

PHOTOCOPY
PRESERVATION

March 6, 2000

CRMF -
JJ Bill

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Eric Liu

SUBJECT: Background for Gun Meeting With Conference Leaders

I. Executive Summary

In your meeting tomorrow with the leaders of the juvenile crime conference committee, you will press for adoption of the Senate-passed gun provisions -- a package that includes closing of the gun show loophole and requiring child safety locks. You will also press, in light of last week's shooting in Michigan, for prompt consideration of your Child Access Prevention bill. It is quite possible that Rep. Hyde and Sen. Hatch will propose a package that includes child safety locks and child access restrictions but that drops or waters down the gun show provision. Rep. Conyers and Sen. Leahy will dismiss such a proposal, and you should be firm in your insistence on a strong gun show provision. You should also set April 20, the anniversary of Columbine, as the deadline for Congressional action. Legislative Affairs is sending a briefing memo, and below we provide additional background on the Senate and House gun provisions as passed, on proposed compromises floated by Hyde and Conyers last year, and on likely Republican gambits tomorrow. (We also attached a summary of the non-gun provisions of the juvenile crime bills).

II. 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 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.

III. 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.

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.

C. Potential Grounds for Agreement

With regard to gun shows, Conyers, Leahy and other Democrats want to stay strongly united behind the Lautenberg-passed provision or its functional equivalent. In particular, they will be sensitive to any changes that would shorten the amount of time permitted for checks at gun shows from what is already permitted of FFLs – up to three business days.

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.

Aside from gun shows, the Republicans may well agree to including child safety locks and banning violent juveniles from owning guns. They also may support the import ban on large capacity ammunition clips, although Hyde's compromise language on this provision maintains a flawed definition which would render the ban virtual meaningless. They will also probably insist on passing some form of “Project Exile” authorization.

Given recent events, you can also push your Child Access Prevention (CAP) proposal, originally proposed in our omnibus gun bill last year. The proposal would impose federal felony penalties on adults who knowingly or recklessly allow a child to have unlawful access to an unlocked gun that is later used to cause death or serious injury. Sixteen states have similar laws. While neither the House nor the Senate voted on this proposal last year, the Genesee County Prosecutor handling the recent Michigan shooting recently voiced support for it -- as did the NRA.

The emerging consensus on CAP and on child safety locks, however, raises the key tactical issue for tomorrow: how to handle a Republican proposal that includes nearly everything but the gun show provision. We believe you must signal from the outset that you want a gun show provision comparable to Lautenberg, even if it is worded differently from Lautenberg. Both in the meeting and in your remarks afterwards you should frame closing the gun show loophole as the minimum required for “common-sense” gun legislation. And, to underscore the deficiencies of Hyde's gun show compromise, you should add that we must close that loophole without opening new ones.

Finally, you should also set April 20, the anniversary of Columbine, as the deadline by which the conference should complete its work. This was the point of the non-binding resolution that failed in the Senate last week, and it underscores the importance of the gun show provision.

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WASHINGTON, DC 20515-6218

THOMAS H. MOORE, SR.
GENERAL COUNSEL - CHIEF OF STAFF

(202) 925-3851

http://www.house.gov/judiciary

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April 12, 2000

The Honorable William Jefferson Clinton
 President of the United States
 The White House
 Washington, DC 20500

Dear Mr. President:

As you know, I have been working diligently for nearly a year to forge a meaningful gun safety and juvenile justice package that can pass and be signed into law. I have met with you and communicated with leaders of both the Democratic and Republican parties in both the House and the Senate. I have drafted and circulated compromise proposals and openly invited a dialogue with any Member willing to make headway rather than headlines.

Unfortunately, I have become increasingly disappointed with what I view to be the strategy of leading House Democrats to avoid any compromise on gun safety legislation. Last November, Ranking Democratic Member John Conyers abruptly backed away from months of encouraging negotiations. I responded by sending a compromise proposal directly to Minority Leader Gephardt and asked for his comments. The Minority Leader has never responded to that letter.

I was encouraged by the meeting you called last month with Senator Hatch, Senator Leahy, Representative Conyers and me. I was especially delighted that Rep. Conyers accepted your request to renew our negotiations. However, my hope quickly faded when Rep. Conyers refused to meet or even allow our staffs to meet unless a conference meeting was called. Any conference would be much more productive if Rep. Conyers and I could present an offer of compromise to the Senate Conference. While I was pleased with Rep. Conyers' comments during our debate on the floor yesterday, it has become clear to me since we met last month that House Democratic Leaders do not want a compromise. They have again rejected meaningful negotiations and chosen soundbites at the expense of sound policies. It is with this background that I appeal directly to you. When we met last month, you repeatedly expressed that you wanted a bill more than you wanted a political issue. I believe you meant what you said.

I have refused to become discouraged by the refusals of House Democratic leaders to act. Rather, I have chosen to rely upon your pledge to work with leaders of your party and focused my efforts on those House Republican conferees whose support is necessary to move a conference report that includes gun safety provisions.

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I am pleased to report that a majority of House Republican conferees on gun-related provisions have signed a conference report to support a package that includes:

- Child safety locks
- Ban on high capacity ammunition clips
- Preventing juvenile possession of assault weapons
- Preventing juveniles who commit serious crimes from owning guns
- Gun show background check system without loopholes

This proposal is similar in many respects to those that I have circulated in the past but with one significant exception. It directly addresses the concern that you expressed in our meeting last month that a three business day waiting period should apply not only to purchasers with unresolved arrest records but include purchasers who have red flags for other disqualifying offenses like unlawful drug use, mental incapacity, dishonorable discharge, domestic violence or stalking.

For this proposal to move forward, it needs only the signatures of three Democratic conferees on the gun safety provisions—only three Democratic Members. As you know, the controversy has always been focused on gun-related provisions. Once we have agreement on the gun safety proposals among the appropriate House conferees, I believe the remaining juvenile justice, education and cultural provisions will be easy to conclude. Respectfully, we need you to weigh in and help secure these three signatures.

Mr. President, I would also urge you to persuade Representative John Dingell, the senior Democratic Member in the House, to support these reasonable gun safety provisions. Last June, Rep. Dingell led an effort to weaken the gun show background check proposal that Rep. McCollum and I advanced on the House floor. With the support of forty-five Democratic Members, Rep. Dingell's provision passed and effectively ended our chance to retain Democratic support for gun safety measures. Ultimately, Democrats in the House voted *against* the final gun safety package, which included child safety locks, by a margin of 196-10. In fact, only eight of the forty-five Democrats who supported the Dingell amendment ultimately supported the final package.

I urge you to support this package as a substantial advancement that can be enacted into law. Please resist those who would reject this compromise as an attempt to hold child safety trigger locks as a political hostage. I believe the fate of truly meaningful gun safety legislation rests with you and your ability to convince three Democratic Members of Congress to accept *this* proposal. I am convinced you have a unique opportunity to persuade those Members to accept this compromise and move forward.

Sincerely,


HENRY J. HYDE
Chairman

Chas -

JV Bill

Record Type: Record

To: Joel Johnson/WHO/EOP@EOP

cc: See the distribution list at the bottom of this message

Subject: juvie bill

Joel:

Bruce asked me to send to you the attached summary of what the House and Senate passed on the juvenile bills. We drafted the attached internal summary shortly after the House passed the bill last June. Many of the more troublesome provisions were passed as House floor amendments. Among some of the key non-firearms provisions passed by the House and Senate include:

- **\$500 million juvenile accountability block grant** to fund the construction of juvenile corrections facilities, prosecutors and other court personnel, mental health screening and services, and character education;
- **reauthorization of the Office of Juvenile Justice and Delinquency Prevention** which includes a preservation of "core mandates" to require states to keep juveniles separate from adult inmates (but Senate weakens one major mandate by deleting language requiring states to reduce disproportionate confinement of minority youth "DMC");
- **reforms to federal juvenile justice system** that provide greater prosecutorial discretion to try juveniles as adults for certain violent crimes, and give greater access to juvenile records;
- **religious expression in schools** to support religious memorial services on school property, allow states to display the Ten Commandments in schools and public buildings (House provision), and bar plaintiffs from recouping attorneys fees in certain Establishment Clause lawsuits (House provision);
- **media violence** to require schools that receive the FCC "E rate" to equip their computers with filtering software (House provision);
- **miscellaneous House provisions:** amend IDEA to allow school officials to expel disabled students for bringing a firearm to school; Aimee's Law to require states to require states responsible for releasing certain repeat offenders to pay for their incarceration if they commit crimes in other states; and a "two strikes" provision for sex offenders who commit crimes against children.

The attached document provides more detail on these provisions. I have also attached the letter we sent to Staff Secretary last night. Please let me know if you need anything else.

Thanks,
Leanne
6-5574

Summary of Key Provisions in Juvenile Crime Bills Passed by Congress

Juvenile Accountability Block Grant: At the heart of the House and Senate juvenile crime bills is the \$1.5 billion Juvenile Accountability Block Grant (JABG). The JABG authorizes \$500 million over each of the next 3 years to promote graduated sanctions for juvenile offenders, and to help build juvenile corrections facilities. Unlike previous versions, the JABG also funds a range of other activities and has strong bipartisan support. Funds can now be spent on: more prosecutors, probation officers and court personnel; drug and gun courts; information-sharing programs; mental health screening and treatment; confidential, toll-free hotlines for students; and character education. We should strongly support the current version of the JABG in conference, but we should also be aware that it will be difficult to fully fund the JABG during appropriations. Over the past 2 years Congress has funded a similar juvenile block grant at about half this level, and the current Senate appropriations bill only includes \$100 million for the JABG.

Office of Juvenile Justice and Delinquency Prevention: Both the House and Senate bills reauthorize the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP), which provides grants to states to improve their juvenile justice systems and prevent juvenile crime. The Senate version also includes a new \$200 million block grant dedicated to prevention activities, as well as a series of smaller programs that target gangs, early childhood training, alternative education, and improved parenting. We support all of these provisions.

Generally, both bills also preserve the "core mandates" in federal law that require states to keep juveniles offenders separate from adult inmates. This is a big victory for Democrats, and represents a significant shift in Republicans' previous position. However, the Senate bill does make one major change to these protections: it deletes the language in current law requiring states to work to reduce the disproportionate confinement of minority youth. We will need to work to amend this language in conference.

Reforms to federal juvenile justice system: The House and Senate bills also include a number of changes to the federal juvenile justice system. As with the Administration's juvenile crime bill, both bills provide law enforcement access to certain juvenile records, allow prosecutors (not judges) to determine whether juveniles who commit serious violent crimes should be tried as adults, and expand the list of crimes for which juveniles can be charged as adults. However, we have since worked with Senator Leahy to moderate these provisions by: (1) clarifying that only in very limited circumstances should juvenile cases be prosecuted at the federal level; and (2) providing for a "reverse waiver" that allows federal judges to review a prosecutor's decision to try serious violent juveniles as adults. We will need to push to have these provisions included in the final bill. Even if we do, however, some House members – especially members of the Black Caucus – will still oppose any language that makes it easier for federal prosecutors to try juveniles as adults.

Firearms provisions: Although the House failed to pass separate gun legislation, a number of firearms provisions that we support were included in its juvenile crime bill. These include: requiring background checks for the purchase of explosives; expanding the list of individuals prohibited from possessing explosives (including youth under 21); increasing from 37 to 75 the number of cities participating in the Administration's youth crime gun tracing initiative; and

raising penalties for individuals who engage in the firearms business without a license, illegally traffic over 50 firearms, or illegally transfer firearms to juveniles. Consistent with Republicans' message of tougher enforcement of our guns laws, the House bill also authorizes \$50 million for the increased federal prosecution of gun crimes, and establishes new mandatory minimum sentences for youth gun and drug 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. Since the Senate also passed provisions similar to these, they are all likely to be accepted in conference. Only the new mandatory minimums, which Democrats strongly oppose, are likely to be a sticking point.

Religious expression in schools: In addition to passing a Senate amendment that expresses support for religious memorial services to take place on public school property (as was done at Columbine High School), the House passed two other amendments to promote religious expression in public schools: one to allow states to display the Ten Commandments in public buildings and schools; and one to bar plaintiffs from recouping attorneys fees in Establishment Clause lawsuits where public school officials acted to accommodate or facilitate students' religious expression. The Justice Department has serious constitutional concerns with both of these provisions, and we will work to have these provisions dropped in conference.

Media Violence: Although the House rejected amendments to prohibit the distribution of violent and sexually-oriented materials to minors, and to establish a labeling system for violent media, it did vote to require schools and libraries participating in the FCC's e-rate program to equip their computers with filtering software that blocks Internet access to material deemed harmful to minors. Similarly, the Senate voted to require Internet Service Providers to make such filtering technologies available to parents.

Other Miscellaneous Provisions. Finally, both bills contain a variety of other provisions that -- although they passed with little debate or with overwhelming support -- are far-reaching and may need to be amended in conference. Some of these provisions include:

IDEA reform -- Both the House and Senate bills would amend IDEA to allow school officials to expel disabled students who bring a firearm to school, just as they Gun-Free Schools Act require them to do with other students. The Department of Education is strongly opposed to this change.

Crimes against children -- The House and Senate bills include a combination of three, tough new provisions to crackdown on crimes against children. Aimee's Law requires states responsible for releasing repeat murderers, rapists, or sex offenders that go on to commit similar crimes in other states to: (1) pay for the apprehension, prosecution, and imprisonment of such repeat offenders; and (2) transfer \$100,000 from their law enforcement block grant funds to compensate each victim of such a repeat offender. Mathew's Law directs the sentencing commission to increase penalties for violent crimes committed against children under the age of 13. And a "two strikes" amendment provides for the mandatory life imprisonment of sex offenders who commit crimes against children.

Gang recruitment penalty -- Both the House and Senate bill includes an amendment by Senator Feinstein that makes it a federal crime to recruit gang members, with a 4-year mandatory minimum for recruiting a minor. Although we were originally concerned about the amendment's scope, Senator Feinstein has since narrowed the provision.

School Safety -- The Senate bill includes a series of amendments that would allow schools to use their ESEA funds for a broad range of school safety measures, including increased security measures, school uniforms, school resource officers, and drug testing. The bill also authorizes background checks for prospective school employees.

Drug dealer liability -- The House bill creates a new federal, civil cause of action for anyone – except a drug user who is unwilling to reveal the source of his or her drugs -- harmed by a person that manufactures or distributes a controlled substance in violation of federal law.

Limitation on teachers' liability – The Senate bill includes a provision to limit the liability of school officials who – acting consistent with their official duties – make reasonable efforts to discipline students.

Limitation on prisoner release orders -- The House bill includes a provision that would bar federal courts from carrying out any prison release orders, and vitiate many of the existing consent decrees dealing with prison conditions. The Justice Department has expressed serious concerns with this language.

Suspension of Drivers' Licenses – The House version of the JABG includes an amendment that conditions receipt of grant funds on states enacting laws mandating the suspension of drivers' licenses, until the age of 21, of any juvenile caught illegally possessing a gun.

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 GENERAL COUNSEL — CHIEF OF STAFF

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February 29, 2000

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 AND STAFF DIRECTOR

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

Canis -
JD Bice

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.

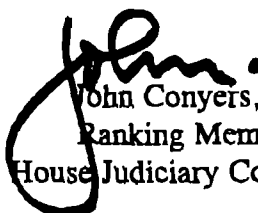
The Honorable Henry J. Hyde

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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

March 9, 2000

Honorable Henry J. Hyde
Chairman
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Conyers

JJ Bill

Dear Chairman Hyde:

I write to request that you join in a letter to Chairman Hatch asking that he call a conference meeting on juvenile justice and gun safety. As you know, notwithstanding indications that the conference would meet in early September, this conference has done no work since it was appointed last August. I believe you expressed your support for calling such a conference after we met with the President on Tuesday.

If we can get such a conference scheduled, I am willing in good faith to continue our negotiations with you to try to find middle ground on gun violence. As you know, I have suggested that we move to a twenty-four hour background check with an appropriate "escape hatch" in the event a flag is raised regarding a purchaser. I am willing to find additional middle ground by allowing the deposit of guns with local police departments in the very few instances that a background check would take longer, and to work on language that would properly define gun shows.

