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CRIME -

Jur. Justice  
Hill '99

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cc: Cathy R. Mays/OPD/EOP@EOP, Anna Richter/OPD/EOP@EOP  
Subject: JJ CONFERENCE -- update

A few things to update you on what Deanne and I have learned tonight:

- **Possible Hatch press conference:** We've heard that Hatch may have a press conference tomorrow (Wed.) at 11:30am with victims of gun violence. No one on the Hill seems to have heard this, but Dallas Morning News indicated to Bea that this might happen.
- **Hyde meetings:** Hyde met with Conyers briefly tonight. Hyde said to Conyers that he thought they were in 80-90 percent agreement, but that he was unmoveable on creating "instant check registrants" -- which would undermine crime gun tracing efforts. Hyde also said that he opposed FBI records retention for the NICS but might be willing to compromise on this point. Conyers' staff subsequently told Dems that he didn't think they could reach agreement with Hyde. Hyde was also set to meet with Hatch later tonight.
- **Gun compromise language:** With respect to the version we received as close hold last week, some of the bigger problems include: (1) allowing interstate shipment of guns by FFLs to unlicensed individuals; (2) weak record-keeping requirements on sales by unlicensed sellers (special registrants) to enable gun tracing; (3) large capacity ammo clip provision appears meaningless; (4) checks at gun shows would only provide up to three days to determine felony arrest dispositions -- wouldn't cover restraining orders; (5) automatic destruction of NICS records; (6) gun show definition may not cover flea markets. We're still trying to assess how problematic the interstate sales provision is.

Of course, this may not be the current version Hyde or Hatch are using, but it's hard to believe it would get much better than this. I have put a copy of the draft language from last week and a Treasury document summarizing the provisions on your chairs.

We'll pass along any new info we hear on the bill.

Thanks,  
Leanne

**DRAFT**

## Major Department of Justice Concerns about the Juvenile Justice Provisions of S. 254 and H.R 1501\*

\*This is by no means an exhaustive list of Department of Justice concerns, but rather an attempt to flag the major ones.

Our Views Letter, transmitted to Congress on August 12, 1999, is obviously a more substantial exposition.

| Issue                                                                                                                                       | H.R. 1501                                                                                                                                                                                                                    | S. 254                                                                                                                                                                                                                                                                                                                                                                    | Department of Justice Position                                                                                                                                                                                                                                                                |
|---------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Prevention Funding</b>                                                                                                                   |                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                               |
| <b>Prevention Funding</b>                                                                                                                   | <ul style="list-style-type: none"><li>• No set-aside for primary prevention in Juvenile Accountability Block Grant (JABG).</li><li>• No minimum for primary prevention in prevention and intervention block grant.</li></ul> | <ul style="list-style-type: none"><li>• 25% set-aside for primary prevention from JABG.</li><li>• Requires that at least 80% of prevention and intervention block grant funds be spent on primary prevention, but needs clarification that this set-aside be used for "primary prevention activities that target juveniles not in the juvenile justice system."</li></ul> | <ul style="list-style-type: none"><li>• 25% set-aside from JABG for prevention in Senate bill is critical.</li><li>• Within prevention block grant, it is important to clarify substantial set-aside for "primary prevention" (youth not yet in the system).</li></ul>                        |
| <b>Core Requirements</b>                                                                                                                    |                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                               |
| <b>The "Core Requirements" (existing grant conditions that ensure fundamental protection of and fairness to juveniles in state custody)</b> | <ul style="list-style-type: none"><li>• Retains all four core requirements in substantially similar form.</li></ul>                                                                                                          | <ul style="list-style-type: none"><li>• Eliminates the requirement that states monitor Disproportionate Minority Confinement (DMC).</li><li>• Articulates separation and jail removal requirements in more problematic way.</li></ul>                                                                                                                                     | <ul style="list-style-type: none"><li>• Essential that final bill continue the DMC requirement.</li><li>• "Separation" requirements should comport with current regulations. House "jail removal" requirement is preferable to the Senate version. (See pp. 31-32 of Views Letter.)</li></ul> |

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| Issue                                                                                   | H.R. 1501                                                                                                                                                                                                               | S. 254                                                                                                                                                                                                                       | Department of Justice Position                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Learning What Works to Reduce Juvenile Crime</b>                                     |                                                                                                                                                                                                                         |                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Set-Asides for Research, Evaluation, etc., and Authorization of Tasks within DOJ</b> | <ul style="list-style-type: none"> <li>• Eliminates set-asides for research and evaluation, training, etc. in JABG.</li> <li>• Makes some modifications to research and evaluation structure within DOJ/OJP.</li> </ul> | <ul style="list-style-type: none"> <li>• Provides set-asides in a non-uniform way throughout the various grant programs.</li> <li>• Makes some modifications to research and evaluation structure within DOJ/OJP.</li> </ul> | <ul style="list-style-type: none"> <li>• Every authorized grant program should have uniform set-asides for research, evaluation, statistics, training, and administration. We recommend at least: 3% for research, evaluation, and statistics; 2% for training; and 1% for administration.</li> <li>• We recommend that all research be housed at NIJ, all statistics should be housed at BJS, pursuant to OJP's reorganization plan. We have draft amendment language prepared to accomplish this purpose.</li> </ul> |
| <b>Federal Juvenile Justice Reform</b>                                                  |                                                                                                                                                                                                                         |                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Trying Juveniles as Adults</b>                                                       | Gives federal prosecutor sole authority to transfer juvenile to criminal court. May inappropriately <i>require</i> adult prosecution of certain juveniles.                                                              | Retains court review of transfer of juveniles to criminal court, except for juveniles 16+ charged with certain serious violent or drug crimes.                                                                               | <p><b>Recommendation:</b> Leave current system intact, except for juveniles 16+ charged with small list of most serious offenses (then give federal prosecutor sole discretion). In all other cases, expedite judicial review of prosecutor's application, and eliminate juvenile's opportunity for interlocutory appeal.</p> <p>At a minimum, take Senate version that preserves judicial review in many cases, although with fixes described below.</p>                                                              |
| <b>Expanding the List of Crimes for which Juveniles May Be Tried as Adults</b>          | Enumerated list of felonies and misdemeanors.                                                                                                                                                                           | Any felony (which retreats from current law in eliminating misdemeanor of youth handgun possession).                                                                                                                         | Retain current law, except for the addition of conspiracy to commit drug trafficking offenses. Conferees may also want to add guns-in-the-schoolyard misdemeanor (see p. 9 of Views Letter).                                                                                                                                                                                                                                                                                                                           |

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| Issue                                   | H.R. 1501                                                                                                                                                                                                                                                                                                                                                                                                         | S. 254                                                                                                                                                                                                                                                                                                                                                                                                                        | Department of Justice Position                                                                                                                                                                                                                                    |
|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>State vs. Federal Prosecution</b>    | Continues current threshold regulations.                                                                                                                                                                                                                                                                                                                                                                          | <ul style="list-style-type: none"> <li>• Dramatically changes current law to require federal prosecutors to prove <i>both</i> state/ tribe's lack of intention to proceed <i>and</i> a substantial federal interest.</li> <li>• Also permits judicial review of prosecutor's certification of substantial federal interest.</li> </ul>                                                                                        | <p>Critical that current law be retained, so that:</p> <ul style="list-style-type: none"> <li>• Federal prosecutors can proceed on substantial federal interest alone; and</li> <li>• Certification of substantial federal interest is not reviewable.</li> </ul> |
| <b>Housing Juveniles with Adults</b>    | <p><u>Pre-adjudication</u></p> <ul style="list-style-type: none"> <li>• Ambiguous about commingling juveniles with adults in the federal system.</li> </ul> <p><u>Post-adjudication</u></p> <ul style="list-style-type: none"> <li>• Sections 101 and 106 would permit or require juveniles adjudicated delinquent to be incarcerated with and on the same terms as adults in adult secure facilities.</li> </ul> | <p><u>Pre-adjudication</u></p> <ul style="list-style-type: none"> <li>• Expressly prohibits commingling of juveniles with adults in the federal system.</li> </ul> <p><u>Post-adjudication</u></p> <ul style="list-style-type: none"> <li>• Sections 102, 107 and 109 would permit or require juveniles adjudicated delinquent to be incarcerated with and on the same terms as adults in adult secure facilities.</li> </ul> | <ul style="list-style-type: none"> <li>• We support the Senate language.</li> <li>• We oppose housing juveniles tried as juveniles in adult secure facilities even after age 18.</li> </ul>                                                                       |
| <b>Juvenile Crime in Indian Country</b> |                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                   |
| <b>Juvenile Crime in Indian Country</b> | Does not make tribes directly eligible for all grant funds.                                                                                                                                                                                                                                                                                                                                                       | Does not make tribes directly eligible for all grant funds. (Does, however, include critical law enforcement provisions at section 1626.)                                                                                                                                                                                                                                                                                     | Final legislation should include tribes as direct grant recipients (and include section 1626 of the Senate bill).                                                                                                                                                 |

# DRAFT

| Issue                                                                                       | H.R. 1501                                                                                                                                                                                                                    | S. 254                                                                                                                                                                                                                    | Department of Justice Position                                                                                                                                                                                                                                                                                  |
|---------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>CONSTITUTIONAL CONCERNS</b>                                                              |                                                                                                                                                                                                                              |                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                 |
| <b>Intrusion on Judicial Authority Respecting Ten Commandments and Religious Expression</b> | Section 1202 would require federal courts to allow posting of the Ten Commandments in public places and to permit religious expression on governmental property, even in cases where such conduct would be unconstitutional. | No similar provision                                                                                                                                                                                                      | We insist that the House provision be eliminated because it is unconstitutional. Not only would it result in courts' failure to correct violations of the Establishment Clause; it also would violate the separation of powers (see views letter pp. 98-100)                                                    |
| <b>Prisoner Release Orders and Termination of Prison Consent Decrees</b>                    | Section 110(a) would prevent federal district courts from issuing certain prisoner release orders. Section 110(c) would terminate prison consent decrees.                                                                    | No similar provision.                                                                                                                                                                                                     | We insist that the House provision be eliminated. It would raise serious constitutional concerns, is unnecessary, and would directly and substantially undermine the Civil Rights Division's program of enforcing constitutional rights in correctional facilities.                                             |
| <b>Attorneys Fees in Establishment Clause Lawsuits</b>                                      | Sections 112 and 1101 would eliminate the "loser pays" rule on attorneys fees for successful challenges against schools for certain violations of the Establishment Clause of the First Amendment.                           | Section 1606 (the same as House section 112) would eliminate the "loser pays" rule on attorneys fees for successful challenges against schools for certain violations of the Establishment Clause of the First Amendment. | We oppose these provisions and would urge that they be removed. The unprecedented fees exception for certain types of civil rights claims would raise serious constitutional concerns.                                                                                                                          |
| <b>Requirements Directed to State and Local School Personnel</b>                            | No similar provision.                                                                                                                                                                                                        | Section 1636(a) would require (by statute) school personnel to provide certain services to children removed from school for acts of violence.                                                                             | This would appear to be an unconstitutional "commandeering" of state officials. We would insist that this serious constitutional concern be eliminated by amending the Senate language to eliminate the statutory requirement and replace it with an appropriate condition on receipt of certain federal funds. |

# DRAFT

| Issue                                           | H.R. 1501                                                                                                                                                                                                                            | S. 254                                                                                                                                                                                                                                                                                                                                                  | Department of Justice Position                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Teacher Liability Protection Act                | Title XV would limit state lawsuits against teachers.                                                                                                                                                                                | Title XII would limit state lawsuits against teachers.                                                                                                                                                                                                                                                                                                  | As drafted, these provisions appear to exceed Congress' authority under the Commerce clause. We would ask that they be redrafted to use Congress' spending power to condition funds on conforming changes to states' laws.                                                                                                                                                       |
| Religious Tests for Commission Memberships      | No similar provision.                                                                                                                                                                                                                | Would require that the National Commission on Character Development (section 1107) and the National Youth Violence Commission (section 1692) include "member[s] of the clergy" in violation of the First Amendment and Article VI of the Constitution.                                                                                                  | Fix by replacing "members of the clergy" with a phrase such as "persons experienced in positions of moral leadership (including, for example, members of the clergy)".                                                                                                                                                                                                           |
| <b>OTHER CONCERNS</b>                           |                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                  |
| Amice's Law                                     | Section 103 would require the Attorney General to shift grant funds interstate to cover the costs of catching trying and incarcerating certain offenders who were released from custody in one state and re-offend in another state. | The Senate bill has a similar provision (Section 1610).<br><br>VGA -                                                                                                                                                                                                                                                                                    | We oppose Amice's Law because it is impractical, expensive to implement, and would penalize states' law enforcement for actions of corrections officials. It would require the creation and retention of massive amounts of new information on state justice systems. Also, the definition of the offenses are unclear. (see views letter pp 71-73)                              |
| Disclaimer Provisions/ Hate Crimes and Religion | Section 1321 directs that hate crime materials be "respectful of the diversity of religious beliefs" and "make it clear that for most people religious faith is not associated with prejudice and intolerance."                      | Section 1609(a) Requires "all materials produced... as a result of Federal funding ... under this act" to contain a provision telling readers where they might raise objections about religious content of the material, and requires creation of a special DOJ office to field those complains, as well as regular reporting requirements to Congress. | These provisions are objectionable and unnecessary. All Department materials, including hate crimes curricula, respect religious beliefs, and the Department is already well-equipped to field and respond to any objections, should they arise. The Senate provision in particular is a bureaucratic burden on the states, who will have to monitor every grantee's compliance. |

