counties**, is available.

⁶ Impact offenders were defined as any juvenile with two or more complaints including a "target" offense of the 1st or 2nd degree or five or more complaints including a "target" offense of the 1st through 4th degree. The range of "target" offenses included about 50 separate charges derived from a list provided by the Mercer County Prosecutor's Office. They were, for the most part, 1st through 3rd degree offenses, although a few 4th degree offenses were included.

⁷ While all Passaic and Somerset impact offenders were included in the analysis of court handling, only every fourth Hudson impact offender was, due to the large number of their impact offenders and the fact that we manually reviewed each juvenile's dispositional record. To avoid including dispositions for trivial cases, we analyzed the last case of each juvenile that included a "target" charge.

community residential programs. In addition, Passaic and Somerset utilized nonresidential community programs (DOC or others) relatively more often than did Hudson. Juveniles were waived to another court very infrequently. Waivers were ordered most frequently in Passaic (4.6%) followed by Hudson (0.7%) and Somerset (0.0%).

Hudson made greater use of probation (as the most punitive or intrusive disposition) and formal continuance for its impact offenders than either of the other counties. Additionally, while about 60% of all Hudson County probation cases received probation alone, this was true in only 37% of the Passaic County probation cases. In Passaic, other dispositions were also provided in a majority of probation cases (most often community service and suspended commitment orders). Of the three counties, Hudson had the greatest share (37.7%) of its impact offender cases dismissed (on all charges) compared with 26.7% for Passaic and 20.0% for Somerset.

**Disposition of Impact Offender Cases
(Based on Number of Complaints)**

Case Disposition	Hudson		Passaic		Somerset	
	#	%	#	%	#	%
Waiver	1	.7	6	4.6	0	0.0
DOC Commitment	7	5.1	27	20.6	1	20.0
Short-term Commitment	0	0.0	0	0.0	2	40.0
Residential DOC	0	0.0	9	6.9	0	0.0
Other Residential	0	0.0	6	4.6	0	0.0
Nonresidential DOC	0	0.0	8	6.1	0	0.0
Other Nonresidential	4	2.9	12	9.2	1	20.0
Probation	52	37.7	24	18.3	0	0.0
Other Conditions	1	.7	4	3.1	0	0.0
Formal Continuance	15	10.9	0	0.0	0	0.0
Diverted	6	4.3	0	0.0	0	0.0
All Charges Dismissed	52	37.7	35	26.7	1	20.0
Total	138	100.0	131	100.1	5	100.0

# Transferred Out	2		2		0	
# With No Action Listed	12		28		0	

While the above analysis of court handling is suggestive, the findings and any conclusions should be considered preliminary. This is so, in part, due to the fact that dispositional information was not available in all cases, and that our analysis of Hudson was limited to one-quarter of Hudson's impact offender cases.

In addition, these preliminary findings are open to interpretation. We might expect, however, that the apparent differences in handling are influenced by a number of factors. Included among these factors are likely to be differences across counties in charging practices, program resource availability and judicial philosophy.

Conclusion

The findings of this report, although in some ways preliminary, shed further light on the extent and nature of the chronic juvenile offender problem in New Jersey. A small group of offenders are responsible for a large share of the delinquency charges brought to the Family Court. These chronic offenders are often serious offenders, as well.

In addition, the chronic juvenile offender problem varies from county to county. And, there is some indication that, as in delinquency cases more generally, counties respond differently.

Much needs to be done. We hope that the present analysis is useful for policymakers and practitioners in their efforts to devise strategies to more effectively identify, treat and control this offender population.

APPENDIX

PART E

Federal "Anti Car Theft Act of 1992" (P.L. 102-519)

Public Law 102-519
102nd Congress
H.R. 4542

An Act

To prevent and deter auto theft.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti Car Theft Act of 1992".

TITLE I—TOUGHER LAW ENFORCEMENT AGAINST AUTO THEFT

Subtitle A—Enhanced Penalties for Auto Theft

SEC. 101. FEDERAL PENALTIES FOR ARMED ROBBERIES OF AUTOS.

(a) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following:

"§ 2119. Motor vehicles

"Whoever, possessing a firearm as defined in section 921 of this title, takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from the person or presence of another by force and violence or by intimidation, or attempts to do so, shall—

"(1) be fined under this title or imprisoned not more than 15 years, or both,

"(2) if serious bodily injury (as defined in section 1365 of this title) results, be fined under this title or imprisoned not more than 25 years, or both, and

"(3) if death results, be fined under this title or imprisoned for any number of years up to life, or both."

(b) FEDERAL COOPERATION TO PREVENT "CARJACKING" AND MOTOR VEHICLE THEFT.—In view of the increase of motor vehicle theft with its growing threat to human life and to the economic well-being of the Nation, the Attorney General, acting through the Federal Bureau of Investigation and the United States Attorneys, is urged to work with State and local officials to investigate car thefts, including violations of section 2119 of title 18, United States Code, for armed carjacking, and as appropriate and consistent with prosecutorial discretion, prosecute persons who allegedly violate such law and other relevant Federal statutes.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

"2119. Motor vehicles."

SEC. 102. IMPORTATION AND EXPORTATION.

Section 553(a) of title 18, United States Code, is amended by striking "fined not more than \$15,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

SEC. 103. TRAFFICKING IN STOLEN VEHICLES.

Each of sections 2312 and 2313(a) of title 18, United States Code, are amended by striking "fined not more than \$5,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

SEC. 104. CIVIL AND CRIMINAL FORFEITURE.

(a) **CIVIL FORFEITURE.**—Section 981(a)(1) of title 18, United States Code, is amended by adding after subparagraph (E) the following:

"(F) Any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, from a violation of—

"(i) section 511 (altering or removing motor vehicle identification numbers);

"(ii) section 553 (importing or exporting stolen motor vehicles);

"(iii) section 2119 (armed robbery of automobiles);

"(iv) section 2312 (transporting stolen motor vehicles in interstate commerce); or

"(v) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce)."

(b) **CRIMINAL FORFEITURE.**—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (4) the following:

"(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

"(A) section 511 (altering or removing motor vehicle identification numbers);

"(B) section 553 (importing or exporting stolen motor vehicles);

"(C) section 2119 (armed robbery of automobiles);

"(D) section 2312 (transporting stolen motor vehicles in interstate commerce); or

"(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce);

shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of such violation."

SEC. 105. CHOP SHOPS.

(a) **AMENDMENT.**—Chapter 113 of title 18, United States Code, is amended by adding at the end the following:

"§ 2322. Chop shops.

"(a) **IN GENERAL.**—

"(1) **UNLAWFUL ACTION.**—Any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be punished by a fine under this title or by imprisonment for not more than 15 years, or both. If a conviction of a person under this paragraph is for a violation committed after the first conviction of such person under this

paragraph, the maximum punishment shall be doubled with respect to any fine and imprisonment.

"(2) INJUNCTIONS.—The Attorney General shall, as appropriate, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation."

"(b) DEFINITION.—For purposes of this section, the term 'chop shop' means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by adding at the end the following new item:

"2322. Chop shops."

Subtitle B—Targeted Law Enforcement

SEC. 130. GRANT AUTHORIZATION.

(a) PURPOSE.—The purpose of this subtitle is to supplement the provisions of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program to help the States to curb motor vehicle thefts and the related violence.

(b) GRANTS.—The Director of the Bureau of Justice Assistance shall make grants to Anti Car Theft Committees submitting applications in compliance with the requirements of this subtitle.

SEC. 131. APPLICATION.

(a) SUBMISSION.—To be eligible to receive a grant under this subtitle, a chief executive of an Anti Car Theft Committee shall submit an application to the Director of the Bureau of Justice Assistance.

(b) CONTENT.—The application submitted under subsection (a) shall include the following:

(1) A statement that the applicant Anti Car Theft Committee is either a State agency or an agency of a unit of local government.

(2) A statement that the applicant Anti Car Theft Committee is or will be financed in part (A) by a fee on motor vehicles registered by the State or possessed or insured within the State (and that such fee is not less than \$1 per vehicle), or (B) in the same manner and to the same extent as is a similar program financed and implemented in a State like Michigan.

(3) An assurance that Federal funds received under a grant under this subtitle shall be used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under such grant.

(4) A statement that the resources of the applicant Anti Car Theft Committee will be devoted entirely to combating motor vehicle theft, including any or all of the following:

(A) Financing law enforcement officers or investigators whose duties are entirely or primarily related to investigating cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(B) Financing prosecutors whose duties are entirely or primarily related to prosecuting cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(C) Motor vehicle theft prevention programs, including vehicle identification number etching programs, programs implemented by law enforcement agencies and designed to enable the electronic tracking of stolen automobiles, and programs designed to prevent the export of stolen vehicles.

(5) A description of the budget for the applicant Anti Car Theft Committee for the fiscal year for which a grant is sought.

SEC. 132. AWARD OF GRANTS.

(a) IN GENERAL.—The Director shall allocate to each State a proportion of the total funds available under this subtitle that is equal to the proportion of the number of motor vehicles registered in such State to the total number of motor vehicles registered in the United States. The Director shall ensure that all applicant States have an opportunity to receive grants from an available appropriation. Any State that has not met the requirements described in section 203 of this Act shall be excluded from any allocation under this subsection.

(b) GRANT AMOUNTS.—If one Anti Car Theft Committee within a State submits an application in compliance with section 131, the Director shall award to such Anti Car Theft Committee a grant equal to the total amount of funds allocated to such State under this section. In no case shall the Anti Car Theft Committee receive a grant that is more than 50 percent of the preaward budget for such Anti Car Theft Committee.

(c) MULTIPLE COMMITTEES.—If two or more Anti Car Theft Committees within a State submit applications in compliance with section 131, the Director shall award to such Anti Car Theft Committees grants that in sum are equal to the total amount of funds allocated to such State under this section. In no case shall an Anti Car Theft Committee receive a grant that is more than 50 percent of the preaward budget for such Anti Car Theft Committee. The Director shall allocate funds among two or more Anti Car Theft Committees with a State according to the proportion of the preaward budget of each Anti Car Theft Committee to the total preaward budget for all grant recipient Anti Car Theft Committees within such State.

(d) RENEWAL OF GRANTS.—Subject to the availability of funds, a grant under this subtitle may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives an initial grant under this subtitle if the Director determines that the funds made available to the recipient during the previous year were used in the manner required under the approved application.

SEC. 133. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$10,000,000 to carry out this subtitle for each of the fiscal years 1993, 1994, and 1995.

Subtitle C—Report Regarding State Motor Vehicle Titling Programs to Combat Motor Vehicle Thefts and Fraud

SEC. 140. ESTABLISHMENT OF TASK FORCE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Transportation and the Attorney General of the United States, working together, shall, as soon as practicable after the date of the enactment of this Act but not later than 180 days after such date, establish a task force to study problems which relate to motor vehicle titling, vehicle registration, and controls over motor vehicle salvage which may affect the motor vehicle theft problem. The study shall include an examination of the extent to which the absence of uniformity and integration in State laws regulating vehicle titling and registration and salvage of used vehicles allows enterprising criminals to find the weakest link to "wash" the stolen character of the vehicles. It shall also consider the adoption of a title brand on all certificates of title indicating that the applicable vehicle was previously issued a title brand or a title signifying "rebuilt", "reconstructed", or "flood".

(2) REPORT.—The task force shall prepare a report containing the results of such study and shall submit such report to the President and the Congress and to the chief executive officer of each State not later than 12 months after the task force is established, together with appropriate recommendations to solve these problems.

(b) MEMBERSHIP.—The task force shall consist of—

(1) the Secretary of Transportation, or the Secretary's delegate;

(2) the Attorney General of the United States, or the Attorney General's delegate;

(3) the Secretary of Commerce, or the Secretary's delegate;

(4) the Secretary of the Treasury, or the Secretary's delegate;

(5) at least 3 representatives, to be designated by the Attorney General of the United States;

(6) at least 5 representatives of State motor vehicle departments, to be designated by the Secretary of Transportation; and

(7) at least 1 representative, to be designated by the Secretary of Transportation, from each of the following groups:

(A) Motor vehicle manufacturers.

(B) Motor vehicle dealers and distributors.

(C) Motor vehicle dismantlers, recyclers, and salvage dealers.

(D) Motor vehicle repair and body shop operators.

(E) Motor vehicle scrap processors.

(F) Insurers of motor vehicles.

(G) State law enforcement officials.

(H) Local law enforcement officials.

(I) The American Association of Motor Vehicle Administrators.

(J) The National Insurance Crime Bureau.

(K) The National Committee on Traffic Laws and Ordinances.

(c) REIMBURSEMENT.—

(1) SALARY.—The members of the task force shall serve without pay.

(2) TRAVEL EXPENSES.—While away from their residences or regular places of business in performance of services for the Federal Government, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(3) CHAIR.—The Secretary of Transportation, or the Secretary's delegate, shall serve as chairman of the task force. The task force may also invite representatives of the Governors and State legislators to participate.

(d) REPORT.—

(1) BASIS.—The report required by subsection (a)(2) shall be made after a meaningful consultative process and review of existing laws, practices, studies, and recommendations regarding the problems specified in subsection (a)(1).

(2) CONTENT.—The report shall specify the key aspects of motor vehicle antitheft measures necessary to prevent the disposition or use of stolen motor vehicles, or the major components of motor vehicles; and to prevent insurance and other fraud based upon false reports of stolen motor vehicles. The report shall indicate any of the antitheft measures for which national uniformity would be crucial in order for the measure to be adequately effective. The report shall recommend viable ways of obtaining any national uniformity which is necessary.

(3) RECOMMENDATIONS.—The report also shall include other recommendations for legislative or administrative action at the State level or at the Federal level, and recommendations for industry and public actions.

TITLE II—AUTOMOBILE TITLE FRAUD

SEC. 201. DEFINITIONS.

For purposes of this title:

(1) The term "automobile" has the meaning given such term by section 501(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(1)).

(2) The term "certificate of title" means a document issued by a State evidencing ownership of an automobile.

(3) The term "insurance carrier" means an individual, corporation, or other entity which is engaged in the business of underwriting automobile insurance.

(4) The term "junk automobile" means any automobile which is incapable of operation on roads or highways and which has no value except as a source of parts or scrap.

(5) The term "junk yard" means any individual, corporation, or other entity which is engaged in the business of acquiring or owning junk automobiles for resale, either in their entirety or as spare parts, for rebuilding or restoration, or for crushing.

(6) The term "operator" means a person or entity authorized or designated as the operator of the information system pursu-

ant. to section 202(a)(2) or if no such person or entity is authorized, the Secretary.

(7) The term "salvage automobile" means any automobile which is damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on roads or highways would exceed the fair market value of the automobile immediately prior to the occurrence causing its damage.

(8) The term "salvage yard" means any individual, corporation, or other entity which is engaged in the business of acquiring or owning salvage automobiles for resale, either in their entirety or as spare parts, or for rebuilding or restoration, or for crushing.

(9) The term "Secretary" means the Secretary of Transportation.

(10) The term "State" means any State of the United States or the District of Columbia.

SEC. 202. NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM.

(a) INFORMATION SYSTEM.—

(1) **ESTABLISHMENT.**—Not later than January 1996, the Secretary, in cooperation with the States, shall establish an information system (in this title referred to as the "National Motor Vehicle Title Information System") which will enable States and others to gain instant and reliable access to information maintained by other States pertaining to the titling of automobiles, unless the Secretary determines that an existing information system meets the requirements of subsections (b) and (c) of this section and will enable the Secretary to implement this title as early as possible and designates, in consultation with the Attorney General of the United States, such system as the information system for purposes of this title. In establishing the system, the Secretary, working with the Attorney General of the United States and the States, shall ascertain the extent to which title and related information to be included in the system will be adequate, timely, reliable, uniform, and capable of aiding in efforts to prevent the introduction or reintroduction into interstate commerce of stolen vehicles or parts.

(2) **OPERATION.**—The Secretary may authorize the operation of the information system established or designated under paragraph (1) by contract through an agreement with a State or States, or by redesignating, after consultation with the States, a third party which represents the interests of the States.

(3) **FEES.**—Operation of the information system established or designated under paragraph (1) shall be paid for by a system of user fees and should be self-sufficient and not be dependent on Federal funds. The amount of fees collected and retained subject to annual appropriation Acts, by the operator pursuant to this paragraph, not including fees collected by the operator and passed on to a State or other entity providing information to the operator, shall not exceed the costs of operating the system.

(b) **MINIMUM FUNCTIONAL CAPABILITIES.**—The information system established or designated under subsection (a)(1) shall, at a

minimum, enable a user of the system instantly and reliably to determine—

(1) the validity and status of a document purporting to be a certification of title,

(2) whether an automobile bearing a known vehicle identification number is titled in a particular State,

(3) whether an automobile known to be titled in a particular State is or has been a junk vehicle or a salvage vehicle,

(4) for an automobile known to be titled in a particular State, the odometer reading information, as required in section 408 of the Motor Vehicle Information and Cost Savings Act (16 U.S.C. 1988), of such vehicle on the date its certificate of title was issued and such later odometer information, if noted by the State, and

(5) whether an automobile bearing a known vehicle identification number has been reported as a junk vehicle or a salvage vehicle pursuant to section 204.