However, I believe, as I know that you do, that the Conference is appointed for the specific purpose of allowing the appointed members to try to resolve differences such as this through the conference process. While I believe we should continue to put forth our best efforts to arrive at a compromise, I'm sure that neither of us would say that the conference should be prevented from meeting until we can agree on every word and comma. As I say, that is precisely the purpose of a conference.

Therefore, in order to begin this work with you and your staff, I must have assurances that these discussions would not be used as a tactic to further delay a conference meeting. To that end, I request that you sign on to the enclosed letter to Chairman Hatch requesting a meeting of the juvenile justice and gun safety conference.

I appreciate your consideration of this request.

Sincerely,

John Conyers, Jr.
Ranking Member
House Judiciary Committee

March 9, 2000

Dear Chairman Hatch:

We write to request a juvenile justice conference meeting within the next two weeks.

As you are aware, in the last two weeks, we have witnessed a succession of gun violence tragedies. We have been shocked by a six-year-old shooting a six-year-old in Mount Morris Township, Michigan. We have seen a nursing home held hostage and a mass shooting in Pittsburgh. Just yesterday, Memphis firefighters responding to a call were shot and killed by a disturbed man. It is clear that the Nation would like Congress to respond.

We know that there is not complete agreement on all of the issues before the Conference. We also recognize the need for compromise. We have already agreed in principle to proposed language to reduce the waiting period to 24 hours in most cases, but are still trying to resolve appropriate "safety hatch" exceptions.

We have pledged to each other to begin anew negotiations. We believe, however, that beginning the work of the Conference will play a constructive role in the necessary process of narrowing our differences.

We appreciate your consideration of this request.

Sincerely,

Henry J. Hyde
Chairman
House Judiciary Committee

John Conyers, Jr.
Ranking Member
House Judiciary Committee

Chris -
JW-JSC Bill

Summary of Key Provisions in Juvenile Crime Bills Passed by Congress

Juvenile Accountability Block Grant: At the heart of the House and Senate juvenile crime bills is the \$1.5 billion Juvenile Accountability Block Grant (JABG). The JABG authorizes \$500 million over each of the next 3 years to promote graduated sanctions for juvenile offenders, and to help build juvenile corrections facilities. Unlike previous versions, the JABG also funds a range of other activities and has strong bipartisan support. Funds can now be spent on: more prosecutors, probation officers and court personnel; drug and gun courts; information-sharing programs; mental health screening and treatment; confidential, toll-free hotlines for students; and character education. We should strongly support the current version of the JABG in conference, but we should also be aware that it will be difficult to fully fund the JABG during appropriations. Over the past 2 years Congress has funded a similar juvenile block grant at about half this level, and the current Senate appropriations bill only includes \$100 million for the JABG.

Office of Juvenile Justice and Delinquency Prevention: Both the House and Senate bills reauthorize the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP), which provides grants to states to improve their juvenile justice systems and prevent juvenile crime. The Senate version also includes a new \$200 million block grant dedicated to prevention activities, as well as a series of smaller programs that target gangs, early childhood training, alternative education, and improved parenting. We support all of these provisions.

Generally, both bills also preserve the "core mandates" in federal law that require states to keep juveniles offenders separate from adult inmates. This is a big victory for Democrats, and represents a significant shift in Republicans' previous position. However, the Senate bill does make one major change to these protections: it deletes the language in current law requiring states to work to reduce the disproportionate confinement of minority youth. We will need to work to amend this language in conference.

Reforms to federal juvenile justice system: The House and Senate bills also include a number of changes to the federal juvenile justice system. As with the Administration's juvenile crime bill, both bills provide law enforcement access to certain juvenile records, allow prosecutors (not judges) to determine whether juveniles who commit serious violent crimes should be tried as adults, and expand the list of crimes for which juveniles can be charged as adults. However, we have since worked with Senator Leahy to moderate these provisions by: (1) clarifying that only in very limited circumstances should juvenile cases be prosecuted at the federal level; and (2) providing for a "reverse waiver" that allows federal judges to review a prosecutor's decision to try serious violent juveniles as adults. We will need to push to have these provisions included in the final bill. Even if we do, however, some House members – especially members of the Black Caucus – will still oppose any language that makes it easier for federal prosecutors to try juveniles as adults.

Firearms provisions: Although the House failed to pass separate gun legislation, a number of firearms provisions that we support were included in its juvenile crime bill. These include: requiring background checks for the purchase of explosives; expanding the list of individuals prohibited from possessing explosives (including youth under 21); increasing from 37 to 75 the number of cities participating in the Administration's youth crime gun tracing initiative; and

raising penalties for individuals who engage in the firearms business without a license, illegally traffic over 50 firearms, or illegally transfer firearms to juveniles. Consistent with Republicans' message of tougher enforcement of our guns laws, the House bill also authorizes \$50 million for the increased federal prosecution of gun crimes, and establishes new mandatory minimum sentences for youth gun and drug 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. Since the Senate also passed provisions similar to these, they are all likely to be accepted in conference. Only the new mandatory minimums, which Democrats strongly oppose, are likely to be a sticking point

Religious expression in schools: In addition to passing a Senate amendment that expresses support for religious memorial services to take place on public school property (as was done at Columbine High School), the House passed two other amendments to promote religious expression in public schools: one to allow states to display the Ten Commandments in public buildings and schools; and one to bar plaintiffs from recouping attorneys fees in Establishment Clause lawsuits where public school officials acted to accommodate or facilitate students' religious expression. The Justice Department has serious constitutional concerns with both of these provisions, and we will work to have these provisions dropped in conference.

Media Violence: Although the House rejected amendments to prohibit the distribution of violent and sexually-oriented materials to minors, and to establish a labeling system for violent media, it did vote to require schools and libraries participating in the FCC's e-rate program to equip their computers with filtering software that blocks Internet access to material deemed harmful to minors. Similarly, the Senate voted to require Internet Service Providers to make such filtering technologies available to parents. [In conference, we will....]

Other Miscellaneous Provisions. Finally, both bills contain a variety of other provisions that -- although they passed with little debate or with overwhelming support -- are far-reaching and may need to be amended in conference. Some of these provisions include:

IDEA reform -- Both the House and Senate bills would amend IDEA to allow school officials to expel disabled students who bring a firearm to school, just as they Gun-Free Schools Act require them to do with other students. The Department of Education is strongly opposed to this change.

Crimes against children -- The House and Senate bills include a combination of three, tough new provisions to crackdown on crimes against children. Aimee's Law requires states responsible for releasing repeat murderers, rapists, or sex offenders that go on to commit similar crimes in other states to: (1) pay for the apprehension, prosecution, and imprisonment of such repeat offenders; and (2) transfer \$100,000 from their law enforcement block grant funds to compensate each victim of such a repeat offender. Mathew's Law directs the sentencing commission to increase penalties for violent crimes committed against children under the age of 13. And a "two strikes" amendment provides for the mandatory life imprisonment of sex offenders who commit crimes against children.

Gang recruitment penalty -- Both the House and Senate bill includes an amendment by Senator Feinstein that makes it a federal crime to recruit gang members, with a 4-year mandatory minimum for recruiting a minor. Although we were originally concerned about the amendment's scope, Senator Feinstein has since narrowed the provision.

School Safety -- The Senate bill includes a series of amendments that would allow schools to use their ESEA funds for a broad range of school safety measures, including increased security measures, school uniforms, school resource officers, and drug testing. The bill also authorizes background checks for prospective school employees.

Drug dealer liability -- The House bill creates a new federal, civil cause of action for anyone – except a drug user who is unwilling to reveal the source of his or her drugs -- harmed by a person that manufactures or distributes a controlled substance in violation of federal law.

Limitation on teachers' liability – The Senate bill includes a provision to limit the liability of school officials who – acting consistent with their official duties – make reasonable efforts to discipline students.

Limitation on prisoner release orders -- The House bill includes a provision that would bar federal courts from carrying out any prison release orders, and vitiate many of the existing consent decrees dealing with prison conditions. The Justice Department has expressed serious concerns with this language.

Suspension of Drivers' Licenses – The House version of the JABG includes an amendment that conditions receipt of grant funds on states enacting laws mandating the suspension of drivers' licenses, until the age of 21, of any juvenile caught illegally possessing a gun.

THE WHITE HOUSE

OFFICE OF LEGISLATIVE AFFAIRS

HOUSE LIAISON
—FAX COVER SHEET—

CRIME -
JW JUS
BIR

DATE: 10-8-99

TO:

Bruce Reed, Eric Liu, Leanne Himabukuro, Deanne Benas,
Patti First

FAX:

6-2878, 6-7028, 514-9149

FROM:

☒ BRODERICK JOHNSON
☐ AL MALDON
☐ LISA KOUNToupES
☐ JANELLE ERICKSON

☐ JOSH ACKIL
☐ ERICA MORRIS
☐ LAUREN GILLESPIE
☐ BRIAN MASON

(202)456-6620 (TELEPHONE)

(202)456-2604 (FAX)

SUBJECT:

Conyers letter on juvenile justice

1 OF 5

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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

JON DUDAS
DEPUTY GENERAL COUNSEL — STAFF DIRECTOR

(202) 225-3951

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

JULIAN EPSTEIN
MINORITY CHIEF COUNSEL
AND STAFF DIRECTOR

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October 7, 1999

cc: Larry
Chuck

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

Dear Chairman Hyde:

I write to offer my suggestions for proceeding with the juvenile justice legislation, which passed the Senate on May 20, the House on June 17, and has been in conference since August 5.

As you know, notwithstanding our good faith negotiations, several significant issues remain between us in our principal area of discussion to date -- a provision closing the gun show loophole by providing for background checks and allowing law enforcement to enforce laws against criminals who use guns purchased at gun shows. I therefore believe that at this point it would be helpful to directly involve the other Members of the Conference Committee in our deliberations, in a renewed effort to pass common sense gun safety legislation this year.

To this end, I believe that we should ask Chairman Hatch to convene a meeting of the conference committee next week, thereby allowing Members to offer and debate amendments, and vote out legislation before Congress's scheduled adjournment. Given the fact that the Columbine shooting took place almost half a year ago, the reality that 13 children are being killed a day by gun violence, and the ever present fear of "copycat" gun incidents, I think we can all agree that for the sake of our nation's school children and their families, we cannot allow this important matter to lay over until the next legislative session or the next school year.

As for the substance of my position on the gun show issue, I have previously indicated my support for the so-called "Lautenberg Amendment." However, since I understand that you and many Members of your caucus are opposed to the text of the Lautenberg Amendment, in the spirit of compromise, I am prepared to consider alternative language, so long as it ensures in all circumstances that criminals and other prohibited purchasers cannot purchase guns at gun shows

and that law enforcement has the ability to identify those attempting to do so. However, as I have previously stated to you, I cannot support legislation which merely provides for limited background checks at gun shows, while at the same time tolerating or adding other dangerous gun show loopholes, nor can I support legislation that would actually weaken current law and thereby allow more guns to fall into the wrong hands. To me that would create a mere mirage of security while engendering further cynicism by the American people regarding the efficacy of our gun safety laws.

In any event, in order to avoid any further confusion, and to facilitate the conferees coming to closure on this issue, let me reiterate my positions on several important aspects of the gun show issue:

1. **Background Checks\Time Allotment** - The time allotted for Brady background checks should be not one moment less than is needed to ensure that prohibited purchasers do not get guns. It is well established by law enforcement officials that in a number of circumstances three business days are absolutely necessary to determine whether a gun buyer is a prohibited purchaser. However, I understand that many background checks can be completed in less time and I am certainly open to proposals which would require that background checks be completed within a lesser time frame unless there are indications that an individual may be a prohibited purchaser, such as a dangerous felon, batterer or mentally disturbed individual.
2. **Background Checks\Application to All Gun Show Transactions** - The bill 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.
3. **Definition of a Gun Show** - 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. It is therefore important that the definition of gun show apply to such events.
4. **Instant Check Registrants** - As a general matter, I oppose allowing a new category of persons to conduct background checks and to have access to the private information in the National Instant Criminal Background Check System, such persons would not have the experience or incentives licensed dealers have to conduct checks in an honest and

thorough manner. However, I have indicated a willingness to move on this point if we could require that instant check registrants be current or retired law enforcement officers, which would help to ensure the reliability of this new category of persons.

5. Civil Immunities - I oppose immunizing instant check registrants and gun show promoters from lawsuits. I am concerned that civil immunities for these individuals would encourage careless behavior. 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.

6. Identification of Gun Criminals - 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.

7. Maintenance of System Necessary to Prevent Fraudulent Sales to Gun Criminals - Current law allows law enforcement officials to retain records of information sent by dealers to the National Instant Criminal Background Check System so that such officials can detect fraudulent dealers who are selling guns to criminals and prohibited purchasers who provide false information to purchase a gun. Such temporary record keeping is essential to maintaining the integrity of the NICS, according to law enforcement officials. While I support the Senate provision which would allow these records to be retained for 90 days, I am willing to consider legislation which makes no mention of records retention in the bill and, therefore, maintain current law.

8. Weakening current law- I cannot support any provision which weakens current law, such as, measures that eliminate current restrictions on the direct interstate shipment of firearms that have been in place for over 30 years. It would be a bizarre response to recent gun violence tragedies for Congress to weaken current gun laws.

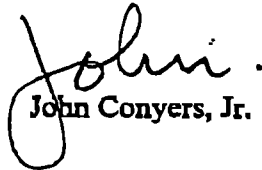
9. Discouraging state participation in the Brady background check system - I cannot support any legislation that would prevent or discourage states from conducting Brady background checks.

10. Roving Vendors - I oppose allowing vendors to conduct sales while moving through a gun show, without ensuring that moving vendors conduct background checks and without providing the same disclosures to those vendors as should be provided to vendors at fixed locations. 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.

As you know, in addition to the gun show issue, there are numerous other issues in the conference which we need to agree on as well, including matters relating to juvenile justice prevention, freedom of speech, and the first amendment establishment clause. If we genuinely want to arrive at a bipartisan agreement, we must mutually agree to exclude matters viewed by many Members as "poison pills" intended to kill gun safety legislation.

As I have mentioned to you on several occasions, I very much appreciate the cooperative and good faith tone you and your staff have brought to our negotiations, and I sincerely wish we were closer to agreement on the key issues than we are currently. However, I remain optimistic that if we take these matters to the full conference and the House and Senate before Congress adjourns, we will be able to enact meaningful legislation which closes the gun show loophole.

Sincerely,



John Conyers, Jr.

cc: The Honorable Patrick J. Leahy, Ranking Member, Senate Judiciary Committee
House Democratic Members, Juvenile Justice Conference Committee

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2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6218

THOMAS E. MOONEY, SR.
GENERAL COUNSEL - CHIEF OF STAFF
JON DUDAS
DEPUTY GENERAL COUNSEL - STAFF DIRECTOR

(202) 225-3951
<http://www.house.gov/judiciary>

September 29, 1999

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JULIAN EPSTEIN
MINORITY CHIEF COUNSEL
AND STAFF DIRECTOR

The Honorable Henry J. Hyde
Chairman
House Judiciary Committee
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing in an attempt to move forward our discussions on closing the loopholes in the gun violence laws and requiring background checks to prevent criminals from obtaining guns at gun shows. While I think that you and your staff have certainly been making good faith efforts at movement in our direction, I do not believe the proposal, as it stands, notwithstanding characterizations in the press, represents the loophole-free text that would be required to gain significant Democratic support.