# DRAFT

| Issue                        | H.R. 1501                                                                                                                                                                                      | S. 254                                                                                                                                                                      | Department of Justice Position                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Drug Dealer Liability</b> | Would create a civil cause of action against drug dealers for those people harmed by drugs. Drug users could only sue if they disclosed information to agents about the source of their drugs. | Contains no similar provision.                                                                                                                                              | <b>We oppose creating drug dealer liability.</b> <ul style="list-style-type: none"> <li>• It would not create much additional deterrent</li> <li>• Drug dealers are often judgement-proof</li> <li>• Private suits could interfere with criminal investigations</li> <li>• Would burden federal courts with needless cases.</li> <li>• Disclosure requirement is unworkable</li> </ul>                                                                                                                                                          |
| <b>Authorizing Earmarks</b>  | No similar provision.                                                                                                                                                                          | Several provisions <u>authorize</u> earmarks for particular private or non-profit efforts (e.g. Title XVI, the National Youth Crime Demonstration Project)                  | <b>Grant laws do not generally specify private nonprofit organizations for grant funds. Choosing grant recipients is inherently an executive branch function.</b>                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Matthew's Law</b>         | Section 902(a) directs the Sentencing Commission to enhance penalties for violent crimes committed against children.                                                                           | Contains no similar provision.                                                                                                                                              | <b>This is unnecessary, as sentencing enhancements already exist when the victims of crimes are children. (See views letter pp. 95-96.)</b>                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>DNA Provisions</b>        | No similar provisions.                                                                                                                                                                         | Creates an FBI assistance program to reduce the backlog of States' unanalyzed DNA samples. Provides for collection of DNA samples from federal, military, and DC offenders. | <b>We generally support the Senate provisions, but seek the following changes:</b> <ul style="list-style-type: none"> <li>• Assign backlog assistance program to the AG, not the FBI.</li> <li>• Eliminate proposed statutory limits on which kinds of offenders can be required to provide DNA samples.</li> <li>• Eliminate provision for expungement of certain juvenile DNA records.</li> <li>• Allow indexing of DNA from relatives of missing persons.</li> <li>• Fix certain drafting problems related to military offenders.</li> </ul> |

## GUN SHOWS: THE CASE OF THE DOUBLE-BARRELED LOOPHOLE

**Criminals love gun shows for two alarmingly good reasons:**

- 1) They can buy an unlimited number of guns from private sellers, cash-and-carry, without passing any kind of background check , **AND**
- 2) The unlicensed vendor who sells them their guns isn't required to keep a single written record of the sale. As a result, even if a gun that they use in a crime is found, its serial number will be useless to police trying to trace the person who bought it.

**Today, in far too many situations, the "second barrel" of the gun show loophole assures that it's "no trace, no case" and criminals who could be caught remain at large. Consider these recent, high-profile examples of the problem:**

- On August 10, 1999 Buford Furrow killed a United States mail carrier and opened fire on a Jewish Community Center's day camp, wounding a grandmother and four children. The Uzi reached Furrow through a gun show in Washington state. *If Furrow hadn't surrendered, police would have had no way of tracing the Uzi used to him.* Once a gun leaves the hands of the last licensed dealer who sold it, authorities have no way to use its serial number to trace it to someone who's later bought the gun privately, as at a gun show.
- On April 20, 1999 Eric Harris and Dylan Klebold mounted a murderous assault on Columbine High School killing a teacher and twelve of their classmates before shooting themselves. They used a TEC-DC9 assault pistol, Hi-Point Carbine and two sawed-off shotguns in their rampage. All three long guns were bought for the killers at a gun show by a friend who didn't know their intent. They got the assault pistol from a 22 year-old who had himself bought it privately at the same gun show. *If authorities had had to find Klebold and Harris based on weapons left at the scene, the serial numbers on their guns simply would have been useless.* As it is, the only reason that authorities know how the weapons came into their hands is because the shooters' friend and the 22 year-old assault weapon seller came forward voluntarily.
- Between 1989 and 1992, Thomas Dillon coldly shot five people to death in separate assaults with different weapons that he bought and then frequently sold at gun shows to cover his tracks. Dillon knew that the law didn't (and still doesn't) require that private buyers and sellers at gun shows keep sales records of any kind. That's how he eluded a team of federal and state agents dedicated to his capture. They ultimately convicted Dillon not on the basis of any gun trace linking him to a murder weapon, but because a gun show seller who bought one such gun from Dillon on the day of his fifth killing recognized his picture in a local newspaper after Dillon's arrest on charges of purchasing an illegal silencer. Luck , dogged police work, and a good Samaritan with a sharp memory prevented a sixth murder *despite* gun laws that actually hampered the investigation.

Every day, in every state in the nation, criminals who commit violent crimes that don't make headlines kill and cripple with their guns, drop them, and vanish without fear that the serial numbers on their weapons will permit police to track them down. *Both barrels of the gun show loophole kill*

**IF it reaches the President, the Senate's common sense gun show provisions will plug BOTH barrels of the gun show loophole:**

1) Nobody will be able to buy a gun at a gun show legally without passing a background check;  
*AND*

2) For the first time, Federal authorities will be allowed to establish a serial number reporting system that enables police to trace crime guns back to the vendors who sold them -- licensed or not -- as part of their efforts to catch violent criminals and return stolen guns to their owners.

**BUT, paranoia-driven political compromise could well keep both key parts of the Senate's sensible bill from being signed into law:**

Almost all Americans (90% in the latest ABC/Washington Post poll of 8/30/99) now favor requiring that background checks at gun shows be mandatory regardless of whether the seller is a federally licensed gun dealer or a private vendor . . . and there are hopeful signs that Congressional leaders may heed this call. *With continued public pressure, the background check "barrel" of the gun show loophole could be plugged.*

Congressional leaders are still balking, however, at plugging the second barrel of the gun show loophole by accepting the Senate's modest additional proposals to facilitate the tracing of crime guns.

The Senate bill would do that by: a) requiring that licensed dealers at gun shows do the required background checks for the customers of unlicensed sellers, and b) requiring the dealer to file a "report of the transfer" to the Secretary of the Treasury that could include the serial number of each gun transferred. Not purchaser names and addresses. Just serial numbers. In fact, the Senate's bill expressly prohibits the dealer report from including "the name or other identifying information relating to any person involved in the transfer who is not licensed" to sell guns.\*

The NRA's hysterical claims notwithstanding, the Senate bill does not -- legally cannot -- create a national gun owner registry. What it does do is what we must do to catch criminals: give law enforcement authorities quick and reliable access to information about who sold a gun so that they can get the criminals who use them to kill and maim off of our streets. Without a serial number that can be traced to a manufacturer, and a system that allows the manufacturer to identify a gun seller, police and the public will continue to be victims of the second barrel of the gun show loophole and the end result will continue to be "No Trace, No Case."

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\*/ Three quarters of Americans have no problem with requiring that the name and address of all gun owners be on file with state or federal authorities (according to an ABC/Washington Post poll of 8/30/99). Fueled by paranoia-laced NRA rhetoric conjuring images of government agents kicking in the doors of law abiding gun owners to disarm them or worse, the minority nonetheless fear even the recording of gun serial numbers to help catch criminals and return stolen guns to their owners.



For Immediate Release  
9/13/99

## SARAH BRADY ON CONFERENCE GUN BILL: "SPECIAL REGISTRANTS" -- A BAD IDEA RETURNS

Echoing today's full-page ad in USA Today, Sarah Brady called upon mothers of America to urge House and Senate conferees on the juvenile justice bill (HR 1501) to adopt "the strictest possible regulation of gun shows." A gun show, Brady said, "should be regulated as if the safety of our children and our community depends upon it. Because experience demonstrates that it does."

Brady attacked the gun show loophole as "a double-barreled threat to public safety. Where else can children and criminals readily buy a gun without a background check and without a paper trail? When a gun is sold at a gun store, there is a background check and a traceable record of the transaction. When a gun is sold by an unlicensed dealer at a gun show, it's just cash and carry. It's no coincidence that guns purchased in many of the recent shootings have been linked to gun show transactions. It's almost impossible to trace a gun purchased at a gun show from an unlicensed dealer. An unregulated gun show sale is a criminal's best friend."

All four guns used in the Littleton shooting were sold at gun shows, but despite a massive effort by federal and local law enforcement, it still took almost a week to identify the sellers of the weapons. It took two weeks, in fact, to identify the seller of the TEC-9 assault pistol. Moreover, police report that the gun used by alleged gunman Buford Furrow to shoot a postal worker in Los Angeles and wound four children at a Jewish Community Center was sold at a gun show in Washington State.

Brady strongly urged the conferees to reject the idea of creating a whole new class of 'special registrants' to conduct background checks at gun shows. "All gun show sales should be conducted by licensed dealers who know all the applicable laws of the state." Brady described the special registrant approach, as originally offered in the Senate by NRA board member Larry Craig, and later rejected by the full Senate, as "a regulatory monster created by the gun lobby for the gun lobby."

Brady said that special registrants, having no authority to initiate background checks except at gun shows, would be "less qualified and less accountable." Gun dealers are required to maintain a place of business, while special registrants could travel from gun show to gun show without any permanent place of business. As originally proposed and rejected in the Senate and the House, the guns sold through special registrants would be virtually untraceable. Registrants would not be required to maintain records to identify which registrant checked which gun transaction. This would mean, as Mrs. Brady said, "that law enforcement won't know where to begin when tracing a crime gun. At best, it would take precious days or weeks to trace the weapons sold through special registrants."

Brady also called upon Congress to close other loopholes that make it easy for children and criminals to obtain guns. "It's not just the gun show loophole that needs to be closed," Brady said. "An eighteen-year old child cannot buy a handgun at a gun store, but they can buy one at a gun show from an unlicensed dealer or a total stranger." During the House debate on the juvenile justice legislation this past June, Judiciary Committee Chair Henry Hyde joined the House Speaker in endorsing a ban on the private sale of handguns to juveniles under the age of 21, but the issue was later dropped without a House vote.

Brady today called upon "concerned parents to make their voices heard in Congress." Handgun Control ran a full page ad in USA Today urging mothers everywhere to call Congress and demand stricter gun laws. "It's time," Brady said, "for mothers to take the lead in stopping gun violence."



For Immediate Release  
9/8/99

## **SENSIBLE SENATE GUN CONTROL MEASURES COULD BE KILLED BY LATEST NRA ATTACK ON THE FACTS.**

**DON'T LET IT HAPPEN! CALL CONGRESS TODAY!!!**

### ***With Up to 90% of Americans Supporting Tougher Gun Controls, Latest NRA Mobilization Message Urges Grassroots "Uprising"***

The headlines above -- and the headlines of too many newspapers across the country -- say it all. Despite shooting after shooting after shooting -- funeral after funeral -- Congress WILL fail to send the President the common-sense gun control measures adopted by the Senate this Spring IF the NRA leadership's latest fear-mongering campaign goes unanswered.

Unless YOU get involved, it simply won't matter that huge majorities of Americans support the Senate's reasonable proposals: requiring background checks for all gun show purchasers, insisting that new handguns be sold with trigger locks or other safety devices, and stopping the importation of high-capacity ammunition clips once and for all.

Unless YOU make sure that your Representative and Senators get *two calls* from supporters of the Senate's sensible new laws for every one by an NRA member frightened by the lies told by his leadership, Americans who might have escaped being on the wrong end of a gun will continue to die.

