

Police sweeps: Should wrongs take a right?

Public housing security begs debate

IN DEPTH

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When Congress pulled the final rug out from a crime-punishment with its accompanying measures, anti-crime legislation as its latest target the gang-plagued public housing projects that are home to the urban poor.

In Chicago and New York, violence in public housing has reached such epidemic proportions that politicians are looking to residents to sacrifice personal liberties in the name of improved security.

Many tenants, shaken by frequent gunfire close to home, say they're willing to make such sacrifices.

But civil libertarians and advocates for the poor are troubled by the suggestion that those most vulnerable to crime should be asked to give up certain rights. They say such proposals come at a high cost to the Constitution, with few safety benefits.

Leading the charge for tougher security is President Clinton, who last month announced a policy that would grant police wider authority to raid and search public housing buildings for weapons. The policy, crafted by Attorney General Janet Reno and Housing Secretary Henry Cisneros, was a response to a recent federal court ruling that said public housing raids in Chicago violated tenants' Fourth Amendment protection against unreasonable search and seizure.

The policy calls for residents to sign voluntary lease clauses consenting to police searches. It also would allow housing authorities to search apartments without warrants in "exigent" situations. Other proposals include erecting fences around buildings, issuing identification cards to tenants and authorizing security personnel to search the packages and clothing of anyone entering a public apartment building.

Although Clinton said the policy was designed for housing authorities throughout the country, Twin Cities housing officials say they do not see a need to implement some of its more drastic proposals. But they say tenant support probably would be strong if they did.

In an April 16 radio address, Clinton spoke of the need to recognize tenants' constitutional rights as well as their "right to raise children without the fear of criminals terrorizing where they live."

But that distinction is one that some legal scholars say does not — and should not — exist.

"What people in public housing are being asked to do is to give up a fundamental right," said Columbia University law Prof. Gerard Lynch. "It's the bottom of the slippery slope in a certain way."

Whether that it is so, the policy has wide backing among elected officials. The Senate last week unanimously passed a resolution of support, after Sen. Paul Wellstone, D-Minn., pushed for language stating that search clauses in leases would not be required for residency.

Many who publicly express support for the policy privately question the wisdom of some provisions. And

many supporters acknowledge its limitations. Sen. Carol Moseley-Braun, D-Ill., who voted for the policy, called it a "Band-Aid on a bad situation, on a cancer that's not going to be cured by taking away the dignity of people who are poor and live in public housing."

Why, then, the enthusiasm? Wellstone said that while there is much real concern in Congress and the White House about the level of urban violence, fear of sounding soft on crime also is compelling. "I just think that what happens here is all too often people say, 'We don't think it's a very good thing but we're just going to let it pass,'" he said.

He said he still had problems with some of the policy's other provisions, such as allowing clothing and packages to be searched upon entrance, but "I decided that I could only take on one big part of this fight."

Backers point to support among many public housing residents for room-by-room weapons searches, known as "sweeps." Indeed, tenants of Chicago's high-rise Robert Taylor Homes were among the most vocal supporters of the administration policy at a special hearing before a House Banking subcommittee in Chicago on April 22.

Twice as many incidents of crime occur in Chicago's public housing buildings as in any other part of the city and law-abiding residents are fed up, said Chicago Housing Authority spokesman Steve Canly. "It is intolerable that children have to sleep on the floor in their bathtubs, that people are afraid to leave their apartments to go to work, school or to the grocery store."

Jon Gutzmann, executive director of the St. Paul Public Housing Agency, said he thinks similar support exists in the Twin Cities. "We hear it over and over again that residents want a decent and safe living environment," he said.

Bill Paterson, a spokesman for the Minneapolis Public Housing Authority, also said that he thinks support for voluntary searches is strong but that it would probably fade somewhat if a specific policy were presented.

Critics say widespread support is not sufficient grounds to waive the tenants' Fourth Amendment and privacy rights. The policy will result in some residents making decisions for others, said Georgetown University law professor David Cole. "If one person signs the lease and five people live there, does that one person's signing of the lease automatically give up the rights of the other people?" Cole said.

Even in light of the administration go-ahead, Minneapolis and St. Paul housing authorities say they are not considering warrantless searches or asking residents to consent to them. Although the policy may be necessary in Chicago, Gutzmann said, it would be far too drastic for the Twin Cities. Unlike Chicago, Minneapolis and St. Paul have few vacant public housing units, which in larger cities are often taken over by gangs.

Minneapolis has 6,700 public housing units; 5,100 high-rise apartments, 900 row house units and 700 house units at scattered sites throughout the city. St. Paul has 2,580 high-rise apartments, 1,727 family units in four developments and 447 units at scattered sites.

Although Clinton administration officials say sweeps routinely turn up hundreds of illegal weapons, opponents question whether they are very effective. Vivian Berger, general counsel of the American Civil Liberties Union, said many of the weapons police found were turned up in vacant apartments and common areas such as lounges and stairwells — areas police may already search without warrants.

Berger agrees that violence in public housing has reached astonishing levels, but said there is still an important difference between airports or federal courts — where searches of clothing and packages are routine and legal — and people's homes.

"You're chilling a lot of constitutional conduct by invading privacy and . . . treating the poor like second-class citizens," she said. "I don't think you meet one kind of horror with another."

Typically, the courts view the home as the place where privacy rights are closest to absolute, Cole said. But if residents knowingly volunteer to suspend their rights and can revoke such consent at any time, courts will probably find the lease clause constitutionally permissible, he said.

Lynch said that although the policy could probably be refined to pass constitutional muster, it should be rejected on the basis of its practical implications. "You think the police are going to go to these things and sort of politely knock on the door and say, 'We're here?'" Lynch said. "They're going to have to come in with a team and the team is going to be armed. . . . How does that make your 2-year-old feel? If's such a horrible intrusion that I cannot imagine that people in the United States would vote to have it happen to themselves."

"If you've ever seen an apartment after a thorough search for drugs and guns, you wouldn't want to be the person who possessed that apartment," he said.

For Cole, the most troubling aspect of the policy is that it targets only a certain portion of the population — the poorest and the most politically weak. "There's a tremendous pressure to water down constitutional rights when the threat of crime looms large," he said. "As a historical matter, we as a society have done that largely by denying the constitutional rights of the poor and disadvantaged while retaining constitutional rights of the well off . . . which to me is deeply troubling as a moral and ethical matter."

Gutzmann said those who work closely with public housing residents in such cities as Chicago realize there aren't many other avenues to pursue. "I would urge elected officials who are nervous about this to talk to public housing residents and hear directly from families who are trying to do all the right things to get out of poverty and their desires to live in safe environments," he said.