(c) AVAILABILITY OF INFORMATION.—

(1) TO STATE.—Upon request of a participating State, the operator makes available to such State information in the information system pertaining to any automobile.

(2) TO LAW ENFORCEMENT.—Upon request of a Federal, State, or local law enforcement official, the operator makes available to such official information in the information system pertaining to a particular automobile, salvage yard, or junk yard.

(3) TO PROSPECTIVE PURCHASERS.—Upon request of a prospective purchaser of an automobile, including an auction company or an entity that is in the business of purchasing used automobiles, the operator makes available to such prospective purchaser information in the information system pertaining to such automobile.

(4) TO INSURANCE CARRIERS.—Upon request of a prospective or current insurer of an automobile, the operator makes available to such prospective or current insurer information in the information system pertaining to such automobile.

(5) PRIVACY.—Notwithstanding any provision of paragraphs (1) through (4), the operator shall release no information other than what is necessary to reasonably satisfy the requirements of subsection (b). In no event shall the operator collect an individual's social security number or enable users of the information system to obtain an individual's address or social security number.

SEC. 203. STATE PARTICIPATION IN THE NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM.

(a) REQUIREMENTS.—

(1) INFORMATION SHARING.—Each State shall make titling information maintained by such State available for use in establishing the National Motor Vehicle Title Information System established under section 202.

(2) TITLE VERIFICATION.—Each State shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. Such instant title verification check shall consist of—

(A) communicating to the operator the vehicle identification number of the vehicle for which the certificate of title is sought, the name of the State which issued the most recent certificate of title pertaining to the vehicle, and the name of the individual or entity to whom such certificate was issued; and

(B) affording the operator an opportunity to communicate to the participating State the results of a search of the information.

(b) GRANTS TO STATES.—

(1) REVIEW OF STATE SYSTEMS.—Not later than January 1, 1994, the Secretary, in cooperation with the States, shall—

(A) conduct a review of systems used by the States to compile and maintain information concerning the titling of automobiles, and

(B) determine, for each State, the cost of making titling information maintained by such State available to the operator of the National Motor Vehicle Title Information System for the purpose of meeting the requirements of subsection (b).

(2) AWARD OF GRANTS.—The Secretary may award grants to participating States to be used in making titling information maintained by such States available to the operator of the National Motor Vehicle Title Information System if—

(A) for any State that is a recipient of such a grant, the grant does not exceed—

(i) 25 percent of the cost of making titling information maintained by such State available to the operator of the National Motor Vehicle Title Information System as determined by the Secretary under subsection (d)(1)(B); or

(ii) \$300,000;

whichever is lower; and

(B) the Secretary determined that such grants are fair, reasonable, and necessary for the establishment of the National Motor Vehicle Title Information System under section 202(a)(1).

(c) REPORT TO CONGRESS.—No later than January 1, 1997, the Secretary shall report to Congress which States have met the requirements imposed by section 203. If any State has not met these requirements, the Secretary shall describe the impediments that have resulted in the State's failure to meet the requirements.

SEC. 204. REPORTING.

(a) OPERATORS OF JUNK OR SALVAGE YARD.—

(1) INVENTORY REPORT.—Beginning at a time determined by the Secretary, but no earlier than 3 months prior to the establishment of the National Motor Vehicle Title Information System, any person or entity in the business of operating an automobile junk yard or automobile salvage yard shall file a monthly report with the operator. Such report shall contain an inventory of all junk vehicles or salvage vehicles obtained by the junk yard or salvage yard during the preceding month. Such inventory shall contain the vehicle identification number of each vehicle obtained, the date on which it was obtained, the name of the person or entity from whom the reporter

obtained the vehicle, and a statement of whether the vehicle was crushed or otherwise disposed of for sale or other purposes.

(2) APPLICATION.—Paragraph (1) shall not apply to—

(A) persons or entities that are required by State law to report the acquisition of junk vehicles or salvage vehicles to State or local authorities if such authorities make such information available to the operator, or

(B) any person who is issued a verification under section 607 of the Motor Vehicle Information and Cost Savings Act stating that the vehicle or parts from such vehicle are not reported as stolen.

(b) INSURANCE CARRIERS.—Beginning at a time determined by the Secretary, but no earlier than 3 months prior to the establishment of the National Motor Vehicle Title Information System, any person or entity engaged in the business of an insurance carrier shall file, directly or through a designated agent, a monthly report with the operator. Such report shall contain an inventory of all vehicles of the current model year or any of the 4 preceding model years which such carrier has, during the preceding month, obtained possession of and determined to be salvage or junk vehicles. Such inventory shall contain the vehicle identification number of each vehicle obtained, the date on which it was obtained, the name of the person or entity from whom the reporter obtained the vehicle, and the owner of the vehicle at the time of the filing of the report.

(c) ENFORCEMENT PROVISIONS.—

(1) PENALTY AMOUNT.—Whoever violates this section may be assessed a civil penalty of not to exceed \$1,000 for each violation.

(2) PENALTY PROCEDURE.—Any such penalty shall be assessed by the Secretary and collected in a civil action brought by the Attorney General of the United States. Any such penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the United States to the person charged.

(d) PROCEDURES AND PRACTICES.—The Secretary shall establish by rule procedures and practices to facilitate reporting in the least burdensome and costly fashion.

TITLE III—AMENDMENTS ON THEFT PREVENTION REGARDING “CHOP SHOP” RELATED THEFTS

SEC. 301. DEFINITIONS.

(a) CARS, SPECIALTY VEHICLES, AND LIGHT-DUTY TRUCKS.—Section 601(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2021(1)) is amended to read as follows:

“(1) The term ‘passenger motor vehicle’ includes any multipurpose passenger vehicle and light-duty truck that is rated at 6,000 pounds gross vehicle weight or less.”

(b) CHOP SHOP DEFINITION.—Section 601 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2021) is amended by adding at the end the following:

"(11) The term 'chop shop' means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce."

(c) MAJOR REPLACEMENT PART.—Section 601(8) (15 U.S.C. 2021(8)) is amended to read as follows:

"(8) The term 'major replacement part' means any major part—

"(A) which is not installed in or on a motor vehicle at the time of its delivery to the first purchaser and the equitable or legal title to which has not been transferred to any first purchaser, or

"(B) which is a customized or modified version of an original major part in or on a completed motor vehicle after the manufacture of such vehicle but before the time of its delivery to the first purchaser."

SEC. 302. THEFT PREVENTION STANDARD.

Section 602 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2022) is amended—

(1) by amending subsection (d)(1) to read as follows:

"(d)(1) In the case of major parts installed by the motor vehicle manufacturer, the standard under this section may not require any part to have more than a single identification," and

(2) by adding at the end the following:

"(1) Within 2 years after the date of the enactment of the Anti Car Theft Act of 1992, the Secretary shall promulgate a vehicle theft standard which conforms to the requirements of this title and which applies with respect to the covered major parts which are installed by all foreign and domestic manufacturers into passenger motor vehicles (other than light-duty trucks) in not to exceed one-half of the lines not designated under section 603 as high theft lines. Such rule shall be effective for model years applicable to such passenger motor vehicles as provided in subsection (c)(4) of this section.

"(2) Within 3 years after the rule under paragraph (1) is promulgated, the Secretary, based on the Attorney General's finding under paragraph (3), shall designate all the remaining such lines of such passenger motor vehicles (other than light-duty trucks) and apply such standard to such lines in conformance with the requirements of this title. Such rule shall also apply to the major replacement parts for the major parts described in this paragraph. Such rule shall be effective, for model years applicable to such passenger motor vehicles as provided in subsection (c)(4) of this section.

"(3) The Attorney General shall make a finding prior to the Secretary's initiation and promulgation of a rule under paragraph (2) that the rule shall be promulgated unless the Attorney General finds, based upon the information collected and analyzed under

section 615 and such other information as the Attorney General may develop (after notice and after a public hearing), that requiring such additional parts marking for all of the applicable passenger motor vehicles would not substantially inhibit chop shop operations and vehicle thefts. The Attorney General shall also take into account as part of the record additional costs, effectiveness, competition, and available alternatives factors. The Attorney General shall transmit the finding and the record upon which the finding is based to the Secretary. Such finding and record shall be a part of the Secretary's rulemaking record.

"(4) The Attorney General of the United States shall by December 31, 1999, determine, after notice and a public hearing, whether one or both rules promulgated under this subsection have been an effective means to substantially inhibit the operation of chop shops and vehicle theft, taking into account the additional cost, competition, and available alternatives. The Attorney General shall base his determination on information collected and analyzed under section 615, the 3-year and 5-year reports issued by the Secretary under this title, and such other information as he may develop and include in the public record. He shall take into consideration the effectiveness, extent of use, and the extent to which civil and criminal penalties under section 610(b) of this title and 18 U.S.C. 2322 regarding chop shops have been effective in substantially inhibiting chop shop operations and vehicle theft. The Attorney General shall promptly transmit his finding to the Secretary. If the determination is that one or both rules have not been an effective means to substantially inhibit chop shop operation and vehicle theft, the Secretary shall within 180 days after receipt of such finding terminate by order 1 or both of the rules promulgated under this subsection effective the next model year following the issuance of such order.

"(5) The Attorney General shall make a separate determination by December 31, 1999, after notice and a public hearing, as to whether the antitheft devices for which an exemption under section 605 is authorized are an effective substitute for parts marking in substantially inhibiting vehicle theft, taking into account the additional cost, competition, and available alternatives. If the Attorney General determines that such antitheft devices are an effective substitute for parts marking in substantially inhibiting vehicle theft, the Secretary shall continue to grant exemptions under section 605 at the level authorized prior to the date of the enactment of the Anti Car Theft Act of 1992 or at the level authorized for model year 2000, as determined by the Attorney General. Nothing in this paragraph affects exemptions granted in model year 2000 or earlier to any manufacturer.

"(6) The Secretary and the Attorney General shall keep the appropriate legislative committees of Congress with jurisdiction over this Act and 18 U.S.C. 2322 informed about the actions taken or planned under this subsection.

"(g) The Secretary is authorized to periodically redetermine and establish by rule the median theft rate under subsection (a)(1), but not more than every 2 years."

SEC. 303. DESIGNATION OF HIGH THEFT VEHICLE LINES AND PARTS.

Section 603 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2023) is amended—

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(1) by striking in subsection (a)(1)(A) "in which the final standard is promulgated" and inserting in lieu thereof "in which the Anti Car Theft Act of 1992 is enacted";

(2) by striking out paragraph (3) of subsection (a) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(3) by striking "or (3)" in redesignated paragraphs (3) and (4) of subsection (a);

(4) by adding at the end of subsection (a) (as amended by paragraph (2)) the following:

"(5) Any motor vehicle line subject, on the date of enactment of the Anti Car Theft Act of 1992, to parts marking requirements under section 602 and this section shall continue to be subject to such requirements unless such motor vehicle line becomes exempt from such requirements under section 605." and

(5) by striking paragraph (4) of subsection (b) and redesignating paragraph (5) as paragraph (4).

SEC. 304. LIMITED EXEMPTION FOR NEW VEHICLES EQUIPPED WITH EFFECTIVE ANTITHEFT AS ORIGINAL EQUIPMENT.

(a) **CONTINUING CURRENT LAW.**—The second sentence of section 605(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2025(a)(2)) is amended by inserting "through model year 1996" after "model year".

(b) **MODEL YEARS AFTER MODEL YEAR 1996.**—Section 605(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2025(a)(2)) is amended by adding at the end the following: "For model year 1997 through model year 2000, the Secretary may grant such an exemption for not more than 1 additional line of any manufacturer and such exemption shall not affect the validity of the exemption of any line previously exempted under this paragraph. For model years subsequent to 2000, the number of lines for which the Secretary may grant such an exemption (if any) shall be determined by the Attorney General under section 602(f)(5).

SEC. 305. PROHIBITED ACTS.

(a) **RULES.**—Section 610(a)(2) of the Motor Vehicle Information and Cost Savings Act (as so redesignated by section 306 of this Act) is amended by inserting "or Attorney General" after "Secretary".

(b) **CHOP SHOPS.**—Section 610 of the Motor Vehicle Information and Cost Savings Act (as so redesignated by section 306 of this Act) (15 U.S.C. 2027) is amended by adding at the end the following:

"(c)(1) It shall be unlawful for any person to knowingly own, operate, maintain, or control a chop shop or conduct operations in a chop shop of any kind or transport by any means any passenger motor vehicle or passenger motor vehicle part to or from a chop shop.

"(2) The Secretary shall, as appropriate and in consultation with the Attorney General, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation or the Secretary shall assess and recover a civil penalty of not more than \$100,000 per day for each such violation, or both."

SEC. 306. VERIFICATION.

(a) **IN GENERAL.**—Title VI of the Motor Vehicle Information and Cost Savings Act is amended by redesignating sections 607 through 614 as sections 610 through 617, respectively, by striking in section 602(e) “and 612” and inserting “and 615”, and by inserting after section 606 the following:

“VERIFICATION OF VEHICLE AS LEGAL SALVAGE OR JUNK VEHICLE

“SEC. 607. (a) Any person engaged in business as an insurance carrier to sell comprehensive insurance coverage for motor vehicles shall, if such carrier obtains possession of and transfers a junk motor vehicle or a salvage motor vehicle—

“(1) verify, in accordance with procedures established by rule under section 609 by the Attorney General and in consultation with the Secretary of Transportation, whether that motor vehicle is reported as stolen, and

“(2) provide verification to whomever such carrier transfers or sells any such salvage or junk motor vehicle identifying the vehicle identification number or derivative thereof of such vehicle and verifying that such vehicle has not been reported as stolen or, if reported as stolen, that such insurance carrier has recovered the vehicle and has proper legal title to the vehicle.

For purposes of paragraph (2), the term ‘vehicle identification number’ means a unique identification number assigned to a passenger motor vehicle by a manufacturer in compliance with applicable regulations or a derivative thereof. Nothing in this paragraph shall be construed to prohibit such carrier from transferring a motor vehicle if, within a reasonable period of time during normal business operations (as determined by the Attorney General under section 609 of this title) using reasonable efforts, such carrier has not received a determination under section 609 that the vehicle has not been reported as stolen or to otherwise determine whether such vehicle has been reported as stolen, except that such carrier shall provide a written certification of such lack of determination.

“(b) The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are needed to ensure that verification performed and provided by insurance carriers under subsection (a)(2) is uniform, effective, and resistant to fraudulent use.”

(b) **EFFECTIVE DATE.**—The regulations required by section 607(b) of the Motor Vehicle Information and Cost Savings Act shall be promulgated within 6 months after the date of the enactment of this subsection. The amendment made by subsection (a) shall take effect within 3 months after such regulations are promulgated, but not before the system in section 609 of the Motor Vehicle Information and Cost Savings Act is operational.

(c) **PARTS.**—Title VI of such Act, as amended by subsection (a), is amended by inserting after section 607 the following new section:

“PARTS

“SEC. 608. (a) No person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles shall knowingly sell or distribute in commerce or transfer or install a major part marked with an identification number without—

"(1) first determining, through a procedure established by rule by the Attorney General in consultation with the Secretary of Transportation under section 609 that such major part has not been reported as stolen; and

"(2) providing the purchaser or transferee with a verification identifying the vehicle identification number or derivative thereof of such major part, and verifying that such major part has not been reported as stolen.

"(b) The Attorney General, in consultation with the Secretary of Transportation, shall promulgate such regulations as are needed to ensure that verifications provided by persons under subsection (a)(2) are uniform, effective, and resistant to fraudulent use.

"(c) Subsection (a) shall not apply to a person who is the manufacturer of the major part, who has purchased the major part directly from the manufacturer, who has received a verification from an insurance carrier pursuant to section 607 that the motor vehicle from which such major part is derived has not been reported as stolen, or that such carrier has failed, in accordance with section 607, to determine whether such vehicle has been stolen. Such person shall be required to provide such verification to any person to whom such vehicle, or any major part of such vehicle, is thereafter transferred or sold in commerce. The Attorney General shall promulgate regulations to implement this section."

(d) **EFFECTIVE DATE.**—The amendment made by subsection (c) shall be effective on the date that the system required by section 609 is established.

(e) **NATIONAL STOLEN AUTO PART INFORMATION SYSTEM.**—Title VI of such Act, as amended by subsection (c), is amended by inserting after section 608 the following new section:

"NATIONAL STOLEN AUTO PART INFORMATION SYSTEM

"SEC. 609. (a) The Attorney General shall, within 9 months of the date of the enactment of the Anti Car Theft Act of 1992, maintain in the National Crime Information Center an information system containing the identification numbers of stolen passenger motor vehicles and stolen passenger motor vehicle parts. The Attorney General shall also consult with State and local law enforcement agencies in the establishment of such system. The Attorney General shall also consult with the National Crime Information Center Policy Advisory Board to ensure the security of the information in such system and that such system will not compromise the security of stolen vehicle and vehicle parts information in such information system.