Unless YOU and a friend make those calls now, it may well be too late to keep the Senate's modest measures from being jettisoned by a House/Senate Conference Committee whose members decide . . . again . . . that the NRA is just too tough to cross.

PLEASE, call, fax or write your Representative a note now with a simple two-part message:

"I want you to support the Senate's sensible gun control provisions - especially their gun show background check-- AND I'll be basing my vote in November of 2000 on what you do."

That's all there is to it. So, please, make the contact, make the case and make it soon.

The NRA has already spent \$1.5 million this Spring and Summer and just announced that it will spend at least \$1.5 million more to preserve no-questions-asked gun sales at gun shows.

There's only one thing more powerful than their money and their propaganda. . . .

**YOU.**

**Contact Your Representative Today**

[Click here now to send a free fax to your Congressperson](#)

### Concerns with "proffer" bill provisions regarding other gun provisions:

Safety locks: provision is identical in substance to the provision in S. 254

- applies to handguns only
- provides sweeping immunity
- exempts curios and relics
- fails to repeal existing provision re: use of evidence of noncompliance

Juvenile possession of semiautomatic assault weapons and large capacity ammunition clips: based on S. 254

- includes same exceptions for assault weapons and clips that apply to handguns, but also includes clips in prohibition
- like Senate bill, does not raise age of possession to 21
- unlike provisions in Senate and House bill, does not raise maximum penalties in current law nor does it eliminate mandatory probation for first-time juvenile offenders
- does not increase other penalties
- although "proffer" language silent on penalties, there are several other provisions in the Senate and House bills regarding penalties for YHSA violations, and it is unclear whether the conferees intend to retain any of them

Juvenile Brady: better than version in S. 254

- has an 180-day effective date
- like Senate bill, it still applies only to narrow class of 3-strikes felonies
- like Senate bill, does not require individualized determination for restoration of rights.

Ban on importing large capacity ammunition feeding devices: meaningless provision

- unlike S. 254, fails to include essential language amending the definition of "large capacity ammunition device," to include devices manufactured before 1994
- unlike Senate bill, contains new exception that may swallow the rule for devices manufactured or produced for curios or relics, because cannot tell when the device was manufactured, and some clips that fit curios and relics also fit new guns
- omits the grandfather provision from YGCEA for clips manufactured before 1994 that were possessed before the effective date of this provision

Exemption of qualified retired law enforcement officers from state laws prohibiting carrying of concealed weapons: identical to Community Protection Act of 1999, introduced by Representative Cunningham as H.R. 218

## GUN SHOW PROVISION

Definition of gun shows too narrow

still requires guns as purpose of show, easily skirted, lots of multigun events like flea markets not covered, requires 5 or more firearms vendors

Shortens time allowed under Brady law for background checks

exclusion of time for only "arrests" excludes domestic violence restraining orders

Retention of NICS records disallowed

will prevent FBI's ability to detect fraud and protect privacy

Use of registrants

prevents effective crime gun tracing to non-FFLs because no tear-off requirement for non-FFLs and inadequate recordkeeping (recordkeeping on people, not guns sold); exposes NICS to fraud and abuse

Registrants may not be effectively inspected

Restriction on warrantless inspections of promoter and vendor (?)

FFLs can ship interstate

Definition of vendor arguably does not include roving seller, so that rover will not register with promoter and be advised of legal requirement re: background checks

Penalties reduced from Senate passed bill for Brady law violation

No notice of legal requirements to attendees

No requirement that vendors sign a ledger acknowledging legal obligations, although they get notice of law, in theory

Some blanket immunities from liability given

**DRAFT**

**Section 1101 - Mandatory Transfer of Secure  
Gun Storage or Safety Devices**

- Like the Senate bill, the legislation would require licensees to provide a secure gun storage or safety device with every handgun sold to an unlicensed individual. This requirement would not apply to long guns or curio or relic handguns.
- The Administration supports extending this requirement to long guns as well as curio or relic firearms. These firearms are just as dangerous as handguns. The requirement to provide a secure gun storage or safety device can be satisfied by providing a gun safe; accordingly, no modification to the firearm is required. Thus, there is no need for an exemption for long guns and curio or relic firearms.
- Like the Senate bill, the legislation provides that if a secure gun storage or safety device is temporarily unavailable to the licensee, he has 10 calendar days after the delivery of the handgun to deliver to the transferee a secure gun storage or safety device.
- Like the Senate bill, the legislation provides immunity from civil liability to persons who have lawful possession and control of a handgun, and use a secure gun storage or safety device with the handgun. This applies only to civil actions for damages resulting from the unlawful use of the handgun by a third party if the handgun was accessed by another person without the authorization of the owner, and at the time the handgun was so accessed, it had been made inoperable by use of a secure gun storage or safety device.
- Like the Senate bill, the legislation retains the existing statutory definition of a "secure gun storage or safety device."
- The legislation fails to repeal existing uncodified provisions of law which create confusion as to whether evidence of a licensee's failure to comply with the new provision may be introduced in administrative licensing proceedings.

**Section 1102 - Prohibiting Juveniles from  
Possessing Semiautomatic Assault Weapons**

- Like the Senate bill, the legislation prohibits the possession of semiautomatic assault weapons by juveniles under age 18. Unlike the Senate bill, the ban extends also to large capacity ammunition feeding devices.

- Like the Senate bill, the legislation would extend the same exceptions currently applicable to handgun possession by juveniles to the possession of semiautomatic assault weapons and large capacity ammunition feeding devices by juveniles.
- The Administration believes that the age of eligibility for possession of handguns, semiautomatic assault weapons and large capacity ammunition feeding devices should be raised to 21.
- The Administration also opposes extending all the current exemptions for possession of handguns by juveniles to semiautomatic assault weapons and large capacity magazines. While there are legitimate employment and sporting reasons why juveniles should be allowed to possess handguns, with the written permission of their parents, these reasons do not apply to the possession of semiautomatic assault weapons and large capacity ammunition feeding devices by juveniles.

**Section 1103 - Prohibiting Violent Juvenile  
Offenders from Possessing Firearms**

- Like the Senate bill, the legislation would prohibit the possession of firearms by persons who, as juveniles, were adjudicated of certain acts of violent juvenile delinquency.
- Like the Senate bill, the prohibition applies only to acts committed by juveniles that, if committed by adult, would constitute a serious violent felony (as defined in section 3559(c)(2)(F)(I)) had Federal jurisdiction existed and been exercised.
- The Administration supports a broader definition, which would include serious drug offenses as well as all violent felonies, as defined in section 3559(c)(2). There is no reason why such violent juvenile offenders should be allowed to possess firearms upon reaching age 18.

## Section 1104 - Mandatory Background Checks at Gun Shows

- The definition of a "gun show" has been amended to cover only events at which at least 50 or more firearms are offered or exhibited for sale, transfer or exchange, and at which there are not less than 5 firearms vendors. Unlike the Senate bill, the definition would only cover events which are sponsored to foster the collecting, competitive use, sporting use, or any other legal use of firearms. This definition might be interpreted to exclude flea markets.
- Unlike the Senate bill, the term "gun show vendor" applies only to vendors or sell, offer for sale, transfer, or exchange one or more firearms "at a fixed, assigned, or contracted location." Thus, vendors who roam the gun show without an assigned location would be exempt from the background check requirements.
- The Attorney General is required to ensure that background check requests made from gun shows must be completed within 24 hours. An exception is provided if the system indicates that "the person being checked has been arrested for an offense described in section 922(g) and the disposition of the arrest has not been communicated to the Attorney General." This exception is not broad enough to cover other categories, such as persons under restraining orders, where NICS may require more than 24 hours to determine if the person is prohibited.
- The legislation allows NICS checks at gun shows to be conducted either through a licensee or through an "instant check registrant. Instant check registrants are required to keep records regarding the identity of the transferee and the conduct of a background check; however, they do not have to keep the same records licensees keep regarding transfer of firearms. Furthermore, there is no requirement that instant check registrants comply with tracing requests. This means, as a practical matter, that it will be difficult if not impossible to trace crime guns sold through instant check registrants at gun shows.
- The legislation provides immunity from liability in civil actions for licensees, instant registrants, and nonlicensees who dispose of firearms using the services of a licensee or instant check registrant. The immunity applies, with limited exceptions, to civil actions brought for damages resulting from the unlawful use of the firearm by the transferee or a third party.

- Unlike the Senate bill, the legislation does not require vendors to sign a ledger or organizers to notify gun show attendees of the requirements of the law.
- The gun show organizer must provide each vendor with a document which sets forth all Federal laws that apply to firearms transactions at gun show, including all related recordkeeping requirements, verbatim.
- The legislation provides that a licensee may ship firearms by common carrier to out-of-State purchasers. This amends a restriction in current law, which does not allow licensees to sell firearms to nonresidents of the State unless the transfer is made in person. The legislation also provides that a registrant may ship firearms by common carrier to residents of the State. It is unclear why the registrant would be in possession of the firearm, since he is not entitled to buy and sell firearms.
- Unlike the Senate bill, the legislation would limit the Secretary's authority to inspect licensees at gun shows. Such an inspection could only occur if the Secretary obtains a warrant from a Federal magistrate upon showing reasonable cause to believe that a violation of law has occurred, or by entering the gun show during business hours in the course of a criminal investigation of a person or persons other than the organizer or licensee, or when tracing a crime gun.
- There are provisions on increased penalties for serious recordkeeping violations by licensees and increased penalties for violations of the criminal background check requirements that are identical to the Senate bill.

**Section 1105 - Gun Owner Privacy:  
Prohibition on Background Check Fee**

- The legislation would prohibit the imposition of a fee for a background check by the United States or any State or local officers or employee acting on behalf of the United States.
- This provision would discourage States from acting as points of contact for Brady NICS checks, and might raise constitutional issues.
- The legislation would require the immediate destruction of records in NICS relating to approval of firearms transfers. This requirement shall not apply to the retention of the unique identification number and the date on which it was provided.
- The requirement for immediate destruction of NICS records of approved transactions makes it impossible to audit NICS transactions to ensure that licensees are not abusing NICS to run background checks on friends, business associates, and neighbors, for purposes that are not firearms-related.

**Section 1106 - Ban on Importation of Large  
Capacity Ammunition Feeding Devices**

- The legislation does not amend the definition of a large capacity ammunition feeding device. Accordingly, the ban on importation would only apply to devices manufactured after September 13, 1994.
- Without amending the definition of a large capacity ammunition feeding device, the ban on importation is meaningless. As drafted, the legislation would continue the existing loophole whereby foreign large capacity ammunition feeding devices may continue to be imported upon a showing that the device was manufactured overseas on or prior to September 13, 1994. It is difficult to verify the manufacture date of foreign devices.
- Even if the above loophole is closed, the legislation contains an exception from the importation ban for devices "manufactured or produced on or before September 13, 1994, for a firearm listed as a curio or relic pursuant to section 921(a)(13)." This would again create an enormous loophole, since it is impossible to tell whether a magazine was manufactured for a curio or relic firearm.
- A magazine which happens to fit a curio or relic firearm would also fit firearms that are not curios or relics. For example, a Browning Hi Power pistol that is 50 years old is classified as a curio or relic firearm based on its age. A Browning Hi Power pistol manufactured last week is not a curio or relic firearm. Both weapons use the same magazine.

**Section 1107 - Exemption of Qualified  
Law Enforcement Officers from State Laws Prohibiting  
the Carrying of Concealed Firearms**

- This legislation would preempt State law to allow qualified law enforcement officers to carry concealed firearms in any State, regardless of State law.

• [REDACTED]

**Section 1108 - Exemption of Qualified Retired  
Law Enforcement Officers from State Laws Prohibiting  
the Carrying of Concealed Firearms**

- This legislation would preempt State law to allow qualified retired law enforcement officers to carry concealed firearms in any State, regardless of State law.

• [REDACTED]



THE SECRETARY OF EDUCATION  
WASHINGTON, D.C. 20202

August 24, 1999

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

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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



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 12, 1999

The Honorable Henry J. Hyde  
Chairman  
Committee on the Judiciary  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to provide you and the other conferees with the Administration's views regarding various provisions of S. 254 and H.R. 1501. As our children begin returning to school later this month, the conference should seize the opportunity to make our schools and communities safer by taking common-sense steps to keep guns out of the wrong hands, prevent youth violence, and steer young people away from crime. We look forward to working with you to reconcile the two bills and produce a balanced and bipartisan juvenile crime bill - with the Senate-passed gun provisions - that effectively addresses juvenile crime including the devastating impact of gun violence on our young people.

