

THE CHOICE ON GUN SHOWS

Would you rather:

- (A) **Put guns into the hands of 17,000 criminals?**
(The Dingell Gun Show amendment to H.R. 2122)
- (B) **Put guns into the hands of 9,000 criminals?**
(The Hyde/McCollum Gun Show measure)
- (C) **Put guns into the hands of 0 criminals?**
(The McCarthy/Roukema/Blagojevich amendment)

Dear Colleague:

If your answer was (C), then we strongly urge you to vote for the McCarthy-Roukema-Blagojevich Gun Show amendment and against BOTH the Hyde-McCollum measure and the Dingell amendment.

The Department of Justice estimates that Hyde/McCollum's changes to the Brady Law would have allowed 9,000 criminals to acquire guns over the past 6 months. Even worse, the Dingell amendment's weakening of the Brady Law would have allowed 17,000 criminals to acquire firearms over the same time period.

Don't be misled: The only difference between the Hyde/McCollum and Dingell measures is how many more criminals could legally purchase firearms at Gun Shows. Neither measure represents the "middle ground."

The debate over these three measures really comes down to the NRA's attempt to gut the Brady Law. We urge you to get the facts on this important issue:

- 73% of all background checks on firearms purchasers are completed instantly, and 95% percent are completed within 2 hours! Upon completion of a check, gun buyers may leave immediately with their firearms purchase.
- In only 5% of cases, background checks are delayed for more than two hours when purchasers have "questionable" arrest records and police need to investigate the status of their convictions. The Brady Law allows police up to 3 business days to conduct a thorough investigation of such purchasers before they allow a gun to be put in their hands.
- Both the Hyde/McCollum measure and the Dingell amendment gut this background check provision of the Brady law. Hyde/McCollum would reduce this investigative period to 72 hours and Dingell would reduce this period to 24 hours. If police can't meet this unrealistic deadline, both measures require that the gun still be provided to the purchaser.

80% of the America people support real gun show reform. Therefore, we urge you to support the McCarthy/Roukema/Blagojevich amendment.

Sincerely,

Carolyn McCarthy
Member of Congress

Marge Roukema
Member of Congress

Rod Blagojevich
Member of Congress

Support the Second Amendment -- the National Rifle Association Urges You to Vote "No" on the Lofgren Motion to Instruct Today!

Rep. Lofgren's motion to instruct demands a date certain deadline for the Juvenile Justice Conference Committee to begin deliberations on H.R. 1501. Yet at the same time, Rep. Lofgren is also demanding that the House Conferees accept nothing less than the Senate-passed version of H.R. 1501.

In a letter, of March 2nd, from Congressmen Gephardt and Bonior, and signed by Rep. Lofgren and other Members, to Senator Orrin Hatch, they demand the following "Such a conference report MUST include gun safety measures that are AT LEAST as strong as those passed by the Senate."

How can Rep. Lofgren expect the House conferees to agree to something that failed in the House twice already last June (McCarthy and Conyers amendments) and will fail again if brought up for a vote? Do they really want to help address the juvenile crime problem in this country or are they just politically posturing in an election year?

There is no reason to force a deadline other than to allow political grandstanding on issues that Members are already trying to resolve in good faith.

the National Rifle Association Urges You to Vote "No" Today on the Lofgren Motion To Instruct Conferees on H.R. 1501

John -

F-225-3336

Pat

F-225-0546

John

Ted -

F-5-7680

PRESS RELEASE

Congressman John Conyers, Jr.

Fourteenth District, Michigan
Ranking Member, Committee on the Judiciary
Dean, Congressional Black Caucus

EMBARGOED FOR RELEASE:

March 7, 2000

CONTACT:

Ted Kalo (202) 225-6906

**Conyers Releases Hyde Language and Supporting Documentation,
Says Gun Show Proposal is "Loophole-ridden" and
Clip ban is "Meaningless"**

Today, John Conyers, Jr., Ranking Member of the House Judiciary Committee, released the latest gun safety proposal offered by Judiciary Committee Chairman Henry Hyde. Commenting on Chairman Hyde's contention that his bill represents a "middle ground," Conyers criticized the proposal and repeated his call for a conference meeting:

"In this case it is not the perfect being the enemy of the good, but special interest loophole that it is the enemy of the public's safety. Unfortunately, I must disagree with Chairman Hyde's contention that his bill represents a 'middle ground' between the Lautenberg amendment and NRA backed proposals. The proposal and the supporting documentation I have released clearly demonstrate that the heart of the bill -- who the bill applies to and the time allotted to conduct background checks -- have an uncanny resemblance to previous proposals offered with the backing of the NRA that would allow more criminals to get guns.

The only difference is this debate is not, as some say, the gun show proposal. Aside from the serious problems in his gun show proposal, it is striking that the Hyde proposal eviscerates the high capacity ammunition clip importation ban in the Senate gun safety bill and the amendment Chairman Hyde offered on the floor. A cursory comparison on Hyde's amendment offered in June and his latest proposal reveals that the latest 'clip ban proposal' is a meaningless restatement of current law.

We want an open and public conference meeting to debate our respective proposals. The Republican Leadership fears such a meeting. That fact alone speaks volumes."

#106-92#

**THE HYDE PROPOSAL:
GUN SHOW LOOPHOLES AND
A MEANINGLESS CLIP BAN**

HOW S. 254 CLOSES THE GUN SHOW LOOPHOLE	HOW THE HYDE PROPOSAL REOPENS THE GUN SHOW LOOPHOLE	WHY IT MAKES A DIFFERENCE
Defines "gun show" to cover <i>all</i> events where a large number of guns are for sale.	The Hyde proposal resurrects language from the failed Hatch-Craig amendment that applies background checking requirements only to events that are both "sponsored to foster the collecting, competitive use, sporting use, or any other legal use of firearms."	<u>The Hyde proposal creates a "gun runner" loophole.</u> Under the Hyde proposal, there would still be lots of flea markets, sport shows and gun shows where hundreds of guns are being sold without background checks. Under the Hyde proposal, if the event is not "sponsored" for a reason set out in the bill, background checks would not be required at the event, no matter how many guns are for sale. A gun show organizer could simply recast the purpose of his gun show by selling items other than guns and could then argue that his event was sponsored for another purpose such as promoting home security or for making a profit and thereby circumvent background checking requirements. Indeed, the vast majority of flea markets, sport shows and gun shows sell items other than guns, such as knives, books or survival gear.
Prohibits evasion of the Brady Law by requiring background checks on all gun show transactions.	The Hyde proposal applies only to transactions where the purchaser sells, transfers or exchanges a gun while the gun is accessible at the gun show or the curtilage area of the gun show.	<u>The Hyde proposal creates a "let's step outside" loophole,</u> allowing a gun seller to offer to sell a gun at a gun show, the purchaser to accept the offer and the transaction to be completed at another location without a background check.

HOW S. 254 CLOSES THE GUN SHOW LOOPHOLE	HOW THE HYDE PROPOSAL REOPENS THE GUN SHOW LOOPHOLE	WHY IT MAKES A DIFFERENCE.
Applies the current Brady Law to all transfers of guns at gun shows.	The Hyde proposal would allow prohibited purchasers such as wife beaters and mentally disturbed persons to buy guns at gun show if the NICS system does not respond within 24 hours and there is no "official record" which indicates the individual is a prohibited purchaser. This significantly shortens the up to three business days allowed under current law to investigate any potentially disqualifying information.	<u>The Hyde proposal creates a "convicted felon" loophole.</u> Under the Hyde proposal, felons, fugitives, and other prohibited persons will get guns at gun shows, even though they could not get guns at gun stores. Although more than 70% of all Brady checks are completed within minutes, some checks require a few days and we know that those purchasers who require additional time to investigate are <u>20 times more likely to be a prohibited purchaser.</u> Non- "official" records, currently used by the background checking system, such as non-finalized domestic violence restraining orders, letters from courts and communications from law enforcement officials could not be investigated for more than 24 hours and - consequently - a gun would have to be transferred to a possible wife beater or mentally disturbed person at the expiration of that time period.
Requires everyone who wants to sell a gun at a gun show to verify their identity to the gun show promoter, and to be notified that they understand they must have a background check done on their buyer.	The Hyde proposal does not require that anyone notify ALL sellers of background check requirements and exempts all gun sellers who do not rent a table as a "vendor" -- but instead walk around selling guns at the gun show -- from verifying their identity.	<u>The Hyde proposal creates a "roving vendor" loophole</u> allowing gun vendors at gun shows to sell firearms with no background checks if they are simply walking the premises and not fixed at an assigned location. This loophole complicates what is otherwise a very simple rule: if you intend to sell a gun at a gun show, you must check in with the promoter and be notified of your obligations to have a background check done on your buyer.

HOW S. 254 CLOSES THE GUN SHOW LOOPHOLE	HOW THE HYDE PROPOSAL REOPENS THE GUN SHOW LOOPHOLE	WHY IT MAKES A DIFFERENCE.
Enhances law enforcement's ability to trace used guns if those guns are used in crimes.	The Hyde proposal prevents tracing of <i>all</i> crime guns sold through "instant check registrants" at gun shows and does nothing to improve tracing of used guns sold by licensed dealers.	Under <u>the Hyde proposal</u> , gun shows remain a safe harbor for criminals, who know that there are no recordkeeping requirements on unlicensed sales at gun shows and, therefore, law enforcement will be unable to trace used guns bought and sold at gun shows.
Uses existing framework of federally-licensed firearms licensees to do background checks on behalf of unlicensed sellers at gun shows. Protects privacy of gun buyers who get their backgrounds checked by using licensed professional dealers – who are subject to strict recordkeeping and inspection – to do background checks.	The Hyde proposal adds new layer of bureaucracy to federal firearms regulation by resurrecting the "special registrants" (now called "instant check registrants") from the repudiated Craig Amendment to the Senate bill. Allows anyone to get an "instant check registration" that will allow them to do background checks and transfer guns, even if they don't know anything about guns or the firearms business.	<u>The Hyde proposal</u> opens up a "fly-by-night background checker" loophole. Creation of "instant check registrants" invites fraudulent transactions by creating a fly-by-night background checker with no vested interest in the integrity of the background checking system. Licensed professional firearms dealers already have experience filling out the appropriate paperwork and using the NICS, and will make entries with fewer errors than non-professionals, assuring more accurate background checks and crime gun tracing information. Licensed dealers also stand to lose their business if they engage in fraud while "instant check registrants" do not.

HOW S. 254 CLOSES THE GUN SHOW LOOPHOLE	HOW THE HYDE PROPOSAL REOPENS THE GUN SHOW LOOPHOLE	WHY IT MAKES A DIFFERENCE.
Allows States with instant check system to continue to operate under their existing framework.	The Hyde proposal forbids anyone doing background checks as points of contact for the instant check system – even states with their own instant check systems – from retaining records or charging a fee.	Keeping States in the Brady check system assures the most thorough background checks, because States often have access to records that the federal government cannot access. The Hyde proposal will drive States away from doing background checks.
Does not create any new immunities.	The Hyde proposal gives gun sellers and "registrants" at gun shows potentially sweeping immunity.	<u>The purpose of gun show legislation is to increase the personal responsibility of those who engage in gun transactions.</u> The Hyde proposal works to minimize this needed accountability.

Gun Show Definition

from receiving or possessing firearms or ammunition; and

'(ii) as a term or condition for posting or listing the firearm for sale or exchange on the web site for a prospective transferor, the web site, advertisement or notice requires that, in the event of any agreement to sell or exchange the firearm pursuant to that posting or listing, the firearm be transferred to that person for disposition through a federal firearms licensee, where the Gun Control Act of 1968 requires the transfer to be made through a federal firearms licensee.'