As we discussed last week and as our staffs have discussed in some detail on September 9, in email correspondence on September 10 and on several subsequent occasions, a number of problems remain in your September 8 draft gun show language. These problems include the following:

- 1. Definition of Gun Show** - Your proposal continues to arguably exempt from coverage most flea markets and other events where large numbers of guns are sold merely because the same event sells other non-firearm items as well.
- 2. Instant Check Registrant** - Your proposal creates a new, fly-by-night entity known as a instant check registrant which is empowered to conduct background checks but which does not have the same record keeping requirements created in the Senate bill for similar transactions. The Senate provisions, or the functional equivalent thereof, is critical, according to law enforcement officials, to the enforcement of criminal laws when guns are used in crimes.
- 3. Elimination of System Necessary to Prevent Fraudulent Gun Sales to Criminals** - Your proposal would eliminate the very minimal requirements of providing records of sales to law enforcement to ensure against fraudulent transactions. Such temporary record keeping requirements are, according to law enforcement, critical to the integrity of the system. In fact, your proposal to eliminate the records would negate the effectiveness of the entire system.
- 4. Exemptions of Certain Classes of Offenders from Background Check** - Because the 24-hour proposal is designed to detect only arrests, the provision effectively exempts from the

NAME -
JUN JUSTICE BIL

background check requirements entire classes of prohibited persons such as those involved with domestic violence and mentally disturbed individuals.

5. Certain Transactions Still Exempted. The proposal still exempts any gun sales from the background check requirement unless the precise gun was "accessible" at a gun show. For instance, a vendor could simply tell a prohibited purchaser that he can sell the prohibited purchaser a semi-automatic weapon *similar* to the one displayed at the gun show with no background check if they simply meet at a fixed location at another time.

6. Interstate Shipment of Guns - The proposal effectively ends the three-decade old law, known as the "Lee Harvey Oswald" act enacted in the wake of the assassination of President Kennedy that would stop the interstate shipment of firearms because such shipment can be a recipe for illegal sales.

7. Civil Immunities - The proposal immunizes instant check registrants and gun show operators from liability in the absence of any serious Committee hearings or consideration of the implications of such a grant of immunity.

8. Roving Vendor - The proposal allows for "roving vendors" at gun shows who are exempted from organizer's disclosure of legal requirements, making it even more difficult to enforce against abusive sales.

In addition, I am surprised that several changes have been made to the provision banning the importation of high-capacity ammunition magazines in your September 8 draft. Notwithstanding characterizations in the press, these changes have never been approved by me or my staff. Because it appears that these changes would eviscerate the Senate's ammunition clip ban and the amendment you offered during House consideration of H.R. 2122, I cannot support such proposed changes.

While I know we would both like to come to agreement on this most pressing issue, I believe that we must have a loophole-free proposal that will ensure that criminals can't get guns at gun shows and that our state and federal law enforcement authorities are able to enforce criminal laws against those who use guns to commit crimes. I wish we were closer to an agreement than your most recent draft indicates. However, I remain committed to developing legislation which closes the gun show loophole in a meaningful manner and making other commonsense changes.

In that vein, I am submitting to you a proposal (enclosed) which would effectively close what I believe are the most critical loopholes in the proposal you've made to me.

I look forward to our continuing discussions on this.

Sincerely,


John Conyers, Jr.
Ranking Member

Enclosure

SEC. 1104. MANDATORY BACKGROUND CHECK AT GUN SHOWS.

(a) Definitions.-- Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(35) The term 'gun show' means an event --

"(A) at which 50 or more firearms are offered or exhibited for sale, transfer, or exchange, if 1 or more of the firearms has been shipped or transported in, or the event otherwise affects, interstate or foreign commerce; and

"(B) at which there are not less than 5 firearm vendors.

"(36) The term 'curtilage area', with respect to a gun show, means any building or structure in which, and any land on which, the gun show is held, and includes all real property in close proximity to the gun show on which activities in furtherance of firearms transactions occur.

"(37) The term 'gun show organizer' means any person who organizes or conducts a gun show.

"(38) The term 'gun show vendor' means any person who, at a fixed, assigned, or contracted location, exhibits, sells, or offers for sale, transfers, or exchanges 1 or more firearms at a gun show. Provided, That a person who is not a gun show vendor shall not exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms at a gun show."

(b) Time limit for National Instant Criminal Background Checks.-- Section 103(c) of the Brady Handgun Violence Prevention Act (18 USC 922 note) is amended by adding at the end the following:

"(3) Deadline for Completion of Checks Requested from Gun Shows.--

"(A) In General.--Except as provided in subparagraph (B), the Attorney General shall ensure that each background check conducted through the national instant criminal background check system pursuant to a request made from a gun show is completed within 24 hours after an authorized person has contacted the system to request the check.

"(B) Exception.--The requirement of subparagraph (A) shall not apply if there is information, including but not limited to a record of an arrest, civil protection order, or mental health adjudication, indicating that the person may be prohibited from purchasing a firearm under sections 922(g) or (n) or State law and demonstrating the person is prohibited has been communicated to the Attorney General."

(c) Regulation of Firearm Transfers at Gun Shows.--

(1) In General.--Chapter 44 of such title is amended by adding at the end the following"

"§ 931. Regulation of firearm transfers at gun shows

"(a)(1) A person who is not a licensed importer, licensed manufacturer, or licensed dealer, and who desires to be registered as an instant check registrant shall submit to the Secretary an application which--

"(A) contains a certification by the applicant that the applicant is a qualified current or retired law enforcement officer as defined by section 926(c) and meets the requirements of subparagraph (A) through (D) of section 923(d)(1);

"(B) contains a photograph and fingerprints of the applicant; and

"(C) is in such form as the Secretary shall by regulation prescribe.

"(2)(A) The Secretary shall approve an application submitted paragraph (1) which meets

the requirements of paragraph (1). On approval of the application and payment by the applicant of a fee of \$100 for 3 years, and upon the renewal of valid registration fee of \$50 for 3 years, the Secretary shall issue to applicant an instant check registration, and advise the Attorney General of the United States of the same, which entitles the registrant to contact the national instant criminal background check system established under section 103 of the Brady Handgun Violence Protection Act for information about any individual desiring to obtain a firearm at a gun show from any transferor who has requested the assistance of the registrant in complying with subsection (c) with respect to the transfer of a firearm, and receive information from the system regarding the individual, during the 3-year period that begins with the date the registration is issued.

"(B) The Secretary shall approve or deny an application submitted pursuant to paragraph (1) within 60 days after the Secretary receives the application. If the Secretary fails to so act within such period, the applicant may bring an action under section 1361 of title 28 to compel the Secretary to so act.

"(3) An instant check registrant shall keep all records or documents which the registrant collects pursuant to this section during a gun show at a premises, or a portion thereof designated by the registrant, that is open for inspection by the Secretary. The Secretary shall establish by regulation the procedure for inspection, at a premises or a gun show, of the records required to be kept under this section in a manner for a registrant that affords the registrant procedural rights and protections identical to those afforded a licensee under subsections (g)(1)(A), (g)(1)(B), and (j) of section 923. An instant check registrant shall transmit to the Secretary all records required to be kept by the registrant under this subsection, when the registration is no longer valid, has expired, or has been revoked.

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

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

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

"(2) before commencement of the gun show—

"(A) records and verifies the identity of each individual who is to be at a gun show by examining, but not retaining, a copy of, a valid identification document (as defined in section 1028(d)(1) of the individual containing a photograph of the individual; and

"(B) provides to each such individual a copy of the document provided by the Secretary under subsection (c)(1); and

"(C) provides each instant check registrant a copy of the documents required to be provided by the Secretary by the gun show organizer under subsection (c); and

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

"(c) The Secretary shall provide to each gun show organizer registered with the Secretary pursuant to subsection (b)(1), (1) a document which sets forth all Federal laws that apply to firearms transactions at gun shows, including all related record keeping requirements, verbatim and (2) a list containing the names and business addresses of currently operating firearms manufacturers, to enable the submission of information required in subsection (d)(1).

"(d)(1) It shall be unlawful, at a gun show or within the curtilage area of a gun show, for a person who is not licensed under section 923 to sell, transfer, or exchange to another person who is not licensed under section 923, a firearm at the gun show or within the curtilage area of the gun show, unless-

"(A) the firearm is transferred through a licensed importer licensed manufacturer, or licensed dealer in accordance with paragraph (2)(B) and otherwise in accordance with law; or

"(B)(i) before the completion of the transfer, an instant check registrant contacts the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act;

"(ii)(I) the system provides the registrant with a unique identification number; or

"(II) 3 business days (meaning a day on which State offices are open) have elapsed since the registrant contacted the system, and the system has not notified the registrant that the receipt of a firearm by such other person would violate subsection (g) or (n) of section 922 or State law;

"(iii) the registrant notifies the person that the registrant has complied with clauses (i) and (ii), or of any receipt by the registrant of a notification from the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act that the transfer would violate section 922 or State law;

"(iv) the transferor and the registrant have verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d)(1) of this title) of the transferee containing a photograph of the transferee; and

"(v) for a use gun, a licensee or the instant check registrant who performs the instant background check has provided strictly limited information about the make, model, and serial number of the used firearm and the identifying information about the licensee or instant check registrant to the licensee who manufactured the firearm and, if the manufacturer has discontinued business under section 923(g), to the Secretary.

"(2)(A) The rules of paragraphs (2),(3), and (4) of section 922(t) shall apply to firearms transfers assisted by instant check registrants under this section in the same manner in which such rules apply to firearms transfers made by licensees.

"(B)(i) The licensee or registrant may personally deliver or ship the firearm to the prospective transferee in accordance with clause (ii) if the gun show has terminated, and -

"(I)(aa) 3 business days has elapsed since the licensee or registrant contacted the system from the gun show and the licensee or registrant has not received notification from the system that receipt of a firearm by the prospective transferee would violate subsection (g) or (n) of section 922 or State law; or

"(bb) the licensee or registrant has received notification from the system that receipt of a firearm by the prospective transferee would not violate subsection (g) or (n) of section 922 or State law; and

"(II) State and local law would have permitted the licensee or registrant to immediately deliver the firearm to the prospective transferee if the conditions described in item (aa) or (bb) had occurred during the gun show.

"(ii)(I) The licensee may personally deliver the firearm to the prospective transferee at a location other than the business premises of the licensee, without regard to whether the location is in the State specified on the license of the licensee, or may ship the firearm by common carrier to the prospective transferee.

"(II) The registrant may personally deliver the firearm to a prospective transferee who is a resident of the State of which the registrant is a resident, or may ship the firearm by common carrier to such a prospective transferee.

"(III) The requirements of subsections (I) and (II) do not alter the prohibitions on the interstate transfer of firearms under section 922.

"(3) An instant check registrant who agrees to assist a person who is not licensed under section 923 in complying with subsection (c) with respect to the transfer of a firearm shall -

"(A) enter the name, age, address, and other identifying information on the transferee (or, if the transferee is a corporation or other business entity, the identity and principal and local places of business of the transferee) as the Secretary may require by regulation into a separate bound record;

"(B) record the unique identification number provided by the system on a form specified by the Secretary;

"(C) on completion of the functions required by paragraph (1)(B) to be performed by the registrant with respect to the transfer, notify the transferor that the registrant has performed such functions; and

"(D) on completion of the background check by the system, retain a record of the background check as part of the permanent business records of the registrant; and

"(E) on completion of the background check by the system, submit the information required by subsection (d)(1) to the firearms manufacturer or, if the manufacturer has discontinued business under section 923(g), to the Secretary.

"(4) This section shall not be construed to permit or authorize the Secretary to impose record keeping requirements on any vendor who is not licensed under section 923, except to the extent that the vendor is acting as an instant check registrant.

"(e) It shall be unlawful for any person to receive a firearm from another person that the person knows has been transferred to the recipient in violation of this section.

"(f) It shall be unlawful for any person to structure, assist in structuring, or attempt to structure or assist in structuring a firearms transaction, for the purpose of evading any requirement of subsection (d)."

(2) PENALTIES. - Section 924(a) of such title is amended by adding at the end the following:

"(7)(A) Whoever knowingly violates subsection (b), (d)(1), or (d)(2) of section 931 shall be -

"(i) fined under this title, imprisoned not more than 1 year, or both; or

"(ii) in the case of a second or subsequent conviction of such a violation, fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever knowingly violates subsection (d)(3) or (e) of section 931 shall be fined under this title, imprisoned not more than 3 years, or both.

"(C) In addition to any other penalties imposed under this paragraph, the Secretary may, with respect to any person who knowingly violates subsection (b), (d), or (3) of section 931 -

"(i) impose a civil fine in an amount equal to not more than \$2,500; and

"(ii) if the person is registered pursuant to section 931 (a), after notice and

opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 931(a)."

(3) CONFORMING AMENDMENT. - Section 923(j) of such title is amended in the first sentence by striking "or event" and all that follows through "community".

(4) CLERICAL AMENDMENT. - The section analysis for chapter 44 of such title is amended by adding at the end the following:
"931. Regulation of firearms transfers at gun shows."

(d) INSPECTION AUTHORITY. - Section 923(g)(1) of such title is amended by adding at the end the following:

"(E)(i) When the Secretary has reasonable cause to believe that evidence of a violation of this chapter may be found at the place of business of a gun show organizer or any place where a gun show is being held, the Secretary may, upon demonstrating such cause before a Federal magistrate and securing from the magistrate a warrant authorizing entry, enter during business hours any such place (including any place of storage of the gun show organizer), for the purpose of inspecting or examining any records or documents required to be kept by the gun show organizer under this chapter or rules or regulations under this chapter.

"(ii) The Secretary may enter during business hours the place of business of any gun show organizer and any place where a gun show is being hld, without such reasonable cause or warrant, for the purpose of inspecting or examining the records required by section 923 or 931 and the inventory of licensees conducting business at the gun show in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the organizer or licensee or when such examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

"(iii) The requirements of subsections (i) and (ii) do not alter the Secretary's authority under section 923 to inspect licensees."

(e) INCREASED PENALTIES FOR SERIOUS RECORD-KEEPING VIOLATIONS BY LICENSEES. - Section 924(a)(3) of such title is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly makes any false statement or representation with respect to the information required by this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

"(B) If the violation described in subparagraph (A) is in relation to an offense -

"(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

"(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both."

(f) INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.-

(1) PENALTIES. - Section 924(a) of such title is amended -

(A) in paragraph (5), by striking "subsection (s) or (t) of section

922" and inserting "section 922(s)" and

(B) by adding at the end the following:

"(8)(A) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 3 years, or both.

"(B) In the case of a second or subsequent conviction under this paragraph, the person shall be fined under this title, imprisoned not more than 5 years, or both."

(2) ELIMINATION OF CERTAIN ELEMENTS OF OFFENSE.-- Section 922(t)(5) of such title is amended by striking "and, at the time" and all that follows through "State law".

(g) EFFECTIVE DATE.-- The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 1105 GUN OWNER PRIVACY; PROHIBITION ON BACKGROUND CHECK FEE; AND PREVENTION OF FRAUD AND ABUSE OF SYSTEM INFORMATION.

(a) PROHIBITION ON BACKGROUND CHECK FEE.-

(1) IN GENERAL. - Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

"§ 540B. Prohibition on fee for background check in connection with firearm transfer

"No officer, employee, or agent of the United States, including a State or local officer or employee acting on behalf of the United States, may charge or collect any fee in connection with any background check required in connection with the transfer of a firearm (as defined in section 921(a)(3) of title 18)."

(2) TECHNICAL AND CONFORMING AMENDMENT.-- The section analysis for chapter 33 of title 28, United States Code, is amended by inserting after the item relating to section 540A the following:

"540B. Prohibition on fee for background check in connection with firearm transfer."

(b) PROTECTION OF GUN OWNER PRIVACY AND OWNERSHIP RIGHTS. -

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

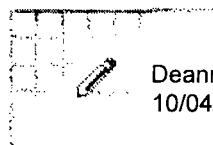
"§ 932. Gun owner privacy and ownership rights

(a) Section 922(t)(C) of title 18, United States Code, is amended by inserting before the period at the end the following ";consistent with the responsibility of the Attorney General under section 103(h) of the Brady Handgun Violence Prevention Act to ensure the privacy and security of the system and to prevent system fraud and abuse, but in no event shall such records be used for the creation of a national firearms registry. To ensure that such records shall not be used for the creation of a national firearms registry, the General Accounting Office is authorized to conduct an annual audit of the National Instant Criminal Background Check System to verify the Attorney General's compliance with the requirements of section 193(h) and this section.

(B) EFFECTIVE DATE. - The amendments made by this section shall take effect on the date of the enactment of this Act, except that the amendments made by

subsection (a) shall take effect as of October 1, 1999.

