

Boyd	Hilleary	Quinn	Kildee	Mink	Schakowsky
Brady (TX)	Hobson	Radanovich	Kilpatrick	Moakley	Scott
Bryant	Hoekstra	Ramstad	Kind (WI)	Mollohan	Serrano
Burr	Horn	Regula	King (NY)	Moore	Sherman
Burton	Hostettler	Reynolds	Klecza	Morella	Shows
Buyer	Houghton	Riley	Klink	Murtha	Skelton
Callahan	Hulshof	Rogan	Kucinich	Nadler	Slaughter
Calvert	Hunter	Rogers	LaFalce	Napolitano	Smith (WA)
Camp	Hutchinson	Rohrabacher	Lampson	Neal	Snyder
Canady	Hyde	Ros-Lehtinen	Lantos	Nethercutt	Spratt
Cannon	Isakson	Roukema	Larson	Oberstar	Stabenow
Castle	Istook	Royce	Lee	Obey	Stark
Chabot	Jenkins	Ryan (WI)	Levin	Olver	Strickland
Chambliss	John	Ryun (KS)	Lewis (GA)	Ortiz	Stupak
Coburn	Johnson (CT)	Salmon	Lipinski	Owens	Tauscher
Collins	Johnson, Sam	Sanford	Lofgren	Pallone	Terry
Combest	Jones (NC)	Saxton	Lowe	Pascarell	Thompson (CA)
Condit	Kasich	Schaffer	Luther	Pastor	Thompson (MS)
Cook	Kelly	Sensenbrenner	Maloney (CT)	Paul	Thurman
Cooksey	Kingston	Sessions	Maloney (NY)	Payne	Tierney
Cox	Knollenberg	Shadegg	Markey	Pelosi	Towns
Cramer	Kolbe	Shaw	Martinez	Phelps	Trafficant
Crane	Kuykendall	Shays	Mascara	Pickett	Turner
Cubin	LaHood	Sherwood	Matsui	Pomeroy	Udall (CO)
Cunningham	Largent	Shinkus	McCarthy (MO)	Price (NC)	Udall (NM)
Danner	Latham	Shuster	McCarthy (NY)	Rahall	Velazquez
Davis (VA)	LaTourette	Simpson	McDermott	Rangel	Vento
Deal	Lazio	Sisisky	McGovern	Reyes	Visclosky
DeLay	Leach	Skeen	McIntyre	Rivers	Waters
DeMint	Lewis (CA)	Smith (MI)	McKinney	Rodriguez	Watt (NC)
Dickey	Lewis (KY)	Smith (NJ)	McNulty	Roemer	Waxman
Dooley	Linder	Smith (TX)	Meehan	Rothman	Weiner
Dreier	LoBiondo	Souder	Meek (FL)	Roybal-Allard	Wexler
Duncan	Lucas (KY)	Spence	Meeks (NY)	Rush	Weygand
Dunn	Lucas (OK)	Stearns	Menendez	Sabo	Wise
Ehlers	Manzullo	Stenholm	Millender-	Sanchez	Woolsey
Ehrlich	McCollum	Stump	McDonald	Sanders	Wu
Emerson	McCrery	Sununu	Miller, George	Sandlin	Wynn
Everett	McHugh	Sweeney	Minge	Sawyer	
Ewing	McInnis	Talent			
Fletcher	McIntosh	Tancredio			
Fossella	McKeon	Tanner	Coble	Jefferson	
Fowler	Metcalfe	Tauzin	Holden	Scarborough	
Franks (NJ)	Mica	Taylor (MS)			
Frelinghuysen	Miller (FL)	Taylor (NC)			
Galleghy	Miller, Gary	Thomas			
Gekas	Moran (KS)	Thornberry			
Gibbons	Moran (VA)	Thune			
Gilchrest	Myrick	Tiahrt			
Gillmor	Ney	Toomey			
Goode	Northup	Upton			
Goodlatte	Norwood	Vitter			
Goodling	Nussle	Walden			
Gordon	Ose	Walsh			
Goss	Oxley	Wamp			
Granger	Packard	Watkins			
Green (WI)	Pease	Watts (OK)			
Gutknecht	Peterson (MN)	Weldon (FL)			
Hall (TX)	Peterson (PA)	Weldon (PA)			
Hansen	Petri	Weller			
Hastings (WA)	Pickering	Whitfield			
Hayes	Pitts	Wicker			
Hayworth	Pombo	Wilson			
Hefley	Porter	Wolf			
Henger	Portman	Young (AK)			
Hill (MT)	Pryce (OH)	Young (FL)			

## NOES—207

Abercrombie	Clyburn	Ford
Ackerman	Conyers	Frank (MA)
Allen	Costello	Frost
Andrews	Coyne	Ganske
Baird	Crowley	Gejdenson
Baldacci	Cummings	Gephardt
Baldwin	Davis (FL)	Gilman
Barrett (WI)	Davis (IL)	Gonzalez
Becerra	DeFazio	Graham
Bentsen	DeGette	Green (TX)
Berkley	DeLaunt	Greenwood
Berman	DeLauro	Gutierrez
Berry	Deutsch	Hall (OH)
Bishop	Diaz-Balart	Hastings (FL)
Blagojevich	Dicks	Hill (IN)
Blumenauer	Dingell	Hilliard
Bonior	Dixon	Hinchey
Borski	Doggett	Hinojosa
Boswell	Doolittle	Hoeffel
Brady (PA)	Doyle	Holt
Brown (FL)	Edwards	Hooley
Brown (OH)	Engel	Hoyer
Campbell	English	Inslee
Capps	Eshoo	Jackson (IL)
Capuano	Etheridge	Jackson-Lee
Cardin	Evans	(TX)
Carson	Farr	Johnson, E. B.
Chenoweth	Fattah	Jones (OH)
Clay	Filner	Kanjorski
Clayton	Foley	Kaptur
Clement	Forbes	Kennedy

## MOTION TO INSTRUCT CONFEREES ON H.R. 1501, JUVENILE JUSTICE REFORM ACT OF 1999

Mrs. MCCARTHY of New York. Mr. Speaker, I rise to offer a privileged motion to instruct conferees on the bill (H.R. 1501) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants to ensure increased accountability for juvenile offenders; to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide quality prevention programs and accountability programs relating to juvenile delinquency; and for other purposes.