'(b) **Technical and Conforming Admendments**--The analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 930 the following:

'**931. Criminal firearms and explosives solicitation.**'

[Page: S5313]

SEC. 433. EFFECTIVE DATE:

The amendments made by Sections 430-432 shall take effect beginning on the date that is 180 days after of the enactment of this Act.

On page 65, after line 20, insert the following:

SEC. XX. APPLICATION OF SECTION 923 (j) AND (m).

Notwithstanding any other provision of this Act, section 923 of title 18, United States Code, as amended by this Act, shall be a

In subsection (j) amer

(1) paragraph (2)(A) :

**HATCH/CRAIG: AN NRA-ENDORSED
DEFINITION REPUDIATED BY THE SENATE**

'(A) **In general:** A ter
in the State specified
bought, sold, traded, :

r a gun show, or event
lated items may be
tws.

'(B) **Locations out of state:** If the location is not in the State specified on the license, a licensee may display any firearm, and take orders for a firearm or effectuate the transfer of a firearm, in accordance with this chapter, including paragraph (7) of this subsection.'

'(C) **Qualified gun shows or events.**--A gun show or an event shall qualify as a temporary location if--

'(i) the gun show or event is one which is sponsored, for profit or not, by an individual, national, State, or local organization, association, or other entity to foster the collecting, competitive use, sporting use, or any other legal use of firearms; and

'(ii) the gun show or event has (a) 20 percent or more firearm exhibitors our of all exhibitors; or (b) 10 or more firearms exhibitors.

(2) paragraph (3)(C) to read as follows:

'(C) shall be retained at the premises specified on the license.'; and

(3) paragraph (7) to read as follows:

'(7) **No effect on other rights:** Nothing in this subsection diminishes in any manner any right to display, sell, or otherwise dispose of firearms or ammunition that is in effect before the date of enactment of the Firearms Owners' Protection Act, including the right of a licensee to conduct firearms transfers and business away from their business premises with another licensee without regard to whether the location of the business is in the State specified on the license of either licensee.'

In subsection (m), amend--

1 “(35) The term ‘gun show’ means an event which is
2 sponsored to foster the collecting, competitive use, sport-
3 ing use, or any other legal use of firearms, and—

4 “(A) at which 50 or more firearms are offered
5 or exhibited for sale, transfer, or exchange, if 1 or
6 more of the firearms has been shipped or trans-
7 ported in, or the event otherwise affects, interstate
8 or foreign commerce; and

9 “(B) at which there are not less than 5 firearm
10 vendors.

11 _____, a gun
12 sh **HYDE: RESURRECTS THE FAILED HATCH-** ad any
13 la) **CRAIG LANGUAGE** all real
14 pr ich ac-
15 tivities in furtherance of firearms transactions occur.

16 “(37) The term ‘gun show organizer’ means any per-
17 son who organizes or conducts a gun show.

18 “(38) The term ‘gun show vendor’ means any person
19 who, at a fixed, assigned, or contracted location, exhibits,
20 sells, offers for sale, transfers, or exchanges 1 or more
21 firearms at a gun show.”.

22 (b) TIME LIMIT FOR NATIONAL INSTANT CRIMINAL
23 BACKGROUND CHECKS.—Section 103(e) of the Brady
24 Handgun Violence Prevention Act (18 U.S.C. 922 note)
25 is amended by adding at the end the following:

Let's Step Outside Loophole

546

1 “(ii) the appropriate State law en-
2 forcement agency of the jurisdiction in
3 which the transfer occurs; and

4 “(6) retain a record of the transfer as part of
5 the permanent business records of the licensed im-
6 porter, licensed manufacturer, or licensed dealer.

7 “(f) RECORDS OF LICENSEE TRANSFERS.—If any
8 part of a firearm transaction takes place at a gun show,
9 each licensed importer, licensed manufacturer, and li-
10 censed dealer who transfers 1 or more firearms to a person
11 who is not licensed under this chapter shall, not later than
12 10 days after the date on which the transfer occurs, sub-
13 mit to the Secretary a report of the transfer, which
14 report—

15 “(1) shall be in a form specified by the Sec-
16 retary by regulation;

17 “(2) shall not include the name of or other
18 _____ ee;

19 **S. 254: AIRTIGHT BACKGROUND CHECKS**
20 **ON SALES AT GUN SHOWS** in

21
22 “(g) FIREARM TRANSACTION DEFINED.—In this sec-
23 tion, the term ‘firearm transaction’—

24 “(1) includes the offer for sale, sale, transfer,
25 or exchange of a firearm; and

*offer
included*

1 “(c) The Secretary shall provide to each gun show
2 organ _____ ub-
3 section HYDE: “LET’S STEP OUTSIDE” LOOPHOLE tws
4 that : ad-
5 ing al

6 “(d)(1) It shall be unlawful, at a gun show or the
7 curtilage area of a gun show, for a person who is not li-
8 censed under section 923 to sell, transfer, or exchange to
9 another person who is not licensed under section 923, a
10 firearm that is accessible at the gun show or in the
11 curtilage area of the gun show, unless—

where
is
offer?

12 “(A) the firearm is transferred through a li-
13 censed importer, licensed manufacturer, or licensed
14 dealer otherwise in accordance with law; or

15 “(B)(i) before the completion of the transfer,
16 an instant check registrant contacts the national in-
17 stant criminal background check system established
18 under section 103 of the Brady Handgun Violence
19 Prevention Act;

20 “(ii)(I) the system provides the registrant with
21 a unique identification number; or

22 “(II) 3 business days (meaning a day on which
23 State offices are open) have elapsed since the reg-
24 istrant contacted the system, and the system has not
25 notified the registrant that the receipt of a firearm

Convicted Felon Loophole

§ 25.6

28 CFR Ch. I (7-1-99 Edition)

NICS Index and will immediately correct any record determined to be invalid or incorrect.

§ 25.6 Accessing records in the system.

(a) FFLs may initiate a NICS background check only in connection with a proposed firearm transfer as required by the Brady Act. FFLs are strictly prohibited from initiating a NICS background check for any other purpose. The process of accessing the NICS for the purpose of conducting a NICS background check is initiated by an FFL's contacting the FBI NICS Operations Center (by telephone or electronic dial-up access) or a POC. FFLs in each state will be advised by the ATF whether they are required to initiate NICS background checks with the NICS Operations Center or a POC and

how

(b)

NIC

tact

of

dur

add

elec

will

gini

with

able to contact the NICS 24 hours each day, excluding scheduled and unscheduled downtime.

(c)(1) The FBI NICS Operations Center, upon receiving an FFL telephone or electronic dial-up request for a background check, will:

(i) Verify the FFL Number and code word;

(ii) Assign a NICS Transaction Number (NTN) to a valid inquiry and provide the NTN to the FFL;

(iii) Search the relevant databases (i.e., NICS Index, NCIC, III) for any matching records; and

(iv) Provide the following NICS responses based upon the consolidated NICS search results to the FFL that requested the background check:

(A) "Proceed" response, if no disqualifying information was found in the NICS Index, NCIC, or III.

(B) "Delayed" response, if the NICS search finds a record that requires more research to determine whether the prospective transferee is disqualified from possessing a firearm by Fed-

eral or state law. A "Delayed" response to the FFL indicates that the firearm transfer should not proceed pending receipt of a follow-up "Proceed" response from the NICS or the expiration of three business days (exclusive of the day on which the query is made), whichever occurs first. (Example: An FFL requests a NICS check on a prospective firearm transferee at 9:00 a.m. on Friday and shortly thereafter receives a "Delayed" response from the NICS. If state offices in the state in which the FFL is located are closed on Saturday and Sunday and open the following Monday, Tuesday, and Wednesday, and the NICS has not yet responded with a "Proceed" or "Denied" response, the FFL may transfer the firearm at 12:01 a.m. Thursday.)

(C) "Denied" response when at least

either

it pro-

g that

ective

C. 922

sponse

g FFL

during

ded to

of this

section will contain any of the underlying information in the records checked by the system.

(d) Access to the NICS through POCs.

In states where a POC is designated to process background checks for the NICS, FFLs will contact the POC to initiate a NICS background check. Both ATF and the POC will notify FFLs in the POC's state of the means by which FFLs can contact the POC. The NICS will provide POCs with electronic access to the system virtually 24 hours each day through the NCIC communication network. Upon receiving a request for a background check from an FFL, a POC will:

(1) Verify the eligibility of the FFL either by verification of the FFL number or an alternative POC-verification system;

(2) Enter a purpose code indicating that the query of the system is for the purpose of performing a NICS background check in connection with the transfer of a firearm; and (3) Transmit

CURRENT LAW: BETTER SAFE THAN SORRY

1 “(3) DEADLINE FOR COMPLETION OF CHECKS
2 REQUESTED FROM GUN SHOWS.—

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), the Attorney General shall
5 ensure that each background check conducted
6 through the national instant criminal back-
7 ground check system pursuant to a request
8 made from a gun show is completed within 24
9 hours after an authorized person has contacted
10 the system to request the check.

11 “(B) EXCEPTIONS.—The requirement of
12 subparagraph (A) shall not apply if the system
13 indicates that—

14 “(i) receipt of the firearm by the pro-
15 spective transferee would violate subsection
16 (g) or (n) of section 922; or

17 “(ii) there exists an arrest record, civil
18 commitment complaint, or official record
19 with respect to a matter described in sub-
20 section (g) or (n) of section 922, which in-
21 dicates that receipt of the firearm by the
22 prospective transferee may violate sub-
23 section (g) or (n) of section 922.”

24
25 S HYDE: “OFFICIAL” RECORDS

T GUN

Roving Vendor Loophole

539

1 “(A) at which 50 or more firearms are offered
2 or exhibited for sale, transfer, or exchange, if 1 or
3 more of the firearms has been shipped or trans-
4 ported in, or otherwise affects, interstate or foreign
5 commerce; and

6 “(B) at which—

7 “(i) not less than 20 percent of the exhibi-
8 tors are firearm exhibitors;

9 “(ii) there are not less than 10 firearm ex-

10 _____
11 _____ or

**S. 254: EVERY SELLER APPRISED OF
BACKGROUND CHECK REQUIREMENT**

13
14 promoter' means any person who organizes, promotes, or o-
15 motes, or operates a gun show.

16 “(37) GUN SHOW VENDOR.—The term ‘gun show
17 vendor’ means any person who exhibits, sells, offers for
18 sale, transfers, or exchanges 1 or more firearms at a gun
19 show, regardless of whether or not the person arranges
20 with the gun show promoter for a fixed location from
21 which to exhibit, sell, offer for sale, transfer, or exchange
22 1 or more firearms.”

23 (c) REGULATION OF FIREARMS TRANSFERS AT GUN
24 SHOWS.—

540

1 (1) IN GENERAL.—Chapter 44 of title 18,
2 United States Code, is amended by adding at the
3 end the following:

4 **“§ 931. Regulation of firearms transfers at gun shows**

5 **“(a) REGISTRATION OF GUN SHOW PROMOTERS.—**

6 It shall be unlawful for any person to organize, plan, pro-
7 mote, or operate a gun show unless that person—

8 “(1) registers with the Secretary in accordance
9 with regulations promulgated by the Secretary; and

10 “(2) pays a registration fee, in an amount de-
11 termined by the Secretary.