(Insert Section Requiring Mfr to Keep Serial #s)



Deanne E. Benos
10/04/99 10:58:30 AM

Chane -

JW J. J. J.
B. C.

Record Type: Record

To: Eric P. Liu/OPD/EOP@EOP

cc:

Subject: Re: Gun Compromise -- JJ CONFERENCE.

Eric --

Leanne and I shared a copy of this column by Bruce Dold from the Chicago Tribune's Editorial Board, with Bruce after the meeting this morning. While the consensus was that we're still dealing in hypotheticals on the JJ Bill, I thought you might want to take a look at it. (Bruce Dold has been very supportive of gun control in the past, and even spoke with Bob Walker from Handgun Control on background before writing this piece.)

October 1, 1999
Chicago Tribune

TRIGGER THINKERS

R. Bruce Dold

The most critical gun-control debate of 1999 has been coming to a head with few people outside Washington paying any attention, maybe because no one has shot up an office or school in, oh, several days.

Last spring, Congress put on a crass show in the wake of the Columbine High School shootings. The Senate defeated gun-control bills, got spooked when the public noticed, then abruptly turned around and voted to clamp down on gun shows.

The House tried to run a sham bill that in some ways weakened existing gun laws, then wound up stuffing the whole thing. No agreement, no law.

The debate got pretty ugly. House Speaker Dennis Hastert (R-Ill.) stuck his neck out by promising that the House would support some modest gun restrictions, but leaders in his own party undermined him.

Democrats didn't act particularly glum. Some Democrats saw the defeat of gun control as a great opportunity. "Six seats! Six seats!" some of them chanted on the House floor, led by Rep. Patrick Kennedy (D-R.I.), the chairman of the Democratic Congressional Campaign Committee. That's how many seats they need to pick up in 2000 to control the House again.

They all took the summer to cool off. Over the last few weeks, a conference committee of the House and Senate has been trying to pick up the pieces. Nobody figured it was going to be easy, because there were a lot of bruised feelings after the House debate in the spring.

In the last few weeks, the conference committee started talking quietly about a compromise on guns. And now there is a deal on the table, offered by House Judiciary Committee Chairman Henry Hyde (R-Ill.)

It does some good things.

It would require that all guns be sold with trigger locks. It would prohibit minors from possessing an assault weapon and would ban any juvenile convicted of a violent crime from buying or owning a firearm for the rest of his life. It would ban the importation of large-capacity ammunition clips.

It tries to finesse the most contentious issue of the spring, background checks at gun shows. Licensed gun dealers have to do a background check before they can sell you a gun. But you can walk up to an unlicensed dealer at a gun show and buy, no questions asked. That makes no sense. Most Democrats and Republicans agree that a background check should be required at gun shows; the question is how to do it.

The Senate voted to make gun buyers wait three days for the background check to be finished before they could pick up their purchase. The House wanted to limit the background check to just 24 hours--and if the check wasn't completed by then, the buyer would get his gun.

Hyde proposes that gun buyers would have to wait only 24 hours for the background check to be done. But if the check turns up a red flag, such as an unresolved arrest report, the wait would be extended to three days for a more extensive background check.

If that's all there were to it, the choice for Democrats would be easy: Take the deal.

But apparently there is more. The Hyde proposal still appears to create loopholes that could exempt some gun-show sales from the background checks. Some fear the compromise might actually ease the rules on interstate shipment of guns.

So Democratic leaders and gun-control groups aren't ready to buy in to Hyde. Not just yet.

The Democrats have a winning political issue. The Columbine shootings made the public much more aware of gun violence. Polls show most of the gun proposals in debate, including trigger locks and background checks at gun shows, have overwhelming public support. Texas Gov. George W. Bush recently said he supports several of the gun-control provisions in this mix. Texas and gun control. You don't often see

those words in the same sentence.

But the Democrats also are in danger of overplaying their hand.

At best, they will get modest changes in Hyde's package. If they hold out for more and scuttle gun control altogether, they'll invite the conclusion that gun-control rhetoric is more valuable than gun-control law for them, at least when it comes to taking the House in 2000.

With Democratic support, Hyde's compromise would win in the House and Senate. Last week, the House had a series of test votes on gun control. One motion, sponsored by Rep. Zoe Lofgren (D-Calif.), included most of the provisions of the Hyde compromise, and passed the House 241-167.

This is probably the last chance for gun control for a year, two years, maybe a long time. Members of Congress aren't likely to want to fiddle around with such a hot-button issue next year, months before an election. And if the polls hold up and Bush is elected president, well, he may express support for some gun measures but he won't be leading any charge.

"The perfect must not become the enemy of the good," Hyde likes to say. Hyde's proposal is fairly good. It is better than what House Republicans offered in the spring. It could be even better--but it won't get much better.

Does anyone really want to pass gun control this year? We're about to find out.

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■ GUN MEASURES STUCK IN THE NO-WAY CORRAL

BY KIRK VICTOR

Sen. Orrin G. Hatch of Utah, the chairman of the House-Senate conference committee working on a sweeping "juvenile-justice" bill that includes controversial gun control provisions, is not shy about talking up his many years of experience in moving legislation. As a contender for the GOP presidential nomination, Hatch hopes that his Washington know-how will give him a decisive edge over his opponents.

But when asked whether it's fair to judge his legislative skills by how efficiently the conference committee handles its task, Hatch demurs. "Well, I mean, I am not God," Hatch said in an interview. "All I can do is do my best."

That it would take divine intervention to secure passage of legislation that mandates more-extensive background checks on purchasers of firearms may seem startling, especially given the recent spate of horrific shootings, in schools and places of worship across the country, that have left scores of people dead.

But the politics of gun control, of course, is not conducive to bringing lawmakers together. On the contrary, the issue evokes fierce passions. Those who favor beefing up examinations of gun purchasers are no more inclined to budge than are those who oppose anything they view as infringing on the Second Amendment's guarantee of the right to bear arms. Layer plenty of hot rhetoric and political posturing on top of those competing forces, and it's no wonder that Hatch sees his mission as daunting.

The conference committee's challenge is compounded by the fact that the House and Senate took markedly different approaches to gun control. In May, the Senate passed a bill that included a provision designed to close a loophole in the 1993 Brady Law. Individuals who buy guns at gun shows would be subject to

background checks, which are already imposed on firearms' purchasers at gun stores. The Senate vote came in the wake of the April shootings at Columbine High School in Littleton, Colo.

The Senate measure also includes provisions to mandate childproof trigger locks, ban the importation of high-capacity ammunition clips, require that safety devices be sold with handguns, and prohibit people who commit serious felonies before their 18th birthdays from possessing firearms.

In the weeks leading up to the House gun control debate in June, the atmosphere was marked by a frenzy of member-to-member lobbying and unrelenting pressure from outside groups, led by the two main combatants—the National Rifle Association and Handgun Control Inc.

During the House debate, Rep. Carolyn McCarthy, D-N.Y., made a tearful plea to her colleagues to "stop playing games" and to follow the Senate's lead by allowing three business days to conduct background checks at gun shows. Her moving words reflected her well-known personal story that catapulted her to office in 1996: A gunman killed her husband and seriously wounded her son on a commuter train in 1993 during what became known as "the Long Island Railroad Massacre."

Compelling story or no, the House rejected McCarthy's argument. The House juvenile-crime measure contains no gun control provisions. Instead, the legislation would allow violent juveniles to be tried as adults, and it would impose mandatory minimum sentences. It also addresses cultural issues by allowing the Ten Commandments to be posted in public places.

House and Senate conferees must now reconcile the different approaches—a "hard task," Hatch conceded in August at a meeting of the conferees. "Hard" may



CAROLYN MCCARTHY: The House has already rejected her pleas for the passage of new gun control legislation, but she hasn't given up the fight.

PHOTOCOPY
PRESERVATION

be an understatement. It appears that an agreement on a trigger-lock requirement, a ban on ammunition clips, and prohibition of possession of firearms by a youth who has been involved in a serious felony, has all but been reached. But the same cannot be said for the background-check issue.

The strongest proponents of gun control, such as McCarthy, are adamant that the Senate's background-check provision not be watered down. "How would we feel if we passed a law that we did compromise on, and down the road we have another shooting and we trace it back to a gun show?" McCarthy said in an interview. "How would I feel, knowing that I had let down an awful lot of victims?"

The NRA is equally resolute in opposing the Senate provision. The group has unleashed its usual retinue of lobbyists, along with radio buys on conservative talk shows and mailings to its 2.5 million members. Handgun Control has countered by launching a series of television ads. (*See related story on lobbying, this issue, p. 2718.*)

As Congress finishes its work in coming weeks, the lobbying forces will continue their drumbeat on gun control. They've got their eyes on the ongoing conference committee, as well as must-pass appropriations legislation, which could serve as an 11th-hour vehicle for new gun restrictions. But serious impediments stand in the way of a deal.

DIVIDED LEADERSHIP IS A DEAL-KILLER

Ever since taking the reins in the House, Speaker J. Dennis Hastert, R-Ill., has tried to put a less-strident face on GOP lawmakers. He took a similar tack in response to the shootings in Colorado. Notwithstanding his party's long aversion to gun control, Hastert in May talked up "commonsense legislation that keeps guns out of the hands of unsupervised children."

Hastert and House Judiciary Committee Chairman Henry J. Hyde, a fellow Illinoisan, seem disposed to moving compromise gun control legislation that would take the issue off the table. But House Majority Whip Tom DeLay, R-Texas, collaborated with Rep. John D. Dingell of Michigan, the most-senior House Democrat, to kill gun control legislation in the House in June, and they are no less determined to head off further efforts to push a McCarthy-like proposal.

Dingell's tactics put him at odds with some of his Democratic colleagues, including House Minority Leader Richard A. Gephardt, D-Mo., who strongly backed McCarthy's efforts. But Dingell provided

cover for other Democrats from rural districts where gun restrictions are unpopular. Forty-four House Democrats backed Dingell during the debate.

Dingell well recalls that his pal and hunting comrade, then-House Judiciary Committee Chairman Jack Brooks, D-Texas, lost re-election five years ago after he supported an assault-weapons ban. Dingell was not about to see other Democrats defeated because of political fallout from the gun control debate.

Even as Dingell and Gephardt have worked at cross-purposes, DeLay similarly has worked to change the Republican strategy, notwithstanding Hastert's softened rhetoric. DeLay has reassured the GOP base and worked to recast the issue.

"Tom DeLay was the hero of the moment, because he figured out that you had better not have gun control in a vacuum. The American people saw other elements as far more critical to reducing youth violence than guns," said Frank Luntz, a GOP strategist. "The House brought in a moral component, a family component, an anti-crime component. The House framed the issue quite differently than the Senate."

The DeLay and Dingell maneuvers demonstrate the deep divisions within the parties. They hardly bode well for the enactment of gun control legislation.

CAMPAIGN 2000 IS A DEAL-KILLER

Even though the House-Senate conferees first met in August, some 15 months before the 2000 elections, the gun issue has already become entangled in the nascent presidential contest. As the partisan sniping heats up, prospects for compromise diminish, because each side views the other with distrust.

Just last week, Texas GOP Gov. George W. Bush responded to the killings at a church in Fort Worth, Texas, by blaming "a wave of evil passing through America." Bush, at a news conference, added: "I don't know of a law, a governmental law, that will put love in people's hearts."

Vice President Al Gore, the front-runner for the Democratic presidential nomination, pounced quickly. Without mentioning Bush's name during a speech on Sept. 19, Gore cited the numerous shootings of the past year before concluding, "A lot of these types of tragedies have happened when evil met a wave of guns."

Gore, who cast the tie-breaking Senate vote to require background checks at gun shows, also pointedly asked crowds at campaign stops, "How can we allow guns in

churches?" It is a not-so-veiled reference to legislation that Bush signed allowing Texans to carry concealed weapons in churches.

ONE-UPMANSHIP IS A DEAL-KILLER

Some Republicans are convinced Democrats have already completed their agenda in the 106th Congress. They say that Democrats have calculated that the less that happens on issues like gun control, the easier it is to run against a Republican "Do-Nothing" Congress.

A Gephardt spokeswoman adamantly denied that charge, saying that the Republicans are responsible for the slow pace of the conference committee on the juvenile-justice bill. "We fought during the floor debate for the Senate-passed gun provision as part of a comprehensive school safety bill," said the Gephardt aide. "That's what we hope to come out of this."

And Bruce N. Reed, Clinton's chief domestic policy adviser, also insisted that the White House wants legislation. "We don't need gun shows as [a campaign] issue," Reed said. "We have plenty of gun issues that we will continue to disagree with conservatives on, long after the gun-show provision has been passed."

But Hatch worries that Democrats will refuse compromise language on gun control and hold out for the Senate version or nothing at all. "When I hear members drawing lines in the sand," Hatch said on the Senate floor on Sept. 16, "I get concerned, because it tells me that the politics of party are trumping the obligation to lead and do what's right."

Some Democrats insist they are open to compromise. "We need to do something, even if it is only a baby step," said Rep. Karen McCarthy, D-Mo., in an interview. "Even if we can make subtle gains and slight gains—as long as we are not taking a step backward—we need to fight for those."

Nonetheless, look for restive GOP lawmakers to call what they view as a Democratic bluff. Senior Republicans have crafted a compromise proposal. The move is clearly designed to put the Democrats on the defensive. Democrats might counter by attaching a Senate-type gun control measure to one of the appropriations bills.

If such maneuvers seem part of the endless saga of Washington gamesmanship, there's a reason. They are. As Democrats and Republicans blame each other for playing games, the public will render its verdict in the 2000 elections. ■



Leanne A. Shimabukuro

09/22/99 05:58:41 PM

Record Type: Record

To: Eric P. Liu/OPD/EOP@EOP

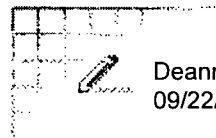
cc:

Subject: Re: JJ conference -- update

CAME -
JW. GO BILL
JUSTICE

I'm not sure if this changes anything for the guidance, but take a look.

----- Forwarded by Leanne A. Shimabukuro/OPD/EOP on 09/22/99 05:58 PM -----



Deanne E. Benos
09/22/99 05:44:42 PM

Record Type: Record

To: Leanne A. Shimabukuro/OPD/EOP@EOP

cc:

Subject: Re: JJ conference -- update

Wednesday September 22 5:16 PM ET

Republican Hyde Floats Compromise Gun Show Plan

By Joanne Kenen

WASHINGTON (Reuters) - A prominent House Republican is floating a compromise proposal on gun show background checks but the initial reaction on both sides has been muted.

The plan drawn up by House Judiciary Committee chairman Henry Hyde, an Illinois Republican, would create a two-tiered timetable for background checks.

In most cases, the checks would have to be done in 24 hours but if the check turned up a "red flag" such as a question about an arrest history, officials would have three business days to investigate further, Republican sources said.

The proposal is still being refined, and detailed written versions have not circulated widely. So lawmakers in both parties as well as gun control lobbyists said it would be hard to evaluate it until they see the complete proposal, such as the precise circumstances that would set off the three-day checks.

The Senate in May adopted an amendment by New Jersey Democrat Frank Lautenberg that would require three business day background checks for all gun show sales.

The House rejected that proposal, leading to the current stalemate in the national gun control debate sparked by the Littleton, Colo., high school massacre last April.

"What I'm worried about is they will give you something that looks like it's very close to Lautenberg, and then it'll have a whole bunch of exceptions to it, which really wrecks the whole thing," said House Democratic Leader Dick Gephardt of Missouri, who had not yet seen Hyde's plan.

"That's been the pattern in the past," Gephardt said. "But if I'm wrong and they really want to come close to Lautenberg and do something that's effective, I'm all for it."

Hyde also supports other less controversial gun control measures including child safety locks and banning imports of high capacity ammunition clips.

Hyde's counterpart, Senate Judiciary Committee chairman Orrin Hatch, was noncommittal, saying only that he would look at Hyde's proposal. Hatch is head of the House-Senate conference committee trying to meld the two vastly different approaches, but except for one preliminary session in August, the panel has not scheduled any formal meetings.

Zoe Lofgren, a California Democrat who is on the conference committee, said, "We had one meeting where we gave speeches to each other, and we never met again."