As the Administration's past juvenile crime proposals have demonstrated, we believe that juvenile justice requires a balanced approach - one that couples tough sanctions that hold juveniles accountable for their conduct with effective delinquency prevention and early intervention measures. We must not lose sight of the fact that the overwhelming majority of our Nation's young people do not engage in crime or delinquency. Most of them are wonderful, hopeful children who not only want to succeed, but also to live in and support safe and livable communities. Indeed, it is critical to remember that in the approximately 20 years since this Nation began collecting the relevant data, the percentage of America's youth ages 10-17 arrested for a violent crime has never exceeded one-half of one percent. Therefore, we need to punish appropriately that small portion of violent offenders. At the same time, we must help communities and families provide effective, comprehensive support for the many millions of young Americans who may be at risk for delinquency, but who can be helped to become productive and law-abiding citizens.

Just last week, the Centers for Disease Control and Prevention (CDC) reported that violent activity by America's teens dropped significantly between 1991 and 1997. The percentage of teens who reported carrying guns and other weapons fell from 26 percent to 21 percent, while the percentage of teens who reported fighting fell from 43 percent to 37 percent. Even more dramatic is the significant drop in juvenile arrest rates for violent crimes. The arrest rate in 1997 was a full 23 percent lower than in the peak year of 1994.

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Among the reasons for these dramatic declines in youth violence is the infusion of community police officers into cities and towns across the nation – law enforcement personnel who have worked in close partnership with prosecutors, parents, school officials, and youth workers, as well as with concerned government officials, practitioners, and citizen volunteers – to help America's communities get their young people back on track. The 106<sup>th</sup> Congress can promote continued declines in youth crime by embracing a comprehensive approach to community safety that includes support for law enforcement and for America's youth.

We stand at a pivotal moment in our ongoing effort to reduce gun-related crime and violence, especially as they affect our children. Although the number of violent crimes committed with firearms has fallen by 27 percent since 1992, 13 young people in America die every day due to gun violence. In fact, the firearm homicide rate for children under 15 years of age is 12 times higher in the United States than in 25 other industrialized countries combined. The Columbine High School murders, the workplace shooting in Atlanta, and this week's shooting spree at the North Valley Jewish Community Center in Los Angeles underscore this shocking statistic and provide a grim reminder of how much more we must do to reduce firearms violence. We can – indeed we must – build upon the successes of existing state and federal laws to provide greater protections for our children and all of our citizens, and make it more difficult for young people and criminals to get their hands on guns in the first place.

Our specific views, detailed in the accompanying document, reflect our overall approach to protecting public safety by strengthening law enforcement efforts, enhancing support for children through effective prevention measures, and keeping guns out of the hands of criminals and children. It will take common-sense measures like the Senate gun provisions to make our strategy a reality.

First, the federal government must support the comprehensive efforts of state and local governments that handle the vast majority of issues concerning children, families, and communities, including the crime and delinquency that can result when any of those begin to falter. Consequently, the Administration believes it is a critical federal responsibility to provide adequate funds to states and communities, supporting the spectrum of necessary activities in a way that ensures both necessary flexibility and the fundamental protection of juveniles.

Second, although we provide direct federal investigative and prosecutorial resources in a relatively small number of juvenile cases, we need to have strong laws in place for those occasions. Notably, since the majority of these cases arise in Indian country, we must pay particular attention to the needs of the tribes in the creation and execution of laws concerning juveniles in the federal system.

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Third, in order to protect the safety and well-being of juveniles throughout the Nation, we simply must have sensible, effective measures to keep guns and explosives away from them, and from criminals who would harm them and the rest of us. In 1997, 74 percent of the homicides committed by 18- to 20-year-old offenders involved firearms. And from the mid-1980s to the early 1990s, youth homicide victimization rates doubled, increasing at a higher rate than any other violent crimes for which statistics are available. We urge the conferees to ensure that measures to restrict youth access to guns are included in the final bill.

Our detailed analysis and comments concerning H.R. 1501 and S. 254 are provided in the attached document. First, however, we would like to highlight several specific provisions that the Administration believes must be included in the final juvenile crime bill that is forwarded to the President for his signature.

*Close the gun show loophole.* The Brady Law's background check requirement has worked to prevent more than 400,000 illegal, over-the-counter gun sales to felons, fugitives, and other prohibited persons. The Brady Law's requirement, however, does not apply to the many guns sold by unlicensed gun sellers at gun shows. In a bipartisan vote, the Senate passed a provision that would close this loophole in the Brady Law, and would also allow law enforcement to trace firearms sold at gun shows if those firearms were later used in crime. The Senate provision does this without weakening current law, creating any new bureaucracies, or intruding on the interests of law-abiding gun buyers and sellers. The Administration strongly supports the Senate's gun show provision and the instruction - approved overwhelmingly by the House - that the conferees produce a final bill that includes meaningful legislation to close the gun show loophole once and for all.

*Require safe storage devices to be sold with every handgun.* Safety locks and gun lockboxes can prevent some crime and many accidental shootings. Every gun sold in the United States by a licensed firearms dealer should have such a device with it. The Administration supports the Senate's provision requiring such devices to be sold with every handgun.

*Keep guns out of the hands of persons who have committed serious juvenile offenses.* Our federal gun laws recognize that persons who commit serious violent criminal offenses should not be allowed to possess firearms. However, persons who commit serious drug or violent criminal offenses as juveniles are not prevented from owning firearms once they reach the age of majority. This is simply wrong. Although the Senate passed a measure designed to address this problem, the provision contains language that could delay its implementation indefinitely. The Administration looks forward to working with the conferees on this important provision.

*Ban the importation of large-capacity ammunition clips.* The 1994 Assault Weapons Ban was passed to limit the general public's access to assault weapons and magazines with a capacity of more than 10 rounds. The 1994 law, however, contained a provision to allow possession and

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importation of existing large capacity ammunition clips. This has led to an influx of imported large capacity clips. The Senate passed a provision - which the Administration fully supports - to close this loophole.

*Prohibit youth from possessing assault weapons.* As noted earlier, youth gun access remains an especially serious problem. S. 254 includes a provision prohibiting anyone less than 18 years of age from possessing a semiautomatic assault weapon. The Administration supports this sensible prohibition, but believes that it does not go far enough. Congress should adopt the Administration's proposal to prohibit anyone less than 21 years of age from possessing assault weapons and handguns.

*Provide effective firearms enforcement.* Over the past several years, the Justice and Treasury Departments have supported several innovative and effective firearms enforcement programs around the country, including Project Exile in Richmond, Virginia and Operation Ceasefire in Boston, Massachusetts, among others. Every one of these programs has been developed collaboratively by state and local - as well as federal - officials and tailored to address the gun violence problem specific to the locale by enforcing the toughest laws available. These partnerships have resulted in a significant increase in the overall number of firearms prosecutions in this country. Since 1992, the combined number of federal and state firearms convictions is up sharply, and about 22 percent more criminals were incarcerated for state and federal weapons offenses in 1996 than in 1992. The number of federal gun cases in which the offender gets five or more years in prison is also up by more than 25 percent. We support giving our United States Attorneys and the Bureau of Alcohol, Tobacco and Firearms the resources they need to work with state and local authorities in developing and expanding individualized firearms violence reduction programs in their jurisdictions. However, the Senate and House Bills include provisions that would diminish the effectiveness of these programs by mandating the wholesale federalization of crimes even when state or local laws provide more stringent penalties, and would prevent states from implementing their own intensive firearms prosecution programs. These provisions should be dropped.

*Strengthen firearms and explosives laws.* We strongly support provisions in the Senate and House Bills to strengthen our federal firearms and explosive laws. For example, we support strengthening the crime gun tracing system and increasing the penalties on "straw purchasers" and others who facilitate illegal gun trafficking; prohibiting juvenile possession of explosives; and extending background checks and permit requirements to the purchase and possession of explosives by adults.

*Prevent juvenile crime before it starts.* We appreciate the inclusion this year of significant funding provisions that reflect the Congress' commitment to fund juvenile crime prevention. We urge the conferees to adopt the Senate Bill's 25 percent carve-out for prevention from the

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Juvenile Accountability Block Grant, and to ensure adequate, targeted funds for primary prevention.

*Reform the federal juvenile justice system.* As stated above, the federal government plays a small but vital role in investigating and prosecuting juvenile cases. Federal prosecutors need certain additional tools to bring their cases in a just and efficient way, and in a manner that does not unduly burden victims, witnesses, or the resources of the courts. However, these additional tools need not compromise unfairly the rights or interests of juveniles. We urge the conferees to adopt an appropriate balance, as described in the accompanying views letter.

*Preserve the "core requirements."* States need flexibility to develop and implement their own juvenile justice policies. However, there are certain fundamental areas in which we know - from documented, tragic experience - that federal baselines save lives. The four "core requirements" that serve as funding conditions in the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, have protected thousands of juveniles in state juvenile justice systems from serious physical and emotional harm, and have addressed the critical issue of racial disparity in the juvenile justice system. The Administration commends the House and Senate for the substantial steps they have taken to protect these requirements. We are disappointed, however, with the Senate's virtual elimination of the requirement relating to Disproportionate Minority Confinement, and we urge the conferees to retain that requirement as the House has done. Additional recommendations concerning these requirements are detailed in the accompanying views letter.

*Break the link between mental health problems and crime.* We must take seriously the relationship between mental illness and delinquency. Too often, children with mental health problems end up in the juvenile justice system having never been treated for their problems, and then, once in the system, still do not get the care they need. We commend both houses for adding provisions to their bills this year that begin to address mental health needs in the juvenile justice system.

*Ensure juvenile justice resources for Indian tribes.* While juvenile crime has fallen on average nationwide, it is rising in Indian country. The Administration urges the conferees to make Indian tribal governments directly eligible for all of its juvenile justice funding streams. Eliminating the state "pass-through" gives appropriate deference to tribal sovereignty and streamlines the process for getting funds to tribal communities. In addition, we strongly advise the conferees to include section 1626 of the Senate Bill, which provides much-needed amendments to the federal criminal code to address crime in Indian country, in the final bill.

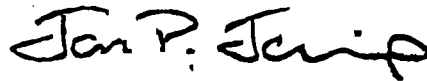
We note that this letter and the accompanying document incorporate the analysis of the Department of the Treasury on the firearms provisions, and that the Department of Education

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will separately communicate the Administration's views concerning certain provisions under its jurisdiction.

We hope that the conferees will ensure that the final bill includes the major provisions we have described above, as well as the comments included in our accompanying views letter. We are sending similar letters to Chairman Hatch and Chairman Goodling. Of course, we are ready to work with the conferees and their staff, as needed, to accomplish these goals.

Sincerely,



Jon P. Jennings  
Acting Assistant Attorney General

cc: The Honorable John Conyers, Jr.  
Ranking Minority Member



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 12, 1999

The Honorable William F. Goodling  
Chairman  
Committee on Education and the Workforce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to provide you and the other conferees with the Administration's views regarding various provisions of S. 254 and H.R. 1501. As our children begin returning to school later this month, the conference should seize the opportunity to make our schools and communities safer by taking common-sense steps to keep guns out of the wrong hands, prevent youth violence, and steer young people away from crime. We look forward to working with you to reconcile the two bills and produce a balanced and bipartisan juvenile crime bill – with the Senate-passed gun provisions – that effectively addresses juvenile crime including the devastating impact of gun violence on our young people.

As the Administration's past juvenile crime proposals have demonstrated, we believe that juvenile justice requires a balanced approach – one that couples tough sanctions that hold juveniles accountable for their conduct with effective delinquency prevention and early intervention measures. We must not lose sight of the fact that the overwhelming majority of our Nation's young people do not engage in crime or delinquency. Most of them are wonderful, hopeful children who not only want to succeed, but also to live in and support safe and livable communities. Indeed, it is critical to remember that in the approximately 20 years since this Nation began collecting the relevant data, the percentage of America's youth ages 10-17 arrested for a violent crime has never exceeded one-half of one percent. Therefore, we need to punish appropriately that small portion of violent offenders. At the same time, we must help communities and families provide effective, comprehensive support for the many millions of young Americans who may be at risk for delinquency, but who can be helped to become productive and law-abiding citizens.