12 **“(b) RESPONSIBILITIES OF GUN SHOW PRO-**
13 **MOTERS.—**It shall be unlawful for any person to organize,
14 plan, promote, or operate a gun show unless that person—

15 “(1) before commencement of the gun show,
16 verifies the identity of each gun show vendor partici-
17 pating in the gun show by examining a valid identi-
18 fication document (as defined in section 1028(d)(1))
19 of the vendor containing a photograph of the vendor;

20 “(2) before commencement of the gun show, re-
21 quires each gun show vendor to sign—

22 “(A) a ledger with identifying information
23 concerning the vendor; and

MUST
BE AT
FIXED
LOCATION

November 4, 1999 (2:01 PM)
F:\V6\110499\110499.0A2

1 “(4) A registration issued under this subsection may
2 be revoked pursuant to the procedures provided for license
3 revocations under section 923.

4 “(b) It shall be unlawful for any person to organize
5 or conduct a gun show unless the person—

6 “(1) registers with the Secretary in accordance
7 with regulations promulgated by the Secretary,
8 which shall not require the payment of any fee for
9 such registration;

10 “(2) before commencement of the gun show—

11 “(A) records and verifies the identity of
12 each individual who is to be a gun show vendor
13 at the gun show by examining, but not retain-
14 ing, a copy of, a valid identification document
15 (as defined in section 1028(d)(1)) of the indi-
16 vidual containing a photograph of the indi-
17 vidual; and

18 “(B) provides to each such individual a
19 copy of the document provided by the Secretary
20 under subsection (c); and

21 “(3) maintains a copy of the records described
22 in paragraph (2) at the permanent place of business
23 of the gun show organizer for such period of time
24 and in such form as the Secretary shall require by
25 regulation.

Tracing loophole

**S. 254: MEASURES AID IN THE
IDENTIFICATION OF GUN CRIMINALS**

1 en-
2 n in

4 **HYDE: NO MEASURES AID IN THE** art of
5 **IDENTIFICATION OF GUN CRIMINALS** l im-
6

7 “(f) RECORDS OF LICENSEE TRANSFERS.—If any
8 part of a firearm transaction takes place at a gun show,
9 each licensed importer, licensed manufacturer, and li-
10 censed dealer who transfers 1 or more firearms to a person
11 who is not licensed under this chapter shall, not later than
12 10 days after the date on which the transfer occurs, sub-
13 mit to the Secretary a report of the transfer, which
14 report—

15 “(1) shall be in a form specified by the Sec-
16 retary by regulation;

17 “(2) shall not include the name of or other
18 identifying information relating to the transferee;
19 and

20 “(3) shall not duplicate information provided in
21 any report required under subsection (e)(4).

22 “(g) FIREARM TRANSACTION DEFINED.—In this sec-
23 tion, the term ‘firearm transaction’—

24 “(1) includes the offer for sale, sale, transfer,
25 or exchange of a firearm; and

*Measures
that
aid in
identification
of
gun
criminals*

"Fly-By-Night Background Checker" Loophole

(1) paragraph (2)(E)(i) to read as follows:

'(i) **In general:** A person not licensed under this section who desires to transfer a firearm at a gun show in his State of residence to another person who is a resident of the same State, and not licensed under this section, shall only make such a transfer through a licensee who can conduct an instant background check at the gun show, or directly to the prospective transferee if an instant background check is first conducted by a special registrant at the gun show on the prospective transferee. For any instant background check conducted at a gun show, the time period stated in section 922(t)(1)(B)(ii) of this chapter shall be 24 hours in a calendar day since the licensee contacted the system. If the services of a special registrant are used to determine the firearms eligibility of the prospective transferee to possess a firearm, the transferee shall provide the special registrant at the gun show, on a special and limited-purpose form that the Secretary shall prescribe for use by a special registrant--

'(I) the name, age, address, and other identifying information of the prospective transferee (or, in the case of a prospective transferee that is a corporation or other business entity, the identity and principal and local places of business of the prospective transferee); and

'(II) proof of verification _____ section 922(t)(1)(C).'; and

(2) paragraph (4) to read **HATCH-CRAIG: NRA-ENDORSED "SPECIAL REGISTRANT" LOOPHOLE**

'(4) **Immunity:**

'(A) **Definition:** In this

'(i) **In general:** The term 'qualified civil liability action' means a civil action brought by any person against a person described in subparagraph (B) for damages resulting from the criminal or unlawful misuse of the firearm by the transferee or a third party.

'(ii) **Exclusions:** The term 'qualified civil liability action' shall not include an action--

'(I) brought against a transferor convicted under section 924(h), or a comparable State felony law, by a person directly harmed by the transferee's criminal conduct, as defined in section 924(h); or

'(II) brought against a transferor for negligent entrustment or negligence per se.

'(B) **Immunity:** Notwithstanding any other provision of law, a person who is--

'(i) a special registrant who performs a background check in the manner prescribed in this subsection at a gun show;

'(ii) a licensee or special licensee who acquires a firearm at a gun show from a nonlicensee, for transfer to another nonlicensee in attendance at the gun show, for the purpose of effectuating a sale, trade, or transfer between the 2 nonlicensees, all in the manner prescribed for the acquisition and disposition of a firearm under this chapter; or

'(iii) a nonlicensee person disposing of a firearm who uses the services of a person described in clause (i) or (ii);

shall be entitled to immunity from civil liability action as described in subparagraphs (C) and (D).

'(C) **Prospective actions:** A qualified civil liability action may not be brought in any Federal or State court.

'(D) **Dismissal of pending actions:** A qualified civil liability action that is pending on the date of

F:\JDG\JD\CONF\11.05A

15

1 (1) IN GENERAL.—Chapter 44 of such title is
2 amended by adding at the end the following:

3 **“§ 931. Regulation of firearms transfers at gun shows**

4 “(a)(1) A person who is not a licensed importer, li-
5 censed manufacturer, or licensed dealer, and who desires
6 to be registered as an instant check registrant shall submit
7 to the Secretary an application which—

8 “(A) contains a certification by the applicant
9 that the applicant meets the requirements of sub-
10 paragraphs (A) through (D) of section 923(d)(1);

11 “(B) contains a photograph and fingerprints of
12 _____

13 **HYDE: RESURRECTS NRA-ENDORSED 1 by**
14 **LOOPHOLE**

15 _____ tion
16 submitted pursuant to paragraph (1) which meets the re-
17 quirements of paragraph (1). On approval of the applica-
18 tion and payment by the applicant of a fee of \$100 for
19 3 years, and upon renewal of valid registration a fee of
20 \$50 for 3 years, the Secretary shall issue to the applicant
21 an instant check registration, and advise the Attorney
22 General of the United States of the same, which entitles
23 the registrant to contact the national instant criminal
24 background check system established under section 103
25 of the Brady Handgun Violence Prevention Act for infor-

Meaningless Clip Ban

F:\M6\HYDE\HYDE.015

H.L.C.

AMENDMENT TO H.R. 1501
OFFERED BY MR. HYDE OF ILLINOIS

At the end of the bill, insert the following:

1 **TITLE ____—ASSAULT WEAPONS**

2 **SEC. ____1. SHORT TITLE.**

3 This title may be cited as the “Juvenile Assault
4 Weapon Loophole Closure Act of 1999”.

5 **SEC. ____2. BAN ON IMPORTING LARGE CAPACITY AMMUNI-**
6 **TION FEEDING DEVICES.**

7 Section 922(w) of title 18, United States Code, is
8 amended—

9 (1) in paragraph (1), by striking “(1) Except as
10 provided in paragraph (2)” and inserting “(1)(A)
11 Except as provided in subparagraph (B)”;

12 (2) in paragraph (2), by striking “(2) Para-
13 graph (1)” and inserting “(B) Subparagraph (A)”;

14 (3) by inserting before paragraph (3) the fol-
15 lowing new paragraph (2):

16 “(2) It shall be unlawful for any person to import
17 a large capacity ammunition feeding device.”; and

18 (4) in paragraph (4)—

19 (A) by striking “(1)” each place it appears
20 and inserting “(1)(A)”;

S. 254 AND HYDE AMENDMENT:
AIRTIGHT CLIP BAN

F:\M6\HYDE\HYDE.015

H.L.C.

2

1 (B) by striking "(2)" and inserting
2 "(1)(B)".

3 SEC. ____3. DEFINITION OF LARGE CAPACITY AMMUNITION
4 FEEDING DEVICE.

5 Section 921(a)(31) of title 18, United States Code,
6 is amended by striking "manufactured after the date of
7 enactment of the Violent Crime Control and Law Enforce-
8 ment Act of 1994".

F:\JDG\JD\CONF\11.05A

28

1 ~~the person resides.~~ Any person who is successful with re-

2 sp is, pu-

3 ni **HYDE PROPOSAL: MEANINGLESS** t may

4 de attor

5 ney's fee.

6 **SEC. 1106. BAN ON IMPORTING LARGE CAPACITY AMMUNI-**

7 **TION FEEDING DEVICES.**

8 Section 922(w) of title 18, United States Code, is

9 amended—

10 (1) in paragraph (1), by striking "(1) Except as
11 provided in paragraph (2)" and inserting "(1)(A)
12 Except as provided in subparagraph (B)";

13 (2) in paragraph (2), by striking "(2) Para-
14 graph (1)" and inserting "(B) Subparagraph (A)";

15 (3) by inserting before paragraph (3) the fol-
16 lowing:

17 "(2) It shall be unlawful for any person to import
18 a large capacity ammunition feeding device."; and

19 (4) in paragraph (4)—

20 (A) by striking "(1)" each place it appears
21 and inserting "(1)(A)"; and

22 (B) by striking "(2)" and inserting
23 "(1)(B)".

Singly
reunites
and
reaffirms
existing
Sections

Where is language amending
definition? (Section 3 in
Hyde amendment)

PRESS RELEASE

Congressman John Conyers, Jr.

**Fourteenth District, Michigan
Ranking Member, Committee on the Judiciary
Dean, Congressional Black Caucus**

FOR IMMEDIATE RELEASE:
November 5, 1999

CONTACT:
Ted Kalo
(225-6906)

Conyers Highlights Problems with Hyde Gun Language; Repeats Call for Conference Meeting Before Adjournment

Rep. John Conyers (D-MI), Ranking Member of the House Judiciary Committee detailed his concerns with Henry Hyde's latest gun legislation proposal in a 6-page letter he released today. Conyers observed:

"This proposal, like previous proposals prepared by Hyde, is unacceptable because it opens up massive new loopholes and weakens current gun safety laws. Among other things, it narrowly defines gun shows in a manner that would exclude 'flea markets' and 'sports shows' where thousands of guns are sold, and eliminates measures in the Senate-passed gun safety bill that would aid in the identification of criminals. In addition, it would allow many disqualified individuals, such as wife beaters and mentally disturbed persons, to buy guns without being subject to a three day background check, even where a 'red flag' appeared in the initial check."

Conyers also took the opportunity to address Hyde's claim that Democrats were somehow allowing the "perfect to be the enemy of the good:"

"I have long ago given up on the perfect and am now willing to live with modest but loophole-free. At one point I believed we had an opportunity to ban the sale of handguns to minors under 21, and prevent "straw" gun sellers from purchasing more than one gun a month. In the interest of pragmatism, I am more than willing to put these broader issues aside, so long as we can craft legislation which effectively shuts down the gun show loophole without creating even more dangerous loopholes. However, we must not allow ourselves to be seduced by easy NRA 'compromises' which offer the mirage of gun safety legislation, but which in actuality create massive new loopholes and greatly weaken our gun laws. Rather than the 'perfect being the enemy of the good,' in this case the "special interest loophole" is the enemy of the public's safety and well being."