Lofgren has introduced a motion, which was to be voted on late Wednesday, calling for the House to instruct the conference to act on a "loophole-free" gun show system to keep weapons away from "murderers, rapists, child molesters, fugitives from justice, undocumented aliens, stalkers and batterers."

Under current law, licensed gun dealers have three business days to run background checks on all transactions, whether at a shop or a show. Most checks are done within minutes, and 95 percent are completed within two hours, according to federal statistics.

But other, more informal nonlicensed vendors at gun shows do not have to run those checks. Gun control advocates say that is an unacceptable loophole.

Sensing that the issue is languishing in Congress, pro gun-control lawmakers tried to bring attention to it again. Several lawmakers, mostly Democratic women like Connecticut's Rosa DeLauro, gave speeches simply listing the names, ages and dates of deaths for some of the 13 young people killed each day by gunfire.

A newly formed group of mothers turned activists is coming to Washington Thursday to announce plans for a "Million Mom March" next Mother's Day.

Organizer Donna Dees-Thomases, a New Jersey mom and part-time public relations agent, said most of the women had not paid much attention to politics or gun control until they got jolted into action by the recent spate of school, office, church and Jewish center shootings.

"We didn't know the difference between the Brady Bill and the Brady Bunch," Dees-Thomases said in a telephone interview. "We know now, we're savvy enough now to know that November 2000 (elections) is a turning point for this country."

09/03/99 FRI 12:53 FAX
09/04/99 SAT 01:20 FAX

002/002

002

THE WHITE HOUSE
WASHINGTON

September 3, 1999

Crime-
JJ Bill

Dear Mr. Speaker:

As the Congress returns this coming week, I urge you to make it your first order of business to send me a juvenile crime bill that includes the Senate-passed gun measures.

The time is long past due to complete work on this bill. Before the Congress went on its recess, I asked the conferees to meet during the break and finish work on the bill. A full month has passed since the conferees first met, and I urge you now to finish the job and act immediately on this vital legislation.

The tragic shooting in Los Angeles just a few short weeks ago is the latest reminder that we must do all we can to keep guns out of the wrong hands. You have the opportunity to send me a balanced and bipartisan juvenile crime bill that helps prevent youth violence and includes the Senate-passed gun provisions to close the gun show loophole, require child safety locks for guns, and bar the importation of large capacity ammunition clips. These provisions will help save lives, and the Congress should make them the law of the land without further delay.

As millions of our Nation's children return to school, we have a responsibility to do everything we can, as quickly as we can, to keep them safe. The American people are waiting: don't let another day pass.

Sincerely,

Bill Clinton

The Honorable J. Dennis Hastert
Speaker of the
House of Representatives
Washington, D.C. 20515

Final



THE SECRETARY OF EDUCATION
WASHINGTON, D.C. 20202

August 24, 1999

Carrie -
Juvenile Justice
Bill

Honorable Henry J. Hyde
House of Representatives
Washington, DC 20515

Dear Congressman Hyde:

I am writing to express my serious concerns relating to certain provisions of the two juvenile crime bills recently passed by the House of Representatives and the Senate, respectively, H.R. 1501, the "Juvenile Justice Reform Act of 1999" and S. 254, the "Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999." Improving the effectiveness of the Nation's juvenile justice system is a goal we all share, and is vitally important to the maintenance of our schools as safe and orderly centers of learning. Because the overwhelming majority of the provisions of both bills relate directly to the operation of the juvenile justice system, I defer overall to the Attorney General with respect to both bills.

However, both bills also contain a variety of provisions, added during floor debate, that would directly affect the administration of Federal education programs at the elementary and secondary education level as well as the ability of local school systems throughout the Nation to provide a safe, high-quality education. I urge the conferees not to include these provisions in the final bill, but to consider them, instead, as part of a more comprehensive and deliberate review of Federal elementary and secondary education programs that will occur as the Congress debates the upcoming reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA). In this connection, I urge the Congress to act favorably on the President's ESEA reauthorization proposal, the "Educational Excellence for All Children Act of 1999," and, in particular, the many improvements that proposal would make to Title IV of the ESEA, the "Safe and Drug-Free Schools and Communities Act." If, however, the conferees feel compelled to address these issues in conference, I urge you to delete or modify the provisions described below.

IDEA. My strongest objections are to the amendments in both bills to the Individuals with Disabilities Education Act (IDEA). These amendments would allow school personnel in public elementary and secondary schools, for the first time, to suspend or expel children with disabilities from their schools for unlimited periods of time, without any educational services (including behavioral intervention services), and without the impartial hearing now required by the IDEA, for carrying or possessing a "gun or firearm" (Senate) or a "weapon" (House) to, or at, school or a school function. Congress need not, and should not, make these changes. Just two years ago, Congress, after thoughtful deliberation, amended the IDEA to give school

Eric -
Final Educ.
views letter for
JJ bill. Sorry it's
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Lianne

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officials new tools to address the issue of children with disabilities bringing such weapons to school, or otherwise threatening teachers and other students. For example, school officials may remove, for up to 45 days, a child with a disability who takes a weapon to school, and may request a hearing officer to similarly remove a child who is substantially likely to injure himself or others, if the child's parents object to the removal. Furthermore, the IDEA currently allows hearing officers to keep these students out of the regular educational environment beyond 45 days if they continue to pose a threat to the rest of the student body. Finally, the 1997 amendments to the IDEA help prevent dangerous situations from arising, by encouraging schools to address misbehavior before it becomes serious, through the provision of behavioral interventions and other appropriate services. I am convinced that these new tools will be effective if given a chance to work.

In contrast, the amendments now under consideration would deny vital educational services to children with disabilities who are removed from school, including behavioral interventions that are designed to prevent dangerous behavior from recurring. Continued provision of educational services, including these behavioral interventions, offers the best chance for improving the long-term prospects for these children. Discontinuing educational services is the wrong decision in the short run, and, in the long run, will result in significant costs in terms of increased crime, dependency on public assistance, unemployment, and alienation from society.

Also, the applicable definition of "weapon" (current section 615(k)(10)(D) of the IDEA), as used in the House bill, is very broad and open to subjective application -- covering anything, such as a rock picked up on the way to school or a baseball bat intended for an after-school ball game -- that is "readily capable of causing death or serious bodily injury," whether or not it is designed as a weapon and without regard to the student's intention in bringing it to school. A statutory standard this broad is sure to lead to inconsistent application at the local level and widespread confusion.

The exclusion of children with disabilities from school -- without the impartial due-process hearing and the continued services that the IDEA now requires -- is the wrong response. I urge you to reject these amendments to the IDEA.

Religious Expression. Both bills contain amendments relating to the expression of religious beliefs at public schools. This Administration has a strong record of protecting religious expression in schools. In 1995, the President directed the Attorney General and me to issue guidelines that would help schools preserve the religious freedom of students. I sent these guidelines to every school district in the Nation in 1995 and again last year, to ensure that parents, teachers, students, and school officials understand that schools need not be religion-free zones. These guidelines make clear that schools may not forbid students from expressing their religious views or beliefs solely because of their religious nature, and that any student in an American public school may pray, bring a Bible to school, say grace at lunch, or voluntarily participate in "see you at the flagpole" gatherings. In addition, I share the Department of Justice's concerns over the constitutionality of the provisions in H.R. 1501 and S. 254.

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Internet Filtering. The House bill contains an amendment that would require elementary and secondary schools and libraries receiving universal-service assistance to select, install, and use filters that block access to child pornographic and obscene materials, as well as materials deemed harmful to minors, on computers with Internet access and to certify to the Federal Communications Commission that they have done so. A school or library that fails to meet these requirements would be liable to repay immediately the full amount of all universal-service assistance it received after the date of its failure to comply.

I strongly support the goal of protecting children from inappropriate material on the Internet. However, I do not believe the House provision would effectively accomplish this goal. As written, the House provision could result in the blocking of material that may be appropriate for educational and other uses, raising constitutional concerns, and would place a disproportionate burden on our poorest and most rural schools and libraries.

Appropriately crafted legislation would empower schools to protect children from unsuitable material while also protecting First Amendment values. Accordingly, I support a provision that would require every school and library that receives assistance from the universal service fund to certify that it has developed and implemented a plan to protect children from inappropriate material on the Internet. These plans should be developed in consultation with parents and other interested parties so that schools and libraries can adopt local approaches that best serve the needs of their students and communities. I would be pleased to work with the conferees to develop such a provision.

Safe Schools. The Senate bill would expand the Gun-Free Schools Act of 1994 -- which requires school districts to expel from school for at least one year any student who brings a firearm to school -- to require States to pass a law that would compel the same punishment for students who possess at school a "felonious quantit[y] of an illegal drug." Clearly, the presence of illegal drugs at school is unacceptable. However, I oppose this provision as drafted. First, I do not favor expanding the number of students who are expelled from school for long periods of time -- for the sake of the students themselves, and their communities. Many students who are expelled for a long period of time never return to school, which ends their education and casts them troubled and ill-prepared onto the streets. We cannot afford to lose these children. Secondly, expelling students in this manner based on whether the amount of illegal drugs they possessed at school did, or did not, constitute a felony under State or Federal law would not only lead to inconsistent results -- and confusion -- across the country in the application of this Federal requirement, it would force school administrators to become expert in the application of criminal law and to function, in effect, as prosecutors.

I believe that the criminal justice system should be brought to bear vigorously on any student who brings illegal drugs to school. Accordingly, I believe a better approach would be to require schools that have not already done so to adopt and enforce sanctions against students who bring

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illegal drugs to school, and to make it mandatory that school authorities refer to the appropriate law-enforcement authorities any student who brings an illegal drug to school, whether felonious or not.

The Senate bill would also amend current Titles IV and VI of the ESEA to expressly permit school districts to use an unlimited amount of their resources under those two titles to "purchase school security equipment," such as metal detectors. While such equipment can be an important part of local efforts to make schools safe, it is vital that school districts continue to look at a variety of other approaches to addressing their individual needs, because we know that metal detectors alone will not make schools safe. Our reauthorization proposal for the Safe and Drug-Free Schools program would provide school districts additional flexibility to purchase such equipment. I urge the conferees to omit the Senate provision from the final bill, so that the Congress and the Administration can work together to address this issue as part of the pending reauthorization of the entire Safe and Drug-Free Schools program and the rest of the ESEA.

Thank you for the opportunity to present these views.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Yours sincerely, .


Richard W. Riley

DRAFT
June 24, 1999

Crime -
Juvenile Justice
Bill

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: Juvenile crime and gun legislation

In the wake of the House's votes to defeat our gun legislation, we must keep up the drumbeat for Congress to include common sense gun measures in any juvenile crime bill that it sends to you for signature. Early indications are that the Republicans are in no hurry to go to conference on the juvenile crime bill, and that they are not inclined to close the gun show loophole as part of the final bill. To keep the issue alive, Democrats will soon offer motions to instruct the conferees to accept the Senate-passed gun amendments, and they are considering forcing additional votes by offering our gun proposals as amendments to the appropriations bills. However, we will need to do much more to keep the public pressure on Republicans, and prevent them from dropping meaningful gun show legislation in conference.

In the meantime, we are reviewing the other proposals that were included in the House and Senate Juvenile crime bills, and will draft a letter to the conferees detailing the Administration's position on each of them. For your information, these issues are summarized below.

Juvenile Accountability Block Grant: At the heart of the House and Senate juvenile crime bills is the \$1.5 billion Juvenile Accountability Block Grant (JABG). The JABG authorizes \$500 million over each of the next 3 years to promote graduated sanctions for juvenile offenders, and to help build juvenile corrections facilities. Unlike previous versions, the JABG also funds a range of other activities and has strong bipartisan support. Funds can now be spent on: more prosecutors, probation officers and court personnel; drug and gun courts; information-sharing programs; mental health screening and treatment; confidential, toll-free hotlines for students; and character education. We should strongly support the current version of the JABG in conference, but we should also be aware that it will be difficult to fully fund the JABG during appropriations. Over the past 2 years Congress has funded a similar juvenile block grant at about half this level, and the current Senate appropriations bill only includes \$100 million for the JABG.

Office of Juvenile Justice and Delinquency Prevention: Both the House and Senate bills reauthorize the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP), which provides grants to states to improve their juvenile justice systems and prevent juvenile crime. The Senate version also includes a new \$200 million block grant dedicated to prevention activities, as well as a series of smaller programs that target gangs, early childhood training, alternative education, and improved parenting. We support all of these provisions.

Generally, both bills also preserve the "core mandates" in federal law that require states to keep

juveniles offenders separate from adult inmates. This is a big victory for Democrats, and represents a significant shift in Republicans' previous position. However, the Senate bill does make one major change to these protections: it deletes the language in current law requiring states to work to reduce the disproportionate confinement of minority youth. We will need to work to amend this language in conference.

Reforms to federal juvenile justice system: The House and Senate bills also include a number of changes to the federal juvenile justice system. As with the Administration's juvenile crime bill, both bills provide law enforcement access to certain juvenile records, allow prosecutors (not judges) to determine whether juveniles who commit serious violent crimes should be tried as adults, and expand the list of crimes for which juveniles can be charged as adults. However, we have since worked with Senator Leahy to moderate these provisions by: (1) clarifying that only in very limited circumstances should juvenile cases be prosecuted at the federal level; and (2) providing for a "reverse waiver" that allows federal judges to review a prosecutor's decision to try serious violent juveniles as adults. We will need to push to have these provisions included in the final bill. Even if we do, however, some House members – especially members of the Black Caucus – will still oppose any language that makes it easier for federal prosecutors to try juveniles as adults.

Firearms provisions: Although the House failed to pass separate gun legislation, a number of firearms provisions that we support were included in its juvenile crime bill. These include: requiring background checks for the purchase of explosives; expanding the list of individuals prohibited from possessing explosives (including youth under 21); increasing from 37 to 75 the number of cities participating in the Administration's youth crime gun tracing initiative; and raising penalties for individuals who engage in the firearms business without a license, illegally traffic over 50 firearms, or illegally transfer firearms to juveniles. Consistent with Republicans' message of tougher enforcement of our guns laws, the House bill also authorizes \$50 million for the increased federal prosecution of gun crimes, and establishes new mandatory minimum sentences for youth gun and drug 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. Since the Senate also passed provisions similar to these, they are all likely to be accepted in conference. Only the new mandatory minimums, which Democrats strongly oppose, are likely to be a sticking point

Religious expression in schools: In addition to passing a Senate amendment that expresses support for religious memorial services to take place on public school property (as was done at Columbine High School), the House passed two other amendments to promote religious expression in public schools: one to allow states to display the Ten Commandments in public buildings and schools; and one to bar plaintiffs from recouping attorneys fees in Establishment Clause lawsuits where public school officials acted to accommodate or facilitate students' religious expression. The Justice Department has serious constitutional concerns with both of these provisions, and we will work to have these provisions dropped in conference.

Media Violence: Although the House rejected amendments to prohibit the distribution of violent and sexually-oriented materials to minors, and to establish a labeling system for violent

media, it did vote to require schools and libraries participating in the FCC's e-rate program to equip their computers with filtering software that blocks Internet access to material deemed harmful to minors. Similarly, the Senate voted to require Internet Service Providers to make such filtering technologies available to parents. [In conference, we will....]

Other Miscellaneous Provisions. Finally, both bills contain a variety of other provisions that – although they passed with little debate or with overwhelming support – are far-reaching and may need to be amended in conference. Some of these provisions include:

IDEA reform -- Both the House and Senate bills would amend IDEA to allow school officials to expel disabled students who bring a firearm to school, just as they Gun-Free Schools Act require them to do with other students. The Department of Education is strongly opposed to this change.

Crimes against children – The House and Senate bills include a combination of three, tough new provisions to crackdown on crimes against children. Aimee's Law requires states responsible for releasing repeat murderers, rapists, or sex offenders that go on to commit similar crimes in other states to: (1) pay for the apprehension, prosecution, and imprisonment of such repeat offenders; and (2) transfer \$100,000 from their law enforcement block grant funds to compensate each victim of such a repeat offender. Mathew's Law directs the sentencing commission to increase penalties for violent crimes committed against children under the age of 13. And a "two strikes" amendment provides for the mandatory life imprisonment of sex offenders who commit crimes against children.