Just last week, the Centers for Disease Control and Prevention (CDC) reported that violent activity by America's teens dropped significantly between 1991 and 1997. The percentage of teens who reported carrying guns and other weapons fell from 26 percent to 21 percent, while the percentage of teens who reported fighting fell from 43 percent to 37 percent. Even more dramatic is the significant drop in juvenile arrest rates for violent crimes. The arrest rate in 1997 was a full 23 percent lower than in the peak year of 1994.

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Among the reasons for these dramatic declines in youth violence is the infusion of community police officers into cities and towns across the nation - law enforcement personnel who have worked in close partnership with prosecutors, parents, school officials, and youth workers, as well as with concerned government officials, practitioners, and citizen volunteers - to help America's communities get their young people back on track. The 106<sup>th</sup> Congress can promote continued declines in youth crime by embracing a comprehensive approach to community safety that includes support for law enforcement and for America's youth.

We stand at a pivotal moment in our ongoing effort to reduce gun-related crime and violence, especially as they affect our children. Although the number of violent crimes committed with firearms has fallen by 27 percent since 1992, 13 young people in America die every day due to gun violence. In fact, the firearm homicide rate for children under 15 years of age is 12 times higher in the United States than in 25 other industrialized countries combined. The Columbine High School murders, the workplace shooting in Atlanta, and this week's shooting spree at the North Valley Jewish Community Center in Los Angeles underscore this shocking statistic and provide a grim reminder of how much more we must do to reduce firearms violence. We can - indeed we must - build upon the successes of existing state and federal laws to provide greater protections for our children and all of our citizens, and make it more difficult for young people and criminals to get their hands on guns in the first place.

Our specific views, detailed in the accompanying document, reflect our overall approach to protecting public safety by strengthening law enforcement efforts, enhancing support for children through effective prevention measures, and keeping guns out of the hands of criminals and children. It will take common-sense measures like the Senate gun provisions to make our strategy a reality.

First, the federal government must support the comprehensive efforts of state and local governments that handle the vast majority of issues concerning children, families, and communities, including the crime and delinquency that can result when any of those begin to falter. Consequently, the Administration believes it is a critical federal responsibility to provide adequate funds to states and communities, supporting the spectrum of necessary activities in a way that ensures both necessary flexibility and the fundamental protection of juveniles.

Second, although we provide direct federal investigative and prosecutorial resources in a relatively small number of juvenile cases, we need to have strong laws in place for those occasions. Notably, since the majority of these cases arise in Indian country, we must pay particular attention to the needs of the tribes in the creation and execution of laws concerning juveniles in the federal system.

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Third, in order to protect the safety and well-being of juveniles throughout the Nation, we simply must have sensible, effective measures to keep guns and explosives away from them, and from criminals who would harm them and the rest of us. In 1997, 74 percent of the homicides committed by 18- to 20-year-old offenders involved firearms. And from the mid-1980s to the early 1990s, youth homicide victimization rates doubled, increasing at a higher rate than any other violent crimes for which statistics are available. We urge the conferees to ensure that measures to restrict youth access to guns are included in the final bill.

Our detailed analysis and comments concerning H.R. 1501 and S. 254 are provided in the attached document. First, however, we would like to highlight several specific provisions that the Administration believes must be included in the final juvenile crime bill that is forwarded to the President for his signature.

*Close the gun show loophole.* The Brady Law's background check requirement has worked to prevent more than 400,000 illegal, over-the-counter gun sales to felons, fugitives, and other prohibited persons. The Brady Law's requirement, however, does not apply to the many guns sold by unlicensed gun sellers at gun shows. In a bipartisan vote, the Senate passed a provision that would close this loophole in the Brady Law, and would also allow law enforcement to trace firearms sold at gun shows if those firearms were later used in crime. The Senate provision does this without weakening current law, creating any new bureaucracies, or intruding on the interests of law-abiding gun buyers and sellers. The Administration strongly supports the Senate's gun show provision and the instruction - approved overwhelmingly by the House - that the conferees produce a final bill that includes meaningful legislation to close the gun show loophole once and for all.

*Require safe storage devices to be sold with every handgun.* Safety locks and gun lockboxes can prevent some crime and many accidental shootings. Every gun sold in the United States by a licensed firearms dealer should have such a device with it. The Administration supports the Senate's provision requiring such devices to be sold with every handgun.

*Keep guns out of the hands of persons who have committed serious juvenile offenses.* Our federal gun laws recognize that persons who commit serious violent criminal offenses should not be allowed to possess firearms. However, persons who commit serious drug or violent criminal offenses as juveniles are not prevented from owning firearms once they reach the age of majority. This is simply wrong. Although the Senate passed a measure designed to address this problem, the provision contains language that could delay its implementation indefinitely. The Administration looks forward to working with the conferees on this important provision.

*Ban the importation of large-capacity ammunition clips.* The 1994 Assault Weapons Ban was passed to limit the general public's access to assault weapons and magazines with a capacity of more than 10 rounds. The 1994 law, however, contained a provision to allow possession and

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importation of existing large capacity ammunition clips. This has led to an influx of imported large capacity clips. The Senate passed a provision - which the Administration fully supports - to close this loophole.

*Prohibit youth from possessing assault weapons.* As noted earlier, youth gun access remains an especially serious problem. S. 254 includes a provision prohibiting anyone less than 18 years of age from possessing a semiautomatic assault weapon. The Administration supports this sensible prohibition, but believes that it does not go far enough. Congress should adopt the Administration's proposal to prohibit anyone less than 21 years of age from possessing assault weapons and handguns.

*Provide effective firearms enforcement.* Over the past several years, the Justice and Treasury Departments have supported several innovative and effective firearms enforcement programs around the country, including Project Exile in Richmond, Virginia and Operation Ceasefire in Boston, Massachusetts, among others. Every one of these programs has been developed collaboratively by state and local - as well as federal - officials and tailored to address the gun violence problem specific to the locale by enforcing the toughest laws available. These partnerships have resulted in a significant increase in the overall number of firearms prosecutions in this country. Since 1992, the combined number of federal and state firearms convictions is up sharply, and about 22 percent more criminals were incarcerated for state and federal weapons offenses in 1996 than in 1992. The number of federal gun cases in which the offender gets five or more years in prison is also up by more than 25 percent. We support giving our United States Attorneys and the Bureau of Alcohol, Tobacco and Firearms the resources they need to work with state and local authorities in developing and expanding individualized firearms violence reduction programs in their jurisdictions. However, the Senate and House Bills include provisions that would diminish the effectiveness of these programs by mandating the wholesale federalization of crimes even when state or local laws provide more stringent penalties, and would prevent states from implementing their own intensive firearms prosecution programs. These provisions should be dropped.

*Strengthen firearms and explosives laws.* We strongly support provisions in the Senate and House Bills to strengthen our federal firearms and explosive laws. For example, we support strengthening the crime gun tracing system and increasing the penalties on "straw purchasers" and others who facilitate illegal gun trafficking, prohibiting juvenile possession of explosives, and extending background checks and permit requirements to the purchase and possession of explosives by adults.

*Prevent juvenile crime before it starts.* We appreciate the inclusion this year of significant funding provisions that reflect the Congress' commitment to fund juvenile crime prevention. We urge the conferees to adopt the Senate Bill's 25 percent carve-out for prevention from the

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Juvenile Accountability Block Grant, and to ensure adequate, targeted funds for primary prevention.

*Reform the federal juvenile justice system.* As stated above, the federal government plays a small but vital role in investigating and prosecuting juvenile cases. Federal prosecutors need certain additional tools to bring their cases in a just and efficient way, and in a manner that does not unduly burden victims, witnesses, or the resources of the courts. However, these additional tools need not compromise unfairly the rights or interests of juveniles. We urge the conferees to adopt an appropriate balance, as described in the accompanying views letter.

*Preserve the "core requirements."* States need flexibility to develop and implement their own juvenile justice policies. However, there are certain fundamental areas in which we know - from documented, tragic experience - that federal baselines save lives. The four "core requirements" that serve as funding conditions in the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, have protected thousands of juveniles in state juvenile justice systems from serious physical and emotional harm, and have addressed the critical issue of racial disparity in the juvenile justice system. The Administration commends the House and Senate for the substantial steps they have taken to protect these requirements. We are disappointed, however, with the Senate's virtual elimination of the requirement relating to Disproportionate Minority Confinement, and we urge the conferees to retain that requirement as the House has done. Additional recommendations concerning these requirements are detailed in the accompanying views letter.

*Break the link between mental health problems and crime.* We must take seriously the relationship between mental illness and delinquency. Too often, children with mental health problems end up in the juvenile justice system having never been treated for their problems, and then, once in the system, still do not get the care they need. We commend both houses for adding provisions to their bills this year that begin to address mental health needs in the juvenile justice system.

*Ensure juvenile justice resources for Indian tribes.* While juvenile crime has fallen on average nationwide, it is rising in Indian country. The Administration urges the conferees to make Indian tribal governments directly eligible for all of its juvenile justice funding streams. Eliminating the state "pass-through" gives appropriate deference to tribal sovereignty and streamlines the process for getting funds to tribal communities. In addition, we strongly advise the conferees to include section 1626 of the Senate Bill, which provides much-needed amendments to the federal criminal code to address crime in Indian country, in the final bill.

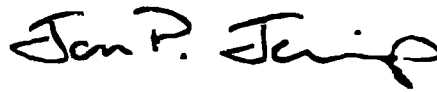
We note that this letter and the accompanying document incorporate the analysis of the Department of the Treasury on the firearms provisions, and that the Department of Education

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will separately communicate the Administration's views concerning certain provisions under its jurisdiction.

We hope that the conferees will ensure that the final bill includes the major provisions we have described above, as well as the comments included in our accompanying views letter. We are sending similar letters to Chairman Hatch and Chairman Hyde. Of course, we are ready to work with the conferees and their staff, as needed, to accomplish these goals.

Sincerely,



Jon P. Jennings  
Acting Assistant Attorney General

cc: The Honorable William Clay  
Ranking Minority Member

# **TITLE XI—FIREARMS PROVISIONS**

## **SEC. 1101. MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.**

(a) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

“(z)(1) Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person not licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device, as defined in section 921(a)(34), for the handgun.

“(2) Paragraph (1) shall not apply to the—

“(A)(i) manufacture for, transfer to, or possession by, the United States or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a handgun; or

“(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i), of a handgun for law enforcement purposes (whether on or off duty); or

1           “(B) transfer to, or possession by, a rail police  
2           officer employed by a rail carrier and certified or  
3           commissioned as a police officer under the laws of  
4           a State of a handgun for purposes of law enforce-  
5           ment (whether on or off duty);

6           “(C) transfer to any person of a handgun listed  
7           as a curio or relic by the Secretary pursuant to sec-  
8           tion 921(a)(13); or

9           “(D) transfer to any person of a handgun for  
10          which a secure gun storage or safety device is tem-  
11          porarily unavailable for the reasons described in the  
12          exceptions stated in section 923(e), if the licensed  
13          manufacturer, licensed importer, or licensed dealer  
14          delivers to the transferee within 10 calendar days  
15          after the date of the delivery of the handgun to the  
16          transferee a secure gun storage or ~~safety~~ device for  
17          the handgun.

18          “(3)(A) Notwithstanding any other provision of law,  
19          a person who has lawful possession and control of a hand-  
20          gun, and who uses a secure gun storage or safety device  
21          with the handgun, shall be entitled to immunity from a  
22          civil liability action as described in this paragraph.

23          “(B) A qualified civil liability action may not be  
24          brought in any Federal or State court. In this subpara-  
25          graph, the term ‘qualified civil liability action’ means a

1 civil action brought by any person against a person de-  
2 scribed in subparagraph (A) for damages resulting from  
3 the unlawful use of the handgun by a third party, if—

4 “(i) the handgun was accessed by another per-  
5 son without the authorization of the person so de-  
6 scribed; and

7 “(ii) when the handgun was so accessed, the  
8 handgun had been made inoperable by use of a se-  
9 cure gun storage or safety device.

10 A ‘qualified civil liability action’ shall not include an action  
11 brought against the person having lawful possession and  
12 control of the handgun for negligent entrustment or neg-  
13 ligence per se.

14 “(4)(A) This subsection shall not be construed to—

15 “(i) create a cause of action against any Fed-  
16 eral firearms licensee or any other ~~person~~ for any  
17 civil liability; or

18 “(ii) establish any standard of care.