Conyers concluded by reiterating his call for a conference meeting "before Congress adjourns for the year and any more deadly school or workplace shootings occur." Conyers noted:

"On October 8 you wrote to me that there was a "good chance that [the conferees] will meet as early as next week," a prediction which unfortunately has not proven to be true. I understand that this is because of scheduling conflicts between yourself and Chairman Hatch. However, I now strongly believe that given your and Chairman Hatch's refusal to allow Members to offer amendments at our one initial conference meeting, we owe the American public one honest and full debate before we adjourn for the year. Even if we fail to reach accord, we can clearly be no worse off than the current situation, which offers no potential for a vote prior to adjournment."

(#106-67#)

Summary of Primary Concerns with November 4 Hyde Draft

1. **Your gun show definition resurrects language from the NRA endorsed Hatch-Craig proposal that excludes events where items other than guns are sold from background check requirements.**

The bill should be written so that background checks are required at all public events where a substantial number of guns are sold, regardless of whether other items are also sold at those events, or whether the organizer considers the purpose of the show to be promoting any particular goal. A substantial number of guns are sold at many flea markets and other events that are not sponsored primarily for the sale of guns. Indeed, many events that call themselves “gun shows” also sell knives, books, survival gear, camping equipment, antiques and other items. Your proposal, like the Hatch-Craig amendment rejected by the Senate, insists that an event be “fostered” for a particular purpose related to firearms and, therefore, excludes events where items other than guns are sold from any background check requirements. If this was the law, most gun shows could simply evade the proposed background check requirement by adding sales items and recasting their primary purpose or simply claiming that the event was sponsored for another purpose, such as a desire to profit.

2. **Your proposal eliminates measures in the Senate passed gun safety bill that would aid in the identification of gun criminals. I see no reason to eliminate these measures other than catering to special interest paranoia about a gun registry.**

*
[] compromise
by sending
flea off to
the manufacturers

Because thousands of used guns anonymously trade hands at gun shows every year and are later used in crimes, it is critical that we include measures that close this loophole and enhance the ability of law enforcement officials to identify criminals who use those guns. For example, such measures could be helpful to law enforcement officials trying to locate the perpetrator of the recent Seattle shooting and ascertain who sold the gun to that perpetrator. The Lautenberg amendment contained critical provisions requiring that only the serial numbers of guns sold at gun show be transmitted to the Secretary of the Treasury. Your proposal omits these critical provisions.

3. **By shortening the amount of time allowed for background checks and simultaneously limiting the “red flags” that would allow additional time for such checks, your proposal would let more criminals, batterers, and other prohibited purchasers purchase guns. This not only creates a dangerous loophole, it weakens current gun laws.**

Under current law, the FBI has up to three business days to conduct criminal background checks on firearm purchasers submitted by federally licensed firearm dealers, regardless of whether the dealer sells a gun at a gun show or a gun store. As you know, 95% of these checks are completed in 2 hours. For the remaining 5%, however, additional time is needed to investigate potential disqualifiers because a “red flag” indicates that an

individual may be a prohibited purchaser. We know that these 5% of purchasers are 20 times more likely to be prohibited purchasers than an average purchaser. I believe we should retain the protections in current law that allow us to fully investigate these 5% of purchasers who are 20 times more likely to be prohibited purchasers. However, your proposal, unlike current law that allows three business days to complete background checks for any potentially disqualifying information, would only allow three business days to further investigate "official records" with potentially disqualifying information. This change has major implications: non-finalized domestic restraining orders and communications and phone calls from courts and law enforcement authorities concerning mentally disturbed individuals, which currently may be used by the background check system, would not be permitted to trigger an extra three business days for review by law enforcement authorities on firearm purchases at gun shows. This change may have been made because the NRA in their recent letter stated that, in their view, these records are "irrelevant." I do not, however, believe we should yield on this vital point to American families and thereby allow more wife beaters, felons and other prohibited purchasers to get guns.

4. **Your proposal resurrects the Hatch/Craig proposal to create a new, fly-by-night entity with access to the instant check system and responsibility for ensuring that no criminals or other prohibited purchasers obtain guns.**

Unlike licensed firearm dealers, these purported background checkers, "instant check registrants," do not have the expertise in firearms or the instant check system that licensed dealers possess nor do these checkers have the incentives that licensed dealers have to comply with gun safety law. If you insist on allowing new entities to perform background checks at gun shows, it should be limited to former law enforcement officials.

5. **Your proposal permits "lets step outside" transactions and other transactions which function to circumvent background check requirements.**

We should not allow individuals to advertise a gun at a gun show, offer to sell the gun to a prohibited gun show purchaser that day at another location and not conduct a background check on such a transaction. Such a loophole, I believe, would be an invitation to fraudulent gun sellers to continue to use gun shows as a venue for illegal sales. Your proposal to merely graft on "evasion" prohibitions from money laundering criminal laws is inadequate. As you know, it is critical to prosecutions under these laws for a defendant to have received a notice of the law prior to evading it. Unlike the Lautenberg amendment, your proposal fails to provide notices to all gun show vendors of legal requirements and, therefore, renders your prohibition on evading background check requirements meaningless.

6. **Your proposal immunizes gun show promoters and instant check registrants from liability for their wrongdoing.**

This provision encourages careless behavior on the part of the very people who would be charged with ensuring that criminals do not get guns at gun shows. If gun show promoters and instant check registrants utilize a reasonable standard of care, we do not need to be concerned about their susceptibility to lawsuits.

7. Your proposal fails to place the same requirements on roving vendors as vendors at fixed locations.

Your proposal fails to treat vendors who are sell guns from a moving location in the same manner as vendors at a fixed location. Such vendors are the most difficult to detect conducting illegal sales, and it is essential that they be subject to, at a minimum, the same requirements as other sellers.

8. Your proposal significantly weakens the ban on importing high capacity ammunition clips. I was surprised that your cover summary asserts that the "Hyde proposal also includes other gun related provisions that passed overwhelmingly on the House floor [such as the]...Ammunition clip ban." In my judgment, your new proposal substantially nullifies the ammunition clip ban.

Your proposal appears to alter the amendment banning the importation of high-capacity ammunition clips passed by the House and Senate so as to render it almost meaningless. Unlike the Senate passed language and the amendment you offered on the House floor, this draft fails to include essential language amending the definition of "large capacity ammunition device" to include devices manufactured before 1994. As you characterized the issue on the House floor: "Current law prohibits the transfer or possession of large capacity ammunition feeding devices, such as clips and other types of magazines. But current law also provides a major exception. It permits the possession and transfer of any such device lawfully possessed on or before the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994. That is September 13, 1994. The world is awash in high-capacity ammo clips manufactured before the effective date of the 1994 Act, and such devices have been approved for importation into the United States if importers submit evidence establishing that the devices were manufactured on or before September 13, 1994. Our proposal would amend the definition of a 'large capacity ammunition feeding device' to delete the language limiting the definition to devices manufactured after September 13, 1994." *Congressional Record*, House of Representatives, June 17, 1999. As you recognized last May, the intent of the provision banning the importation of high capacity ammunition clips was to close the loophole that allows the importation of devices manufactured before 1994. Yet, your proposal of yesterday fails to accomplish this basic purpose.

November 5, 1999

The Honorable Henry J. Hyde
Chairman, House Judiciary Committee
2138 Rayburn House Office Building
Washington, D.C. 21515

Dear Chairman Hyde:

I have become increasingly concerned that recent letters and statements attributable to you have created the potential for confusion regarding the status of the juvenile justice and gun safety legislation. I therefore want to take this opportunity to set the record straight, and to again beseech you to call for a conference meeting before Congress adjourns for the year and any more deadly school or workplace shootings occur.

First, I am miffed by your claims that the Democratic Leadership and I continually come up with "new and novel demands," the substance of which you have failed to articulate. The reality is both Mr. Gephardt and I have been very clear from day one – we believe the Lautenberg Amendment effectively shuts down the gun show loophole, however, we are willing to consider alternative language so long as it not burdened with new loopholes or otherwise weakens current gun safety laws. My staff communicated a comprehensive list of such loopholes and other concerns with your September 8 offer to you on September 10. A passing familiarity with the Lautenberg Amendment would clearly indicate that these concerns were neither "new" nor "novel." At no point after that did I or any member of the Democratic Leadership communicate any more novel concerns with regard to your September 8 proposal. I must also dispute your implication that my Leadership does not want a bill. The only instruction I have ever received from the Leadership was to exercise my best efforts to obtain effective and bipartisan legislation. Regretfully, I subsequently had to report back to them that we were unable to obtain a meaningful or loophole-free bill that would warrant Democratic support.

Second, I must also disagree with your statements that you have been "await[ing] a reply" from me regarding your previous proposal. On October 7 and again on October 20 and November 3, I indicated to you that because of the minimal progress in our own discussions, the only way to create some momentum and allow a vote before adjournment was to hold a conference meeting at which all Members could offer proposals and amendments on the many issues that divide us. Simply put, we were at loggerheads and there was nothing further for me to reply to. However, to avoid any possibility of confusion or ambiguity regarding your most recent proposal – a copy of which I only received after it was described in an NRA bulletin and you subsequently forwarded a copy to Mr. Gephardt – I am attaching a detailed description of my concerns with it. None of these concerns are new, and all have been raised previously. Let me be absolutely clear on my position: I believe the attached concerns should be resolved in the sunshine in a public conference meeting; not in closed door negotiations where NRA influence is strongest.

Third, I totally disagree with your contention that Democrats are somehow allowing the “

perfect to be the enemy of the good” as you put it in your November 4 letter. I have long ago given up on the perfect and am now willing to live with modest but loophole-free. At one point I believed we had an opportunity to ban the sale of handguns to minors under 21, and prevent “straw” gun sellers from purchasing more than one gun a month. Unfortunately, you denied Judiciary Members the opportunity to lay the ground work for these issues by unilaterally canceling our committee markup, and we are still awaiting promised hearings on broader gun safety legislation. Moreover, you refused to offer your promised amendment on the sale of guns to minors under 21 on the House floor even after it was made in order by the Rules Committee. Nonetheless, in the interest of pragmatism, I am more than willing to put these broader issues aside, so long as we can craft legislation which effectively shuts down the gun show loophole without creating even more dangerous loopholes.

However, we must not allow ourselves to be seduced by easy NRA “compromises” which offer the mirage of gun safety legislation, but which in actuality create massive new loopholes and greatly weaken our gun laws. This is why I cannot agree to provisions in your most recent proposal which, like the previously rejected Hatch/Craig language, weaken current law by allowing many wife beaters to buy guns at gun shows and defining gun shows so narrowly as to exclude “flea markets” and “sports shows” where thousands of guns are sold. Rather than the “perfect being the enemy of the good,” in this case the “special interest loophole” is the enemy of the public’s safety and well being.

Of course, I am sensitive to the political importance of gun groups to the majority of your caucus and certain members of your leadership. When your Whip announces the House is “pro-gun,” and sends letters seeking political contributions for the National Republican Campaign Committee while simultaneously stating his opposition to gun safety legislation, this sends an unmistakable signal that compromise with the NRA is a fools errand. The NRA opposed the Brady law and has little interest in expanding its protections to gun shows. The price of “compromise” with such groups will inevitably be more loopholes and a weakening in current gun safety laws. It would be far better for us to fight for real and meaningful gun safety laws, which have widespread public support, and I believe could pass the House.

Let me close by taking you up on your offer that you “stand ready to discuss with any Member of either the party” the proposals that we have discussed. There is one simple and obvious way to do that – hold a conference meeting. This would allow all the Members of both parties to discuss legislative language and offer amendments. The issues are not so difficult or complex that we cannot meet in public to seek consensus, or barring that, to at least vote our conscience up or down.