Gang recruitment penalty -- Both the House and Senate bill includes an amendment by Senator Feinstein that makes it a federal crime to recruit gang members, with a 4-year mandatory minimum for recruiting a minor. Although we were originally concerned about the amendment's scope, Senator Feinstein has since narrowed the provision.

School Safety -- The Senate bill includes a series of amendments that would allow schools to use their ESEA funds for a broad range of school safety measures, including increased security measures, school uniforms, school resource officers, and drug testing. The bill also authorizes background checks for prospective school employees.

Drug dealer liability -- The House bill creates a new federal, civil cause of action for anyone – except a drug user who is unwilling to reveal the source of his or her drugs -- harmed by a person that manufactures or distributes a controlled substance in violation of federal law.

Limitation on teachers' liability – The Senate bill includes a provision to limit the liability of school officials who – acting consistent with their official duties – make reasonable efforts to discipline students.

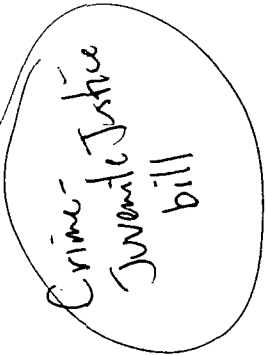
Limitation on prisoner release orders -- The House bill includes a provision that would

bar federal courts from carrying out any prison release orders, and vitiate many of the existing consent decrees dealing with prison conditions. The Justice Department has expressed serious concerns with this language.

Suspension of Drivers' Licenses – The House version of the JABG includes an amendment that conditions receipt of grant funds on states enacting laws mandating the suspension of drivers' licenses, until the age of 21, of any juvenile caught illegally possessing a gun.

Pending Federal Juvenile Justice Legislation: KEY PROVISIONS IMPACTING YOUTH UNDER STATE AND FEDERAL LAW

Prepared by the Youth Law Center ♦ Washington, D.C. ♦ (202) 637-0377

STATE ISSUES	Current Law ¹	House Bill (H.R. 1501) ²	Senate Bill (S.254) ³	Recommendation
KIDS IN JAIL Separation from adult inmates:	Youth under juvenile court jurisdiction may not be detained where there is any physical or sustained sight or sound contact with adult inmates. - sight contact means "clear visual contact between incarcerated adults and juveniles within close proximity to each other." - sound contact means "direct oral communication between incarcerated adults and juvenile offenders." - all contact is prohibited in the residential areas of a facility.	Prohibits states from detaining youth under juvenile court jurisdiction where they have regular contact or unsupervised incidental contact with incarcerated adults. Requires staff in co-located facilities to be trained to work with juveniles. Sec. 1310 amending 42 U.S.C. 5633(a)(13).	Delinquent youth under juvenile court jurisdiction may not be detained: - where they have prohibited physical contact or engage in sustained oral communication with incarcerated adults that provides an opportunity for the adult to physically harm the youth; - an exception to prohibited contact allows for supervised proximity between a youth and an adult inmate that is brief and inadvertent or accidental, in secure nonresidential areas not dedicated to use by youth offenders. Sec. 103 amending 18 U.S.C. 5031, sec. 222(a)(12).	<u>Prefer Senate language.</u> House language as currently written creates a loophole to allow for supervised incidental contact, which could lead to dangerous situations for incarcerated youth (e.g., allowing for contact in the exercise yard, the infirmary and during intake). As of 1996, 53 States and jurisdictions (of 57) are in compliance with the current law's separation provision.
Removal from adult jails: 	Youth may be detained in adult facilities for the following purposes: - 6 hours for processing, or 6 hours before or after a court appearance; - in rural areas, for 24 hours plus weekends & holidays for delinquent youth who are awaiting an initial court appearance; - during and up to 24 hours after emergency conditions that make travel unsafe.	Extends current law to allow detention with adults subject to separation requirements described above. For juveniles accused of nonstatus offenses and detained in a jail/lockup for a period not to exceed 6 hours: (i) for processing or release; (ii) while awaiting transfer to a juvenile facility; or (iii) in which period such juveniles make a court appearance; - In rural areas, for 48 hours plus weekends & holidays for youth accused of nonstatus offenses who are awaiting an initial court appearance; - in rural areas, for up to 20 days prior to sentencing whenever parents consent, the child's views are represented by counsel, and the court determines detention in the child's best interest. Subject to review every 5 days in the presence of the juvenile; - During and up to 24 hours after emergency conditions making travel unsafe have cleared. Sec. 1310 amending 42 U.S.C. 5633(a)(14).	Extends current law to allow detention with adults: - in rural areas for 48 hours plus weekends & holidays for delinquent youth awaiting an initial court appearance; - in rural areas, indefinitely whenever parents consent, the child's views are represented by counsel, and the court determines detention as in the child's best interest. Subject to review every 5 days; such review <u>may</u> be in the presence of the juvenile. - during and up to 48 hours after emergency conditions making travel unsafe. Sec. 222(a)(13).	Recommend striking the <u>parental consent exception</u>. This exception is a radical change to current law and will result in children being placed in adult jails for unacceptably long periods. As of 1996, 48 States and jurisdictions are in compliance with the current law's jail removal provision (with 3 States on hold pending submission of additional data, and only 2 States of those participating in the OJJDP Formula Grants Program out of compliance with this provision (Maine and Massachusetts)).
DISPROPORTIONATE MINORITY CONFINEMENT	State plans must "address" efforts to reduce any disproportionate confinement of minority youth.	State plans must address delinquency prevention and system improvement efforts to reduce the disproportionate number of minority juveniles who come into contact with the juvenile justice system. Numerical standards or <u>quotas</u> may not be established. Sec. 1310 amending 42 U.S.C. 5633(a)(23).	State plans must address efforts to reduce disproportionate confinement "to the extent that segments of the juvenile population" are confined more than the proportion of these groups in the general juvenile population. Sec. 222(a)(27).	<u>Recommend House language.</u> The Senate language, by removing any reference to minority groups, will significantly hinder efforts to address the disparate treatment of minority youth in the system. (all states in compliance with current req.)

Juvenile Justice Legislation: *IMPACT ON STATE AND FEDERAL LAW* (continued)

	<i>Current law</i>	<i>House Bill</i>	<i>Senate Bill</i>	<i>Recommendation</i>
GRADUATED SANCTIONS	Not in current law.	As a requirement for the Juvenile Accountability Block Grant, states that implement a system of graduated sanctions, but shall ensure at a minimum that: (1) sanctions are imposed on a juvenile offender for each delinquent offense; (2) sanctions escalate in intensity with each subsequent, more serious, delinquent offense; (3) there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender; and (4) appropriate consideration is given to public safety and victims of crime. Sec. 102 amending Title I, sec. 1802(c). States or local governments who do not impose graduated sanctions shall require each juvenile court within its jurisdiction – (i) which has not implemented graduated sanctions to submit an annual report explaining why such court did not do so; (ii) which has implemented graduated sanctions, but has not done so in one or more specific cases, to submit an annual report explaining why such court did not impose graduated sanctions in each such case. Sec. 102 amending Title I, sec. 1802(d). For the definition of graduated sanctions under Title XIII Section 104 (24), see "Recommendation" column.	As a requirement for the Juvenile Accountability Block Grant, states must impose "graduated sanctions" for every delinquent act or probation violation, and the sanction must be more severe with each subsequent more serious act. This policy entails providing substantial and appropriate sanctions that are graduated in such a manner as to reflect (for each act of delinquency or offense) the severity or repeated nature of that act or offense, and in which there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender. Sec. 321 amending Title I, sec. 1801(c)(1). For states that use graduated sanctions, additional funding is available from the Attorney General for technology and training to improve their juvenile justice systems. Sec. 321 amending Title I, sec. 1803(b).	Recommend House Title XIII language with definition of graduated sanctions as "an accountability-based, graduated system of sanctions (including incentives and services) within the juvenile justice system to hold juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-abiding behavior, and by preventing their subsequent involvement with the juvenile justice system." Recommend House language under JAIBG to provide states with discretion to implement a system of graduated sanctions.

Juvenile Justice Legislation: **IMPACT ON STATE AND FEDERAL LAW** (continued)

	Current law	House Bill	Senate Bill	Recommendation
CONFIDENTIALITY OF RECORDS	No similar provisions.	Funding from the Juvenile Accountability Block Grant is available to states providing an adult-equivalent records system for all juveniles committing a felony-equivalent offense, with info available to law enforcement, FBI, all courts, and school officials. Sec. 102 amending Title I, sec. 1801(b)(10). Authorize a grant program for states to improve record-keeping systems. In order to qualify, states must have in place a system to make juvenile records available for firearm background checks. This system must assure that records of violent juvenile offenses are not expunged and are available as if it were an adult record. Sec. 504. An amendment to the Juvenile Justice and Delinquency Prevention Act requires that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court. sec. 1310 amending 42 U.S.C. 5633(a)(26).	In order to receive funds from the Attorney General, states must provide adult-equivalent records system for all juveniles committing a <u>felony-equivalent offense</u>, with info available to law enforcement, FBI, all courts, and youth's school/college. Sec. 321 amending Title I, sec. 1802(b)(2). If a juvenile is adjudicated delinquent, the records of that adjudication are transmitted to the FBI. Records of the <u>most serious felony offenses</u> shall be maintained and disseminated in the same manner as adult criminal records. <u>Records of any other felony offense shall only be made available within the criminal justice system.</u> There is also a provision that allows for the record to contain a notation of expungement under state law. Sec. 321 amending Title I, sec. 1802(b)(1)(A). Within 2 years of this bill's enactment, each State receiving Federal funds under this Act shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the <u>transfer of disciplinary records</u> by local educational agencies to <u>any private or public elementary school or secondary school</u> for any student who is enrolled or seeks, intends, or is instructed to enroll, full-time or part-time, in the school. Sec. 1104 amending 20 U.S.C. 8921 et seq. Part F, sec. 14604(b).	Prefer Senate language. However, we recommend restricting information sharing to courts and law enforcement agencies with a requirement that schools and colleges can only access information with courts' permission.
INDIVIDUALS WITH DISABILITIES EDUCATION ACT	IDEA was amended in 1997 to strengthen protections for special education and disabled students by giving more flexibility to school officials when disciplining students with disabilities, especially in situations involving drugs or weapons. The new regulations provide guidance and clarification on behavioral assessment and development of intervention plans. School administrators and staff are not required by law to take any immediate disciplinary action.	Amends current law so that school personnel are allowed to <u>discipline students with disabilities who carry or possess weapons</u> in the same manner as those students without disabilities. Any weapons infraction would result in cessation of educational services. Sec. 118 amending 20 U.S.C. 1415(k) sec. 615(k)(10)(A).	Amends current law so that schools can cease all educational services to a student with a disability who carries to or possesses a <u>firearm</u> in school. A child expelled or suspended under this provision shall not be entitled to continued educational services during the term or expulsion/suspension. However, a school system can choose to provide educational services even though it is not required to do so. Sec. 1699 amending 20 U.S.C. 1415(k) sec. 615(k)(10).	Prefer Senate language. However, there should be no amendments under the guise of school safety since the 1997 regulations have yet to be implemented. Expelling or suspending students without education only increases drop out rates, incarceration rates, and drug use rates. Also, House language is overly broad about allowing any weapon to result in suspension or expulsion. Furthermore, Senate language ensures mental health services, which are essential for maintaining safe learning environments in schools and preventing future violence.

Juvenile Justice Legislation: *IMPACT ON STATE AND FEDERAL LAW* (continued)

	<i>Current law</i>	<i>House Bill</i>	<i>Senate Bill</i>	<i>Recommendation</i>
FEDERAL ISSUES	Current Law	House Bill (H.R. 1501)	Senate Bill (S.254)	Recommendation
KIDS IN JAIL Separation from adult inmates:	A juvenile under age 18 may be detained only in a suitable juvenile facility or other suitable place designated by the Attorney General with a preference for a foster home or community-based facility. The juvenile may not be detained in a facility where he or she has regular contact with an adult convicted of a crime or awaiting trial on a crime. Insofar as possible, alleged delinquents should be kept separate from adjudicated delinquents.	<i>To the maximum extent feasible</i>, a juvenile prosecuted <u>as an adult</u> in federal court shall not be detained prior to sentencing in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges. Sec. 104 amending 18 U.S.C. 5035(b). A juvenile who is proceeded against <u>as a juvenile</u> shall not be detained prior to disposition in any facility in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges. Sec. 104 amending 18 U.S.C. 5035(c).	Delinquent youth in federal court may not be detained: - where they have prohibited physical contact or engage in sustained oral communication with incarcerated adults that provides an opportunity for the adult to physically harm the youth; - an exception to prohibited contact allows for supervised proximity between a youth and an adult inmate that is brief and inadvertent or accidental, in secure nonresidential areas not dedicated to use by youth offenders. Sec. 103 amending 18 U.S.C. 5031, sec. 222(a)(12). To the extent practicable, violent juveniles shall be kept separate from nonviolent juveniles. Sec. 105(b) amending 18 U.S.C. 5035(a)(2)(B).	<u>Prefer Senate language.</u> House language creates substantial loophole which <u>could allow</u> certain youth as young as age 13 who are prosecuted in federal court to have extensive contact with <u>adult inmates</u>.
PROSECUTING YOUTH IN FEDERAL COURTS Expanding federal jurisdiction:	There is a state court preference for prosecuting youth that have violated federal law. In order to bring the case in federal court, the U.S. Attorney must certify that the following conditions exist: 1) the state court does not have jurisdiction or refuses to assume it, or 2) the state does not have available services for the juvenile offenders, or 3) the offense is a felony crime of violence, and 4) there is a substantial federal interest to warrant federal jurisdiction.	A juvenile may be proceeded against as a juvenile in federal court if the Attorney General, after investigation, certifies that the state or Indian tribe does not have jurisdiction or declines to assume it or there is a substantial federal interest in the case. If the Attorney General does not certify or if the Attorney General does not have jurisdiction, then the case shall be surrendered to state or tribal authorities. Opens the juvenile proceedings to the public unless good cause is shown why certain people should be excluded. Sec. 201 amending 18 U.S.C. 5032(a)(2)-(4)	The juvenile will be proceeded against in federal court if there is a substantial federal interest in the case to warrant federal jurisdiction or if the ends of justice so require. The United States Attorney certifies to these conditions but the certification is not reviewable by the court. If there is concurrent jurisdiction between the states and the federal system, the United States Attorney shall exercise a presumption in favor of state court jurisdiction unless the state or tribal court cannot or will not take the case and there is a substantial federal interest. Sec. 101.	Oppose provisions that would federalize offenses already prosecuted at the state/local level.

Juvenile Justice Legislation: **IMPACT ON STATE AND FEDERAL LAW** (continued)

<i>Current law</i>	<i>House Bill</i>	<i>Senate Bill</i>	<i>Recommendation</i>
Trying youth as adults in federal court: A child over 16 years of age may be prosecuted as an adult if accused of committing a violent felony or serious drug offense. Federal juvenile court jurisdiction may be waived in favor of a federal adult criminal trial on the motion of the Attorney General with respect to a juvenile who: (a) when <u>13</u> years of age or older is alleged to have committed murder, attempted murder, or armed robbery (b) when <u>16</u> years of age or older is alleged (1) to have committed a felony involving the use of physical violence against the property of another; (2) drug felonies; or (3) serious firearms offenses. In such cases, the juvenile court may transfer jurisdiction when it is in the interest of justice to do so, upon written findings with respect to the juvenile's age, prior record, maturity, past treatment, and nature of the alleged offense.	A juvenile <u>shall</u> be prosecuted as an adult in federal court if the juvenile has requested in writing at the advice of counsel to be prosecuted as an adult; or the juvenile is at least <u>14</u> years old (or 13 at the approval of the Attorney General) and commits an act, which if committed by an adult, would be a <u>serious violent felony or crime of violence</u> (or a conspiracy or attempt to commit that felony or offense) or a <u>serious drug offense</u> . Decision is not reviewable in any court. A juvenile <u>may</u> be prosecuted as an adult for any felony offense if the Attorney General decides to do so. However, there is <u>no discretion for the prosecution for serious felonies</u> – the juvenile shall be prosecuted as an adult. Sec. 201 amending 18 U.S.C. 5032(b),(c).	By federal law, youths 14 and older accused of a serious violent felony/drug offense or previously tried as an adult <u>can</u> be prosecuted as adults in federal court at the discretion of the Attorney General. Such prosecution is also allowable for federal offenses. Several offenses were added to list of crimes, including gang-related offenses and using minors to commit crimes. Sec. 102(a)(1). The youth <u>may</u> seek an order to have the case transferred back to juvenile court under the following conditions: 1) 14 and 15-year-old youth may seek an order in all cases; 2) 16 and 17-year-old youth may seek an order in cases that are not serious violent felonies or drug offenses. Sec. 102(d). Decisions to prosecute youth as an adult are not reviewable by courts unless the youth is under 16 years of age. Prosecutors hold the presumption of trying youth as an adult. Sec. 102(a)(2).	Oppose policies which would remove decision-making authority from the court and result in more youth transferred to adult court.