"(b) The Attorney General shall specify procedures by rule by which individuals or entities seeking to transfer a vehicle or vehicle parts may obtain a determination whether a part is listed in the system as stolen. If the Attorney General determines that the National Crime Information Center is not able to perform the functions of the information system required under subsection (a), the Attorney General shall enter into an agreement for the operation of such a system separate from the National Crime Information Center.

"(c) The information system under subsection (a) shall, at a minimum, include the following information pertaining to each passenger motor vehicle reported to a law enforcement authority as stolen and not recovered:

"(1) The vehicle identification number of such passenger motor vehicle.

"(2) The make and model year of such passenger motor vehicle.

"(3) The date on which the passenger motor vehicle was reported as stolen.

"(4) The location of the law enforcement authority that received the reports of the passenger motor vehicle's theft.

"(5) If the passenger motor vehicle at the time of its theft contained parts bearing identification numbers or the derivative thereof different from the vehicle identification number of the stolen passenger motor vehicle, the identification numbers of such parts.

"(d) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—The National Stolen Auto Part Information System to be maintained under subsection (a) is to be developed by the Attorney General with the advice and recommendation of the advisory committee established under paragraph (2).

"(2) ESTABLISHMENT.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall establish in the Department of Justice and appoint an advisory committee with respect to the National Stolen Auto Part Information System to be maintained under subsection (a).

"(3) MEMBERSHIP.—The advisory committee established under paragraph (2) shall be composed of 10 members as follows:

"(A) The Attorney General shall serve as the chairperson of the advisory committee.

"(B) The Secretary of Transportation.

"(C) One individual appointed by the Attorney General who is qualified to represent the interests of the law enforcement community at the State level.

"(D) One individual appointed by the Attorney General who is qualified to represent the interests of the law enforcement community at the local level.

"(E) One individual appointed by the Attorney General who is qualified to represent the interests of the automotive recycling industry.

"(F) One individual appointed by the Attorney General who is qualified to represent the interests of the automotive repair industry.

"(G) One individual appointed by the Attorney General who is qualified to represent the interests of the automotive rebuilders industry.

"(H) One individual appointed by the Attorney General who is qualified to represent the interests of the automotive parts suppliers industry.

"(I) One individual appointed by the Attorney General who is qualified to represent the interests of the insurance industry.

"(J) One individual appointed by the Attorney General who is qualified to represent the interests of consumers.

"(4) DUTIES.—The advisory committee established under paragraph (2) shall make recommendations regarding—

"(A) the development and implementation of the National Stolen Auto Part Information System, and

"(B) the development and implementation of a verification system as required by section 607.

"(5) REPORT.—Not later than 6 months after the date of the enactment of the Anti Car Theft Act of 1992, the advisory committee established under paragraph (2) shall submit to the Attorney General, the Secretary of Transportation, and the Congress a report containing the committee's recommendations."

"(e) Upon request by an insurance carrier, a person lawfully selling or distributing in interstate commerce passenger motor vehicle parts, or an individual or enterprise engaged in the business of repairing passenger motor vehicles, the Attorney General, or the entity or entities designated by the Attorney General, shall immediately provide such insurance carrier or person with a determination as to whether the information system under subsection (a) contains a record of an passenger motor vehicle or a passenger motor vehicle part bearing a particular vehicle identification number or derivative thereof having been reported stolen. The Attorney General may require such verification as the Attorney General deems appropriate to ensure that the request is legitimate and will not compromise the security of the system.

"(f) There are authorized to be appropriated such sums as may be necessary to carry out this section. The information system established under subsection (a) shall be effective as provided in the rules promulgated by the Attorney General."

(e) STUDY.—Section 617 of the Motor Vehicle Information and Cost Savings Act (as so redesignated) is amended in subsection (a)(1) by striking "after the date of the enactment of this title" and in subsection (b)(1) by striking "after the promulgation of the standard required by this title" and inserting in each place "after the date of the enactment of the Anti Car Theft Act of 1992".

TITLE IV—EXPORT OF STOLEN AUTOMOBILES

SEC. 401. RANDOM CUSTOMS INSPECTIONS FOR STOLEN AUTOMOBILES BEING EXPORTED.

Part VI of title IV of the Tariff Act of 1930 is amended by inserting after section 646 the following new sections:

"SEC. 646A. RANDOM CUSTOMS INSPECTIONS FOR STOLEN AUTOMOBILES BEING EXPORTED.

"The Commissioner of Customs shall direct customs officers to conduct at random inspections of automobiles, and of shipping containers that may contain automobiles that are being exported, for purposes of determining whether such automobiles were stolen.

"SEC. 646B. EXPORT REPORTING REQUIREMENT.

"The Commissioner of Customs shall require all persons or entities exporting used automobiles, including automobiles exported for personal use, by air or ship to provide to the Customs Service, at least 72 hours before the export, the vehicle identification number of each such automobile and proof of ownership of such automobile. The Commissioner shall establish specific criteria for randomly selecting used automobiles scheduled to be exported, consistent

with the risk of stolen automobiles being exported and shall check the vehicle identification number of each automobile selected pursuant to such criteria against the information in the National Crime Information Center to determine whether such automobile has been reported stolen. At the request of the Director of the Federal Bureau of Investigation, the Commissioner shall make available to the Director all vehicle identification numbers obtained under this section."

SEC. 402. PILOT STUDY AUTHORIZING UTILITY OF NONDESTRUCTIVE EXAMINATION SYSTEM.

The Secretary of the Treasury, acting through the Commissioner of Customs, shall conduct a pilot study of the utility of a nondestructive examination system to be used for inspection of containers that may contain automobiles leaving the country for the purpose of determining whether such automobiles have been stolen.

APPENDIX

PART F

Department of Law and Public Safety:

- 1. Summary of Measures Endorsed by Attorney General
Del Tufo**
- 2. Pamphlet: "Carjacking: Minimizing the Risk"**

The Attorney General's proposals to combat auto theft are as follows:

Eluding:

Elevate the offense of eluding from a disorderly persons offense to a crime of the third degree; grade eluding as a crime of the second degree when it creates a risk of death or injury; re-grade related aggravated assault offenses to make any eluding that results in injury a crime of the second degree; and provide a mandatory minimum term of incarceration for aggravated assault while eluding.

Joyriding:

Upgrade joyriding of motor vehicles to a crime of the fourth degree (drivers and passengers); upgrade joyriding to a crime of the third degree when the motor vehicle is operated to create a risk of injury to persons or property; codify a presumption of incarceration for persons convicted of joyriding who have previously been convicted of motor vehicle theft or joyriding; revise the offense of aggravated assault to treat the offense of causing injury while joyriding like the offense of causing injury when eluding -- as a crime of the second degree; eliminate the presumption of non-incarceration for joyriding in the third degree.

(Attorney General's proposals, continued)

Mandatory Sanctions for Juveniles:

Either incarceration for some term or 60 days community service for motor vehicle theft by a first offender, joyriding that creates a risk of injury or damage to property, or eluding that creates a risk of injury;

Incarceration for a minimum of 60 days for motor vehicle theft by a repeat offender or aggravated assault by a person who is either joyriding and driving recklessly or eluding;

Either incarceration for some term or 30 days community service for joyriding without creating a risk of injury, or eluding without creating a risk of injury;

Incarceration for a minimum of 30 days for repeat adjudications of joyriding without creating a risk or eluding without creating a risk.

Restitution by Parents of Juveniles:

Under current law, adult offenders are required to pay restitution in auto theft cases, and family courts are authorized to require a juvenile adjudicated delinquent to pay restitution. The Attorney General's proposal would authorize the courts to require parents or guardians of a juvenile adjudicated delinquent for auto theft or joyriding to make restitution for these offenses when the adult has neglected to exercise reasonable supervision and control.

(Attorney General's proposals, continued)

The AG's plan would also require the following:

- The assignment of an assistant prosecutor to handle solely auto theft cases. The Public Advocate will also be required to assign a public defender to handle auto theft cases. The plan would also require the assignment of additional judges and staff to family court in Essex County and require that arrested juveniles not be automatically released to supervisory programs.

- Allocating 100 beds in correctional institutions for car thieves. Requiring defendants, while in custody, to receive remedial counseling which shall continue upon release. Requiring parents to attend these sessions.

- Providing equipment and assigning State troopers to the Essex Auto Theft Task Force.

- Developing neighborhood programs to help juveniles.

The Attorney General has endorsed the following legislation:

- S-1205/A-45;

- S-1206/A-46;

- S-1207/A-47;

- S-1208/A-48;

- S-1090/A-1719;

- S-1324/A-2047.

S-1205, S-1206, S-1207, S-1208 and S-1090 passed the Senate on October 19, 1992, and have been referred to committee in the Assembly.



STATE OF NEW JERSEY

DEPARTMENT OF LAW AND PUBLIC SAFETY
OFFICE OF THE ATTORNEY GENERAL

ROBERT J. DEL TUFO
ATTORNEY GENERAL

FREDERICK P. DE VESA
FIRST ASSISTANT ATTORNEY GENERAL

Summary of Auto-Theft Legislation
Measures Endorsed by Attorney General Robert J. Del Tufo

I. ADULT OFFENDERS

A. Jail Terms For Motor Vehicle Theft. Under current law it is unlikely that a person who steals a motor vehicle will go to jail. The crime is one of the third degree, and courts are required to presume that first offenders should not be incarcerated. Even if the person has stolen cars in the past, there is no presumption that a prison sentence is proper. Given this State's relatively high rate of auto-theft, more deterrence is needed.

A-48 (Lustbader) & S-1208 (Kosco & Sinagra) would do the following:

1. Make jail terms for repeat offenders the rule rather than the exception -- BY codifying a presumption of incarceration for persons convicted of theft of a motor vehicle who have previously been convicted of either motor vehicle theft or joyriding.

2. Make jail terms for first offenders a real possibility-- By Revising the statutory presumption of non-incarceration for first offenders convicted of third degree crimes to exclude persons convicted of theft of a motor vehicle.

B. Increased penalties for Eluding. Eluding an officer (flight in a motor vehicle) is currently a disorderly person offense unless the flight creates a risk of death or injury to any person, in which case it is a crime of the fourth degree. This grading does not adequately account for the high degree of risk to human life and the interference with the administration of justice.

A-45 (Catania & R. Brown) & S-1205 (Girgenti) would:

1. Elevate the base offense from a disorderly persons offense to a crime of the third degree;

2. Grade the offense as a crime of the second degree when the eluding creates a risk of death or injury;

3. Regrade related aggravated assault offenses -- causing serious bodily injury while eluding (2nd degree) and causing bodily injury while eluding (3rd degree) -- to make any eluding that results in injury a crime of the second degree; and

4. Provide a mandatory minimum term of incarceration for aggravated assault while eluding. (This amendment to 2C:43-6 was proposed but has not yet been incorporated in any pending bill).

C. Joyriding: Provide Increased Penalties That Recognize the Seriousness of The Property Crime and The Dangers To the Safety of the Public and Law Enforcement Officers.

The penalties for unlawful taking of a motor vehicle (joyriding) do not reflect the seriousness of the property crime. The legal distinction between joyriding and theft of a motor vehicle is fine -- essentially, whether the person's intent at the time of the taking was to deprive the owner of his vehicle for a period of time or permanently. The difference in the sanctions for these offenses, however, is dramatic -- theft is a crime of the third degree (3-5 years) and joyriding is a disorderly persons offense (0-6 months).

Further, the penalties for unlawful taking of a motor vehicle, do not account for the dangers posed by the conduct. Unlike theft offenses motivated by profit, joyriding frequently involves thrill seeking in the form of reckless driving.

The costs to motor vehicle owners and the threat to the public safety demand greater deterrence. Joyriding can no longer be treated as it is now -- a minor offense equivalent to the temporary taking of another's bicycle or surfboard.

A-47 (Crecco & Hartmann) & S-1207 (Bubba & Rice) would:

1. Upgrade joyriding to a crime of the fourth degree for motor vehicles only (drivers and passengers);
2. Upgrade joyriding to a crime of the third when the motor vehicle is operated to create a risk of injury to person or damage to property;

A-48 (Lustbader) & S-1208 (Kosco & Sinagra) would:

3. Codify a presumption of incarceration for persons convicted of joyriding who have previously been convicted of motor vehicle theft or joyriding.
4. Eliminate the presumption of non-incarceration for joyriding in the third degree, and

A-45 (Catania & R. Brown) & S-1205 (Girgenti) (discussed above) would:

5. Revise aggravated assault to treat the offense of causing injury while joyriding like the offense of causing injury while eluding -- as a crime of the second degree.

D. Commission of A Crime with A Stolen Motor Vehicle. Under current law, in order to deter the use of firearms in the commission of certain crimes, we provide special penalties for commit crimes with guns. Recent events make it apparent that there is a need to deter the use of stolen motor vehicles in the

commission of other crimes. Some car theft is motivated by the desire to obtain a vehicle for use in the commission of a crime that will not be traced to them. Many a dangerous getaway attempt is made in a stolen motor vehicle. There is good reason to provide increased penalties for persons who use or possess stolen motor vehicles in the course of committing or escaping from the commission of a crime.

SCS-1090 (Bubba & Rice) would

1. Make use of a stolen motor vehicle and aggravating factor to be considered at the time of sentencing; and

2. Permit extended terms of imprisonment when a stolen motor vehicle is used in the commission or flight from the commission of manslaughter, aggravated assault, kidnapping, aggravated sexual assault or contact, robbery, burglary, eluding, escape or drug distribution.

A-1719 (Crecco) (requiring sentence for a crime of one degree higher if a stolen motor vehicle but not providing for proof of the elements at trial as is required by the constitution) is similar to S-1090 as introduced and would be endorsed if amended to conform with SCS-1090.

E. Carjacking. While current law is generally adequate to deal with the problem of carjacking, the Attorney General would support legislation strengthening that law.

When force or threat is used in the commission of a theft, as it is in carjacking, the crime is robbery. Robbery is a serious offense with stiff penalties. It is always at least a crime of the second degree. It is a crime of the first degree if the thief is armed or causes or attempts to cause death or serious bodily injury.

Given the serious danger of personal injury posed any time a person uses force or threat in taking a motor vehicle from the possession of another, it is appropriate to treat every robbery involving the theft of a motor vehicle, like every robbery involving the use of a deadly weapon, as a crime of the first degree. The Attorney General would endorse such legislation.

S-1324 (Codey) and A-2047 (Zangari & R. Brown), which would create a first degree -- "carjacking" -- are generally consistent with the reform the Attorney General suggests. And, with minor modification warrant support.

II. JUVENILES

A. Mandatory Sanctions. Under current law, sanctions for juvenile adjudicated delinquent are left to the discretion of the court.

A-46 (DiGaetano & Kelly) & S-2106 (Bassano & Corman) would require the following dispositions, in addition to any others the court is authorized to and does impose.

Either incarceration for some term or 60 days community service for the following offenses:

1. Motor Vehicle Theft by first offender
2. Joyriding that creates a risk or injury or damage to property
3. Eluding

Incarceration for a minimum of 60 days as follows:

1. Motor Vehicle Theft by repeat offender
2. Aggravated assault (while joyriding or eluding)
3. Eluding that creates a risk of injury

Either incarceration for some term or 30 days community service for simple joyriding.

Incarceration for a minimum of 30 days for repeat adjudications of simple joyriding or eluding.

The mandatory sanctions outlined above are similar to but less stringent than those proposed in earlier bills. S-1093 (Bassano, Rice and Codey) proposed mandatory incarceration for first offenders (30 days) second offenders (60 days) and third offenders (2 years). And, A-314 (Crecco) proposed mandatory incarceration of 90 days for second offenders.

Where the option of community service or incarceration is provided, no minimum term of incarceration is required. This gives the court maximum flexibility to order a disposition consistent with the programs available -- i.e., a brief period of incarceration or the specified period of community service.

We realize that implementing mandatory sanctions for juveniles will not be easy or inexpensive. At current rates, in Essex county, as many as 1,500 juveniles per year could be required to perform community service under the proposal outlined above. That number would be reduced to 800 or 900 per year if community service were required for second offenders only.

The concept of community service should be broad enough to include meaningful education programs specially designed to reach

juveniles who are first offenders. Since the last hearing on auto theft we have begun to develop educational programs for such juveniles. The division of criminal justice has established a model education program for juveniles involved in bias crimes. And, the essex county superior court has crafted and implemented a pilot program for first offender-auto theft, which involves education for juveniles and their parents. The program is showing promising results.

Ideally, programs of this sort should be available and required for all juvenile first offenders. Of course, such programs will also require dedication of resources.

The reorganization plan for juvenile justice submitted by governor florio on november 30, 1992, will facilitate the development and delivery of such programs by consolidating responsibility for juvenile programs.

There is clearly a need for development and delivery of programs of community service and incarceration. The Juvenile Justice Reorganization Plan submitted to the Legislature by Governor Florio on November 30, 1992 should facilitate both.

The Legislature has also suggested promising programs, A-2020 (McEnroe), for example, calls for the development of a new community service program for juveniles adjudicated delinquent. And, ACS A-258/A-1042 (S-52) propose "boot camp" type programs for young adult offenders. The Attorney General strongly supports efforts to develop such measures.