On October 8 you wrote to me that there was a “good chance that [the conferees] will meet as early as next week,” a prediction which unfortunately has not proven to be true. I understand that this is because of scheduling conflicts between yourself and Chairman Hatch. However, I now strongly believe that given your and Chairman Hatch’s refusal to allow Members to offer amendments at our one initial conference meeting, we owe the American

public one honest and full debate before we adjourn for the year. Even if we fail to reach accord, we can clearly be no worse off than the current situation, which offers no potential for a vote prior to adjournment.

Sincerely,

John Conyers, Jr.
Ranking Member

cc: Democratic Conferees

U. S. HOUSE OF REPRESENTATIVES

**Committee on the Judiciary
Democratic Staff Office
B-351-C Rayburn House Office Building
Washington, D.C. 20515**

FACSIMILE COVER LETTER**TO:**Deanne**FAX NO:**456-7028**# PAGES:**9

(including this page)

FROM:_____ PERRY APELBAUM_____ SAMPAK GARG_____ CAROLYN DONNELLY~~_____~~ TED KALO_____ CORI FLAM_____ KEENAN KELLER_____ ANTHONY FOXX_____ TERESA VEST**COMMENTS:**_____

**If parts of this transmission are unclear or transmission
was faulted, please call: (202) 225-6906.**

MAJORITY MEMBERS

HENRY J. HYDE, ILLINOIS, CHAIRMAN
 F. JAMES SENSENBRENNER, JR., WISCONSIN
 BILL MCCOLLUM, FLORIDA
 GEORGE W. GEEKS, PENNSYLVANIA
 HOWARD COBLE, NORTH CAROLINA
 LAMAR S. SMITH, TEXAS
 ELTON GALLEGOS, CALIFORNIA
 CHARLES T. CANADY, FLORIDA
 BOB GOODLATTE, VIRGINIA
 STEVE CHABOT, OHIO
 BOB BARR, GEORGIA
 WILLIAM L. JENKINS, TENNESSEE
 ASA HUTCHINSON, ARKANSAS
 EDWARD A. PEASE, INDIANA
 CHRIS CANNON, UTAH
 JAMES E. ROGAN, CALIFORNIA
 LINDSEY O. GRAHAM, SOUTH CAROLINA
 MARY BONO, CALIFORNIA
 SPENCER BACHUS, ALABAMA
 JOE SCARBOROUGH, FLORIDA
 DAVID VITTER, LOUISIANA

ONE HUNDRED SIXTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

THOMAS E. MOONEY, SR.
 GENERAL COUNSEL - CHIEF OF STAFF

(202) 225-3951

HTTP://WWW.HOUSE.GOV/JUDICIARY

JON DUDAS
 DEPUTY GENERAL COUNSEL - STAFF DIRECTOR

JULIAN EPSTEIN
 MINORITY CHIEF COUNSEL
 AND STAFF DIRECTOR

MINORITY MEMBERS

JOHN CONYERS, JR., MICHIGAN
 BARNEY FRANK, MASSACHUSETTS
 HOWARD L. BERMAN, CALIFORNIA
 RICK BOUCHER, VIRGINIA
 JIMMIE H. NADLER, NEW YORK
 ROBERT C. "BOBBY" SCOTT, VIRGINIA
 MELVIN L. WATT, NORTH CAROLINA
 ZOE LOFGREN, CALIFORNIA
 SHEILA JACKSON LEE, TEXAS
 MAXINE WATERS, CALIFORNIA
 MARTIN T. MEEHAN, MASSACHUSETTS
 WILLIAM D. DELAHUNT, MASSACHUSETTS
 ROBERT WEXLER, FLORIDA
 STEVEN R. ROTHMAN, NEW JERSEY
 TAMMY BALDWIN, WISCONSIN
 ANTHONY D. WEINER, NEW YORK

February 29, 2000

The Honorable Henry J. Hyde
 Chairman
 House Judiciary Committee
 2138 Rayburn House Office Building
 Washington, D.C. 20515

Dear Chairman Hyde:

In light of today's tragic shooting in my home state of Michigan, I write with the utmost urgency to implore you to reconvene the now-dormant Conference Committee on Juvenile Justice and Gun Violence. It is an utter disservice to American parents that we cannot pass simple legislation to prevent so many unnecessary instances of gun violence.

As you may be aware, today a six year old first grade girl was shot and killed by a classmate in Mount Morris Township, Michigan, just a few miles away from my congressional district. Shockingly, early reports indicate that the shooter was a classmate; the shooter was another six year old. "I want to know how a 6-year-old boy got a gun," one distraught mother asked as she waited to take her child home. But we know the answer to her question about how guns can fall into the hands of criminals and children: the gun show loophole, the child safety lock loophole, and the ammunition magazine loophole.

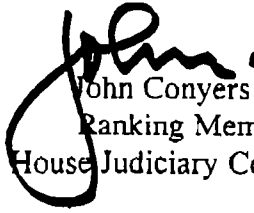
Yet, without any explanation, the juvenile justice conference has not met since early August of 1999. In fact, I am still awaiting a response to my November 5 letter to you requesting a meeting of the conference (attached). I cannot believe that anyone would stand in the way of measures that would help to end this madness and, again, implore you and Chairman Hatch to reconvene the conference committee so this Congress can finally respond to the epidemic of gun violence in our country.

I know we have had policy differences over the substance of legislative proposals to close the gun show loophole and ban the importation of high capacity ammunition magazines. However, our disagreements should not be an excuse for inaction. We should meet in an open and public conference meeting, debate our proposals and discuss our positions, take and vote and allow the public to evaluate our respective positions.

The Honorable Henry J. Hyde
Page 2
February 29, 2000

I would appreciate a prompt reply to this request.

Sincerely,


John Conyers, Jr.
Ranking Member
House Judiciary Committee

cc: Members, House Judiciary Committee
Members, House-Senate Conference on Juvenile Justice and Gun Violence
Honorable Patrick J. Leahy, Ranking Member, Senate Judiciary Committee

MAJORITY MEMBERS

HENRY J. HYDE, ILLINOIS, CHAIRMAN
 JAMES SENSENBRENNER, JR., WISCONSIN
 BILL McCOLLUM, FLORIDA
 GEORGE W. UKEAS, PENNSYLVANIA
 HOWARD COBLE, NORTH CAROLINA
 LAMAR D. SMITH, TEXAS
 ELTON GALLEGLY, CALIFORNIA
 CHARLES T. CANADY, FLORIDA
 BOB GOODLATTE, VIRGINIA
 STEVE CHABOT, OHIO
 BOB BARR, GEORGIA
 WILLIAM L. JENKINS, TENNESSEE
 ASA HUTCHINSON, ARKANSAS
 EDWARD A. PEASE, INDIANA
 CHRIS CANNON, UTAH
 JAMES E. ROGAN, CALIFORNIA
 JIMMIE D. GRAHAM, SOUTH CAROLINA
 MARY BONO, CALIFORNIA
 SPENCER BACHUS, ALABAMA
 JOE SCARBOROUGH, FLORIDA
 DAVID VITTER, LOUISIANA

ONE HUNDRED SIXTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

THOMAS E. MOONEY, SR.
 GENERAL COUNSEL - CHIEF OF STAFF

(202) 225-3951

<http://www.house.gov/judiciary>

JON DUDAS
 DEPUTY GENERAL COUNSEL - STAFF DIRECTOR

JULIAN EPSTEIN
 MINORITY CHIEF COUNSEL
 AND STAFF DIRECTOR

MINORITY MEMBERS

JOHN CONYERS, JR., MICHIGAN
 BARNEY FRANK, MASSACHUSETTS
 HOWARD L. DERRMAN, CALIFORNIA
 RICK BOUCHER, VIRGINIA
 JERROLD NADLER, NEW YORK
 ROBERT C. "BOBBY" SCOTT, VIRGINIA
 MELVIN L. WATT, NORTH CAROLINA
 ZOE LOFGREN, CALIFORNIA
 SHEILA JACKSON LEE, TEXAS
 MAXINE WATERS, CALIFORNIA
 MARTIN T. MEEHAN, MASSACHUSETTS
 WILLIAM D. DELAHUNT, MASSACHUSETTS
 ROBERT WEXLER, FLORIDA
 STEVEN R. ROTHMAN, NEW JERSEY
 TAMMY BALOWIN, WISCONSIN
 ANTHONY D. WEINER, NEW YORK

November 5, 1999

The Honorable Henry J. Hyde
 Chairman, House Judiciary Committee
 2138 Rayburn House Office Building
 Washington, D.C. 21515

Dear Chairman Hyde:

I have become increasingly concerned that recent letters and statements attributable to you have created the potential for confusion regarding the status of the juvenile justice and gun safety legislation. I therefore want to take this opportunity to set the record straight, and to again beseech you to call for a conference meeting before Congress adjourns for the year and any more deadly school or workplace shootings occur.

First, I am miffed by your claims that the Democratic Leadership and I continually come up with "new and novel demands," the substance of which you have failed to articulate. The reality is both Mr. Gephardt and I have been very clear from day one - we believe the Lautenberg Amendment effectively shuts down the gun show loophole, however, we are willing to consider alternative language so long as it not burdened with new loopholes or otherwise weakens current gun safety laws. My staff communicated a comprehensive list of such loopholes and other concerns with your September 8 offer to you on September 10. A passing familiarity with the Lautenberg Amendment would clearly indicate that these concerns were neither "new" nor "novel." At no point after that did I or any member of the Democratic Leadership communicate any more novel concerns with regard to your September 8 proposal. I must also dispute your implication that my Leadership does not want a bill. The only instruction I have ever received from the Leadership was to exercise my best efforts to obtain effective and bipartisan legislation. Regretfully, I subsequently had to report back to them that we were unable to obtain a meaningful or loophole-free bill that would warrant Democratic support.

Second, I must also disagree with your statements that you have been "await[ing] a reply" from me regarding your previous proposal. On October 7 and again on October 20 and November 3, I indicated to you that because of the minimal progress in our own discussions, the only way to create some momentum and allow a vote before adjournment was to hold a

The Honorable Henry Hyde

Page 2

November 5, 1999

conference meeting at which all Members could offer proposals and amendments on the many issues that divide us. Simply put, we were at loggerheads and there was nothing further for me to reply to. However, to avoid any possibility of confusion or ambiguity regarding your most recent proposal - a copy of which I only received after it was described in an NRA bulletin and you subsequently forwarded a copy to Mr. Gephardt - I am attaching a detailed description of my concerns with it. None of these concerns are new, and all have been raised previously. Let me be absolutely clear on my position: I believe the attached concerns should be resolved in the sunshine in a public conference meeting; not in closed door negotiations where NRA influence is strongest.

Third, I totally disagree with your contention that Democrats are somehow allowing the "perfect to be the enemy of the good" as you put it in your November 4 letter. I have long ago given up on the perfect and am now willing to live with modest but loophole-free. At one point I believed we had an opportunity to ban the sale of handguns to minors under 21, and prevent "straw" gun sellers from purchasing more than one gun a month. Unfortunately, you denied Judiciary Members the opportunity to lay the ground work for these issues by unilaterally canceling our committee markup, and we are still awaiting promised hearings on broader gun safety legislation. Moreover, you refused to offer your promised amendment on the sale of guns to minors under 21 on the House floor even after it was made in order by the Rules Committee. Nonetheless, in the interest of pragmatism, I am more than willing to put these broader issues aside, so long as we can craft legislation which effectively shuts down the gun show loophole without creating even more dangerous loopholes.