Juvenile Justice Legislation: **IMPACT ON STATE AND FEDERAL LAW** (continued)

	Current law	House Bill	Senate Bill	Recommendation
CONFIDENTIALITY OF RECORDS	Records of juvenile proceedings may be released to: other courts, an agency preparing a report for another court, law enforcement agencies for use in an investigation or law enforcement employment check, the treatment agency or facility to which a juvenile has been committed, an agency conducting a national security employment check, the victim of the juvenile's act of delinquency indicating final disposition; they <u>may not be released for any other employment, check, license, bonding, or similar request.</u>	A juvenile delinquent's records shall be made available for official purposes, including communications with any victim or, in the case of a deceased victim, such victim's representative, or school officials, <u>and to the public to the same extent as court records regarding the criminal prosecutions of adults are available.</u> When a juvenile has been adjudicated delinquent for an act that, if committed by an adult, would be a felony or for a violation of section 924(a)(6), the court shall transmit to the FBI information concerning the adjudication, including name, date of adjudication, court, offenses, sentence, and notation that it was a juvenile adjudication. Sec. 207 amending 18 U.S.C. 5038(a),(c).	When a juvenile is adjudicated delinquent, courts shall transmit such records to the FBI, which will maintain an <u>adult-equivalent records</u> system. These records <u>will be available to schools/colleges</u> , provided that their content is <u>not used for the sole purpose of denying admission.</u> Sec. 108 amending 18 U.S.C. 5038(b)(3). In addition to all the ways that juvenile records can be released under current law, there is an additional that requires juvenile records to be made available to a law enforcement agency for a position within that agency. If a juvenile is adjudicated delinquent, the records are transmitted to the FBI. Records of the most serious felony offenses shall be maintained and disseminated in the same manner as adult criminal records. Records of any other felony offense will also be transmitted to the FBI but will only be made available within the criminal justice system or for purposes of responding to a national security clearance. Sec. 108 amending 18 U.S.C. 5038(b)(2)(B)(ii). A juvenile may petition the court <u>after 5 years</u> to have such records removed from the FBI database if that juvenile can establish by clear and convincing evidence that the juvenile is no longer a danger to the community. Sec. 108 amending 18 U.S.C. 5038(c).	Prefer Senate version, which limits sharing of records and contains a 5-year provision for the person to petition to have his/her records removed. However, we recommend restricting information sharing to courts and law enforcement agencies with a requirement that schools and colleges can only access information with courts' permission.
MANDATORY SENTENCING	Bans possession of a firearm in a school zone, punishable by imprisonment for not more than 5 years to be served concurrently with any other sentencing imposed for related misconduct.	(1) Juveniles convicted in federal court of <u>recklessly</u> <u>discharging a firearm in a school zone</u> <u>will be sentenced to a maximum of 20 years in prison, 25 years if serious bodily harm results, and life imprisonment if death results and the juvenile is over 16 years of age.</u> Sec. 601 amending 18 U.S.C. 924(a)(4). (2) Juveniles convicted in federal court of <u>knowingly</u> <u>discharging a firearm in a school zone</u> <u>shall be fined, imprisoned not less than 10 years, or both, except that if serious bodily injury results, shall be fined, imprisoned not less than 15 years, or both, or if death results and the juvenile is 16 years or older shall be fined, sentenced to life imprisonment, or both.</u> Sec. 601 amending 18 U.S.C. 924(a)(4).	(1) Any youth using interstate commerce to <u>recruit another youth into a gang</u> is punishable by a prison sentence <u>not less than 4 years</u> and not more than 10 years, and a fine. Sec. 201(b).	Strike provisions on mandatory sentencing for juveniles.

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Juvenile Justice Legislation: **IMPACT ON STATE AND FEDERAL LAW** (continued)

	Current law	House Bill	Senate Bill	Recommendation
OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION	No similar provisions.	House language could result in sunseting of JJDP in five years by providing that if Title II of the JJDP Act is not reauthorized before Oct. 1, 2004, on that date Title II Parts B through I, and sections 205, 206, and 299, will expire. Effective Oct. 1, 2005, Title I and the remaining part of Title II will expire, provided the act is not reauthorized. Sec. 120.	The National Institute of Justice will be responsible for independent evaluation of delinquency and youth violence prevention programs, tasks formerly supervised by OJJDP. Sec. 241. The Bureau of Justice Statistics will be responsible for collecting, analyzing, and disseminating statistical data and information relating to juvenile crime, the juvenile justice system, and youth violence, tasks formerly supervised by OJJDP. Sec. 242A.	Strike provisions. Language to reorganize OJP by removing juvenile justice functions currently consolidated in OJJDP and/or any efforts to sunset JJPA will seriously hinder delinquency prevention and research efforts.
FEDERAL SENTENCING GUIDELINES	The <u>maximum term of probation</u> and/or official detention for a juvenile found delinquent and who is less than 18 years of age is the <u>lesser</u> of: - the juvenile's <u>21st birthday</u>, or - the maximum term available had the juvenile been convicted as an adult. Several drug trafficking crimes (for which juveniles may be tried as adults) carry mandatory minimum sentences (e.g. 21 U.S.C. 841, 848). In calculating a convicted defendant's criminal history for purposes of the Sentencing Guidelines, 3 points are assigned for prior sentences of 1 year and 1 month or more regardless of the age of the defendant, but other prior sentences for conduct committed prior to the age of 18 (whether imposed after juvenile or adult proceedings) are only scored if they were served <u>within 5 years</u> of the "instant" offense (2 points for confinement of at least 60 days; 1 point in other cases). U.S.S.G. §§ 4A1.1, 4A1.2. The Sentencing Commission is authorized to study the feasibility of guidelines for the disposition of juvenile delinquents. 28 U.S.C. 995(a)(19).	The United States Sentencing Commission, in consultation with the Attorney General, shall develop a list of possible sanctions for juveniles adjudicated delinquent. Such list shall: (a) be comprehensive in nature and encompass punishments of varying levels of severity; (b) include terms of confinement; and (c) provide punishments that escalate in severity with each additional or subsequent more serious delinquent conduct. Sec. 206 amending 18 U.S.C. 5037(f). The maximum term for which probation may be ordered for a juvenile found delinquent is the maximum term for an adult (5 years). The term for which official detention may be ordered for a juvenile found delinquent may not extend beyond the lesser of the maximum term of imprisonment if the juvenile had been convicted as an adult, ten years, or the date at which the juvenile becomes <u>26 years old</u>. Sec. 206 amending 18 U.S.C. 5037(b), (c).	The United States Sentencing Commission must set guidelines within one year that effectuate a policy of an accountability-based juvenile justice system that provides substantial and appropriate sanctions, that are graduated to reflect the severity or repeated nature of violations, for each delinquent act, and reflect the specific interests and circumstances of juvenile defendants. Sec. 111(b) amending 28 U.S.C. 994(z)(3)(B)(ii). In calculating a criminal history score, prior juvenile records within the <u>last 15 years</u> may be considered. The Sentencing Commission should amend the guidelines to provide that the computation of a career offender should include previous convictions or adjudications by juveniles. There is an exception to the application of minimum sentences – for juveniles under the age of 16, the court is not required to impose mandatory sentences if the court finds after consultation with the government that the juvenile does not have a previous conviction or adjudication for a serious violent felony or a serious drug offense. Sec. 102(b)(2) amending 18 U.S.C. 3553(g), (h).	Prefer maintaining current law, but the <u>House</u> language is better than the <u>Senate</u> language because there are no mandatory provisions.

1. Currently, there are four core requirements for Juvenile Delinquency Prevention Block Grant funding: separation, removal, deinstitutionalization of status offenders, and efforts to reduce disproportionate minority confinement. States failing to comply with these mandates lose 25% of Title II Part B formula grants for each mandate not met. Additionally, non-compliant states will be ineligible to receive any funding unless they expend all remaining funds for that fiscal year on achieving compliance with the requirements that they have not met.
2. Amends Section 223(c) to require that states failing to comply with any core mandate lose 12.5% of Title II Part B formula grants for each one not met. States receive 50% of their state formula grant regardless of compliance with the four core requirements.
3. Under Section 222(c), states failing to comply with any core mandate lose 10% of Title II Part B formula grants for each one not met, unless waived by the administrator. States receive 50% of their state formula grant regardless of compliance with the four core requirements.
4. The Senate bill adds a fifth core requirement which mandates that states have a policy in effect requiring children to be detained for evaluation for bringing a gun to a school.
5. Because the House and Senate language on the deinstitutionalization of status offenders is identical, this is a nonconferencable issue.

Priority Prevention Provisions

Side – by – Side Comparison of Engrossed Versions of S254 and HR1501

July 8, 1999

S254 The Violent and Repeat Juvenile Offender Act of 1999	HR1501 The Juvenile Justice Reform Act of 1999	Current Law The Juvenile Justice and Delinquency Prevention Act of 1974	Recommendation:
Authorizes the Juvenile Accountability Block Grants Program for a variety of juvenile justice system activities, focusing primarily on prosecution and punishment of juvenile offenders. The Senate provision also allows JABG funds to be used for prevention programs, drug and alcohol treatment and school counseling and other school-based programs. Of the total Juvenile Accountability Block Grant allocation, <u>not less than 25 percent shall</u> be used for prevention programs, drug and alcohol treatment and school counseling and other school-based programs.	Authorizes the Juvenile Accountability Block Grants Program for a variety of juvenile justice system activities. There is <u>no</u> allowance or <u>set-aside</u> for use of JABG funds for prevention activities.	Not authorized in current law. The Juvenile Accountability Block Grant Program has received appropriations for fiscal years 1998 and 1999.	Recommend the <u>Senate</u> language. Include prevention programs as an allowable use of JABG funds and set-aside at least 25 percent of the Juvenile Accountability Block Grant for Prevention, School Counseling, and Drug and Alcohol Treatment. This provision, sponsored by Senators Hatch and Biden, was adopted by a vote of 96-3 during Senate consideration of S. 254 and would go a long toward ensuring that prevention programs actually receive some level of appropriations. Such programs could include <u>after-school</u> and youth mentoring programs.

S254 The Violent and Repeat Juvenile Offender Act of 1999	HR1501 The Juvenile Justice Reform Act of 1999	Current Law The Juvenile Justice and Delinquency Prevention Act of 1974	Recommendation:
Authorizes a National Parenting Support and Education Commission and Parenting Support and Training Programs to identify the best practices for parenting and provide advice for parents and caregivers based on the best available research data and for training to (1) promote early brain development and childhood development and education, (2) provide parenting support for adolescents and youth, and (3) provide parenting support and education resource centers.	No similar provision.	Not in current law.	Recommend the Senate language. Include a "<u>Parenting as Prevention</u>" provision modeled after the Senate's Stevens-Kennedy amendment. This provision recognizes that many parents are ill equipped to meet the challenges associated with raising their children. It would support parents by providing funding for family counseling and other services. This provision was adopted <u>unanimously</u> during Senate consideration of S. 254. In addition, this provision would provide much needed resources to help victims of abuse and neglect, sexual abuse, violence, and other traumas that, if left untreated, can sharply increase the risk that a child grows up to be violent.

Prepared by Andrea Palm, Volunteers of America. (703) 739-3960.

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02/17/2000 10:00:05 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP, Eric P. Liu/OPD/EOP@EOP, Leanne A. Shimabukuro/OPD/EOP@EOP
cc: Anna Richter/OPD/EOP@EOP
Subject: Roll Call -- Juvenile Justice Bill/Guns.

ROLL CALL

Hatch May Strip Gun Provisions From Bill Senator Might Move Juvenile Justice Legislation Without Weapons Language

By John Bresnahan

Senate Judiciary Chairman Orrin Hatch (R-Utah) is considering dropping controversial gun control provisions from a stalled juvenile justice bill in order to push the underlying legislation through Congress, according to GOP sources.

Hatch told House Judiciary Chairman Henry Hyde (R-Ill.) of his proposal last week in a private meeting between the two. The maneuver would give the GOP a chance to say they have passed something - rather than nothing - on crime in this election year.

Hatch declined to talk about his negotiations with Hyde, although he admitted that stripping all the gun provisions from the juvenile justice bill was "one of the options we are looking at."

Hyde supports the idea of dropping all gun language from the teen legislation, saying he wants to save the juvenile justice bill, which has been stalled in a House-Senate conference since late last summer.

Hyde also suggested that the House could consider a separate gun bill if there appeared to be support to pass it. But even he admits that is unlikely, considering the likely opposition on both sides of the aisle to such a move.

"I don't want to lose [the] juvenile justice bill," said Hyde. "It's too important. It would be a shame to lose that in the perennial struggle over new gun legislation."

But Speaker Dennis Hastert (R-Ill.) apparently doesn't like Hatch's idea, and he is privately worried that a well-publicized shooting during the election year could cost Republicans in tight House races, considering the GOP's strong ties to the National Rifle Association.

Majority Leader Dick Armey (R-Texas) and Majority Whip Tom DeLay

(R-Texas), however, would rather see the entire issue fade away, fearing the political consequences of a new debate on the controversial matter.

"That would be a huge nightmare," one House GOP leadership aide said of Hatch's attempt to resurrect the issue. "We could probably pass the juvenile justice bill, but it would be a bloody debate."

House Democrats are also sure to pounce on their GOP colleagues for not moving on any new gun proposals.

"We would aggressively oppose that," said a senior House Democratic leadership aide of the idea of moving a stripped-down version of the juvenile justice legislation. "They would be hammered."

"The goal of this conference was to come up with comprehensive juvenile justice legislation," added Sue Harvey, a spokeswoman for Minority Leader Richard Gephardt (D-Mo.). "Gun safety is an essential part of that bill and any compromise that excludes that is unacceptable."

Hatch, who stressed that no final decisions have been made, may want to simply pass the underlying \$1.5 billion juvenile justice bill, which would impose stiffer penalties on teens convicted of weapons crimes, as well as allowing state governments to post the Ten Commandments in public buildings.

Hatch could strip out gun control provisions, such as restrictions on gun show sales, which were included in the Senate version of the juvenile justice bill last year.

Regardless of the spin that either party puts out, GOP leaders and party strategists know they will have to deal with the gun issue at some point this session, considering how politically explosive the topic was last year.

Senate Democrats are widely expected to offer gun control amendments to one of the year's 13 appropriations bills, although what the proposal will contain and when it will occur are still unclear.

In order to counter that effort, Republicans are trying to come up with a plan to neutralize the feared Democratic offensive.

One of the GOP ideas under discussion is to take selected portions of the gun provisions adopted by the Senate last year and offer them as individual bills in the House.

For instance, President Clinton has called for additional funding to enforce existing gun laws, a position House GOP leaders already support. Senior Republicans could offer that provision as a stand-alone bill and dare Democrats to vote against it.

The gun strategy would mimic the GOP plan on tax cuts, where the leadership has broken out the most popular parts of last year's unsuccessful \$792 billion tax cut and offered them as separate bills.

A senior House GOP aide cautioned that no decisions have been made yet, adding that a number of proposals are under consideration.