19 “(B) Notwithstanding any other provision of law, evi-  
20 dence regarding compliance or noncompliance with this  
21 subsection shall not be admissible as evidence in any pro-  
22 ceeding of any court, agency, board, or other entity, except  
23 with respect to an action to enforce paragraphs (1) and  
24 (2), or to give effect to paragraph (3).”.

1 (b) CIVIL PENALTIES.—Section 924 of title 18,  
2 United States Code, is amended—

3 (1) in subsection (a)(1), by inserting “or (p)”  
4 before “of this section”; and

5 (2) by adding at the end the following:

6 “(p)(1)(A) With respect to each violation of section  
7 922(z)(1) by a licensed manufacturer, licensed importer,  
8 or licensed dealer, the Secretary may, after notice and op-  
9 portunity for hearing—

10 “(i) suspend for not more than 6 months, or re-  
11 voke, the license issued to the licensee under this  
12 chapter that was used to conduct the firearms trans-  
13 action; or

14 “(ii) impose on the licensee to a civil penalty of  
15 not more than \$2,500.

16 “(B) An action of the Secretary under this paragraph  
17 may be reviewed only as provided in section 923(f).

18 “(2) The suspension or revocation of a license or the  
19 imposition of a civil penalty under paragraph (1) shall not  
20 preclude any administrative remedy that is otherwise  
21 available to the Secretary.”.

22 **SEC. 1102. PROHIBITING JUVENILES FROM POSSESSING**  
23 **SEMIAUTOMATIC ASSAULT WEAPONS.**

24 Section 922(x) of title 18, United States Code, is  
25 amended—

1 (1) in paragraph (1)—

2 (A) by striking “or” at the end of subpara-  
3 graph (A);

4 (B) by striking the period at the end of  
5 subparagraph (B) and inserting a semicolon;  
6 and

7 (C) by adding at the end the following:

8 “(C) a semiautomatic assault weapon; or

9 “(D) a large capacity ammunition feeding de-  
10 vice.”;

11 (2) in paragraph (2)—

12 (A) by striking “or” at the end of subpara-  
13 graph (A);

14 (B) by striking the period at the end of  
15 subparagraph (B) and inserting a semicolon;

16 and

17 (C) by adding at the end the following:

18 “(C) a semiautomatic assault weapon; or

19 “(D) a large capacity ammunition feeding  
20 device.”; and

21 (3) by striking paragraph (3) and inserting the  
22 following:

23 “(3) This subsection shall not apply to—

24 “(A) a temporary transfer of a handgun, am-  
25 munition, a large capacity ammunition feeding de-

1 vice, or a semiautomatic assault weapon to a juvenile  
2 or to the temporary possession or use of a handgun,  
3 ammunition, a large capacity ammunition feeding  
4 device, or a semiautomatic assault weapon by a  
5 juvenile—

6 “(i) if the handgun, ammunition, large ca-  
7 pacity ammunition feeding device, or semiauto-  
8 matic assault weapon are possessed and used by  
9 the juvenile—

10 “(I) in the course of employment;

11 “(II) in the course of ranching or  
12 farming related to activities at the resi-  
13 dence of the juvenile (or on property used  
14 for ranching or farming at which the juve-  
15 nile, with the permission of the property  
16 owner or lessee, is performing activities re-  
17 lated to the operation of the farm or  
18 ranch);

19 “(III) for target practice;

20 “(IV) for hunting; or

21 “(V) for a course of instruction in the  
22 safe and lawful use of a firearm;

23 “(ii) clause (i) shall apply only if the juve-  
24 nile’s possession and use of a handgun, ammu-  
25 nition, a large capacity ammunition feeding de-

1 vice, or a semiautomatic assault weapon under  
2 this subparagraph are in accordance with State  
3 and local law, and the following conditions are  
4 met—

5 “(I) except when a parent or guardian  
6 of the juvenile is in the immediate and su-  
7 pervisory presence of the juvenile, the juve-  
8 nile shall have in the juvenile’s possession  
9 at all times when a handgun, ammunition,  
10 a large capacity ammunition feeding de-  
11 vice, or a semiautomatic assault weapon is  
12 in the possession of the juvenile, the prior  
13 written consent of the juvenile’s parent or  
14 guardian who is not prohibited by Federal,  
15 State, or local law from possessing a fire-  
16 arm or ammunition; and

17 “(II)(aa) during transportation by the  
18 juvenile directly from the place of transfer  
19 to a place at which an activity described in  
20 clause (i) is to take place the firearm shall  
21 be unloaded and in a locked container or  
22 case, and during the transportation by the  
23 juvenile of that firearm, directly from the  
24 place at which such an activity took place  
25 to the transferor, the firearm shall also be

1 unloaded and in a locked container or case;  
2 or

3 “(bb) with respect to employment,  
4 ranching or farming activities as described  
5 in clause (i), a juvenile may possess and  
6 use a handgun, ammunition, a large capac-  
7 ity ammunition feeding device, or a semi-  
8 automatic assault weapon with the prior  
9 written approval of the juvenile’s parent or  
10 legal guardian, if the approval is on file  
11 with the adult who is not prohibited by  
12 Federal, State, or local law from possess-  
13 ing a firearm or ammunition and that per-  
14 son is directing the ranching or farming  
15 activities of the juvenile;

16 “(B) a juvenile who is a member of the Armed  
17 Forces of the United States or the National Guard  
18 who possesses or is armed with a handgun, ammuni-  
19 tion, a large capacity ammunition feeding device, or  
20 a semiautomatic assault weapon in the line of duty;

21 “(C) a transfer by inheritance of title (but not  
22 possession) of a handgun, ammunition, a large ca-  
23 pacity ammunition feeding device, or a semiauto-  
24 matic assault weapon to a juvenile; or

1           “(D) the possession of a handgun, ammunition,  
2           a large capacity ammunition feeding device, or a  
3           semiautomatic assault weapon taken in lawful de-  
4           fense of the juvenile or other persons in the resi-  
5           dence of the juvenile or a residence in which the ju-  
6           venile is an invited guest.

7           “(4) A handgun, ammunition, a large capacity am-  
8           munition feeding device, or a semiautomatic assault weap-  
9           on, the possession of which is transferred to a juvenile in  
10          circumstances in which the transferor is not in violation  
11          of this subsection, shall not be subject to permanent con-  
12          fiscation by the Government if its possession by the juve-  
13          nile subsequently becomes unlawful because of the conduct  
14          of the juvenile, but shall be returned to the lawful owner  
15          when such handgun, ammunition, large capacity ammuni-  
16          tion feeding device, or semiautomatic ~~assault~~ weapon is  
17          no longer required by the Government for the purposes  
18          of investigation or prosecution.

19          “(5) For purposes of this subsection, the term ‘juve-  
20          nile’ means a person who is less than 18 years of age.

21          “(6)(A) In a prosecution of a violation of this sub-  
22          section, the court shall require the presence of a juvenile  
23          defendant’s parent or legal guardian at all proceedings.

24          “(B) The court may use the contempt power to en-  
25          force subparagraph (A).

1       “(C) The court may excuse attendance of a parent  
2 or legal guardian of a juvenile defendant at a proceeding  
3 in a prosecution of a violation of this subsection for good  
4 cause shown.

5       “(7) For purposes of this subsection, the term ‘large  
6 capacity ammunition feeding device’ has the same mean-  
7 ing as in section 921(a)(31) of title 18, except that the  
8 term also includes any device described in such section  
9 that was manufactured before the effective date of the  
10 Violent Crime Control and Law Enforcement Act of  
11 1994.”.

12 **SEC. 1103. PROHIBITING VIOLENT JUVENILE OFFENDERS**  
13 **FROM POSSESSING FIREARMS.**

14       (a) DEFINITION.—Section 921(a)(20) of title 18,  
15 United States Code, is amended—

16       (1) by inserting “(A)” after “(20)”,

17       (2) by redesignating subparagraphs (A) and  
18 (B) as clauses (i) and (ii), respectively;

19       (3) by inserting after subparagraph (A) the fol-  
20 lowing:

21       “(B) For purposes of subsections (d) and (g) of sec-  
22 tion 922, the term ‘adjudicated to have committed an act  
23 of violent juvenile delinquency’ means an adjudication of  
24 delinquency in Federal or State court, based on a finding  
25 of the commission of an act by a person prior to his or

1 her eighteenth birthday that, if committed by an adult,  
2 would be a serious violent felony (as defined in section  
3 3559(c)(2)(F)(i)) had Federal jurisdiction existed and  
4 been exercised.”; and

5 (4) by striking “What constitutes” and all that  
6 follows through “this chapter,” and inserting the fol-  
7 lowing:

8 “(C) What constitutes a conviction of such a crime  
9 or an adjudication of an act of violent juvenile delinquency  
10 shall be determined in accordance with the law of the ju-  
11 risdiction in which the proceedings were held. Any State  
12 conviction or adjudication of an act of violent juvenile de-  
13 linquency that has been expunged or set aside, or for  
14 which a person has been pardoned or has had civil rights  
15 restored, by the jurisdiction in which the conviction or ad-  
16 judication of an act of violent juvenile ~~delinquency~~ oc-  
17 curred shall not be considered to be a conviction or adju-  
18 dication of an act of violent juvenile delinquency for pur-  
19 poses of this chapter,”.

20 (b) PROHIBITION.—Section 922 of title 18, United  
21 States Code, is amended—

22 (1) in subsection (d)—

23 (A) in paragraph (8), by striking “or” at  
24 the end;

1 (B) in paragraph (9), by striking the pe-  
2 riod at the end and inserting “; or”; and

3 (C) by inserting after paragraph (9) the  
4 following:

5 “(10) has been adjudicated to have committed  
6 an act of violent juvenile delinquency.”; and

7 (2) in subsection (g)—

8 (A) in paragraph (8), by striking “or” at  
9 the end;

10 (B) in paragraph (9), by striking the  
11 comma at the end and inserting “; or”; and

12 (C) by inserting after paragraph (9) the  
13 following:

14 “(10) who has been adjudicated to have com-  
15 mitted an act of violent juvenile delinquency,”.

16 (c) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply only to acts of violent juvenile de-  
18 linquency that occur 180 days or more after the date of  
19 the enactment of this Act.

20 **SEC. 1104. MANDATORY BACKGROUND CHECK AT GUN**  
21 **SHOWS.**

22 (a) DEFINITIONS.—Section 921(a) of title 18, United  
23 States Code, is amended by adding at the end the follow-  
24 ing:

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

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

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

11       “(36) The term ‘curtilage area’, with respect to a gun  
12 show, means any building or structure in which, and any  
13 land on which, the gun show is held, and includes all real  
14 property in close proximity to the gun show on which ac-  
15 tivities in furtherance of firearms transactions occur.

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

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

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

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

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

11           “(B) EXCEPTION.—The requirement of  
12 subparagraph (A) shall not apply if the system  
13 indicates that the person being checked has  
14 been arrested for an offense described in section  
15 922(g) and the disposition of the arrest has not  
16 been communicated to the Attorney General.”.

17       (c) REGULATION OF FIREARMS TRANSFERS AT GUN  
18 SHOWS.—

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

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

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

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

4           “(B) contains a photograph and fingerprints of  
5           the applicant; and

6           “(C) is in such form as the Secretary shall by  
7           regulation prescribe.

8           “(2)(A) The Secretary shall approve an application  
9           submitted pursuant to paragraph (1) which meets the re-  
10          quirements of paragraph (1). On approval of the applica-  
11          tion and payment by the applicant of a fee of \$100 for  
12          3 years, and upon renewal of valid registration a fee of  
13          \$50 for 3 years, the Secretary shall issue to the applicant  
14          an instant check registration, and advise the Attorney  
15          General of the United States of the same, which entitles  
16          the registrant to contact the national instant criminal  
17          background check system established under section 103  
18          of the Brady Handgun Violence Prevention Act for infor-  
19          mation about any individual desiring to obtain a firearm  
20          at a gun show from any transferor who has requested the  
21          assistance of the registrant in complying with subsection  
22          (c) with respect to the transfer of the firearm, and receive  
23          information from the system regarding the individual, dur-  
24          ing the 3-year period that begins with the date the reg-  
25          istration is issued.

1       “(B) The Secretary shall approve or deny an applica-  
2       tion submitted pursuant to paragraph (1) within 60 days  
3       after the Secretary receives the application. If the Sec-  
4       retary fails to so act within such period, the applicant may  
5       bring an action under section 1361 of title 28 to compel  
6       the Secretary to so act.