However, we must not allow ourselves to be seduced by easy NRA "compromises" which offer the mirage of gun safety legislation, but which in actuality create massive new loopholes and greatly weaken our gun laws. This is why I cannot agree to provisions in your most recent proposal which, like the previously rejected Hatch/Craig language, weaken current law by allowing many wife beaters to buy guns at gun shows and defining gun shows so narrowly as to exclude "flea markets" and "sports shows" where thousands of guns are sold. Rather than the "perfect being the enemy of the good," in this case the "special interest loophole" is the enemy of the public's safety and well being.

Of course, I am sensitive to the political importance of gun groups to the majority of your caucus and certain members of your leadership. When your Whip announces the House is "pro-gun," and sends letters seeking political contributions for the National Republican Campaign Committee while simultaneously stating his opposition to gun safety legislation, this sends an unmistakable signal that compromise with the NRA is a fools errand. The NRA opposed the Brady law and has little interest in expanding its protections to gun shows. The price of "compromise" with such groups will inevitably be more loopholes and a weakening in current

The Honorable Henry Hyde

Page 3

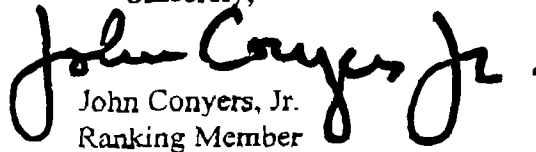
November 5, 1999

gun safety laws. It would be far better for us to fight for real and meaningful gun safety laws, which have widespread public support, and I believe could pass the House.

Let me close by taking you up on your offer that you "stand ready to discuss with any Member of either the party" the proposals that we have discussed. There is one simple and obvious way to do that - hold a conference meeting. This would allow all the Members of both parties to discuss legislative language and offer amendments. The issues are not so difficult or complex that we cannot meet in public to seek consensus, or barring that, to at least vote our conscience up or down.

On October 8 you wrote to me that there was a "good chance that [the conferees] will meet as early as next week," a prediction which unfortunately has not proven to be true. I understand that this is because of scheduling conflicts between yourself and Chairman Hatch. However, I now strongly believe that given your and Chairman Hatch's refusal to allow Members to offer amendments at our one initial conference meeting, we owe the American public one honest and full debate before we adjourn for the year. Even if we fail to reach accord, we can clearly be no worse off than the current situation, which offers no potential for a vote prior to adjournment.

Sincerely,

A handwritten signature in black ink that reads "John Conyers Jr." with a stylized flourish at the end.

John Conyers, Jr.
Ranking Member

cc: Democratic Conferees

Summary of Primary Concerns with November 4 Hyde Draft

1. **Your gun show definition resurrects language from the NRA endorsed Hatch-Craig proposal that excludes events where items other than guns are sold from background check requirements.**

The bill should be written so that background checks are required at all public events where a substantial number of guns are sold, regardless of whether other items are also sold at those events, or whether the organizer considers the purpose of the show to be promoting any particular goal. A substantial number of guns are sold at many flea markets and other events that are not sponsored primarily for the sale of guns. Indeed, many events that call themselves "gun shows" also sell knives, books, survival gear, camping equipment, antiques and other items. Your proposal, like the Hatch-Craig amendment rejected by the Senate, insists that an event be "fostered" for a particular purpose related to firearms and, therefore, excludes events where items other than guns are sold from any background check requirements. If this was the law, most gun shows could simply evade the proposed background check requirement by adding sales items and recasting their primary purpose or simply claiming that the event was sponsored for another purpose, such as a desire to profit.

2. **Your proposal eliminates measures in the Senate passed gun safety bill that would aid in the identification of gun criminals. I see no reason to eliminate these measures other than catering to special interest paranoia about a gun registry.**

Because thousands of used guns anonymously trade hands at gun shows every year and are later used in crimes, it is critical that we include measures that close this loophole and enhance the ability of law enforcement officials to identify criminals who use those guns. For example, such measures could be helpful to law enforcement officials trying to locate the perpetrator of the recent Seattle shooting and ascertain who sold the gun to that perpetrator. The Lautenberg amendment contained critical provisions requiring that only the serial numbers of guns sold at gun show be transmitted to the Secretary of the Treasury. Your proposal omits these critical provisions.

3. **By shortening the amount of time allowed for background checks and simultaneously limiting the "red flags" that would allow additional time for such checks, your proposal would let more criminals, batterers, and other prohibited purchasers purchase guns. This not only creates a dangerous loophole, it weakens current gun laws.**

Under current law, the FBI has up to three business days to conduct criminal background checks on firearm purchasers submitted by federally licensed firearm dealers, regardless of whether the dealer sells a gun at a gun show or a gun store. As you know, 95% of these checks are completed in 2 hours. For the remaining 5%, however, additional time is

needed to investigate potential disqualifiers because a "red flag" indicates that an individual may be a prohibited purchaser. We know that these 5% of purchasers are 20 times more likely to be prohibited purchasers than an average purchaser. I believe we should retain the protections in current law that allow us to fully investigate these 5% of purchasers who are 20 times more likely to be prohibited purchasers. However, your proposal, unlike current law that allows three business days to complete background checks for any potentially disqualifying information, would only allow three business days to further investigate "official records" with potentially disqualifying information. This change has major implications: non-finalized domestic restraining orders and communications and phone calls from courts and law enforcement authorities concerning mentally disturbed individuals, which currently may be used by the background check system, would not be permitted to trigger an extra three business days for review by law enforcement authorities on firearm purchases at gun shows. This change may have been made because the NRA in their recent letter stated that, in their view, these records are "irrelevant." I do not, however, believe we should yield on this vital point to American families and thereby allow more wife beaters, felons and other prohibited purchasers to get guns.

4. **Your proposal resurrects the Hatch/Craig proposal to create a new, fly-by-night entity with access to the instant check system and responsibility for ensuring that no criminals or other prohibited purchasers obtain guns.**

Unlike licensed firearm dealers, these purported background checkers, "instant check registrants," do not have the expertise in firearms or the instant check system that licensed dealers possess nor do these checkers have the incentives that licensed dealers have to comply with gun safety law. If you insist on allowing new entities to perform background checks at gun shows, it should be limited to former law enforcement officials.

5. **Your proposal permits "lets step outside" transactions and other transactions which function to circumvent background check requirements.**

We should not allow individuals to advertise a gun at a gun show, offer to sell the gun to a prohibited gun show purchaser that day at another location and not conduct a background check on such a transaction. Such a loophole, I believe, would be an invitation to fraudulent gun sellers to continue to use gun shows as a venue for illegal sales. Your proposal to merely graft on "evasion" prohibitions from money laundering criminal laws is inadequate. As you know, it is critical to prosecutions under these laws for a defendant to have received a notice of the law prior to evading it. Unlike the Lautenberg amendment, your proposal fails to provide notices to all gun show vendors of legal requirements and, therefore, renders your prohibition on evading background check requirements meaningless.

6. **Your proposal immunizes gun show promoters and instant check registrants from liability for their wrongdoing.**

This provision encourages careless behavior on the part of the very people who would be charged with ensuring that criminals do not get guns at gun shows. If gun show promoters and instant check registrants utilize a reasonable standard of care, we do not need to be concerned about their susceptibility to lawsuits.

7. **Your proposal fails to place the same requirements on roving vendors as vendors at fixed locations.**

Your proposal fails to treat vendors who are sell guns from a moving location in the same manner as vendors at a fixed location. Such vendors are the most difficult to detect conducting illegal sales, and it is essential that they be subject to, at a minimum, the same requirements as other sellers.

8. **Your proposal significantly weakens the ban on importing high capacity ammunition clips. I was surprised that your cover summary asserts that the "Hyde proposal also includes other gun related provisions that passed overwhelmingly on the House floor [such as the]...Ammunition clip ban." In my judgment, your new proposal substantially nullifies the ammunition clip ban.**

Your proposal appears to alter the amendment banning the importation of high-capacity ammunition clips passed by the House and Senate so as to render it almost meaningless. Unlike the Senate passed language and the amendment you offered on the House floor, this draft fails to include essential language amending the definition of "large capacity ammunition device" to include devices manufactured before 1994. As you characterized the issue on the House floor: "Current law prohibits the transfer or possession of large capacity ammunition feeding devices, such as clips and other types of magazines. But current law also provides a major exception. It permits the possession and transfer of any such device lawfully possessed on or before the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994. That is September 13, 1994. The world is awash in high-capacity ammo clips manufactured before the effective date of the 1994 Act, and such devices have been approved for importation into the United States if importers submit evidence establishing that the devices were manufactured on or before September 13, 1994. Our proposal would amend the definition of a 'large capacity ammunition feeding device' to delete the language limiting the definition to devices manufactured after September 13, 1994." *Congressional Record*, House of Representatives, June 17, 1999. As you recognized last May, the intent of the provision banning the importation of high capacity ammunition clips was to close the loophole that allows the importation of devices manufactured before 1994. Yet, your proposal of yesterday fails to accomplish this basic purpose.



U.S. Department of Justice

Office of Intergovernmental Affairs

Office of the Deputy Director

Washington, D.C. 20530

FAX TRANSMISSION

950 PENNSYLVANIA AVENUE, NW
ROOM 1521 MAIN
WASHINGTON, D.C. 20530

Please Deliver
ASAP

To:

Learn

Date:

Fax #:

Pages:

_____, including cover

From:

Ian Alberg
Deputy Director
(202) 514-5310 - Office
(202) 514-2504 - Fax

Subject:

*Kids & Gun*COMMENTS:*This is the Best**Copy I have*

Gm facts-

① - Angel 'Panna shop'?

HANDGUN CONTROL

**ONE MILLION STRONG . . . working to
keep handguns out of the wrong hands.**

newsrelease

newsrelease

For Immediate Release
March 6, 2000

Contact: Brian Morton
202-289-5792
Pager: 1-888-434-9410

HCI CALLS FOR NO COMPROMISE ON GUN SAFETY PACKAGE; PASS JUVENILE JUSTICE BILL WITH SENATE LANGUAGE INTACT

'If NRA Wants To Stop Illegal Dealers, Traffickers, Gangs, They Should Support Clinton Administration Enforcement Proposals'

Washington, D.C. — Today in a Denver press conference announcing the roll-out of the anti-gun crime Project Exile program in Colorado, NRA Executive Director Wayne LaPierre stood next to HCI Trustee Jim Brady and talked about the importance of keeping guns out of the hands of gun traffickers, drug dealers and gang members.

We couldn't agree more.

In fact, if Mr. LaPierre truly wants to send a message to those who would violate the law, we would call on the NRA to support the gun show language as passed by the Senate last May, and move the juvenile justice bill out of conference and to President Clinton's desk for his signature.

The Senate language would restrict possession of assault weapons by juveniles, prevent violent juveniles from purchasing firearms as adults, eliminate the sale of large ammunition magazines and, most importantly, close the gun-show loophole by requiring background checks for all gun show purchases — **making gun show purchases no different from those in gun stores.**

Anything less than the language passed by the Senate is a roll-back of current law, and should be rejected. It is no "compromise" to shorten the length of time allowed for police to conduct thorough record searches for purchasers flagged by the Instant Check system: according to the Justice Department, a roll-back from three business days to 72 hours would allow 9,000 prohibited purchasers to get guns. A roll-back to 24 hours would allow 17,000 prohibited purchasers to get guns. **The only such "compromise" would be to the nation's safety.**

But why stop there? This weekend Mr. LaPierre "affirmed" the NRA's support for trigger locks. Since we presume that the same NRA that says it "supports and encourages the distribution of safety locks," is the same organization which last year opposed a Senate floor amendment by Sen. Herb Kohl that simply would have required the sale of a safety lock with every handgun sold by a licensed dealer, then we welcome their change of heart. It seemed just a few short months ago NRA top lobbyist James J. Baker called the defeat of the safety lock amendment, "a great victory for public safety." The NRA is to be commended for their sudden conversion

to children's safety issues, and we hope that they would support the next logical step: technology that would make guns "childproof," a key point of President Clinton's new enforcement proposal.