To the extent that A-2020, however, would give the Department of Corrections and the County Prosecutors responsibility for development of the program, however, it is inconsistent with the Executive Reorganization Plan. Further, to the extent that the bill would dictate the duration of the program of community service it envisions (90 days), it would deprive those responsible of the flexibility needed in allocation of resources.

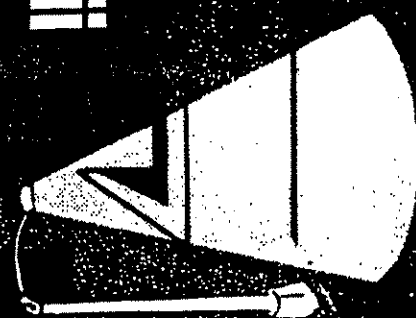
B. Restitution: Parental Responsibility. A-46 (DiGaetano & Kelly) & S-2106 (Bassano & Corman) would also authorize courts to require parents or guardians of a juvenile adjudicated delinquent to make restitution for auto theft or joyriding when the adult "has neglected to exercise reasonable supervision and control."

This is the standard that currently applies in tort actions against parents or guardians of a child who has injured another. The proposal is similar to one incorporated in A-1068 (McEnroe & Kronick).

Current law allows juvenile courts to require a juvenile to pay restitution, and current law requires adult offenders to pay restitution in auto theft cases.

NEW
JERSEY

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Carjacking
Minimizing the Risk

Fellow New Jerseyans...

The crime of carjacking is a threat to all of us. As your Governor, I intend to do everything I can to protect the citizens of this state. At the same time, there are precautions we all can take that will reduce the chances of becoming victims.



The common-sense suggestions for self-protection listed in this booklet won't cost you a dime or take much of your time. They just add to your safety. Before you get into your vehicle, make the 4 A's - Awareness, Alertness, Avoidance and Action - part of your everyday routine. Preparing yourself will be time well spent.

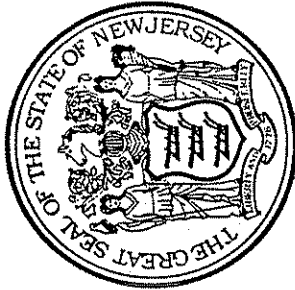
By being extra careful you can help all of us reduce the threat of carjacking. Every New Jerseyan's safety is important, so please do what you can to help us protect you.

Sincerely,

A stylized, handwritten signature of Jim Florio in dark ink. The signature is fluid and cursive, with a large, sweeping 'F' and 'l'.

Jim Florio
Governor

STATE OF NEW JERSEY



Jim Florio
Governor

Robert J. Del Tufo
Attorney General

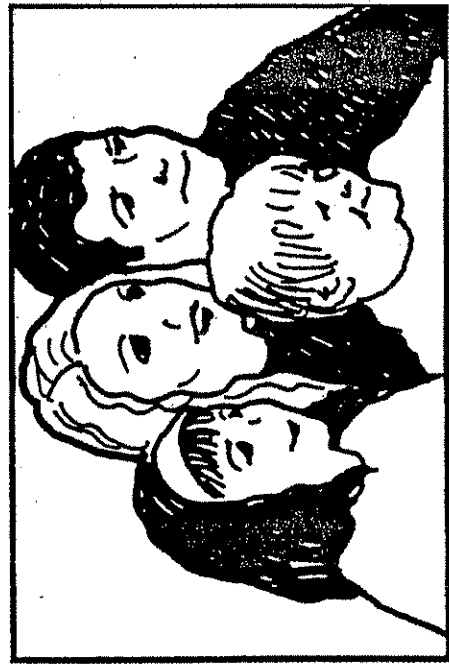
James A. Arena
Director

New Jersey Division of
Highway Traffic Safety

Carjacking-What is it?

Carjacking is the term for a crime where a car is taken from a person, either by force or threat of force.

It is more serious than car theft, because the victim is present during the crime. A dangerous weapon is often used by the robber. Carjacking has been on the rise all across the country, not just in New Jersey. If you are aware and alert to the possible dangers, you can greatly reduce your chances of becoming a victim of this kind of violent crime.



It is very important to learn what you can do to avoid carjacking or to minimize danger if it should occur to you or members of your family. If you learn the 4 A's—

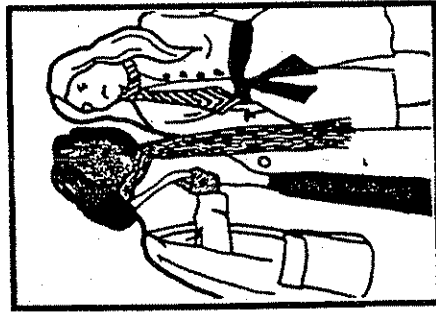
- ▶ **Awareness**
- ▶ **Alertness**
- ▶ **Avoidance**
- ▶ **Action**

and work with local law enforcement officials, you can reduce your risks. Tell your family and friends about the 4 A's. This booklet contains many good safety tips, most of which are just good common-sense ideas. Please read this booklet carefully and use the suggestions it offers.

Awareness

Be Aware of Your Surroundings.

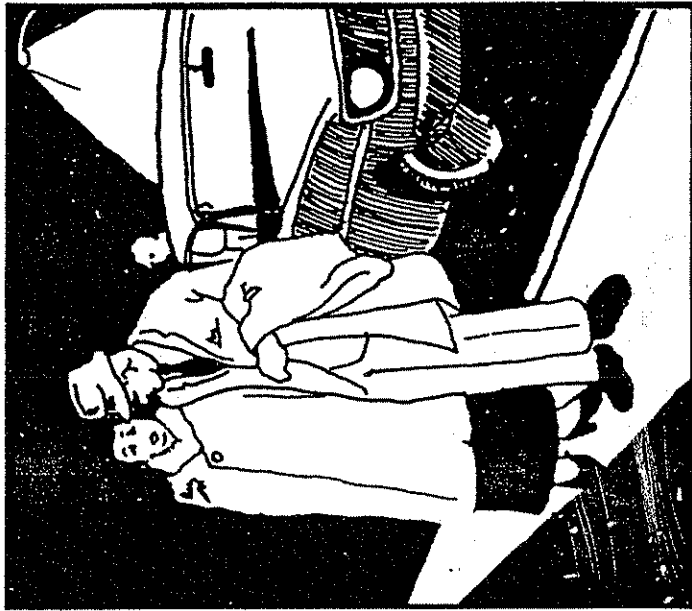
- ▷ Plan ahead. Be prepared.
- ▷ Know your route. Use well-lighted and well-traveled roads.
- ▷ Have an alternate route in mind in case of problems.
- ▷ Let someone know the route you will take and when you plan to arrive.



- ▷ Don't travel alone if at all possible.
- ▷ Walk with a purpose. Don't walk aimlessly towards your car.
- ▷ Be aware of people who may be following you to your car.
- ▷ Be aware of "Bump and Rob" techniques. If you are bumped by another car, don't get out of your car. Write down the license plate number and drive to the nearest police station.

The 4 A's

- ▷ Recognize that carjacking can occur anytime, anywhere, in any neighborhood.
- ▷ Be aware that any car may be the target of carjackers, not just expensive, high-profile cars.



Carjacking can happen to anyone.

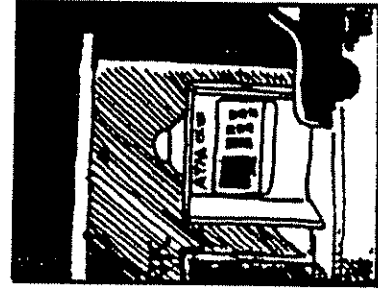
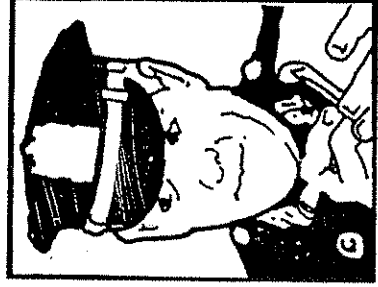
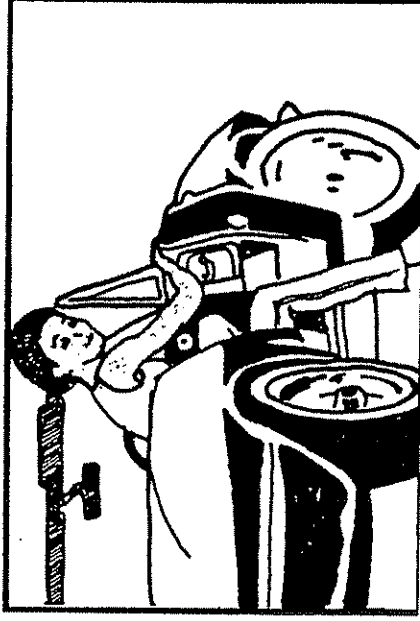
Alertness

The 4 A's

Be Alert to Potential Dangers

- Be alert to any activity near your car.
- Be alert to people loitering in your parking area.
- Be suspicious of people approaching your car asking for directions, change or giving out flyers.
- Always give your car a quick inspection for any tampering.
- Check door handles, locks and back seat before entering.
- Always keep valuables out of view if you must travel with them in the car. If you think someone has tampered with your car, don't enter.
- When stopping in traffic, leave enough distance between your car and the one in front of you, so you can pull away quickly if necessary.

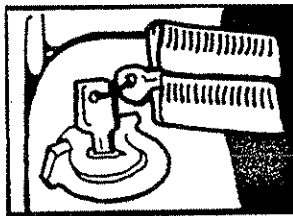
- Be alert to danger when approaching drive-up automated teller machines (ATM's).



Avoidance

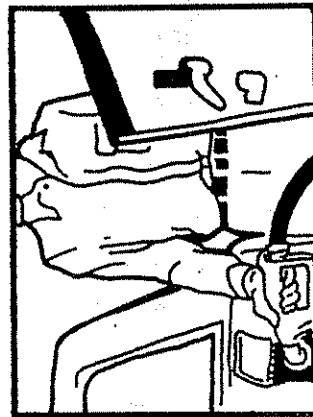
You Will Be Safer if You Avoid Certain Situations.

- ▷ Don't drive without first locking your doors and closing your windows.
- ▷ Never leave keys in the ignition or the car running for any reason.
- ▷ Avoid parking in secluded, poorly lighted areas, especially at night.
- ▷ Don't walk to your car alone. Remember that both men and women are vulnerable to carjacking. Walk in pairs, whenever possible.
- ▷ Don't stand by your locked car looking for your keys. Have your keys out, ready to unlock and enter the car without delay.



The 4 A's

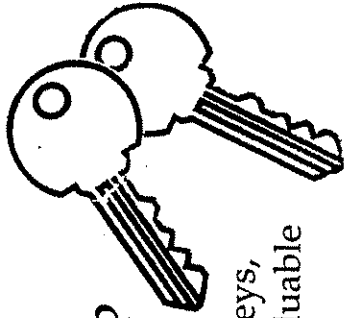
- ▷ Drive to a safe public place and call the police if you think someone is following you.
- ▷ Don't get out of your car if you see suspicious people. If you are in doubt, or are approached, drive away.
- ▷ Don't leave your car unlocked, even when running brief errands, and always take your keys with you.
- ▷ To avoid other thefts that sometimes follow carjackings, separate your car keys from your house and office keys.
- ▷ Avoid using Automatic Teller Machines (ATM's) at night, especially if you see people loitering nearby.
- ▷ Don't allow your car to run out of gas.



Actions

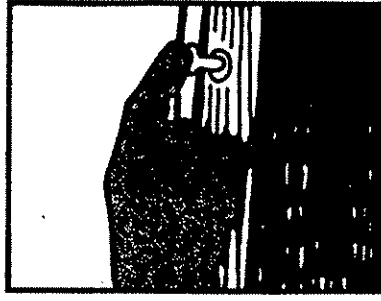
The 4 A's

Certain Actions Will Help Keep You Safe.



- If someone demands your car keys, don't resist. Nothing is more valuable than your life.
- If someone asks for assistance, do not get out of your car. Go to the nearest police station to get help. If someone approaches your car, turn on your headlights and sound your horn.
- If you think you are the victim of a "Bump and Rob" situation, after being "bumped", drive immediately to the nearest police station or until you observe a police officer. Remember, the law requires anyone involved in an accident to stop, render aid and identify themselves. You must report the accident.
- If in serious danger, you may consider running a stop sign or red light if, in your judgment, you will not endanger others.

- Again, call police immediately after any incident.
- If possible, make mental notes of physical descriptions and direction of escape.
- Have a pen and notebook available to write down descriptions of suspects for the police.
- If house keys are taken, change your locks immediately.
- Don't leave your car registration or other materials with your address in your car.
- Always carry a small flashlight.
- Consider carrying a pocket alarm. The alarm emits a high-pitched, very loud, siren-like sound, that often send attackers running.
- Consider getting an alarm system for your car.

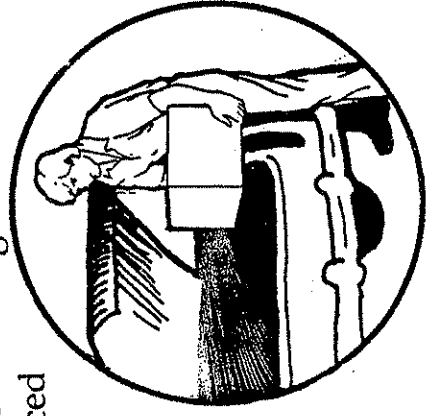


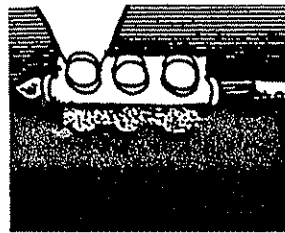
Questions & Answers

Q&A

- Q.** What is carjacking?
A. It is an armed auto theft, or auto theft by threat or force.
- Q.** When and where are carjackings taking place?
A. Typically while the vehicle is stopped or the driver is in the process of getting into the vehicle.
- Q.** Why are cars being carjacked?
A. Many times, cars are being taken for the purpose of committing another crime. Sometimes the cars are just being taken for a joyride. Whatever the reason, carjacking is a serious crime.
- Q.** How can I avoid becoming a victim?
A. Drive with your car doors locked and windows up. Be aware of suspicious looking people, and possible hiding places in the area of your car when getting in and out. Travel well-lighted roads, and try not to travel alone. Keep valuable objects in the trunk of your car.

- Q.** What should I do if I become a victim of a carjacking?
A. Comply with the demands of the carjackers immediately. Give them your keys if necessary. Resisting may place you in greater danger and increase the risk of personal harm. Remember that your life is more valuable than you car!
- Q.** Should I carry Mace or any chemical agent to protect myself?
A. While the use of a chemical agent, or pepper agent, is a matter of choice, we encourage you to use good judgement to avoid increasing the risk of personal harm. Chemical agents can be taken from you and used as weapons against you. Don't consider using Mace unless you are convinced that your life is in danger.





Q. What should I do at a red light or stop sign?

A. When approaching a red light or stop sign, leave enough space between your car and the car in front of you, so that you can pull away quickly if necessary. Be

ware of pedestrians approaching your car asking for change, directions or handing out flyers.

Q. What should I do at gas stations?

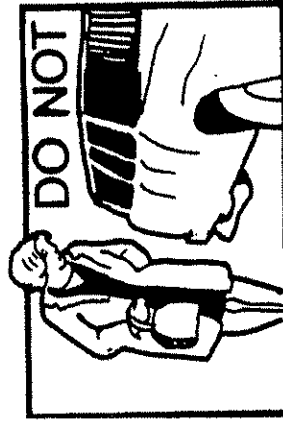
A. Stay aware of your surroundings. Take your keys out of the ignition and remember to lock your door as soon as you are back in your car. Avoid gassing up at night in dimly lit or deserted gas stations.

Q. What should I do if someone is following me?

A. Don't drive to your home. Drive to the nearest police or fire station, or open, well-lit business. Use your horn to alert people to trouble.

Q. What should I do if they take my car and get my car registration?

A. Try to avoid this situation by keeping your car registration on your person rather than in your car. If the carjackers get your registration, tell the police immediately.



Q. What should I do if my car breaks down?

A. Lock your doors and close your windows. Stay where you are until the police come to assist you. Do not open your car door or windows to strangers. If necessary, just crack your window slightly and ask someone to call the police for you.

For further information, please contact the New Jersey State Police, your local police department or the New Jersey Division of Highway Traffic Safety.

New Jersey
Department of
Law and Public Safety
Division of
Highway Traffic Safety
(609) 588-3750
FAX #(609) 588-7716
Hot Line # (800) 422-3750

LTAPS



The cooperation and assistance of the Maryland State Police and their permission to use the safety booklet which they prepared are acknowledged and much appreciated.

APPENDIX

PART G

Assembly Bills Endorsed by the Attorney General:

A-45, A-46, A-47, A-48, A-1719

ASSEMBLY, No. 45
STATE OF NEW JERSEY

INTRODUCED OCTOBER 15, 1992

By Assemblymen CATANIA and R. BROWN

1 AN ACT concerning the penalties for certain motor vehicle
2 related criminal offenses and amending N.J.S.2C:1-14,
3 N.J.S.2C:12-1, N.J.S.2C:20-2, N.J.S.2C:29-2 and P.L.1991,
4 c.83.