7       “(3) An instant check registrant shall keep all  
8       records or documents which the registrant collects pursu-  
9       ant to this section during a gun show at a premises, or  
10      a portion thereof designated by the registrant, that is open  
11      for inspection by the Secretary. The Secretary shall estab-  
12      lish by regulation the procedure for the inspection, at a  
13      premises or a gun show, of the records required to be kept  
14      under this section in a manner for a registrant that af-  
15      fords the registrant procedural rights and protections  
16      identical to those afforded a licensee under subsections  
17      (g)(1)(A), (g)(1)(B), and (j) of section 923. An instant  
18      check registrant shall transmit to the Secretary all records  
19      required to be kept by the registrant under this sub-  
20      section, when the registration is no longer valid, has ex-  
21      pired, or has been revoked.

22      “(4)(A) This subsection shall not be construed—

23           “(i) as creating a cause of action against any  
24      instant check registrant or any other person, includ-  
25      ing the transferor, for any civil liability; or

1           “(ii) as establishing any standard of care.

2           “(B) Notwithstanding any other provision of law, ex-  
3 cept to give effect to subparagraph (C), evidence regarding  
4 the use or nonuse by a transferor of the services of an  
5 instant check registrant under this section shall not be ad-  
6 missible as evidence in any proceeding of any court, agen-  
7 cy, board, or other entity for the purposes of establishing  
8 liability based on a civil action brought on any theory for  
9 harm caused by a product or by negligence.

10          “(C)(i) Notwithstanding any other provision of law,  
11 a person who is—

12           “(I) an instant check registrant who assists in  
13 having a background check performed in accordance  
14 with this section;

15           “(II) a licensee who acquires a firearm at a gun  
16 show from a nonlicensee, for transfer to another  
17 nonlicensee in attendance at the show, for the pur-  
18 pose of effectuating a sale, trade, or transfer be-  
19 tween the 2 nonlicensees, all in the manner pre-  
20 scribed for the acquisition and disposition of fire-  
21 arms under this chapter; or

22           “(III) a nonlicensee disposing of a firearm, who  
23 utilizes the services of an instant check registrant  
24 pursuant to subclause (I) or a licensee pursuant to  
25 subclause (II),

1 shall be entitled to immunity from a civil liability action  
2 as described in this subparagraph.

3 “(ii) A qualified civil liability action may not be  
4 brought in any Federal or State court. The term ‘qualified  
5 civil liability action’ means a civil action brought by any  
6 person against a person described in clause (i) for dam-  
7 ages resulting from the unlawful use of the firearm by the  
8 transferee or a third party, but shall not include an  
9 action—

10 “(I) brought against a transferor convicted  
11 under section 924(h), or a comparable or identical  
12 State felony law, by a party directly harmed by the  
13 transferee’s criminal conduct, as defined in section  
14 924(h); or

15 “(II) brought against a transferor for negligent  
16 entrustment or negligence per se.

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

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

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

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

2                   “(A) records and verifies the identity of  
3           each individual who is to be a gun show vendor  
4           at the gun show by examining, but not retain-  
5           ing, a copy of, a valid identification document  
6           (as defined in section 1028(d)(1)) of the indi-  
7           vidual containing a photograph of the individ-  
8           ual; and

9                   “(B) provides to each such individual a  
10          copy of the document provided by the Secretary  
11          under subsection (c); and

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

17           “(c) The Secretary shall provide to each gun show  
18          organizer registered with the Secretary pursuant to sub-  
19          section (b)(1) a document which sets forth all Federal laws  
20          that apply to firearms transactions at gun shows, includ-  
21          ing all related recordkeeping requirements, verbatim.

22                   “(d)(1) It shall be unlawful, at a gun show or the  
23          curtilage area of a gun show, for a person who is not li-  
24          censed under section 923 to sell, transfer, or exchange to  
25          another person who is not licensed under section 923, a

1 firearm that is accessible at the gun show or in the  
2 curtilage area of the gun show, unless—

3           “(A) the firearm is transferred through a li-  
4 censed importer, licensed manufacturer, or licensed  
5 dealer in accordance with paragraph (2)(B) and oth-  
6 erwise in accordance with law; or

7           “(B)(i) before the completion of the transfer,  
8 an instant check registrant contacts the national in-  
9 stant criminal background check system established  
10 under section 103 of the Brady Handgun Violence  
11 Prevention Act;

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

14           “(II) 3 business days (meaning a day on which  
15 State offices are open) have elapsed since the reg-  
16 istrant contacted the system, and the ~~system~~ system has not  
17 notified the registrant that the receipt of a firearm  
18 by such other person would violate subsection (g) or  
19 (n) of section 922;

20           “(iii) the registrant notifies the person that the  
21 registrant has complied with clauses (i) and (ii), or  
22 of any receipt by the registrant of a notification  
23 from the national instant criminal background check  
24 system established under section 103 of the Brady

1 Handgun Violence Prevention Act that the transfer  
2 would violate section 922 or State law; and

3 “(iv) the transferor and the registrant have  
4 verified the identity of the transferee by examining  
5 a valid identification document (as defined in section  
6 1028(d)(1) of this title) of the transferee containing  
7 a photograph of the transferee.

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

13 “(B)(i) The licensee or registrant may personally de-  
14 liver or ship the firearm to the prospective transferee in  
15 accordance with clause (ii) if the gun show has terminated,  
16 and—

17 “(I)(aa) 3 business days has elapsed since the  
18 licensee or registrant contacted the system from the  
19 gun show and the licensee or registrant has not re-  
20 ceived notification from the system that receipt of a  
21 firearm by the prospective transferee would violate  
22 subsection (g) or (n) of section 922 or State law; or

23 “(bb) the licensee or registrant has received no-  
24 tification from the system that receipt of a firearm

1 by the prospective transferee would not violate sub-  
2 section (g) or (n) of section 922 or State law; and

3 “(II) State and local law would have permitted  
4 the licensee or registrant to immediately deliver the  
5 firearm to the prospective transferee if the condi-  
6 tions described in item (aa) or (bb) had occurred  
7 during the gun show.

8 “(ii)(I) The licensee may personally deliver the fire-  
9 arm to the prospective transferee at a location other than  
10 the business premises of the licensee, without regard to  
11 whether the location is in the State specified on the license  
12 of the licensee, or may ship the firearm by common carrier  
13 to the prospective transferee.

14 “(II) The registrant may personally deliver the fire-  
15 arm to a prospective transferee who is a resident of the  
16 State of which the registrant is a resident, or may ship  
17 the firearm by common carrier to such a prospective trans-  
18 feree.

19 “(3) An instant check registrant who agrees to assist  
20 a person who is not licensed under section 923 in comply-  
21 ing with subsection (c) with respect to the transfer of a  
22 firearm shall—

23 “(A) enter the name, age, address, and other  
24 identifying information on the transferee (or, if the  
25 transferee is a corporation or other business entity,

1 the identity and principal and local places of busi-  
2 ness of the transferee) as the Secretary may require  
3 by regulation into a separate bound record;

4 “(B) record the unique identification number  
5 provided by the system on a form specified by the  
6 Secretary;

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

12 “(D) on completion of the background check by  
13 the system, retain a record of the background check  
14 as part of the permanent business records of the  
15 registrant.

16 “(4) This section shall not be construed to permit or  
17 authorize the Secretary to impose recordkeeping require-  
18 ments on any vendor who is not licensed under section  
19 923, except to the extent that the vendor is acting as an  
20 instant check registrant.

21 “(e) It shall be unlawful for any person to receive  
22 a firearm from another person that the person knows has  
23 been transferred to the recipient in violation of this sec-  
24 tion.

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

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

7       “(7)(A) Whoever knowingly violates subsection (b),  
8 (d)(1), or (d)(2) of section 931 shall be—

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

11           “(ii) in the case of a second or subsequent con-  
12 viction of such a violation, fined under this title, im-  
13 prisoned not more than 5 years, or both.

14       “(B) Whoever knowingly violates subsection (d)(3) or  
15 (e) of section 931 shall be fined under this title, impris-  
16 oned not more than 3 years, or both.

17       “(C) In addition to any other penalties imposed  
18 under this paragraph, the Secretary may, with respect to  
19 any person who knowingly violates subsection (b), (d), or  
20 (e) of section 931—

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

23           “(ii) if the person is registered pursuant to sec-  
24 tion 931(a), after notice and opportunity for a hear-  
25 ing, suspend for not more than 6 months or revoke

1 the registration of that person under section  
2 931(a).”.

3 (3) CONFORMING AMENDMENT.—Section 923(j)  
4 of such title is amended in the first sentence by  
5 striking “or event” and all that follows through  
6 “community”.

7 (4) CLERICAL AMENDMENT.—The section anal-  
8 ysis for chapter 44 of such title is amended by add-  
9 ing at the end the following:

“931. Regulation of firearms transfers at gun shows.”.

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

12 “(E)(i) When the Secretary has reasonable cause to  
13 believe that evidence of a violation of this chapter may  
14 be found at the place of business of a gun show organizer  
15 or any place where a gun show is being held, the Secretary  
16 may, upon demonstrating such cause before a Federal  
17 magistrate and securing from the magistrate a warrant  
18 authorizing entry, enter during business hours any such  
19 place (including any place of storage of the gun show orga-  
20 nizer), for the purpose of inspecting or examining any  
21 records or documents required to be kept by the gun show  
22 organizer under this chapter or rules or regulations under  
23 this chapter.

24 “(ii) The Secretary may enter during business hours  
25 the place of business of any gun show organizer and any

1 place where a gun show is being held, without such reason-  
2 able cause or warrant, for the purpose of inspecting or  
3 examining the records required by section 923 or 931 and  
4 the inventory of licensees conducting business at the gun  
5 show in the course of a reasonable inquiry during the  
6 course of a criminal investigation of a person or persons  
7 other than the organizer or licensee or when such exam-  
8 ination may be required for determining the disposition  
9 of one or more particular firearms in the course of a bona  
10 fide criminal investigation.”.

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

14 “(3)(A) Except as provided in subparagraph (B), any  
15 licensed dealer, licensed importer, licensed manufacturer,  
16 or licensed collector who knowingly makes ~~any~~ false state-  
17 ment or representation with respect to the information re-  
18 quired by this chapter to be kept in the records of a person  
19 licensed under this chapter, or violates section 922(m)  
20 shall be fined under this title, imprisoned not more than  
21 1 year, or both.

22 “(B) If the violation described in subparagraph (A)  
23 is in relation to an offense—

1           “(i) under paragraph (1) or (3) of section  
2           922(b), such person shall be fined under this title,  
3           imprisoned not more than 5 years, or both; or

4           “(ii) under subsection (a)(6) or (d) of section  
5           922, such person shall be fined under this title, im-  
6           prisoned not more than 10 years, or both.”.

7           (f) INCREASED PENALTIES FOR VIOLATIONS OF  
8           CRIMINAL BACKGROUND CHECK REQUIREMENTS.—

9           (1) PENALTIES.—Section 924(a) of such title is  
10          amended—

11           (A) in paragraph (5), by striking “sub-  
12          section (s) or (t) of section 922” and inserting  
13          “section 922(s)”; and

14           (B) by adding at the end the following:

15          “(8)(A) Whoever knowingly violates section 922(t)  
16          shall be fined under this title, imprisoned ~~not~~ more than  
17          3 years, or both.

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

21           (2) ELIMINATION OF CERTAIN ELEMENTS OF  
22          OFFENSE.—Section 922(t)(5) of such title is amend-  
23          ed by striking “and, at the time” and all that fol-  
24          lows through “State law”.

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

4 **SEC. 1105. GUN OWNER PRIVACY; PROHIBITION ON BACK-**  
5 **GROUND CHECK FEE.**

6 (a) PROHIBITION ON BACKGROUND CHECK FEE.—

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

10 **“§ 540B. Prohibition on fee for background check in**  
11 **connection with firearm transfer**

12 “No officer, employee, or agent of the United States,  
13 including a State or local officer or employee acting on  
14 behalf of the United States, may charge or collect any fee  
15 in connection with any background check required in con-  
16 nection with the transfer of a firearm (as defined in sec-  
17 tion 921(a)(3) of title 18).”.