Spurred on by last April's horrific shooting at Colorado's Columbine High School, as well as other high-profile shootings, the Senate passed a teen crime bill last year that included new gun control measures. One key provision, authored by Sen. Frank Lautenberg (D-N.J.), required 72-hour background checks for those looking to buy guns at gun shows.

But the House refused to include any gun provisions in the teen justice bill it adopted in June.

GOP conservatives joined with a number of Democrats - led by Rep. John Dingell (Mich.) - in voting down the Lautenberg provision. The House then passed the juvenile justice bill over strong Democratic opposition.

Hatch and Hyde were unable to reach agreement on a compromise bill during House-Senate negotiations. Hyde at one point suggested that 95 percent of background checks for gun show sales occur within one day, but couldn't reach a deal with Hatch.

President Clinton himself weighed in late in the session, urging Congress to pass a bill in October, although the year ended with no movement.

With Hatch out running for President during the early part of this year, there seemed to be little chance that the teen-crime bill would move soon.

But with Hatch's presidential quest now over, he is now looking to score some quick victories on the legislative front. The Senate chairman is looking to free up the juvenile justice bill in particular, according to House GOP sources.

DRAFT

February 18, 2000

Orrin Hatch
Chairman
Committee of the Judiciary
United States Senate
Washington, DC

Dear Mr. Chairman:

Since last summer, I have repeatedly urged the Congress to finish its work on juvenile crime legislation and pass a balanced, bipartisan bill with strong gun measures that keeps guns out of the hands of children and criminals. However, I am deeply troubled by recent reports that you are considering stripping the Senate-passed common sense gun provisions out of the final conference report. It is unconscionable that legislation intended to take on the problem of youth violence would omit the most devastating problem facing our youth -- gun violence.

Let me be clear: I will veto any juvenile crime legislation that ignores the most pressing juvenile crime issue, keeping guns out of the wrong hands.

Last summer, the Senate passed reasonable gun provisions that would help do just this, to close the gun show loophole, require child safety locks for handguns, bar violent juveniles from owning guns as adults, and ban the importation of large capacity ammunition clips. These measures can help save lives and should be enacted without further delay.

Ten months have passed since the tragedy at Columbine High School and earlier this week, gunfire took the lives of two more of its students. Last week, two other young lives, Andre Wallace and Natasha Marsh, were ended by gunfire here in the District. Nearly a dozen children are killed by gunfire every single day in this country. We simply cannot tolerate this level of violence against our children. That is why I urge you once again to move quickly to finish the job you started last year, and send me a comprehensive juvenile crime bill that contains the Senate-passed gun safety measures. No task could be more urgent.

Sincerely,
BC

Summary of Key Provisions in Juvenile Crime Bills Passed by Congress

Juvenile Accountability Block Grant: At the heart of the House and Senate juvenile crime bills is the \$1.5 billion Juvenile Accountability Block Grant (JABG). The JABG authorizes \$500 million over each of the next 3 years to promote graduated sanctions for juvenile offenders, and to help build juvenile corrections facilities. Unlike previous versions, the JABG also funds a range of other activities and has strong bipartisan support. Funds can now be spent on: more prosecutors, probation officers and court personnel; drug and gun courts; information-sharing programs; mental health screening and treatment; confidential, toll-free hotlines for students; and character education. We should strongly support the current version of the JABG in conference, but we should also be aware that it will be difficult to fully fund the JABG during appropriations. Over the past 2 years Congress has funded a similar juvenile block grant at about half this level, and the current Senate appropriations bill only includes \$100 million for the JABG.

Office of Juvenile Justice and Delinquency Prevention: Both the House and Senate bills reauthorize the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP), which provides grants to states to improve their juvenile justice systems and prevent juvenile crime. The Senate version also includes a new \$200 million block grant dedicated to prevention activities, as well as a series of smaller programs that target gangs, early childhood training, alternative education, and improved parenting. We support all of these provisions.

Generally, both bills also preserve the "core mandates" in federal law that require states to keep juveniles offenders separate from adult inmates. This is a big victory for Democrats, and represents a significant shift in Republicans' previous position. However, the Senate bill does make one major change to these protections: it deletes the language in current law requiring states to work to reduce the disproportionate confinement of minority youth. We will need to work to amend this language in conference.

Reforms to federal juvenile justice system: The House and Senate bills also include a number of changes to the federal juvenile justice system. As with the Administration's juvenile crime bill, both bills provide law enforcement access to certain juvenile records, allow prosecutors (not judges) to determine whether juveniles who commit serious violent crimes should be tried as adults, and expand the list of crimes for which juveniles can be charged as adults. However, we have since worked with Senator Leahy to moderate these provisions by: (1) clarifying that only in very limited circumstances should juvenile cases be prosecuted at the federal level; and (2) providing for a "reverse waiver" that allows federal judges to review a prosecutor's decision to try serious violent juveniles as adults. We will need to push to have these provisions included in the final bill. Even if we do, however, some House members – especially members of the Black Caucus – will still oppose any language that makes it easier for federal prosecutors to try juveniles as adults.

Firearms provisions: Although the House failed to pass separate gun legislation, a number of firearms provisions that we support were included in its juvenile crime bill. These include: requiring background checks for the purchase of explosives; expanding the list of individuals prohibited from possessing explosives (including youth under 21); increasing from 37 to 75 the number of cities participating in the Administration's youth crime gun tracing initiative; and

raising penalties for individuals who engage in the firearms business without a license, illegally traffic over 50 firearms, or illegally transfer firearms to juveniles. Consistent with Republicans' message of tougher enforcement of our guns laws, the House bill also authorizes \$50 million for the increased federal prosecution of gun crimes, and establishes new mandatory minimum sentences for youth gun and drug 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. Since the Senate also passed provisions similar to these, they are all likely to be accepted in conference. Only the new mandatory minimums, which Democrats strongly oppose, are likely to be a sticking point

Religious expression in schools: In addition to passing a Senate amendment that expresses support for religious memorial services to take place on public school property (as was done at Columbine High School), the House passed two other amendments to promote religious expression in public schools: one to allow states to display the Ten Commandments in public buildings and schools; and one to bar plaintiffs from recouping attorneys fees in Establishment Clause lawsuits where public school officials acted to accommodate or facilitate students' religious expression. The Justice Department has serious constitutional concerns with both of these provisions, and we will work to have these provisions dropped in conference.

Media Violence: Although the House rejected amendments to prohibit the distribution of violent and sexually-oriented materials to minors, and to establish a labeling system for violent media, it did vote to require schools and libraries participating in the FCC's e-rate program to equip their computers with filtering software that blocks Internet access to material deemed harmful to minors. Similarly, the Senate voted to require Internet Service Providers to make such filtering technologies available to parents. [In conference, we will....]

Other Miscellaneous Provisions. Finally, both bills contain a variety of other provisions that -- although they passed with little debate or with overwhelming support -- are far-reaching and may need to be amended in conference. Some of these provisions include:

IDEA reform -- Both the House and Senate bills would amend IDEA to allow school officials to expel disabled students who bring a firearm to school, just as they Gun-Free Schools Act require them to do with other students. The Department of Education is strongly opposed to this change.

Crimes against children -- The House and Senate bills include a combination of three, tough new provisions to crackdown on crimes against children. Aimee's Law requires states responsible for releasing repeat murderers, rapists, or sex offenders that go on to commit similar crimes in other states to: (1) pay for the apprehension, prosecution, and imprisonment of such repeat offenders; and (2) transfer \$100,000 from their law enforcement block grant funds to compensate each victim of such a repeat offender. Mathew's Law directs the sentencing commission to increase penalties for violent crimes committed against children under the age of 13. And a "two strikes" amendment provides for the mandatory life imprisonment of sex offenders who commit crimes against children.

Gang recruitment penalty -- Both the House and Senate bill includes an amendment by Senator Feinstein that makes it a federal crime to recruit gang members, with a 4-year mandatory minimum for recruiting a minor. Although we were originally concerned about the amendment's scope, Senator Feinstein has since narrowed the provision.

School Safety -- The Senate bill includes a series of amendments that would allow schools to use their ESEA funds for a broad range of school safety measures, including increased security measures, school uniforms, school resource officers, and drug testing. The bill also authorizes background checks for prospective school employees.

Drug dealer liability -- The House bill creates a new federal, civil cause of action for anyone – except a drug user who is unwilling to reveal the source of his or her drugs -- harmed by a person that manufactures or distributes a controlled substance in violation of federal law.

Limitation on teachers' liability – The Senate bill includes a provision to limit the liability of school officials who – acting consistent with their official duties – make reasonable efforts to discipline students.

Limitation on prisoner release orders -- The House bill includes a provision that would bar federal courts from carrying out any prison release orders, and vitiate many of the existing consent decrees dealing with prison conditions. The Justice Department has expressed serious concerns with this language.

Suspension of Drivers' Licenses – The House version of the JABG includes an amendment that conditions receipt of grant funds on states enacting laws mandating the suspension of drivers' licenses, until the age of 21, of any juvenile caught illegally possessing a gun.

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DRAFT

February 18, 2000

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Bill

Orrin Hatch
Chairman
Committee of the Judiciary
United States Senate
Washington, DC

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BC

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Office of Juvenile Justice and Delinquency Prevention: Both the House and Senate bills reauthorize the Justice Department's Office of Juvenile Justice and Delinquency Prevention (OJJDP), which provides grants to states to improve their juvenile justice systems and prevent juvenile crime. The Senate version also includes a new \$200 million block grant dedicated to prevention activities, as well as a series of smaller programs that target gangs, early childhood training, alternative education, and improved parenting. We support all of these provisions.

Generally, both bills also preserve the "core mandates" in federal law that require states to keep juveniles offenders separate from adult inmates. This is a big victory for Democrats, and represents a significant shift in Republicans' previous position. However, the Senate bill does make one major change to these protections: it deletes the language in current law requiring states to work to reduce the disproportionate confinement of minority youth. We will need to work to amend this language in conference.

Reforms to federal juvenile justice system: The House and Senate bills also include a number of changes to the federal juvenile justice system. As with the Administration's juvenile crime bill, both bills provide law enforcement access to certain juvenile records, allow prosecutors (not judges) to determine whether juveniles who commit serious violent crimes should be tried as adults, and expand the list of crimes for which juveniles can be charged as adults. However, we have since worked with Senator Leahy to moderate these provisions by: (1) clarifying that only in very limited circumstances should juvenile cases be prosecuted at the federal level; and (2) providing for a "reverse waiver" that allows federal judges to review a prosecutor's decision to try serious violent juveniles as adults. We will need to push to have these provisions included in the final bill. Even if we do, however, some House members – especially members of the Black Caucus – will still oppose any language that makes it easier for federal prosecutors to try juveniles as adults.

Firearms provisions: Although the House failed to pass separate gun legislation, a number of firearms provisions that we support were included in its juvenile crime bill. These include: requiring background checks for the purchase of explosives; expanding the list of individuals prohibited from possessing explosives (including youth under 21); increasing from 37 to 75 the number of cities participating in the Administration's youth crime gun tracing initiative; and

raising penalties for individuals who engage in the firearms business without a license, illegally traffic over 50 firearms, or illegally transfer firearms to juveniles. Consistent with Republicans' message of tougher enforcement of our guns laws, the House bill also authorizes \$50 million for the increased federal prosecution of gun crimes, and establishes new mandatory minimum sentences for youth gun and drug 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. Since the Senate also passed provisions similar to these, they are all likely to be accepted in conference. Only the new mandatory minimums, which Democrats strongly oppose, are likely to be a sticking point

Religious expression in schools: In addition to passing a Senate amendment that expresses support for religious memorial services to take place on public school property (as was done at Columbine High School), the House passed two other amendments to promote religious expression in public schools: one to allow states to display the Ten Commandments in public buildings and schools; and one to bar plaintiffs from recouping attorneys fees in Establishment Clause lawsuits where public school officials acted to accommodate or facilitate students' religious expression. The Justice Department has serious constitutional concerns with both of these provisions, and we will work to have these provisions dropped in conference.

Media Violence: Although the House rejected amendments to prohibit the distribution of violent and sexually-oriented materials to minors, and to establish a labeling system for violent media, it did vote to require schools and libraries participating in the FCC's e-rate program to equip their computers with filtering software that blocks Internet access to material deemed harmful to minors. Similarly, the Senate voted to require Internet Service Providers to make such filtering technologies available to parents. [In conference, we will....]

Other Miscellaneous Provisions. Finally, both bills contain a variety of other provisions that -- although they passed with little debate or with overwhelming support -- are far-reaching and may need to be amended in conference. Some of these provisions include:

IDEA reform -- Both the House and Senate bills would amend IDEA to allow school officials to expel disabled students who bring a firearm to school, just as they Gun-Free Schools Act require them to do with other students. The Department of Education is strongly opposed to this change.

Crimes against children -- The House and Senate bills include a combination of three, tough new provisions to crackdown on crimes against children. Aimee's Law requires states responsible for releasing repeat murderers, rapists, or sex offenders that go on to commit similar crimes in other states to: (1) pay for the apprehension, prosecution, and imprisonment of such repeat offenders; and (2) transfer \$100,000 from their law enforcement block grant funds to compensate each victim of such a repeat offender. Mathew's Law directs the sentencing commission to increase penalties for violent crimes committed against children under the age of 13. And a "two strikes" amendment provides for the mandatory life imprisonment of sex offenders who commit crimes against children.

Gang recruitment penalty -- Both the House and Senate bill includes an amendment by Senator Feinstein that makes it a federal crime to recruit gang members, with a 4-year mandatory minimum for recruiting a minor. Although we were originally concerned about the amendment's scope, Senator Feinstein has since narrowed the provision.

School Safety -- The Senate bill includes a series of amendments that would allow schools to use their ESEA funds for a broad range of school safety measures, including increased security measures, school uniforms, school resource officers, and drug testing. The bill also authorizes background checks for prospective school employees.

Drug dealer liability -- The House bill creates a new federal, civil cause of action for anyone -- except a drug user who is unwilling to reveal the source of his or her drugs -- harmed by a person that manufactures or distributes a controlled substance in violation of federal law.

Limitation on teachers' liability -- The Senate bill includes a provision to limit the liability of school officials who -- acting consistent with their official duties -- make reasonable efforts to discipline students.

Limitation on prisoner release orders -- The House bill includes a provision that would bar federal courts from carrying out any prison release orders, and vitiate many of the existing consent decrees dealing with prison conditions. The Justice Department has expressed serious concerns with this language.

Suspension of Drivers' Licenses -- The House version of the JABG includes an amendment that conditions receipt of grant funds on states enacting laws mandating the suspension of drivers' licenses, until the age of 21, of any juvenile caught illegally possessing a gun.

March 20, 2000

Orrin Hatch
Chairman
Committee of the Judiciary
United States Senate
Washington, DC

Dear Mr. Chairman:

Since last summer, I have repeatedly urged the Congress to finish its work on juvenile crime legislation and pass a balanced, bipartisan bill with strong gun measures to keep guns out of the hands of children and criminals. However, I am deeply troubled by your comments yesterday that you are considering stripping the Senate-passed common sense gun provisions out of the final conference report. It is unconscionable that legislation intended to take on the problem of youth violence would omit the most devastating problem facing our youth -- gun violence.

Let me be clear: I will veto any juvenile crime legislation that ignores the most pressing juvenile crime issue, keeping guns out of the wrong hands.

Last summer, the Senate passed reasonable gun provisions that would help do just this, by closing the gun show loophole, requiring child safety locks for handguns, barring violent juveniles from owning guns as adults, and banning the importation of large capacity ammunition clips. These measures can help save lives and should be enacted without further delay.

Nearly a year has passed since the tragedy at Columbine High School, and gunfire continues to take the lives of nearly a dozen young people a day. Last week, my Administration, joined by many cities and states, reached an agreement with Smith and Wesson under which the company will change the way it designs, distributes and markets its products. That pact -- which includes important provisions on gun shows, child safety locks, and large ammunition clips -- is proof that when reasonable people make a decision to sit down and negotiate, they can find common ground and protect the public interest. That is why I urge you once again to finish the job you started last year, and send me a comprehensive juvenile crime bill that contains the Senate-passed gun safety measures. No task could be more urgent.

Sincerely,
BC