5
6 BE IT ENACTED by the Senate and General Assembly of the
7 State of New Jersey:

8 1. N.J.S.2C:1-14 is amended to read as follows:

9 2C:1-14. In this code, unless a different meaning plainly is
10 required:

11 a. "Statute" includes the Constitution and a local law or
12 ordinance of a political subdivision of the State;

13 b. "Act" or "action" means a bodily movement whether
14 voluntary or involuntary;

15 c. "Omission" means a failure to act;

16 d. "Conduct" means an action or omission and its
17 accompanying state of mind, or, where relevant, a series of acts
18 and omissions;

19 e. "Actor" includes, where relevant, a person guilty of an
20 omission:

21 f. "Acted" includes, where relevant, "omitted to act";

22 g. "Person," "he," and "actor" include any natural person and,
23 where relevant, a corporation or an unincorporated association;

24 h. "Element of an offense" means (1) such conduct or (2) such
25 attendant circumstances or (3) such a result of conduct as

26 (a) is included in the description of the forbidden conduct in
27 the definition of the offense;

28 (b) Establishes the required kind of culpability;

29 (c) Negatives an excuse or justification for such conduct;

30 (d) Negatives a defense under the statute of limitations; or

31 (e) Establishes jurisdiction or venue;

32 i. "Material element of an offense" means an element that
33 does not relate exclusively to the statute of limitations,
34 jurisdiction, venue or to any other matter similarly unconnected
35 with (1) the harm or evil, incident to conduct, sought to be
36 prevented by the law defining the offense, or (2) the existence of
37 a justification or excuse for such conduct;

38 j. "Reasonably believes" or "reasonable belief" designates a
39 belief the holding of which does not make the actor reckless or
40 criminally negligent;

41 k. "Offense" means a crime, a disorderly persons offense or a
42 petty disorderly persons offense unless a particular section in this
43 code is intended to apply to less than all three;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 l. (Deleted by amendment, P.L.1991, c.91).
- 2 m. "Amount involved," "benefit," and other terms of value.
- 3 Where it is necessary in this act to determine value, for purposes
- 4 of fixing the degree of an offense, that value shall be the fair
- 5 market value at the time and place of the operative act.
- 6 n. "Motor vehicle" shall have the meaning provided in
- 7 R.S.39:1-1.
- 8 o. "Unlawful taking of a motor vehicle" means conduct
- 9 prohibited under N.J.S.2C:20-10 when the means of conveyance
- 10 taken, operated or controlled is a motor vehicle.
- 11 (cf: P.L.1991, c.91, s.142)
- 12 2. N.J.S.2C:12-1 is amended to read as follows:
- 13 2C:12-1. Assault. a. Simple assault. A person is guilty of
- 14 assault if he:
- 15 (1) Attempts to cause or purposely, knowingly or recklessly
- 16 causes bodily injury to another; or
- 17 (2) Negligently causes bodily injury to another with a deadly
- 18 weapon; or
- 19 (3) Attempts by physical menace to put another in fear of
- 20 imminent serious bodily injury.
- 21 Simple assault is a disorderly persons offense unless committed
- 22 in a fight or scuffle entered into by mutual consent, in which case
- 23 it is a petty disorderly persons offense.
- 24 b. Aggravated assault. A person is guilty of aggravated
- 25 assault if he:
- 26 (1) Attempts to cause serious bodily injury to another, or
- 27 causes such injury purposely or knowingly or under circumstances
- 28 manifesting extreme indifference to the value of human life
- 29 recklessly causes such injury; or
- 30 (2) Attempts to cause or purposely or knowingly causes bodily
- 31 injury to another with a deadly weapon; or
- 32 (3) Recklessly causes bodily injury to another with a deadly
- 33 weapon; or
- 34 (4) Knowingly under circumstances manifesting extreme
- 35 indifference to the value of human life points a firearm, as
- 36 defined in section 2C:39-1f., at or in the direction of another,
- 37 whether or not the actor believes it to be loaded; or
- 38 (5) Commits a simple assault as defined in subsection a. (1) and
- 39 (2) of this section upon:
- 40 (a) Any law enforcement officer acting in the performance of
- 41 his duties while in uniform or exhibiting evidence of his authority;
- 42 or
- 43 (b) Any paid or volunteer fireman acting in the performance of
- 44 his duties while in uniform or otherwise clearly identifiable as
- 45 being engaged in the performance of the duties of a fireman; or
- 46 (c) Any person engaged in emergency first-aid or medical
- 47 services acting in the performance of his duties while in uniform
- 48 or otherwise clearly identifiable as being engaged in the
- 49 performance of emergency first-aid or medical services; or
- 50 (d) Any school board member or school administrator, teacher
- 51 or other employee of a school board while clearly identifiable as
- 52 being engaged in the performance of his duties or because of his
- 53 status as a member or employee of a school board; or
- 54 (6) Causes [serious] bodily injury to another person while

1 fleeing or attempting to elude a law enforcement officer in
2 violation of subsection b. of N.J.S.2C:29-2 or while operating a
3 motor vehicle in violation of subsection c. of N.J.S.2C:20-10.
4 Notwithstanding any other provision of law to the contrary, a
5 person shall be strictly liable for a violation of this subsection
6 upon proof of a violation of subsection b. of N.J.S.2C:29-2 or
7 while operating a motor vehicle in violation of subsection c. of
8 N.J.S.2C:20-10 which resulted in [serious] bodily injury to another
9 person[; or

10 (7) Causes bodily injury to another person while fleeing or
11 attempting to elude a law enforcement officer in violation of
12 subsection b. of N.J.S.2C:29-2. Notwithstanding any other
13 provision of law to the contrary, a person shall be strictly liable
14 for a violation of this subsection upon proof of a violation of
15 subsection b. of N.J.S.2C:29-2 which resulted in bodily injury to
16 another person].

17 Aggravated assault under subsection b. (1) and b. (6) is a crime
18 of the second degree; under subsection b. (2) [and b. (7)] is a
19 crime of the third degree; under subsection b. (3) and b. (4) is a
20 crime of the fourth degree; and under subsection b. (5) is a crime
21 of the third degree if the victim suffers bodily injury, otherwise
22 it is a crime of the fourth degree.

23 c. A person is guilty of assault by auto or vessel when the
24 person drives a vehicle or vessel recklessly and causes either
25 serious bodily injury or bodily injury to another. Assault by auto
26 or vessel is a crime of the fourth degree if serious bodily injury
27 results and is a disorderly persons offense if bodily injury results.

28 As used in this section, "[auto or] vessel" means [all] a means
29 of conveyance for travel on water and propelled otherwise than
30 by muscular power.

31 d. A person who is employed by a facility as defined in section
32 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault
33 as defined in paragraph (1) or (2) of subsection a. of this section
34 upon an institutionalized elderly person as defined in section 2 of
35 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
36 degree.

37 e. A person who commits a simple assault as defined in
38 subsection a. of this section is guilty of a crime of the fourth
39 degree if the person acted, at least in part, with ill will, hatred or
40 bias toward, and with a purpose to intimidate, an individual or
41 group of individuals because of race, color, religion, sexual
42 orientation, or ethnicity.

43 (cf: P.L.1991, c.341, s.2)

44 3. N.J.S.2C:20-2 is amended to read as follows:

45 2C:20-2. Consolidation of Theft Offenses; Grading; Provisions
46 Applicable to Theft Generally. a. Consolidation of Theft
47 Offenses. Conduct denominated theft in this chapter constitutes
48 a single offense, but each episode or transaction may be the
49 subject of a separate prosecution and conviction. A charge of
50 theft may be supported by evidence that it was committed in any
51 manner that would be theft under this chapter, notwithstanding
52 the specification of a different manner in the indictment or
53 accusation, subject only to the power of the court to ensure fair
54 trial by granting a bill of particulars, discovery, a continuance, or

1 other appropriate relief where the conduct of the defense would
2 be prejudiced by lack of fair notice or by surprise.

3 b. Grading of theft offenses.

4 (1) Theft constitutes a crime of the second degree if:

5 (a) The amount involved is \$75,000.00 or more;

6 (b) The property is taken by extortion; or

7 (c) The property stolen is a controlled dangerous substance or
8 controlled substance analog as defined in N.J.S.2C:35-2 and the
9 quantity is in excess of one kilogram.

10 (2) Theft constitutes a crime of the third degree if:

11 (a) The amount involved exceeds \$500.00 but is less than
12 \$75,000.00;

13 (b) The property stolen is a firearm, [automobile,] motor
14 vehicle, vessel, boat, horse or airplane;

15 (c) The property stolen is a controlled dangerous substance or
16 controlled substance analog as defined in N.J.S.2C:35-2 and the
17 amount involved is less than \$75,000.00 or is undetermined and
18 the quantity is one kilogram or less;

19 (d) It is from the person of the victim;

20 (e) It is in breach of an obligation by a person in his capacity
21 as a fiduciary;

22 (f) It is by threat not amounting to extortion; or

23 (g) It is of a public record, writing or instrument kept, filed or
24 deposited according to law with or in the keeping of any public
25 office or public servant.

26 (3) Theft constitutes a crime of the fourth degree if the
27 amount involved is at least \$200.00 but does not exceed \$500.00.
28 If the amount involved was less than \$200.00 the offense
29 constitutes a disorderly persons offense.

30 (4) The amount involved in a theft shall be determined by the
31 trier of fact. The amount shall include, but shall not be limited
32 to, the amount of any State tax avoided, evaded or otherwise
33 unpaid, improperly retained or disposed of. Amounts involved in
34 thefts committed pursuant to one scheme or course of conduct,
35 whether from the same person or several persons, may be
36 aggregated in determining the grade of the offense.

37 c. Claim of right. It is an affirmative defense to prosecution
38 for theft that the actor:

39 (1) Was unaware that the property or service was that of
40 another;

41 (2) Acted under an honest claim of right to the property or
42 service involved or that he had a right to acquire or dispose of it
43 as he did; or

44 (3) Took property exposed for sale, intending to purchase and
45 pay for it promptly, or reasonably believing that the owner, if
46 present, would have consented.

47 d. Theft from spouse. It is no defense that theft was from the
48 actor's spouse, except that misappropriation of household and
49 personal effects, or other property normally accessible to both
50 spouses, is theft only if it occurs after the parties have ceased
51 living together.

52 (cf: P.L.1987, c.106, s.5)

53 4. Section 1 of P.L.1991, c.83(C.2C:20-2.1) is amended to read
54 as follows:

1 1. a. In addition to any other disposition authorized by law, a
2 person convicted under the provisions of [N.J.S.2C:20-2] this
3 chapter of theft or unlawful taking of [an automobile] a motor
4 vehicle shall be subject:

5 (1) For the first offense, to a penalty of \$500.00 and to the
6 suspension or postponement of the person's license to operate a
7 motor vehicle over the highways of this State for a period of one
8 year.

9 (2) For a second offense, to a penalty of \$750.00 and to the
10 suspension or postponement of the person's license to operate a
11 motor vehicle over the highways of this State for a period of two
12 years.

13 (3) For a third or subsequent offense, to a penalty of
14 \$1,000.00, and to the suspension or postponement of the person's
15 license to operate a motor vehicle over the highways of this State
16 for 10 years.

17 b. The suspension or postponement of the person's license to
18 operate a motor vehicle pursuant to subsection a. of this section
19 shall commence on the day the sentence is imposed. In the case
20 of any person who at the time of the imposition of sentence is
21 less than 17 years of age, the period of the suspension of driving
22 privileges authorized herein, including a suspension of the
23 privilege of operating a motorized bicycle, shall commence on
24 the day the sentence is imposed and shall run for a period as fixed
25 by the court of one year for a first offense, two years for a
26 second offense or 10 years for a third offense calculated from the
27 day after the day the person reaches the age of 17 years. If the
28 driving privilege of any person is under revocation, suspension, or
29 postponement for a violation of any provision of this Title or
30 Title 39 of the Revised Statutes at the time of any conviction or
31 adjudication of delinquency for a violation of any offense defined
32 in this chapter or chapter 36 of this Title, the revocation,
33 suspension, or postponement period imposed herein shall
34 commence as of the date of termination of the existing
35 revocation, suspension, or postponement.

36 Upon conviction the court shall collect forthwith the New
37 Jersey driver's licenses of the person and forward such license or
38 licenses to the Director of the [division] Division of Motor
39 Vehicles along with a report indicating the first and last day of
40 the suspension or postponement period imposed by the court
41 pursuant to this section. If the court is for any reason unable to
42 collect the license or licenses of the person, the court shall cause
43 a report of the conviction or adjudication of delinquency to be
44 filed with the Director. That report shall include the complete
45 name, address, date of birth, eye color, and sex of the person and
46 shall indicate the first and last day of the suspension or
47 postponement period imposed by the court pursuant to this
48 section. The court shall inform the person orally and in writing
49 that if the person is convicted of personally operating a motor
50 vehicle during the period of license suspension or postponement
51 imposed pursuant to this section the person shall, upon
52 conviction, be subject to the penalties set forth in R.S.39:3-40.
53 A person shall be required to acknowledge receipt of the written
54 notice in writing. Failure to receive a written notice or failure to

1 acknowledge in writing the receipt of a written notice shall not
2 be a defense to a subsequent charge of a violation of
3 R.S.39:3-40. If the person is the holder of a driver's license from
4 another jurisdiction, the court shall not collect the license but
5 shall notify the Director who shall notify the appropriate officials
6 in the licensing jurisdiction. The court shall, however, in
7 accordance with the provisions of this section, revoke the
8 person's non-resident driving privileges in this State.

9 c. All penalties provided for in this section shall be collected
10 as provided for the collection of fines and restitutions in section
11 3 of P.L.1979, c.396 (C.2C:46-4), and shall be distributed in
12 accordance with the provisions of N.J.S.2C:64-6 as if the
13 collected monies were the proceeds of property forfeited
14 pursuant to the provisions of chapter 64. However, the distributed
15 monies are to be used for law enforcement activities related to
16 auto theft.

17 (cf: P.L.1991, c.83, s.1)

18 5. N.J.S.2C:29-2 is amended to read as follows:

19 2C:29-2. Resisting Arrest; Eluding Officer.

20 a. A person is guilty of a disorderly persons offense if he
21 purposely prevents a law enforcement officer from effecting a
22 lawful arrest, except that he is guilty of a crime of the fourth
23 degree if he:

24 1. Uses or threatens to use physical force or violence against
25 the law enforcement officer or another; or

26 2. Uses any other means to create a substantial risk of causing
27 physical injury to the public servant or another.

28 It is not a defense to a prosecution under this subsection that
29 the law enforcement officer was acting unlawfully in making the
30 arrest, provided he was acting under color of his official
31 authority and provided the law enforcement officer announces his
32 intention to arrest prior to the resistance.

33 b. Any person, while operating a motor vehicle on any street
34 or highway in this State, who knowingly flees or attempts to
35 elude any police or law enforcement officer after having received
36 any signal from such officer to bring the vehicle to a full stop [is
37 a disorderly person] commits a crime of the third degree; except
38 that, a person is guilty of a crime of the [fourth] second degree if
39 the flight or attempt to elude creates a risk of death or injury to
40 any person. For purposes of this [section] subsection, there shall
41 be a permissive inference that the [person's conduct during a]
42 flight or attempt to elude creates a risk of death or injury to any
43 person if the person's conduct involves a violation of chapter 4 of
44 Title 39 of the Revised Statutes. In addition to the penalty
45 prescribed under this subsection or any other section of law, the
46 court shall order the suspension of that person's driver's license
47 for a period of not less than six months or more than two years.
48 [If that license is suspended at the time such order is issued, the
49 suspension so ordered shall commence on the date of the
50 termination of the existing suspension.

51 The court shall collect the license which is being suspended and
52 forward it to the Division of Motor Vehicles along with a report
53 of the suspension. If the court is unable to collect the license,
54 the court shall nevertheless forward the report to the division.

1 The report from the court to the division shall include the
2 complete name, address, date of birth, eye color, sex and driver's
3 license number, if known, of the person whose license has been
4 suspended and shall indicate the first and last calendar day of the
5 suspension period ordered by the court under this subsection. If
6 the person is the holder of a license from another jurisdiction, the
7 court shall not collect the license but shall notify the division and
8 the division shall notify the appropriate officials in the licensing
9 state. The court, however, shall in accordance with the
10 provisions of this subsection, suspend the person's non-resident
11 driving privileges.] In the case of person who is at the time of
12 the imposition of sentence less than 17 years of age, the period of
13 the suspension of driving privileges authorized herein, including a
14 suspension of the privilege of operating a motorized bicycle,
15 shall commence on the day the sentence is imposed and shall run
16 for a period as fixed by the court. If the driving privilege of any
17 person is under revocation, suspension, or postponement for a
18 violation of any provision of this Title or Title 39 of the Revised
19 Statutes at the time of any conviction or adjudication of
20 delinquency for a violation of any offense defined in this chapter
21 or chapter 36 of this Title, the revocation, suspension, or
22 postponement period imposed herein shall commence as of the
23 date of termination of the existing revocation, suspension, or
24 postponement.