18 (2) TECHNICAL AND CONFORMING AMEND-  
19 MENTS.—The section analysis for chapter 33 of title  
20 28, United States Code, is amended by inserting  
21 after the item relating to section 540A the following:

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

22 (b) PROTECTION OF GUN OWNER PRIVACY AND  
23 OWNERSHIP RIGHTS.—

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

4   **“§ 932. Gun owner privacy and ownership rights**

5       “Notwithstanding any other provision of law, no de-  
6   partment, agency, or instrumentality of the United States  
7   or officer, employee, or agent of the United States, includ-  
8   ing a State or local officer or employee acting on behalf  
9   of the United States—

10           “(1) shall perform any national instant criminal  
11       background check through the system established  
12       pursuant to section 103 of the Brady Handgun Vio-  
13       lence Prevention Act (18 U.S.C. 922 note) (referred  
14       to in this section as the “system”) if that system  
15       does not require and result in the immediate de-  
16       struction of all information, in any form whatsoever  
17       or through any medium, about any person who is de-  
18       termined, through the use of the system, not to be  
19       prohibited by subsection (g) or (n) of section 922 of  
20       this title, or by State law, from receiving a firearm,  
21       except that this subsection shall not apply to the re-  
22       tention or transfer of information relating to—

23           “(A) any unique identification number pro-  
24       vided by the national instant criminal back-

1 ground check system pursuant to section  
2 922(t)(1)(B)(i) of this title; or

3 “(B) the date on which that number is  
4 provided; or

5 “(2) shall continue to operate the system (in-  
6 cluding requiring a background check before the  
7 transfer of a firearm) unless—

8 “(A) the ‘NICS Index’ complies with the  
9 requirements of section 552a(e)(5) of title 5,  
10 United States Code; and

11 “(B) the agency responsible for the system  
12 and the system’s compliance with Federal law  
13 does not invoke the exceptions under sub-  
14 sections (j)(2), (k)(2), and (k)(3) of section  
15 552a of title 5, United States Code, except if  
16 specifically identifiable information is compiled  
17 for a particular law enforcement investigation  
18 or specific criminal enforcement matter.”.

19 (2) TECHNICAL AND CONFORMING AMEND-  
20 MENTS.—The section analysis for chapter 44 of title  
21 18, United States Code, is further amended by add-  
22 ing at the end the following:

“932. Gun owner privacy and ownership rights.”.

23 (c) CIVIL REMEDIES.—Any person aggrieved by a  
24 violation of section 540B of title 28, or section 932 of title  
25 18, United States Code, as added by this section, may

1 bring an action in the district court of the United States  
2 for the district in which the person resides. Any person  
3 who is successful with respect to any such action shall re-  
4 ceive actual damages, punitive damages, and such other  
5 remedies as the court may determine to be appropriate,  
6 including a reasonable attorney's fee.

7 (d) EFFECTIVE DATE.—The amendments made by  
8 this section shall take effect on the date of the enactment  
9 of this Act, except that the amendments made by sub-  
10 section (a) shall take effect as of October 1, 1998.

11 **SEC. 1106. BAN ON IMPORTING LARGE CAPACITY AMMUNI-**  
12 **TION FEEDING DEVICES.**

13 (a) IN GENERAL.—Section 922(w) of title 18, United  
14 States Code, is amended—

15 (1) in paragraph (1), by striking “(1) Except as  
16 provided in paragraph (2)” and inserting “(1)(A)  
17 Except as provided in subparagraph (B)”;

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

20 (3) by inserting before paragraph (3) the fol-  
21 lowing:

22 “(2)(A) It shall be unlawful for any person to import  
23 a large capacity ammunition feeding device.

24 “(B) Subparagraph (A) shall not apply to any large  
25 capacity ammunition feeding device manufactured or pro-

1 duced on or before September 13, 1994, for a firearm list-  
2 ed as a curio or relic pursuant to section 921(a)(13).”;  
3 and

4 (4) in paragraph (4)—

5 (A) by striking “(1)” each place it appears  
6 and inserting “(1)(A)”; and

7 (B) by striking “(2)” and inserting  
8 “(1)(B)”.

9 (b) EFFECTIVE DATE.—The amendments made by  
10 subsection (a) shall take effect 180 days after the date  
11 of the enactment of this Act.

12 **SEC. 1107. EXEMPTION OF QUALIFIED LAW ENFORCEMENT**  
13 **OFFICERS FROM STATE LAWS PROHIBITING**  
14 **THE CARRYING OF CONCEALED FIREARMS.**

15 (a) IN GENERAL.—Chapter 44 of title 18, United  
16 States Code, is amended by inserting after ~~section~~ 926A  
17 the following:

18 **“§ 926B. Carrying of concealed firearms by qualified**  
19 **law enforcement officers**

20 “(a) Notwithstanding any provision of the law of any  
21 State or any political subdivision thereof, an individual  
22 who is a qualified law enforcement officer and who is car-  
23 rying the identification required by subsection (d) may  
24 carry a concealed firearm that has been shipped or trans-

1 ported in interstate or foreign commerce, subject to sub-  
2 section (b).

3 “(b) This section shall not be construed to supersede  
4 or limit the laws of any State that—

5 “(1) permit private persons or entities to pro-  
6 hibit or restrict the possession of concealed firearms  
7 on their property; or

8 “(2) prohibit or restrict the possession of fire-  
9 arms on any State or local government property, in-  
10 stallation, building, base, or park.

11 “(c) As used in this section, the term ‘qualified law  
12 enforcement officer’ means an employee of a governmental  
13 agency who—

14 “(1) is authorized by law to engage in or super-  
15 vise the prevention, detection, investigation, or pros-  
16 ecution of, or the incarceration of ~~any~~ person for,  
17 any violation of law, and has statutory powers of ar-  
18 rest;

19 “(2) is authorized by the agency to carry a fire-  
20 arm;

21 “(3) is not the subject of any disciplinary action  
22 by the agency; and

23 “(4) meets standards, if any, established by the  
24 agency which require the employee to regularly qual-  
25 ify in the use of a firearm.

1       “(d) The identification required by this subsection is  
2 the official badge and photographic identification issued  
3 by the governmental agency for which the individual is,  
4 or was, employed as a law enforcement officer.”.

5       (b) CLERICAL AMENDMENT.—The table of sections  
6 for such chapter is amended by inserting after the item  
7 relating to section 926A the following:

“926B. Carrying of concealed firearms by qualified law enforcement officers.”.

8       **SEC. 1108. EXEMPTION OF QUALIFIED RETIRED LAW EN-**  
9                   **FORCEMENT OFFICERS FROM STATE LAWS**  
10                   **PROHIBITING THE CARRYING OF CON-**  
11                   **CEALED FIREARMS.**

12       (a) IN GENERAL.—Chapter 44 of title 18, United  
13 States Code, is further amended by inserting after section  
14 926B the following:

15       **“§ 926C. Carrying of concealed firearms by qualified**  
16                   **retired law enforcement officers**

17       “(a) Notwithstanding any provision of the law of any  
18 State or any political subdivision thereof, an individual  
19 who is a qualified retired law enforcement officer and who  
20 is carrying the identification required by subsection (d)  
21 may carry a concealed firearm that has been shipped or  
22 transported in interstate or foreign commerce, subject to  
23 subsection (b).

24       “(b) This section shall not be construed to supersede  
25 or limit the laws of any State that—

1           “(1) permit private persons or entities to pro-  
2       hibit or restrict the possession of concealed firearms  
3       on their property; or

4           “(2) prohibit or restrict the possession of fire-  
5       arms on any State or local government property, in-  
6       stallation, building, base, or park.

7       “(c) As used in this section, the term ‘qualified re-  
8       tired law enforcement officer’ means an individual who—

9           “(1) retired in good standing from service with  
10       a public agency as a law enforcement officer, other  
11       than for reasons of mental instability;

12          “(2) before such retirement, was authorized by  
13       law to engage in or supervise the prevention, detec-  
14       tion, investigation, or prosecution of, or the incarcer-  
15       ation of any person for, any violation of law, and  
16       had statutory powers of arrest;

17          “(3)(A) before such retirement, was regularly  
18       employed as a law enforcement officer for an aggre-  
19       gate of 5 years or more; or

20          “(B) retired from service with such agency,  
21       after completing any applicable probationary period  
22       of such service, due to a service-connected disability,  
23       as determined by such agency;

24          “(4) has a nonforfeitable right to benefits under  
25       the retirement plan of the agency;

1           “(5) during the most recent 12-month period  
2           or, if the agency requires active duty officers to do  
3           so with lesser frequency than every 12 months, dur-  
4           ing such most recent period as the agency requires  
5           with respect to active duty officers, has completed,  
6           at the expense of the individual, a program approved  
7           by the State for training or qualification in the use  
8           of firearms; and

9           “(6) is not prohibited by Federal law from re-  
10          ceiving a firearm.

11          “(d) The identification required by this subsection is  
12          photographic identification issued by the State in which  
13          the agency for which the individual was employed as a law  
14          enforcement officer is located.”.

15          (b) CLERICAL AMENDMENT.—The table of sections  
16          for such chapter is further amended by inserting after the  
17          item relating to section 926B the following:

          “926C. Carrying of concealed firearms by qualified retired law enforcement offi-  
                                          cers.”.

Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP, Eric P. Liu/OPD/EOP@EOP

cc:

Subject: JJ update

Here's the latest on the jj conference: Hyde and Conyers are meeting late today to discuss the gun compromise (version we received last week). Conyers is expected to reject it. If for some reason he doesn't reject it, they would quickly call a meeting of conferees to hash through the JJ provisions of the bill. If Conyers rejects, then it could delay the conference significantly. I hear that Hatch is pushing hard for a Thursday meeting of the conferees.

- large caper clip still some
- gun show

- news of Hatch press conf at 11 AM - very big deal w/ votes of gun vote.

→ Hyde, Hatch, Conyers, Leahy - final. Council

 Leanne A. Shimabukuro

09/14/99 10:34:58 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP, Eric P. Liu/OPD/EOP@EOP  
cc: Cathy R. Mays/OPD/EOP@EOP, Anna Richter/OPD/EOP@EOP  
Subject: JJ CONFERENCE -- update

A few things to update you on what Deanne and I have learned tonight:

- **Possible Hatch press conference:** We've heard that Hatch may have a press conference tomorrow (Wed.) at 11:30am with victims of gun violence. No one on the Hill seems to have heard this, but Dallas Morning News indicated to Bea that this might happen.

- **Hyde meetings:** Hyde met with Conyers briefly tonight. Hyde said to Conyers that he thought they were in 80-90 percent agreement, but that he was unmoveable on creating "instant check registrants" -- which would undermine crime gun tracing efforts. Hyde also said that he opposed FBI records retention for the NICS but might be willing to compromise on this point. Conyers' staff subsequently told Dems that he didn't think they could reach agreement with Hyde. Hyde was also set to meet with Hatch later tonight.

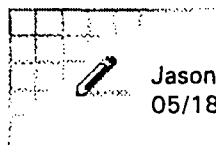
- **Gun compromise language:** With respect to the version we received as close hold last week, some of the bigger problems include: (1) allowing interstate shipment of guns by FFLs to unlicensed individuals; (2) weak record-keeping requirements on sales by unlicensed sellers (special registrants) to enable gun tracing; (3) large capacity ammo clip provision appears meaningless; (4) checks at gun shows would only provide up to three days to determine felony arrest dispositions -- wouldn't cover restraining orders; (5) automatic destruction of NICS records; (6) gun show definition may not cover flea markets. We're still trying to assess how problematic the interstate sales provision is.

Of course, this may not be the current version Hyde or Hatch are using, but it's hard to believe it would get much better than this. I have put a copy of the draft language from last week and a Treasury document summarizing the provisions on your chairs.

We'll pass along any new info we hear on the bill.

Thanks,  
Leanne

Crime - 1999 Juvenile  
Justice Bill



Jason H. Schechter  
05/18/99 05:51:18 PM

Record Type: Record

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

cc:

Subject: Statement by the President: Gun Control

**THE WHITE HOUSE**

Office of the Press Secretary

For Immediate Release

May 18, 1999

**STATEMENT BY THE PRESIDENT**

I want to commend the Senate for reversing its position of last year and voting overwhelmingly today to require that child safety locks be provided with every gun sold. This was a courageous, common sense vote that will help prevent tragic shootings and gun-related accidents in the future.

I also want to thank Speaker Hastert for agreeing that we should close the gun show loophole and raise the age of handgun ownership from 18 to 21. The Senate should likewise put progress over politics and give its strong backing to these reasonable measures to keep guns out of the hands of children and criminals. I urge Senator Lott to let the Senate keep working on the juvenile crime bill and give every Senator the chance to vote on these common sense provisions.

30-30-30

Message Sent To: \_\_\_\_\_