Here is the final report of Senator Bayh's committee on juvenile delinquency. Because I believe the report generally supports a contrary result on the due process issue, I would not cite it. On p. 73, the report discusses the mandate of Goss v. Lopez: "Obviously such minimal procedural safeguards are already followed in numerous schools across the country and can be implemented with virtually no adverse affects upon the overall disciplinary function." Generally the report is concerned with problems that bear very little relation to what we are concerned with in this opinion. The report is about "violence and vandalism" and concentrates on behavior by students that would be criminal if engaged in by adults. The report states that "the extent of violence and vandalism in schools represents serious and, in some cases, urgent problems for American education." P. 19. But this problem is not one which the practice of corporal punishment is designed to solve. Of course, many believe that sparing the rod at an early age is what leads children to delinquent behavior later on. But I doubt that it would be appropriate to suggest endorsement of that assumption in a judicial opinion. The report itself suggests, by negative implication, that it does not regard corporal punishment as a serious means of avoiding the problems with which it is concerned.
I would rely on the report only if the dissent(s) rely on it. If it is cited against us, there are two passages that we could make use of:

(1) On p. 60 the report states, "It should be understood that none of the counseling or disciplinary strategies discussed above are intended to eradicate or replace the more traditional disciplinary techniques currently used in schools." This could be used to undercut the force of an argument that the report suggests that Congress doesn't regard corporal punishment as a legitimate disciplinary measure. (2) On p. 89 the report states, "The single most beneficial strategy for reducing and preventing violence and vandalism is the active involvement of the educational community in the kinds of . . . programs discussed in . . . this report." This might be used to support the view that educational policy is best left to the educational community.
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BY

Senator Birch Bayh, Chairman

TO THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

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