25 Upon conviction the court shall collect forthwith the New
26 Jersey driver's licenses of the person and forward such license or
27 licenses to the Director of the Division of Motor Vehicle along
28 with a report indicating the first and last day of the suspension or
29 postponement period imposed by the court pursuant to this
30 section. If the court is for any reason unable to collect the
31 license or licenses of the person, the court shall cause a report of
32 the of the conviction or adjudication of delinquency to be filed
33 with the Director. That report shall include the complete name,
34 address, date of birth, eye color, and sex of the person and shall
35 indicate the first and last day of the suspension or postponement
36 period imposed by the court pursuant to this section. The court
37 shall inform the person orally and in writing that if the person is
38 convicted of personally operating a motor vehicle during the
39 period of license suspension or postponement imposed pursuant to
40 this section the person shall, upon conviction, be subject to the
41 penalties set forth in R.S. 39:3-40. A person shall be required to
42 acknowledge receipt of the written notice in writing. Failure to
43 receive a written notice or failure to acknowledge in writing the
44 receipt of a written notice shall not be a defense to a subsequent
45 charge of violation of R.S. 39:3-40. If the person is the holder of
46 a driver's license from another jurisdiction, the court shall not
47 collect the license but shall notify the Director who shall notify
48 the appropriate officials in the licensing jurisdiction. The court
49 shall, however, in accordance with the provision of this section,
50 revoke the person's non-resident driving privileges in this State.

51 For the purposes of this subsection, it shall be a rebuttable
52 presumption that the owner of a vehicle was the operator of the
53 vehicle at the time of the offense.

54 (cf: P.L.1991, c.341, s.3)

1 6. This act shall take effect immediately.
2
3

4 STATEMENT
5

6 Under present law, the offense of eluding a law enforcement
7 officer while in operation of a motor vehicle is punishable as a
8 disorderly persons offense (up to six months imprisonment, a fine
9 of up to \$1,000 or both). If the eluding results in the creation of
10 a risk of injury or death to another person, eluding is presently
11 graded as a crime of the fourth degree (up to 18 months
12 imprisonment; a fine of up to \$7,500.00 or both). This bill would
13 upgrade eluding from a disorderly persons offense to a crime of
14 the third degree (3 to 5 years imprisonment; a fine of up to
15 \$7,500.00 or both). If the offense creates a risk of injury or
16 death, the bill would grade eluding as a crime of the second
17 degree (5 to 10 years imprisonment, a fine up to \$100,000.00 or
18 both).

19 This bill also strengthens the penalties for the offense of
20 aggravated assault when the illegal operation of a motor vehicle
21 is involved. Under present law, aggravated assault is graded as a
22 crime of second degree when serious bodily injury results from an
23 attempt by a person to elude law enforcement in a motor
24 vehicle. Aggravated assault is graded as a third degree of bodily
25 injury results from an attempt to elude. This bill would eliminate
26 the requirement that serious bodily injury results in order for
27 aggravated assault involving the eluding of law enforcement
28 officers to be graded as a crime of the second degree. Any bodily
29 injury would be sufficient to support a conviction for a second
30 degree crime. The bill would also provide that a person is guilty
31 of aggravated assault when bodily injury to another results from
32 operation of motor vehicle while joyriding in a reckless manner.
33 This offense would also be graded as a crime of the second degree.

34 In addition to these enhanced penalties, the bill clarifies the
35 present mandatory license revocation procedures applicable when
36 a person is convicted of eluding. The bill also provides that the
37 term "motor vehicle" as used in Title 2C has the same meanings
38 as that term is used in Title 39.
39
40
41

42
43 Upgrades penalties for eluding and aggravated assault if the
44 illegal operation of a motor vehicle is involved.

ASSEMBLY, No. 46
STATE OF NEW JERSEY

INTRODUCED OCTOBER 15, 1992

By Assemblymen DiGAETANO and KELLY

1 AN ACT concerning the disposition of juvenile offenders in
2 certain cases and amending P.L.1982, c.77.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. Section 24 of P.L.1982, c.77 (C.2A:4A-43) is amended to
7 read as follows:

8 24. Disposition of delinquency cases.

9 Disposition of delinquency cases. a. In determining the
10 appropriate disposition for a juvenile adjudicated delinquent the
11 court shall weigh the following factors:

12 (1) The nature and circumstances of the offense;

13 (2) The degree of injury to persons or damage to property
14 caused by the juvenile's offense;

15 (3) The juvenile's age, previous record, prior social service
16 received and out-of-home placement history;

17 (4) Whether the disposition supports family strength,
18 responsibility and unity and the well-being and physical safety of
19 the juvenile;

20 (5) Whether the disposition provides for reasonable
21 participation by the child's parent, guardian, or custodian,
22 provided, however, that the failure of a parent or parents to
23 cooperate in the disposition shall not be weighed against the
24 juvenile in arriving at an appropriate disposition;

25 (6) Whether the disposition recognizes and treats the unique
26 physical, psychological and social characteristics and needs of the
27 child;

28 (7) Whether the disposition contributes to the developmental
29 needs of the child, including the academic and social needs of the
30 child where he has mental retardation or learning disabilities; and

31 (8) Any other circumstances related to the offense and the
32 juvenile's social history as deemed appropriate by the court.

33 b. If a juvenile is adjudged delinquent, and except to the
34 extent that an additional specific disposition is required pursuant
35 to subsection e. of f. of this section, the court may order
36 incarceration pursuant to section 25 of this act or any one or
37 more of the following dispositions:

38 (1) Adjourn formal entry of disposition of the case for a period
39 not to exceed 12 months for the purpose of determining whether
40 the juvenile makes a satisfactory adjustment, and if during the
41 period of continuance the juvenile makes such an adjustment,
42 dismiss the complaint; provided that if the court adjourns formal
43 entry of disposition of delinquency for a violation of an offense

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 defined in chapter 35 or 36 of Title 2C, of the New Jersey
2 Statutes the court shall assess the mandatory penalty set forth in
3 N.J.S.2C:35-15 but may waive imposition of the penalty set forth
4 in N.J.S.2C:35-16 for juveniles adjudicated delinquent;

5 (2) Release the juvenile to the supervision of his or her parent
6 or guardian;

7 (3) Place the juvenile on probation to the chief probation
8 officer of the county or to any other suitable person who agrees
9 to accept the duty of probation supervision for a period not to
10 exceed three years upon such written conditions as the court
11 deems will aid rehabilitation of the juvenile;

12 (4) Transfer custody of the juvenile to any relative or other
13 person determined by the court to be qualified to care for the
14 juvenile;

15 (5) Place the juvenile under the care of the Department of
16 Human Services under the responsibility of the Division of Youth
17 and Family Services pursuant to P.L.1951, c.138, s.2(c)
18 (C.30:4C-2(c)) for the purpose of providing services in or out of
19 the home. Within 14 days, unless for good cause shown, but not
20 later than 30 days, the Department of Human Services shall
21 submit to the court a service plan, which shall be presumed valid,
22 detailing the specifics of any disposition order. The plan shall be
23 developed within the limits of fiscal and other resources available
24 to the department. If the court determines that the service plan
25 is inappropriate, given existing resources, the department may
26 request a hearing on that determination;

27 (6) Place the juvenile under the care and custody of the
28 Commissioner of the Department of Human Services for the
29 purpose of receiving the services of the Division of Mental
30 Retardation of that department, provided that the juvenile has
31 been determined to be eligible for those services under P.L.1965,
32 c.59, s.16 (C.30:4-25.4);

33 (7) Commit the juvenile, pursuant to the laws governing civil
34 commitment, to the Department of Human Services under the
35 responsibility of the Division of Mental Health and Hospitals for
36 the purpose of placement in a suitable public or private hospital
37 or other residential facility for the treatment of persons who are
38 mentally ill, on the ground that the juvenile, if not committed,
39 would be a probable danger to himself or others or property by
40 reason of mental illness;

41 (8) Fine the juvenile an amount not to exceed the maximum
42 provided by law for such a crime or offense if committed by an
43 adult and which is consistent with the juvenile's income or ability
44 to pay and financial responsibility to his family, provided that the
45 fine is specially adapted to the rehabilitation of the juvenile or to
46 the deterrence of the type of crime or offense. If the fine is not
47 paid due to financial limitations, the fine may be satisfied by
48 requiring the juvenile to submit to any other appropriate
49 disposition provided for in this section;

50 (9) Order the juvenile to make restitution to a person or entity
51 who has suffered loss resulting from personal injuries or damage
52 to property as a result of the offense for which the juvenile has
53 been adjudicated delinquent. The court may determine the
54 reasonable amount, terms and conditions of restitution. If the

1 juvenile participated in the offense with other persons, the
2 participants shall be jointly and severally responsible for the
3 payment of restitution. The court shall not require a juvenile to
4 make full or partial restitution if the juvenile reasonably satisfies
5 the court that he does not have the means to make restitution
6 and could not reasonably acquire the means to pay restitution;

7 (10) Order that the juvenile perform community services under
8 the supervision of a probation department or other agency or
9 individual deemed appropriate by the court. Such services shall
10 be compulsory and reasonable in terms of nature and duration.
11 Such services may be performed without compensation, provided
12 that any money earned by the juvenile from the performance of
13 community services may be applied towards any payment of
14 restitution or fine which the court has ordered the juvenile to pay;

15 (11) Order that the juvenile participate in work programs
16 which are designed to provide job skills and specific employment
17 training to enhance the employability of job participants. Such
18 programs may be without compensation, provided that any money
19 earned by the juvenile from participation in a work program may
20 be applied towards any payment of restitution or fine which the
21 court has ordered the juvenile to pay;

22 (12) Order that the juvenile participate in programs
23 emphasizing self-reliance, such as intensive outdoor programs
24 teaching survival skills, including but not limited to camping,
25 hiking and other appropriate activities;

26 (13) Order that the juvenile participate in a program of
27 academic or vocational education or counseling, such as a youth
28 service bureau, requiring attendance at sessions designed to
29 afford access to opportunities for normal growth and
30 development. This may require attendance after school, evenings
31 and weekends;

32 (14) Place the juvenile in a suitable residential or
33 nonresidential program for the treatment of alcohol or narcotic
34 abuse, provided that the juvenile has been determined to be in
35 need of such services; or

36 (15) Order the parent or guardian of the juvenile to participate
37 in appropriate programs or services when the court has found
38 either that such person's omission or conduct was a significant
39 contributing factor towards the commission of the delinquent act,
40 or, under its authority to enforce litigant's rights, that such
41 person's omission or conduct has been a significant contributing
42 factor towards the ineffective implementation of a court order
43 previously entered in relation to the juvenile;

44 (16) (a) Place the juvenile in a nonresidential program
45 operated by a public or private agency, providing intensive
46 services to juveniles for specified hours, which may include
47 education, counseling to the juvenile and the juvenile's family if
48 appropriate, vocational training, employment counseling, work or
49 other services; or

50 (b) Place the juvenile under the custody of the Department of
51 Corrections for placement with any private group home or
52 private residential facility with which the department has
53 entered into a purchase of service contract;

54 (17) Instead of or in addition to any disposition made according

1 to this section, the court may postpone, suspend, or revoke for a
2 period not to exceed two years the driver's license, registration
3 certificate, or both of any juvenile who used a motor vehicle in
4 the course of committing an act for which he was adjudicated
5 delinquent. In imposing this disposition and in deciding the
6 duration of the postponement, suspension, or revocation, the
7 court shall consider the severity of the delinquent act and the
8 potential effect of the loss of driving privileges on the juvenile's
9 ability to be rehabilitated. Any postponement, suspension, or
10 revocation shall be imposed consecutively with any custodial
11 commitment; [or]

12 (18) Order that the juvenile satisfy any other conditions
13 reasonably related to the rehabilitation of the juvenile; or

14 (19) Order a parent or guardian who has failed or neglected to
15 exercise reasonable supervision or control of a juvenile who has
16 been adjudicated delinquent for an offense which, if committed
17 by an adult, would constitute the crime of theft of a motor
18 vehicle or unlawful taking of a motor vehicle to make restitution
19 to any person or entity who has suffered a loss as a result of that
20 offense. The court may determine the reasonable amount, terms
21 and conditions of restitution.

22 c. (1) [If] Except as otherwise provided in subsection e. and f.
23 of this section, if the county in which the juvenile has been
24 adjudicated delinquent has a juvenile detention facility meeting
25 the physical and program standards established pursuant to this
26 subsection by the Department of Corrections, the court may, in
27 addition to any of the dispositions not involving placement out of
28 the home enumerated in this section, incarcerate the juvenile in
29 the youth detention facility in that county for a term not to
30 exceed 60 consecutive days. Counties which do not operate their
31 own juvenile detention facilities may contract for the use of
32 approved commitment programs with counties with which they
33 have established agreements for the use of pre-disposition
34 juvenile detention facilities. The Department of Corrections shall
35 promulgate such rules and regulations from time to time as
36 deemed necessary to establish minimum physical facility and
37 program standards for the use of juvenile detention facilities
38 pursuant to this subsection.

39 (2) No juvenile may be incarcerated in any county detention
40 facility unless the county has entered into an agreement with the
41 Department of Corrections concerning the use of the facility for
42 sentenced juveniles. Upon agreement with the county, the
43 Department of Corrections shall certify detention facilities
44 which may receive juveniles sentenced pursuant to this subsection
45 and shall specify the capacity of the facility that may be made
46 available to receive such juveniles; provided, however, that in no
47 event shall the number of juveniles incarcerated pursuant to this
48 subsection exceed 50% of the maximum capacity of the facility.

49 (3) The court may fix a term of incarceration under this
50 subsection where:

51 (a) The act for which the juvenile was adjudicated delinquent,
52 if committed by an adult, would have constituted a crime or
53 repetitive disorderly persons offense;

54 (b) Incarceration of the juvenile is consistent with the

1 rehabilitative goals of this act and the court is clearly convinced
2 that the aggravating factors substantially outweigh the
3 mitigating factors as set forth in section 25 of this act; and

4 (c) The detention facility has been certified for admission of
5 adjudicated juveniles pursuant to paragraph (2).

6 (4) If as a result of incarceration of adjudicated juveniles
7 pursuant to this subsection, a county is required to transport a
8 predisposition juvenile to a juvenile detention facility in another
9 county, the costs of such transportation shall be borne by the
10 Department of Corrections.

11 d. Whenever the court imposes a disposition upon an
12 adjudicated delinquent which requires the juvenile to perform a
13 community service, restitution, or to participate in any other
14 program provided for in this section other than subsection c., the
15 duration of the juvenile's mandatory participation in such
16 alternative programs shall extend for a period consistent with the
17 program goal for the juvenile and shall in no event exceed one
18 year beyond the maximum duration permissible for the delinquent
19 if he has been committed to a correctional institution.

20 e. In addition to any disposition the court may impose pursuant
21 to this section or section 25 of P.L.1982, c.77 (C.2A:4A-44), the
22 following orders shall be included in dispositions of the
23 adjudications set forth below:

24 (1) An order of incarceration for a term of the duration
25 authorized pursuant to this section or section 25 of P.L.1982, c.77
26 (C.2A:4A-44) or an order to perform community service pursuant
27 to paragraph (10) of subsection b. of this section for a period of
28 at least 60 days, if the juvenile has been adjudicated delinquent
29 for an act which, if committed by an adult, would constitute the
30 crime of theft of a motor vehicle, or the crime of unlawful taking
31 of a motor vehicle in violation of subsection c. of N.J.S.2C:20-10,
32 or the third degree crime of eluding in violation of subsection b.
33 of N.J.S.2C:29-2;

34 (2) An order of incarceration for a term of the duration
35 authorized pursuant to this section or section 25 of P.L.1982, c.77
36 (C.2A:4A-44) which shall include a minimum term of 60 days
37 during which the juvenile shall be ineligible for parole, if the
38 juvenile has been adjudicated delinquent for an act which, if
39 committed by an adult, would constitute the crime of aggravated
40 assault in violation of paragraph (6) of subsection b. of
41 N.J.S.2C:12-1, the second degree crime of eluding in violation of
42 subsection b. of N.J.S.2C:29-2, or theft of a motor vehicle, in a
43 case in which the juvenile has previously been adjudicated
44 delinquent for an act, which if committed by an adult, would
45 constitute unlawful taking of a motor vehicle or theft of a motor
46 vehicle;

47 (3) An order to perform community services pursuant to
48 paragraph (10) of subsection b. of this section for a period of at
49 least 30 days, if the juvenile has been adjudicated delinquent for
50 an act which, if committed by an adult, would constitute the
51 fourth degree crime of unlawful taking of a motor vehicle in
52 violation of subsection b. of N.J.S.2C:20-10;

53 (4) An order of incarceration for a term of the duration
54 authorized pursuant to this section or section 25 of P.L.1982, c.77

1 (C.2A:4A-44) which shall include a minimum term of 30 days
2 during which the juvenile shall be ineligible for parole, if the
3 juvenile has been adjudicated delinquent for an act which, if
4 committed by an adult, would constitute the crime of unlawful
5 taking of a motor vehicle in violation of N.J.S.2C:20-10 or the
6 third degree crime of eluding in violation of subsection b. of
7 N.J.S.2C:29-2, and if the juvenile has previously been adjudicated
8 delinquent for an act which, if committed by an adult, would
9 constitute either theft of a motor vehicle, the unlawful taking of
10 a motor vehicle or eluding.