Perhaps the NRA might even be convinced to support the prohibition of illegal gun sales over the Internet; an amendment sponsored during last year's debate by Sen. Charles Schumer and killed by the NRA. After all, the paraphrase the famous *New Yorker* magazine cartoon, "on the Internet, no one knows you're a felon."

As recent events have shown, there is much more that can be done to protect the lives of children that go further than enforcing current law, a fact upon which both HCI and the NRA seem to agree. What remains is the political will to do them. We're ready if they are.

###

Handgun Control, chaired by Sarah Brady, is the nation's largest citizens' gun control lobbying organization. Based in Washington, DC, HCI works to enact stronger federal, state and local gun control laws, but does not seek to ban handguns. Founded in 1974, HCI has more than 400,000 members nationwide and works with local groups around the country to enact and protect reasonable gun control laws. More information about HCI and its affiliated organization, the Center to Prevent Handgun Violence, can be found on our website at www.handguncontrol.org.

Handgun Control Inc., 1225 Eye Street, N.W., Suite 1100, Washington, D.C. 20005 • (202) 898-0792

March 6, 2000

BIPARTISAN GUN MEETING WITH JUDICIARY COMMITTEE LEADERS

DATE:	March 7, 2000
LOCATION:	Oval Office
TIME:	10:15 AM- 11:15 AM
FROM:	Chuck Brain Bruce Reed

I. PURPOSE

To meet with the Chairmen and Ranking Members of the House and Senate Judiciary Committees to discuss the impasse over gun control.

II. BACKGROUND

Last session the Senate passed a number of White House backed, common-sense gun control measures to keep firearms out of the hands of criminals and children as part of its Juvenile Justice bill. Chief among these provisions was the very controversial closing of the "gun show loophole" sponsored by Senator Lautenberg (D-NJ). In addition, the Senate passed three other important gun safety measures: (1) mandating child safety locks for handguns; (2) banning the importation of large capacity ammunition clips; and (3) banning violent juveniles from owning guns for life.

Unfortunately, the House did not pass similar gun control measures as part of its companion bill. Republican Leadership teamed with Rep. John Dingell (D-MI) and forty-nine other pro-NRA Democrats to defeat the McCarthy (D-NY) amendment. Although it is quite likely that the Conference Committee on this bill could resolve most of the discrepancies on the substantive juvenile justice measures, they have made no progress on the gun control provisions. Indeed, the impasse may be so intractable that the Juvenile Justice bill could die for this Congress. Recently, press reports indicate that Chairmen Hatch (R-UT) and Hyde (R-IL) are considering releasing the Juvenile Justice Conference Report without the gun measures.

Your Objective:

Your principal objective in this meeting is to reiterate the urgent need for the Juvenile Justice Conference to produce a Juvenile Justice bill that includes the gun safety measures passed by the Senate and blocked narrowly in the House. It is essential that the Administration focus on obtaining these four measures and, most importantly, the Lautenberg gun show loophole amendment. Indeed, the remainder of your gun measures -- including licensing -- would not be supported by Minority Leader Daschle (D-SD) or

Ranking Member Leahy (D-VT). The Republicans may attempt to cut a deal by offering you the child safety locks and ammunition clips measures as a compromise. Such a deal would be both bad public policy and politically harmful at this time. Closing the gun show loophole will by far do the most to get guns out of the hands of potential bad actors, and the Democrats have made a concerted decision to focus on the gun show loophole as a must-have portion of their gun strategy.

Probable Hyde-Hatch Strategy:

Chairman Hyde and Hatch have done very little to advance the conference. And yet, they will try to lay the blame for the impasse on you and Congressional Democrats. It will be important to push back on this effort to shift blame. The Senate passed the Lautenberg amendment (with the Vice-President breaking the tie) and in the House, 75% of the Democratic Caucus supported the companion McCarthy amendment. The Republican House Leadership and the NRA are to blame for thwarting the will of the American people, and many of their elected representatives in Congress.

Enforcement

Separate and apart from the Juvenile Justice bill, it would be both practically and politically useful to get an agreement on gun enforcement. This is the National Rifle Association's and the Republicans' primary argument against the need for more gun control measures (*i.e.*, we are not enforcing the laws we already have on the books). If we take this issue off the table from the beginning, it will take away their most effective rhetorical tool.

Hyde's Gun Show "Compromise"

For months, Hyde has been floating various gun show loophole alternatives with Rep. Conyers that Conyers has rejected as flawed, loophole-filled approaches to the issue. But this effort by Rep. Hyde has allowed Rep. Hyde to claim that he is trying to make progress. Senator Hatch would likely stand with Rep. Hyde and back the "Hyde gun show compromise." Although Senator Hatch has not been very public in his support for the Hyde compromise, he and his staff have called the measure the "Hyde-Hatch compromise" in small group meetings. The only likely scenario under which Senator Hatch would not support Rep. Hyde is if the Republican Leadership and/or the NRA decide that even the Hyde compromise goes too far. By the way, it is not at all clear that Hyde could sell his compromise to his own leadership.

Trigger Locks

The shooting at the Mount Morris Township, MI elementary school has heightened attention to the trigger lock issue. Rep. Hyde and Senator Hatch will likely state (correctly, no doubt) that they could quickly get House and Senate passage of a trigger locks bill almost immediately. That position allows them to claim that gun safety advocates, including you and Congressional Democrats, want all or nothing. The best response to this position would be to note that trigger locks are vital to the protection of children, but closing the gun show loophole is vital to keeping guns out of the hands of felons. Breaking apart the Senate-passed package in order to respond to a specific tragedy (like last week's school shooting) is not true leadership. Besides, this maybe the

only opportunity this Congress has to move gun safety legislation, so the entire package must move now.

Gun Show loophole

As to the gun show loophole issue, Rep. Hyde's alternative leaves much to be desired. During the meeting, it would be very effective for you at this point to allow Rep. Conyers to attack some of the egregious flaws in Hyde's approach, including:

- The exclusion of events where items other than guns are sold, e.g. flea markets.
- A loophole ("let's step outside" transactions) that allows an individual to advertise a gun at a gun show, but offer to sell that gun to a prohibited purchaser that same day at another location.
- Allowing three business days to investigate "official records" with potentially disqualifying information. Non-finalized domestic restraining orders, and communications and phone calls from courts and law enforcement authorities concerning mentally disturbed persons would trigger three extra business days for review by law enforcement. This is a major break from current law.

III. PARTICIPANTS

Pre-brief

YOU

John Podesta
Steve Ricchetti
Maria Echaveste
Joel Johnson
Bruce Reed
Chuck Brain
Karen Robb
Broderick Johnson

Meeting

YOU

John Podesta
Bruce Reed
Chuck Brain

Senator Orrin Hatch (R-UT)
Senator Patrick Leahy (R-VT)
Representative Henry Hyde (R-IL)
Representative John Conyers (D-MI)

IV. PRESS PLAN

Closed

V. SEQUENCE OF EVENTS

-- **You** welcome the Members and make introductory remarks.

-- **You** open the meeting for discussion.

VI. REMARKS

None

VI. ATTACHMENTS

See attached talking points.

Policy memo.

March 6, 2000

BIPARTISAN GUN MEETING WITH JUDICIARY COMMITTEE LEADERS

DATE:	March 7, 2000
LOCATION:	Oval Office
TIME:	10:00AM- 11:00AM
FROM:	Chuck Brain

I. PURPOSE

To meet with the Chairmen and Ranking Members of the House and Senate Judiciary Committees to discuss the impasse over gun control.

LG

II. BACKGROUND

Last session the Senate passed a number of White House backed, common-sense gun control measures to keep firearms out of the hands of criminals and children as part of its Juvenile Justice bill. Chief among these provisions was the very controversial closing of the "gun show loophole" sponsored by Senator Lautenberg (D-NJ). In addition, the Senate passed three other important gun safety measures: (1) mandating child safety locks for handguns; (2) banning the importation of large capacity ammunition clips; and (3) banning violent juveniles from owning guns for life.

Unfortunately, the House did not pass similar gun control measures as part of its companion bill (Republican leadership teamed with Rep. John Dingell (D-MI) and forty-four other pro-NRA Democrats). Although it is quite likely that the Conference Committee on this bill could resolve most of the discrepancies on the substantive juvenile justice measures, they have made no progress on the gun control provisions. Indeed, the impasse may be so intractable that the Juvenile Justice bill could die ~~for~~ this Congress. Recently, press reports indicate that Chairmen Hatch (R-UT) and Hyde (R-IL) are considering releasing the Juvenile Justice conference report without the gun measures.

The purpose of this meeting is to reiterate the urgent need for the Juvenile Justice Conference to produce a Juvenile Justice bill that includes the gun safety measures passed by the Senate and blocked narrowly in the House. It is essential that the Administration focus on obtaining these four measures and, most importantly, the Lautenberg gun show loophole amendment. Indeed, the remainder of your gun measures -- including licensing -- would not be supported by Minority Leader Daschle (D-SD) or Ranking Member Leahy (D-VT). The Republicans may attempt to cut a deal by offering you the child

June Brady

safety locks and ammunition clips measures as a compromise. Such a deal would be both bad public policy and politically harmful at this time. Closing the gun show loophole will by far do the most to get guns out of the hands of potential bad actors, and the Democrats have made a concerted decision to focus on the gun show loophole as a must-have portion of their gun strategy.

In addition, it would be both practically and politically useful to get an agreement on the gun enforcement piece. This is the National Rifle Association's and the Republican's primary argument against the need for more gun control measures (i.e., we are not enforcing the laws we already have on the books). If we take this issue off the table from the beginning, it will take away their most effective rhetorical tool.

Chairman Hyde and Hatch have done very little to move the conference forward. And yet, they will try to lay the blame for the impasse on you and Congressional Democrats. It will be important to push back on this effort to shift blame. The Senate passed the Lautenberg amendment (with the Vice-President breaking the tie) and in the House, 75% of the Democratic Caucus supported the companion McCarthy (D-NY) amendment. The Republican House leadership and the NRA are to blame for thwarting the will of the American people, and the majority of their elected representatives in Congress.

Hyde's Gun Show "compromise"

For months, Hyde has been floating various gun show loophole alternatives with Rep. Conyers that Conyers has rejected as flawed, loophole-filled approaches to the issue. But this effort by Hyde has allowed Hyde to claim that he is trying to make progress. Senator Hatch would likely stand with Rep. Hyde and back the "Hyde gun show compromise." Although Senate Hatch has not been very public in his support for the Hyde compromise, he and his staff have called the measure the "Hyde-Hatch compromise" in small group meetings. The only likely scenario under which Hatch would not support Hyde is if the Republican Leadership and/or the NRA decide that even the Hyde compromise goes too far. By the way, it is not at all clear that Hyde could sell his compromise to his own leadership.

Trigger Locks Approach

The shooting at the Mount Morris Township, MI elementary school has heightened attention to the trigger lock issue. Hyde and Hatch will likely state (correctly, no doubt) that they could quickly get House and Senate passage of a trigger locks bill almost immediately. That position allows them to claim that control advocates, including you and Congressional Democrats, want all or nothing. The appropriate rejoinder to this position is to ...