11 f. (1) The minimum terms of incarceration required pursuant
12 to subsection e. of this section shall be imposed regardless of the
13 weight or balance of factors set forth in this section or in section
14 25 of P.L.1982, c.77 (C.2A:4A-44), but the weight and balance of
15 those factors shall determine the length of the term of
16 incarceration appropriate, if any, beyond any mandatory
17 minimum term required pursuant to subsection e. of this section.
18 No time spent in custody prior to adjudication of delinquency
19 shall be considered as time served on a mandatory minimum term
20 of incarceration pursuant to subsection e. of this section.

21 (2) When a court in a county that does not have a juvenile
22 detention facility or a contractual relationship permitting
23 incarceration pursuant to subsection c. of this section is required
24 to impose a term of incarceration pursuant to subsection e. of
25 this section, the court may, subject to limitations on commitment
26 to State correctional facilities of juveniles who under the age of
27 11 or developmentally disabled, set a term of incarceration
28 consistent with subsection c. which shall be served in a State
29 correctional facility. When a juvenile who because of age or
30 developmental disability cannot be committed to a State
31 correctional facility or cannot be incarcerated in a county
32 facility, the court shall order a disposition appropriate as an
33 alternative to any incarceration required pursuant to subsection e.

34 (3) For purposes of subsection e. of this section, in the event
35 that a "boot camp" program for juvenile offenders should be
36 developed and is available, a term of commitment to such a
37 program shall be considered a term of incarceration.

38 (cf: P.L.1988, c.72, s.1)

39 2. Section 25 of P.L.1982, c.77 (C.2A:4A-44) is amended to
40 read as follows:

41 25. Incarceration--Aggravating and Mitigating Factors

42 a. (1) [In] Except as provided in subsections e. and f. of
43 section 24 of P.L.1982, c.77 (C.2A:4A-43), in determining
44 whether incarceration is an appropriate disposition, the court
45 shall consider the following aggravating circumstances:

46 (a) The fact that the nature and circumstances of the act, and
47 the role of the juvenile therein, was committed in an especially
48 heinous, cruel, or depraved manner;

49 (b) The fact that there was grave and serious harm inflicted on
50 the victim and that based upon his age or mental capacity the
51 juvenile knew or reasonably should have known that the victim
52 was particularly vulnerable or incapable of resistance due to
53 advanced age, disability, ill-health, or extreme youth, or was for
54 any other reason substantially incapable;

- 1 (c) The character and attitude of the juvenile indicate that he
2 is likely to commit another delinquent or criminal act;
- 3 (d) The juvenile's prior record and the seriousness of any acts
4 for which he has been adjudicated delinquent;
- 5 (e) The fact that the juvenile committed the act pursuant to
6 an agreement that he either pay or be paid for the commission of
7 the act and that the pecuniary incentive was beyond that inherent
8 in the act itself;
- 9 (f) The fact that the juvenile committed the act against a
10 policeman or other law enforcement officer, correctional
11 employee or fireman, acting in the performance of his duties
12 while in uniform or exhibiting evidence of his authority, or the
13 juvenile committed the act because of the status of the victim as
14 a public servant;
- 15 (g) The need for deterring the juvenile and others from
16 violating the law;
- 17 (h) The fact that the juvenile knowingly conspired with others
18 as an organizer, supervisor, or manager to commit continuing
19 criminal activity in concert with two or more persons and the
20 circumstances of the crime show that he has knowingly devoted
21 himself to criminal activity as part of an ongoing business
22 activity;
- 23 (i) The fact that the juvenile on two separate occasions was
24 adjudged a delinquent on the basis of acts which if committed by
25 an adult would constitute crimes.
- 26 (2) In determining whether incarceration is an appropriate
27 disposition the court shall consider the following mitigating
28 circumstances:
- 29 (a) The child is under the age of 14;
- 30 (b) The juvenile's conduct neither caused nor threatened
31 serious harm;
- 32 (c) The juvenile did not contemplate that his conduct would
33 cause or threaten serious harm;
- 34 (d) The juvenile acted under a strong provocation;
- 35 (e) There were substantial grounds tending to excuse or justify
36 the juvenile's conduct, though failing to establish a defense;
- 37 (f) The victim of the juvenile's conduct induced or facilitated
38 its commission;
- 39 (g) The juvenile has compensated or will compensate the
40 victim for the damage or injury that the victim has sustained, or
41 will participate in a program of community service;
- 42 (h) The juvenile has no history of prior delinquency or criminal
43 activity or has led a law-abiding life for a substantial period of
44 time before the commission of the present act;
- 45 (i) The juvenile's conduct was the result of circumstances
46 unlikely to recur;
- 47 (j) The character and attitude of the juvenile indicate that he
48 is unlikely to commit another delinquent or criminal act;
- 49 (k) The juvenile is particularly likely to respond affirmatively
50 to noncustodial treatment;
- 51 (l) The separation of the juvenile from his family by
52 incarceration of the juvenile would entail excessive hardship to
53 himself or his family;
- 54 (m) The willingness of the juvenile to cooperate with law

1 enforcement authorities;

2 (n) The conduct of the juvenile was substantially influenced by
3 another person more mature than the juvenile.

4 b. (1) There shall be a presumption of nonincarceration for
5 any crime or offense of the fourth degree or less committed by a
6 juvenile who has not previously been adjudicated delinquent or
7 convicted of a crime or offense.

8 (2) Where incarceration is imposed, the court shall consider
9 the juvenile's eligibility for release under the law governing
10 parole.

11 c. The following juveniles shall not be committed to a State
12 correctional facility:

13 (1) Juveniles age 11 or under unless adjudicated delinquent for
14 the crime of arson or a crime which, if committed by an adult,
15 would be a crime of the first or second degree; and

16 (2) Juveniles who are developmentally disabled as defined in
17 paragraph (1) of subsection a. of section 3 of P.L.1977, c.82
18 (C.30:6D-3a(1)).

19 d. (1) When the court determines that, based on the
20 consideration of all the factors set forth in subsection a., the
21 juvenile shall be incarcerated, unless it orders the incarceration
22 pursuant to subsection c. of section 24 of this act, it shall state
23 on the record the reasons for imposing incarceration, including
24 any findings with regard to these factors, and commit the
25 juvenile to a suitable institution maintained by the Department of
26 Corrections for the rehabilitation of delinquents pursuant to the
27 conditions set forth in this subsection and for terms not to exceed
28 the maximum terms as provided herein for what would constitute
29 the following crimes if committed by an adult:

30 (a) Murder under 2C:11-3a(1) or (2) 20 years

31 (b) Murder under 2C:11-3a(3) 10 years

32 (c) Crime of the first degree, except murder 4 years

33 (d) Crime of the second degree 3 years

34 (e) Crime of the third degree 2 years

35 (f) Crime of the fourth degree 1 year

36 (g) Disorderly persons offense 6 months

37 (2) [The] Except as provided in subsection e. of section 24 of
38 P.L.1982, c.77 (C.2A:4A-43), the period of confinement shall
39 continue until the appropriate paroling authority determines that
40 such a person should be paroled: except that in no case shall the
41 period of confinement and parole exceed the maximum provided
42 by law for such offense. However, if a juvenile is approved for
43 parole prior to serving one-third of any term imposed for any
44 crime of the first, second or third degree, including any extended
45 term imposed pursuant to paragraph (3) or (4) of this subsection,
46 or one-fourth of any term imposed for any other crime the
47 granting of parole shall be subject to approval of the sentencing
48 court. Prior to approving parole, the court shall give the
49 prosecuting attorney notice and an opportunity to be heard. If
50 the court denies the parole of a juvenile pursuant to this
51 paragraph it shall state its reasons in writing and notify the
52 parole board, the juvenile and the juvenile's attorney. The court
53 shall have 30 days from the date of notice of the pending parole
54 to exercise the power granted under this paragraph. If the court

1 does not respond within that time period, the parole will be
2 deemed approved.

3 Any juvenile committed under this act who is released on
4 parole prior to the expiration of his maximum term may be
5 retained under parole supervision for a period not exceeding the
6 unserved portion of the term. The Parole Board, the juvenile, his
7 attorney, his parent or guardian or, with leave of the court any
8 other interested party, may make a motion to the court, with
9 notice to the prosecuting attorney, for the return of the child
10 from a correctional institution prior to his parole and provide for
11 an alternative disposition which would not exceed the duration of
12 the original time to be served in the institution. Nothing
13 contained in this paragraph shall be construed to limit the
14 authority of the Parole Board as set forth in Section 15 of
15 P.L.1979, c.441 (C.30:4-123.59).

16 (3) Upon application by the prosecutor, the court may sentence
17 a juvenile who has been convicted of a crime of the first, second,
18 or third degree if committed by an adult, to an extended term of
19 incarceration beyond the maximum set forth in paragraph (1) of
20 this subsection, if it finds that the juvenile was adjudged
21 delinquent on at least two separate occasions, for offenses which,
22 if committed by an adult, would constitute a crime of the first or
23 second degree, and was previously committed to an adult or
24 juvenile State correctional facility. The extended term shall not
25 exceed five additional years for an act which would constitute
26 murder and shall not exceed two additional years for all other
27 crimes of the first degree or second degree, if committed by an
28 adult, and one additional year for a crime of the third degree, if
29 committed by an adult.

30 (4) Upon application by the prosecutor, when a juvenile is
31 before the court at one time for disposition of three or more
32 unrelated offenses which, if committed by an adult, would
33 constitute crimes of the first, second or third degree and which
34 are not part of the same transaction, the court may sentence the
35 juvenile to an extended term of incarceration not to exceed the
36 maximum of the permissible term for the most serious offense
37 for which the juvenile has been adjudicated plus two additional
38 years.

39 (cf: P.L.1982, c.77 s.25)

40 3. This act shall take effect immediately.

41

42

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STATEMENT

44

45 Under the present "New Jersey Code of Juvenile Justice"
46 (N.J.S.A.2A:4A-20 et seq.), sanctions for juveniles adjudicated
47 delinquent are within the discretion of the court. This bill would
48 establish the following mandatory disposition for juveniles
49 adjudicated delinquent for certain motor vehicle related offenses:

- 50 • 60 days incarceration for any juvenile adjudicated
51 delinquent for aggravated assault if an injury is caused as
52 the result of joyriding or eluding a law enforcement
53 officer; for eluding if the offense creates a risk of injury
54 and for motor vehicle theft by a repeat offender.

- 1 • 30 days incarceration for repeat offenders adjudicated
- 2 delinquent for the lawful taking of a motor vehicle or for
- 3 eluding which does not create a risk of injury.
- 4 • 60 days mandatory community service for first offenders
- 5 adjudicated delinquent for motor vehicle theft, for the
- 6 unlawful taking of a motor vehicle for which creates a risk
- 7 of injury and for eluding which does not create a risk of
- 8 injury.
- 9 • 30 days mandatory community service for the unlawful
- 10 taking of a motor vehicle which does not create a risk of
- 11 injury.

12 These mandatory dispositions would be in addition to any other
13 disposition presently authorized by the Code of Juvenile Justice.

14 In addition to these dispositions, the bill provides that parents
15 who neglect to exercise reasonable supervision and control over
16 juveniles may be ordered to pay restitution to car theft victims.

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21 Establishes certain mandatory dispositions for juveniles
22 adjudicated delinquent for motor vehicle related offenses.

ASSEMBLY, No. 47

STATE OF NEW JERSEY

INTRODUCED OCTOBER 15, 1992

By Assemblywoman CRECCO and Assemblyman HARTMANN

1 AN ACT concerning the penalties for the unlawful taking of a
2 motor vehicle and amending N.J.S.2C:20-10.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. N.J.S.2C:20-10 is amended to read as follows:

7 2C:20-10. Unlawful Taking of Means of Conveyance

8 a. A person commits a disorderly persons offense if, with
9 purpose to withhold temporarily from the owner, he takes,
10 operates, or exercises control over any means of conveyance,
11 other than a motor vehicle, without consent of the owner or other
12 person authorized to give consent. "Means of conveyance"
13 includes but is not limited to motor vehicles, [motorcycles,
14 motorbikes,] bicycles, motorized bicycles, boats, horses, vessels,
15 surfboards, rafts, skimobiles, airplanes, trains, trams and trailers.
16 It is an affirmative defense to prosecution under subsections a.,
17 b. and c. of this section that the actor reasonably believed that
18 the owner or any other person authorized to give consent would
19 have consented to the operation had he known of it.

20 b. A person commits a crime of the fourth degree if, with
21 purpose to withhold temporarily from the owner, he takes,
22 operates or exercises control over a motor vehicle without the
23 consent of the owner or other person authorized to give consent.

24 c. A person commits a crime of the third degree if, with
25 purpose to withhold temporarily from the owner, he takes,
26 operates or exercises control over a motor vehicle without the
27 consent of the owner or other person authorized to give consent
28 and operates the motor vehicle in a manner that creates a risk of
29 injury to any person or a risk of damage to property.

30 [b.] d. A person commits a [petty disorderly persons offense if
31 he knowingly rides in a vehicle described in subsection a. which at
32 the time he entered he knew or had been informed that it had
33 been taken, or was being operated or controlled in violation of
34 subsection a] crime of the fourth degree if he enters and rides in
35 a motor vehicle knowing that the motor vehicle has been taken or
36 is being operated without the consent of the owner or other
37 person authorized to consent.

38 (cf: P.L.1979, c.178, s.35A)

39 2. This act shall take effect immediately.

40
41
42 STATEMENT

43
44 Presently, the unlawful taking of any conveyance including a
45 motor vehicle without the permission of the owner is punishable

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 as a disorderly persons offense. This bill would classify
2 "joyriding" when a motor vehicle is involved as a crime of the
3 fourth degree. If the unlawfully taken motor vehicle is operated
4 in a manner which creates a risk of injury or property damage,
5 the bill would grade "joyriding" as a crime of the third degree.

6 The bill would also provide that a person commits a crime of
7 the fourth degree if the person rides in motor vehicle which he
8 knows to be taken without permission. This offense is presently
9 graded as a petty disorderly person offense.

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14 Upgrades penalties for offenses involving the unlawful taking of
15 motor vehicles.

ASSEMBLY, No. 48
STATE OF NEW JERSEY

INTRODUCED OCTOBER 15, 1992

By Assemblyman LUSTBADER

1 AN ACT concerning the imposition of sentences in certain
2 criminal case and amending N.J.S.2C:44-1.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. N.J.S.2C:44-1 is amended to read as follows:

7 2C:44-1. Criteria for Withholding or Imposing Sentence of
8 Imprisonment. a. In determining the appropriate sentence to be
9 imposed on a person who has been convicted of an offense, the
10 court shall consider the following aggravating circumstances:

11 (1) The nature and circumstances of the offense, and the role
12 of the actor therein, including whether or not it was committed
13 in an especially heinous, cruel, or depraved manner;

14 (2) The gravity and seriousness of harm inflicted on the victim,
15 including whether or not the defendant knew or reasonably should
16 have known that the victim of the offense was particularly
17 vulnerable or incapable of resistance due to advanced age,
18 ill-health, or extreme youth, or was for any other reason
19 substantially incapable of exercising normal physical or mental
20 power of resistance;

21 (3) The risk that the defendant will commit another offense;

22 (4) A lesser sentence will depreciate the seriousness of the
23 defendant's offense because it involved a breach of the public
24 trust under chapters 27 and 30, or the defendant took advantage
25 of a position of trust or confidence to commit the offense;

26 (5) There is a substantial likelihood that the defendant is
27 involved in organized criminal activity;

28 (6) The extent of the defendant's prior criminal record and the
29 seriousness of the offenses of which he has been convicted;

30 (7) The defendant committed the offense pursuant to an
31 agreement that he either pay or be paid for the commission of
32 the offense and the pecuniary incentive was beyond that inherent
33 in the offense itself;

34 (8) The defendant committed the offense against a police or
35 other law enforcement officer, correctional employee or fireman,
36 acting in the performance of his duties while in uniform or
37 exhibiting evidence of his authority, or the defendant committed
38 the offense because of the status of the victim as a public
39 servant;

40 (9) The need for deterring the defendant and others from
41 violating the law;

42 (10) The offense involved fraudulent or deceptive practices
43 committed against any department or division of State
44 government:

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (11) The imposition of a fine, penalty or order of restitution
2 without also imposing a term of imprisonment would be perceived
3 by the defendant or others merely as part of the cost of doing
4 business, or as an acceptable contingent business or operating
5 expense associated with the initial decision to resort to unlawful
6 practices;

7 (12) The defendant committed the offense against a person
8 who he knew or should have known was 60 years of age or older,
9 or disabled.

10 b. In determining the appropriate sentence to be imposed on a
11 person who has been convicted of an offense, the court may
12 properly consider the following mitigating circumstances:

13 (1) The defendant's conduct neither caused nor threatened
14 serious harm;

15 (2) The defendant did not contemplate that his conduct would
16 cause or threaten serious harm;

17 (3) The defendant acted under a strong provocation;

18 (4) There were substantial grounds tending to excuse or justify
19 the defendant's conduct, though failing to establish a defense;

20 (5) The victim of the defendant's conduct induced or
21 facilitated its commission;

22 (6) The defendant has compensated or will compensate the
23 victim of his conduct for the damage or injury that he sustained,
24 or will participate in a program of community service;

25 (7) The defendant has no history of prior delinquency or
26 criminal activity or has led a law-abiding life for a substantial
27 period of time before the commission of the present offense;

28 (8) The defendant's conduct was the result of circumstances
29 unlikely to recur;

30 (9) The character and attitude of the defendant indicate that
31 he is unlikely to commit another offense;

32 (10) The defendant is particularly likely to respond
33 affirmatively to probationary treatment;

34 (11) The imprisonment of the defendant would entail excessive
35 hardship to himself or his dependents;

36 (12) The willingness of the defendant to cooperate with law
37 enforcement authorities;

38 (13) The conduct of a youthful defendant was substantially
39 influenced by another person more mature than the defendant.

40 c. (1) A plea of guilty by a defendant or failure to so plead
41 shall not be considered in withholding or imposing a sentence of
42 imprisonment.

43 (2) When imposing a sentence of imprisonment the court shall
44 consider the defendant's eligibility for release under the law
45 governing parole, including time credits awarded pursuant to
46 Title 30 of the Revised Statutes, in determining the appropriate
47 term of imprisonment.

48 d. Presumption of imprisonment. The court shall deal with a
49 person who has been convicted of a crime of the first or second
50 degree by imposing a sentence of imprisonment unless, having
51 regard to the character and condition of the defendant, it is of
52 the opinion that his imprisonment would be a serious injustice
53 which overrides the need to deter such conduct by others.
54 Notwithstanding the provisions of subsection e. of this section.

1 the court shall deal with a person who has been convicted of theft
2 of a motor vehicle or of the unlawful taking of a motor vehicle
3 and who has previously been convicted of either offense by
4 imposing a sentence of imprisonment unless, having regard to the
5 character and condition of the defendant, it is of the opinion that
6 his imprisonment would be a serious injustice which overrides the
7 need to deter such conduct by others.

8 e. The court shall deal with a person convicted of an offense
9 other than a crime of the first or second degree, who has not
10 previously been convicted of an offense, without imposing
11 sentence of imprisonment unless, having regard to the nature and
12 circumstances of the offense and the history, character and
13 condition of the defendant, it is of the opinion that his
14 imprisonment is necessary for the protection of the public under
15 the criteria set forth in subsection a., except that this subsection
16 shall not apply if the person is convicted of any of the following
17 crimes of the third degree: theft of a motor vehicle; unlawful
18 taking of a motor vehicle; or eluding.

19 f. Presumptive Sentences. (1) Except for the crime of murder,
20 unless the preponderance of aggravating or mitigating factors, as
21 set forth in subsections a. and b., weighs in favor of a higher or
22 lower term within the limits provided in N.J.S.2C:43-6, when a
23 court determines that a sentence of imprisonment is warranted,
24 it shall impose sentence as follows:

25 (a) To a term of 20 years for aggravated manslaughter or
26 kidnapping pursuant to paragraph (1) of subsection c. of
27 N.J.S.2C:13-1 when the offense constitutes a crime of the first
28 degree;

29 (b) Except as provided in paragraph (a) of this subsection to a
30 term of 15 years for a crime of the first degree;

31 (c) To a term of seven years for a crime of the second degree;

32 (d) To a term of four years for a crime of the third degree; and

33 (e) To a term of nine months for a crime of the fourth degree.

34 In imposing a minimum term pursuant to 2C:43-6b., the
35 sentencing court shall specifically place on the record the
36 aggravating factors set forth in this section which justify the
37 imposition of a minimum term.

38 Unless the preponderance of mitigating factors set forth in
39 subsection b. weighs in favor of a lower term within the limits
40 authorized, sentences imposed pursuant to 2C:43-7a.(1) shall have
41 a presumptive term of life imprisonment. Unless the
42 preponderance of aggravating and mitigating factors set forth in
43 subsections a. and b. weighs in favor of a higher or lower term
44 within the limits authorized, sentences imposed pursuant to
45 2C:43-7a.(2) shall have a presumptive term of 50 years'
46 imprisonment; sentences imposed pursuant to 2C:43-7a.(3) shall
47 have a presumptive term of 15 years' imprisonment; and
48 sentences imposed pursuant to 2C:43-7a.(4) shall have a
49 presumptive term of seven years' imprisonment.

50 In imposing a minimum term pursuant to 2C:43-7b., the
51 sentencing court shall specifically place on the record the
52 aggravating factors set forth in this section which justify the
53 imposition of a minimum term.

54 (2) In cases of convictions for crimes of the first or second

1 degree where the court is clearly convinced that the mitigating
2 factors substantially outweigh the aggravating factors and where
3 the interest of justice demands, the court may sentence the
4 defendant to a term appropriate to a crime of one degree lower
5 than that of the crime for which he was convicted. If the court
6 does impose sentence pursuant to this paragraph, or if the court
7 imposes a noncustodial or probationary sentence upon conviction
8 for a crime of the first or second degree, such sentence shall not
9 become final for 10 days in order to permit the appeal of such
10 sentence by the prosecution.

11 g. Imposition of Noncustodial Sentences in Certain Cases. If
12 the court, in considering the aggravating factors set forth in
13 subsection a., finds the aggravating factor in paragraph a.(2) or
14 a.(12) and does not impose a custodial sentence, the court shall
15 specifically place on the record the mitigating factors which
16 justify the imposition of a noncustodial sentence.
17 (cf: P.L.1989, c.23, s.4)

18 2. This act shall take effect immediately.

19

20

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STATEMENT

22

23 In order to make the punishment for auto theft more certain,
24 this bill would establish a presumption of incarceration for repeat
25 offenders who have been previously convicted of motor vehicle
26 theft or joyriding. The bill would also provide that the present
27 presumption of nonincarceration for certain first offenders would
28 be inapplicable to first offenders convicted of auto theft,
29 joyriding and eluding.

30

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32

33

34 Creates presumption of imprisonment for repeat offenders
35 convicted of certain motor vehicle related offenses.

ASSEMBLY, No. 1719
STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 14, 1992

By Assemblywoman CRECCO

1 AN ACT concerning the penalties for crimes committed with
2 stolen automobiles and amending N.J.S.2C:43-6.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. N.J.S.2C:43-6 is amended to read as follows:

7 2C:43-6. Sentence of Imprisonment for Crime; Ordinary
8 Terms; Mandatory Terms. a. Except as otherwise provided, a
9 person who has been convicted of a crime may be sentenced to
10 imprisonment, as follows:

11 (1) In the case of a crime of the first degree, for a specific
12 term of years which shall be fixed by the court and shall be
13 between 10 years and 20 years;

14 (2) In the case of a crime of the second degree, for a specific
15 term of years which shall be fixed by the court and shall be
16 between five years and 10 years;

17 (3) In the case of a crime of the third degree, for a specific
18 term of years which shall be fixed by the court and shall be
19 between three years and five years;

20 (4) In the case of a crime of the fourth degree, for a specific
21 term which shall be fixed by the court and shall not exceed 18
22 months.

23 b. As part of a sentence for any crime, where the court is
24 clearly convinced that the aggravating factors substantially
25 outweigh the mitigating factors, as set forth in subsections a. and
26 b. of 2C:44-1, the court may fix a minimum term not to exceed
27 one-half of the term set pursuant to subsection a., or one-half of
28 the term set pursuant to a maximum period of incarceration for a
29 crime set forth in any statute other than this code, during which
30 the defendant shall not be eligible for parole; provided that no
31 defendant shall be eligible for parole at a date earlier than
32 otherwise provided by the law governing parole.

33 c. A person who has been convicted under 2C:39-4a. of
34 possession of a firearm with intent to use it against the person of
35 another, or of a crime under any of the following sections:
36 2C:11-3, 2C:11-4, 2C:12-1b., 2C:13-1, 2C:14-2a., 2C:14-3a.,
37 2C:15-1, 2C:18-2, 2C:29-5. who, while in the course of
38 committing or attempting to commit the crime, including the
39 immediate flight therefrom, used or was in possession of a
40 firearm as defined in 2C:39-1f., shall be sentenced to a term of
41 imprisonment by the court. The term of imprisonment shall
42 include the imposition of a minimum term. The minimum term
43 shall be fixed at, or between, one-third and one-half of the
44 sentence imposed by the court or three years, whichever is

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 case of a fourth degree crime, during which the defendant shall
2 be ineligible for parole.

3 The court shall not impose an extended term pursuant to this
4 subsection unless the ground therefor has been established at a
5 hearing. At the hearing, which may occur at the time of
6 sentencing, the prosecutor shall establish the ground therefor by
7 a preponderance of the evidence. In making its finding, the court
8 shall take judicial notice of any evidence, testimony or
9 information adduced at the trial, plea hearing, or other court
10 proceedings and shall also consider the presentence report and
11 any other relevant information.

12 For the purpose of this subsection, a previous conviction exists
13 where the actor has at any time been convicted under chapter 35
14 of this title or Title 24 of the Revised Statutes or under any
15 similar statute of the United States, this State, or any other state
16 for an offense that is substantially equivalent to N.J.S.2C:35-3,
17 N.J.S.2C:35-4, N.J.S.2C:35-5, N.J.S.2C:35-6 or section 1 of
18 P.L.1987, c.101 (C.2C:35-7).

19 g. Any person who has been convicted under subsection a. of
20 N.J.S.2C:39-4 of possessing a machine gun or assault firearm
21 with intent to use it against the person of another, or of a crime
22 under any of the following sections: N.J.S.2C:11-3,
23 N.J.S.2C:11-4, N.J.S.2C:12-1b., N.J.S.2C:13-1, N.J.S.2C:14-2a.,
24 N.J.S.2C:14-3a., N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:29-5,
25 N.J.S.2C:35-5, who, while in the course of committing or
26 attempting to commit the crime, including the immediate flight
27 therefrom, used or was in possession of a machine gun or assault
28 firearm shall be sentenced to a term of imprisonment by the
29 court. The term of imprisonment shall include the imposition of
30 a minimum term. The minimum term shall be fixed at 10 years
31 for a crime of the first or second degree, five years for a crime
32 of the third degree, or 18 months in the case of a fourth degree
33 crime, during which the defendant shall be ineligible for parole.

34 The minimum terms established by this section shall not
35 prevent the court from imposing presumptive terms of
36 imprisonment pursuant to paragraph (1) of subsection f. of
37 N.J.S.2C:44-1 for crimes of the first degree.

38 A person who has been convicted of an offense enumerated in
39 this subsection and who used or possessed a machine gun or
40 assault firearm during its commission, attempted commission or
41 flight therefrom and who has been previously convicted of an
42 offense involving the use or possession of any firearm as defined
43 in subsection d. of N.J.S.2C:44-3, shall be sentenced by the court
44 to an extended term as authorized by subsection d. of
45 N.J.S.2C:43-7, notwithstanding that extended terms are
46 ordinarily discretionary with the court.

47 h. The court shall not impose a mandatory sentence pursuant
48 to subsection g. of this section, subsections d. of N.J.S.2C:43-7 or
49 N.J.S.2C:44-3, unless the ground therefor has been established at
50 a hearing. At the hearing, which may occur at the time of
51 sentencing, the prosecutor shall establish by a preponderance of
52 the evidence that the weapon used or possessed was a machine
53 gun or assault firearm. In making its finding, the court shall take
54 judicial notice of any evidence, testimony or information adduced
55 at the trial, plea hearing, or other court proceedings and shall

1 greater, or 18 months in the case of a fourth degree crime, during
2 which the defendant shall be ineligible for parole.

3 The minimum terms established by this section shall not
4 prevent the court from imposing presumptive terms of
5 imprisonment pursuant to 2C:44-1f. (1) except in cases of crimes
6 of the fourth degree.

7 A person who has been convicted of an offense enumerated by
8 this subsection and who used or possessed a firearm during its
9 commission, attempted commission or flight therefrom and who
10 has been previously convicted of an offense involving the use or
11 possession of a firearm as defined in 2C:44-3d., shall be
12 sentenced by the court to an extended term as authorized by
13 2C:43-7c., notwithstanding that extended terms are ordinarily
14 discretionary with the court.

15 d. The court shall not impose a mandatory sentence pursuant
16 to subsection c of this section, 2C:43-7c. or 2C:44-3d., unless
17 the ground therefor has been established at a hearing. At the
18 hearing, which may occur at the time of sentencing, the
19 prosecutor shall establish by a preponderance of the evidence
20 that the weapon used or possessed was a firearm. In making its
21 finding, the court shall take judicial notice of any evidence,
22 testimony or information adduced at the trial, plea hearing, or
23 other court proceedings and shall also consider the presentence
24 report and any other relevant information.

25 e. A person convicted of a third or subsequent offense
26 involving State taxes under N.J.S.2C:20-9, N.J.S.2C:21-15, any
27 other provision of this code, or under any of the provisions of
28 Title 54 of the Revised Statutes, or Title 54A of the New Jersey
29 Statutes, as amended and supplemented, shall be sentenced to a
30 term of imprisonment by the court. This shall not preclude an
31 application for and imposition of an extended term of
32 imprisonment under N.J.S.2C:44-3 if the provisions of that
33 section are applicable to the offender.

34 f. A person convicted of manufacturing, distributing,
35 dispensing or possessing with intent to distribute any dangerous
36 substance or controlled substance analog under N.J.S.2C:35-5, of
37 maintaining or operating a controlled dangerous substance
38 production facility under N.J.S.2C:35-4, of employing a juvenile
39 in a drug distribution scheme under N.J.S.2C:35-6, leader of a
40 narcotics trafficking network under N.J.S.2C:35-3, or of
41 distributing, dispensing or possessing with intent to distribute on
42 or near school property or buses under section 1 of P.L.1987,
43 c.101 (C.2C:35-7), who has been previously convicted of
44 manufacturing, distributing, dispensing or possessing with intent
45 to distribute a controlled dangerous substance or controlled
46 substance analog, shall upon application of the prosecuting
47 attorney be sentenced by the court to an extended term as
48 authorized by subsection c. of N.J.S.2C:43-7, notwithstanding
49 that extended terms are ordinarily discretionary with the court.
50 The term of imprisonment shall, except as may be provided in
51 N.J.S.2C:35-12, include the imposition of a minimum term. The
52 minimum term shall be fixed at, or between, one-third and
53 one-half of the sentence imposed by the court or three years,
54 whichever is greater, not less than seven years if the person is
55 convicted of a violation of N.J.S.2C:35-6, or 18 months in the

1 also consider the presentence report and any other relevant
2 information.

3 i. (1) Any person convicted of a crime under any of the
4 following sections: N.J.S.2C:11-4, N.J.S.2C:12-1b.,
5 N.J.S.2C:13-1, N.J.S.2C:14-2a., N.J.S.2C:14-3a., N.J.S.2C:15-1,
6 N.J.S.2C:18-2, N.J.S.2C:29-5, N.J.S.2C:35-5, who, while in the
7 course of committing or attempting to commit the crime,
8 including the immediate flight therefrom, used or was in
9 possession of a stolen automobile shall be sentenced to a term of
10 imprisonment by the court. In cases of convictions for crimes of
11 the fourth, third or second degree, the court shall sentence the
12 defendant to a term appropriate to a crime one degree higher
13 than that of the crime for which the person was convicted. In
14 cases of convictions of crimes of the first degree, the defendant
15 shall, notwithstanding the provisions of paragraph (1) of
16 subsection a. of N.J.S.2C:43-6, be subject to a term of
17 imprisonment of between 15 and 30 years.

18 (2) The provisions of paragraph (1) of this subsection shall
19 preclude an application for and imposition of an extended term of
20 imprisonment under N.J.S.2C:44-3 if the provisions of that
21 section are applicable to the offender.

22 (3) The court shall not impose a term pursuant to this
23 subsection unless the ground therefor has been established at a
24 hearing. At the hearing, which may occur at the time of
25 sentencing, the prosecutor shall establish the ground therefor by
26 a preponderance of the evidence. In making its finding, the court
27 shall take judicial notice of any evidence, testimony or
28 information adduced at the trial, plea hearing, or other court
29 proceedings and shall also consider the presentence report and
30 any other relevant information.

31 (cf: P.L.1990, c.32, s.6)

32 2. This act shall take effect immediately.

STATEMENT

37 This bill would require the imposition of a term of
38 imprisonment on persons who use stolen automobiles to commit
39 certain crimes (i.e. robbery, aggravated assault, manslaughter).
40 The bill also provides that if the offense for which the person was
41 convicted is graded as a crime of the fourth, third or second
42 degree and a stolen automobile was involved, the court shall
43 sentence the defendant to a term appropriate to a crime one
44 degree higher than that of the crime for which the person was
45 convicted. In cases involving crimes of the first degree when a
46 stolen automobile is involved, the court would sentence the
47 defendant to a term of imprisonment of between 15 and 30
48 years. The normal term of imprisonment for crimes of the first
49 degree is between 10 and 20 years.

54 Upgrades penalties for certain crimes committed with a stolen
55 automobile.