As to the gun show loophole issue, Hyde's alternative leaves much to be desired. During the meeting, it would be very effective for you at this point to allow Rep. Conyers to attack some of the egregious flaws in Hyde's approach, including:

- The exclusion of events where items other than guns are sold, e.g. flea markets.

- Take our whole section
- A loophole ("let's step outside" transactions) that allows an individual to advertise a gun at a gun show, but offer to sell that gun to a prohibited purchaser that same day at another location.
 - Allowing three business days to investigate ^{what} "official records" with potentially disqualifying information. Non-finalized domestic restraining orders, and communications and phone calls from courts and law enforcement authorities concerning mentally disturbed persons would trigger an extra three business days for review by law enforcement. This is a major break from current law.

III. PARTICIPANTS

Pre-brief

YOU

Chuck Brain

Meeting

YOU

Senator Orrin Hatch (R-UT)

Senator Patrick Leahy (R-VT)

Representative Henry Hyde (R-IL)

Representative John Conyers (D-MI)

IV. PRESS PLAN

Closed

V. SEQUENCE OF EVENTS

-- **You** welcome the Members and make introductory remarks.

-- **You** open the meeting for discussion.

VI. REMARKS

None

VI. ATTACHMENTS

See attached talking points.

Talking Points for the President

This is your meeting; you invited these four Congressional leaders to the White House to discuss Congress' impasse on gun safety legislation. The press has mischaracterized this meeting as a "summit" or as a "negotiation." It is neither. Generally, the purpose of this meeting is to put pressure on Chairmen Hatch (R-UT) and Hyde (R-IL) (and by extension the Republican Leadership) to move on the four common-sense gun control measures contained in the Senate-passed Juvenile Justice bill. While it is important to maintain a tenor that you are more than willing to work with Congress to produce effective gun safety legislation, it is not the purpose of this meeting for you to strike a deal.

Talking points:

- Thank you all for coming.
- Last week we all felt the pain and tragedy that is all too often caused by the improper use of guns – guns that should be kept out of the hands of criminals and, in particular, children. Indeed, I know Rep. Conyers (D-MI) felt this pain most acutely due to the senseless killing of six-year-old Kayla Rolland in Mt. Morris Township, Michigan. As you all know, the community of Wilkinsburg, Pennsylvania also experienced a tragedy of its own when a gunman walked into a busy commercial center and killed three and grievously wounded two others.
- These tragedies must cease – not next Congress, not by the end of the session, but today. Since the tragedy at Columbine, nearly 3,000 children have died from gun violence. You – the Chairmen and Ranking Members of the Judiciary Committees – are in the best possible position to put an end to these tragedies, and the best way to achieve this goal is by sending for your signature the four common-sense gun measures contained in the Senate-passed juvenile justice bill.
- I invited you all to the White House today to catalyze your efforts to pass the juvenile justice bill conference report with these four measures and to send it to me for my signature so we can make a meaningful step toward ending these needless tragedies.
- Let me begin by asking each of you where in the process you see the juvenile justice bill conference and the attached gun measures [get readings from Chairmen and Ranking Members].
- What needs to happen to resurrect the juvenile justice conference? This issue is too important to allow it to die over partisan politics.
- Let us begin by discussing the substance on issues on which we all can agree. Given the misfortune that occurred in Mt. Morris Township, we all must be able to agree that child safety looks and safe storage devices must be included with the sale of every handgun?

- Likewise, we must also be able to agree that the ban on the import of large ammunition clips – which ends the grandfather loophole established by the 1994 Assault Weapons bill – is a common sense provision that can and should get done this year?
- In addition, we should also be able to coalesce around the juvenile Brady provision. Indeed, this measure which would bar juveniles found guilty in juvenile court for serious violent offenses from owning guns as adults is significantly weaker than the original Administration proposal; it is already a compromise position.
- Allow me to bring up one more issue I know that all of you – on both sides of the aisle – can and do support -- enforcing the gun control measures we already have on the books. That is why my administration has put a great deal of resources into efforts like Operation Ceasefire in Boston, Project Exile in Richmond, and a recently launched Project Exile in Colorado. That is also why I have announced a gun enforcement initiative in my FY-2001 budget to hire 1,000 new gun prosecutors and 500 more ATF agents and inspectors. Certainly, this is a starting point from which we all can agree, is it not?
- Finally, we all know that the largest area of dispute that exists between the different sides of this debate is over the Lautenberg gun show loophole amendment. I am not going to mince words with you all – this is the most important issue to most Democrats, the Administration as an institution, and to me personally. Although I am always willing to listen and compromise, I will not accept a “deal” which does not achieve the basics of the Lautenberg amendment, or the functional equivalent thereof.
- Chairman Hyde, I understand you have offered a compromise on the gun show loophole to Rep. Conyers. What is that, and John, what’s wrong with Henry’s proposal?

I. Overview of Senate and House Gun Provisions

A. Senate Provisions

As you know, the Senate passed a number of Administration gun provisions as part of its juvenile crime legislation, and we have used these provisions as a benchmark:

Requiring background checks at gun shows. The Lautenberg amendment requires all unlicensed sellers at gun shows to run sales through a federally-licensed firearms dealer (FFL) at the show. Most checks would be completed instantly, but law enforcement would have up to three business days to complete checks if any questions arose regarding a purchaser's prohibited status. Since many guns sold at gun shows are used (and thus difficult for law enforcement to trace), FFLs would be required to submit to Treasury limited gun tracing information on all firearms sold at gun shows. Any event where 50 or more firearms are sold would qualify as a gun show.

Requiring child safety devices for handguns. The Senate passed a Boxer-Kohl amendment to require all FFLs to provide a child safety device, such as a trigger lock, with every handgun sold.

Banning the importation of large capacity ammunition magazines. The Senate passed a Feinstein amendment to ban the import of all large capacity ammunition clips – ending the grandfather clause in the assault weapons ban for imported clips manufactured prior to 1994.

Banning violent juveniles from owning guns. The Senate bill contains a provision to bar juveniles guilty of serious violent offenses from owning guns as adults. This provision is significantly weaker than our proposal because it would apply only when the Attorney General is able to certify that juvenile records are “routinely available” to the NICS, which they are not.

Juvenile assault weapons ban. The Senate bill bars juveniles from owning semiautomatic assault rifles and large capacity ammunition clips. The Administration proposed a stronger version that would raise the age of possession of such firearms, as well as handguns, to 21.

Enforcement. The Senate bill also includes a Project Exile-type provision that requires the establishment of agreements between the Justice Department and state and local law enforcement on the referral of gun offenders for federal prosecution. It also requires that U.S. Attorneys charge referred individuals with the most serious federal firearms offenses possible. Justice has concerns with the proposal, which could federalize all gun violations in federal districts, and would infringe upon the prosecutorial discretion of U.S. Attorneys.

B. House Gun Provisions

As you recall, the House defeated a gun bill that included a flawed gun show provision and several other gun provisions similar to those the Senate passed. The House did, however, adopt a juvenile crime bill containing a number of additional firearms provisions. Those include: requiring background checks for the purchase of explosives; expanding the list of individuals prohibited from possessing explosives; increasing the number of cities participating in the

X Administration's youth crime gun tracing initiative; and raising penalties for licensed and unlicensed dealers who illegally sell firearms, illegally traffic over 50 firearms, or illegally transfer firearms to juveniles and for offenses for stolen guns. The bill also establishes new mandatory minimum sentences for youth-related gun crimes -- including tough penalties for adults who illegally transfer guns to juveniles that are later used in a school zone or to commit a violent crime. We support these provisions.

II. Overview of Proposed Compromises

To date, the conferees on the juvenile crime bill have met officially only once, and compromise discussions on gun shows have mainly been limited to Hyde and Conyers. Hatch and Leahy had remained quiet until two weeks ago when Hatch reportedly suggested dropping all gun provisions to get a vote on the underlying juvenile crime legislation. This idea was rejected by House and Senate leaders alike.

It is possible that House Republicans could accept many of the proposals outlined above. The key sticking point, however, remains the gun show proposal. The starting point for House GOP leaders has been the Dingell amendment, which would have required all gun show background checks to be completed within 24 hours. Unlike Lautenberg, Dingell did not have any provisions to help law enforcement trace crime guns purchased at gun shows. It also would have weakened current law on interstate shipment of firearms, and would have required FBI to immediately destroy records of NICS transactions. (Currently, the FBI maintains such records for up to 180 days to help ensure that the NICS is not used for unauthorized or illegal purposes). Last fall, Hyde and Conyers traded compromise proposals, but made no progress toward agreement.

There has been considerable focus on the so-called "waiting periods" of the varying proposals: Dingell's 24 hours versus Lautenberg's three business days. But it is critical to remember that these are not waiting periods but are in fact time limits for law enforcement to complete checks. In fact, the full three days are rarely needed since 95 percent of checks are completed by the NICS within two hours, and most 73 percent within minutes. More importantly, there is a strong law enforcement rationale for preserving the three business day time limit: individuals whose checks are not completed within 24 hours are almost 20 times more likely to be prohibited from owning a gun than the average buyer.

A. Hyde Compromise Proposal

Between September and November of last year, Hyde floated gun show compromises to Conyers that indicated some movement, but fell short of Lautenberg in a number of ways. This is a summary of the last version of Hyde's gun show compromise:

Time for background checks. Under Hyde's proposal, background checks at gun shows would be completed within 24 hours unless more time were needed to determine the disposition of arrest records or other "official" records, in which case up to three business days would be permitted. This change has major implications. Under current law, FFLs who sell at gun shows

must conduct background checks not only to investigate arrest dispositions but also mental health histories and restraining orders. Under Hyde's proposal, restraining orders not yet finalized or communications between courts and law enforcement about mentally disturbed individuals -- as well as other "non-official" records -- could not be used to trigger an extra three business days for review. This essentially creates a new loophole for "non-official" records.

Instant check registrants. The Hyde proposal would create a new bureaucracy of "instant check registrants," non-FFLs with access to the NICS who could run background checks at gun shows but be immunized from liability. Such limited recordkeeping would have no enforcement utility.

Tracing records. The Hyde proposal entirely eliminates the Lautenberg tracing record provisions. Since the Lautenberg provision is the only provision that would assist law enforcement with tracing crime guns sold at gun shows, this would be a critical weakening.

Gun show definition. The proposed compromise limits the definition of gun shows only to events "fostered" for a purpose related to firearms -- effectively exempting flea markets, swap meets and other similar events from the background check requirements.

Roving vendors. The proposal would create a loophole by regulating only vendors who sell at a fixed location at a gun show. Roving vendors are a common presence at gun shows.

B. Conyers Counteroffer

Representative Conyers last fall provided a written counteroffer. First, Conyers would accept the Hyde "24 -hour" proposal but would add restraining orders, mental health records, and all other restricted categories to the three business days allowed for law enforcement to complete checks (essentially conforming the provision to current law). Second, he would allow "instant check registrants" to conduct checks, but require them to be former law enforcement officers. With regard to the gun show definition, Conyers would be willing to increase to five the number of gun vendors needed to make an event a gun show (Lautenberg would not require any minimum number), but would keep Lautenberg's requirement that at least 50 firearms be exhibited for sale or transfer. Conyers also considered compromising on tracing records by requiring that the Lautenberg tracing records data to be sent to gun manufacturers, instead of Treasury/ATF. Hyde did not accept Conyers' counteroffer or engage further.