The SPEAKER pro tempore (Mr. LAHOOD). The Clerk will report the motion.

The Clerk read as follows:

Mrs. MCCARTHY of New York moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 1501, be instructed to insist that—

(1) the committee of conference should this week have its first substantive meeting to offer amendments and motions, including gun safety amendments and motions; and

(2) the committee of conference should meet every weekday in public session until the committee of conference agrees to recommend a substitute.

The SPEAKER pro tempore. Pursuant to clause 7, rule XXII, the gentleman from New York (Mrs. MCCARTHY) and the gentleman from Illinois (Mr. HYDE) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I offer a motion to instruct the conferees on H.R. 1501 to meet publicly, beginning this week, and every weekday until we reach a conference agreement.

Stated more simply, my colleagues and I are asking that we move forward with the conference on the juvenile justice bill. The motion is not offered as a criticism. I understand that the chairman and the ranking member of the Committee on the Judiciary have met in an attempt several times to reach a compromise on the gun provisions in the juvenile justice bill.

The chairman and the ranking member have worked very hard on this important legislation, and we do appreciate all the efforts that they have made.

However, we cannot afford to wait for the completion of behind-closed-door negotiations while the threat of gun violence hangs over the heads of our schoolchildren throughout America. Every day Congress fails to advance juvenile justice legislation is another day that we lose 13 children to gun violence.

Despite the assurances of the chairman and the ranking member, a number of my colleagues and I remain concerned about the outcome of the juvenile justice bill. Since the April 20

## NOT VOTING—4

□ 1604

Mr. TAYLOR of North Carolina changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1501, JUVENILE JUSTICE REFORM ACT OF 1999

Mr. DOOLITTLE. Mr. Speaker, pursuant to clause 7(c) of rule XXII, I hereby announce my intention to offer a motion to instruct conferees on H.R. 1501 tomorrow.

The form of the motion is as follows:

Mr. DOOLITTLE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 1501 to be instructed to insist that the conference report not include Senate provisions that—

(1) do not recognize that the second amendment to the Constitution protect the individual right of American citizens to keep and bear arms; and

(2) impose unconstitutional restrictions on the second amendment rights of individuals.

## SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

shooting at Columbine High School mobilized the American people to pressure Congress into addressing the issues of children's access to guns, we have faced a number of roadblocks and delays. I fear the delays we have faced have been caused by the congressional leadership's reluctance to enact meaningful gun safety legislation.

Our motion today is offered as an incentive to move forward and complete our legislation. Let us listen to the American people and protect our children.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I do not disagree with the gentlewoman from New York. I am a little puzzled by the formulation in the motion to instruct, because we have nothing to do with the calling of the meetings of the conferees. The chairman is the Senator from Utah, and he has the gavel. He can call the formal meetings.

But we have been having informal meetings every day, every morning and every afternoon. We have had two today. We are working with all dispatch to try and resolve our difficulties.

There were many difficulties, many differences, when we started out. We have them down to about one or two now. If people want to continue to breathe down our neck and push us, that is fine, we are all adults and we can take it. But we are working as expeditiously, as effectively, as we can. These are complicated, difficult, emotional issues. Many considerations have to be borne in mind.

Mr. Speaker, I would like us to meet I suppose every day in public, but I can assure the gentlewoman, if she wants a bill, let us continue to move as we are. I wish it could have been done yesterday, but I can assure the gentlewoman that nobody is at fault, other than the complexity, the difficulties of the issues we are dealing with.

I am convinced to a moral certitude that everybody wants a bill. Nobody wants this to fail. So we are working the best we can. I wish the gentlewoman would give some credence to our good faith, as I certainly do to the gentlewoman's.

I just do not know what to do on this. I want to vote for it because I like the gentlewoman, and I do not like to be negative. On the other hand, it just seems pointless for us to be requiring the conference to meet this week so that motions, including gun safety amendments, could be offered. We are working those out informally, but they are being worked out.

Then, we should meet every weekday in public session? I would hope that we will have an agreement, a text, very soon. I do not know when. But the process is working. It is fermenting.

We will get a text, and then we can all study it and decide whether it is something we can support or not, and move forward.

But we are doing our best. There may be others who could do better. Unfortunately, they are not in positions of authority. I am very satisfied that the gentleman from New York (Mr. CONYERS) is serious and working and trying to be helpful, and is helpful, and I believe he feels the same about our side.

I will vote no on this, simply because I think it sets out to do something that is not within our competence; that is, to tell the Senator to call meetings every day. I am sure he will call them when we are ready to offer something that can be voted on, and I just assure the gentlewoman, we are inching closer and closer and closer. I do not think it is going to be a matter of days, even, until we are ready with a product that we can all vote up-or-down on.

Mr. Speaker, I reserve the balance of my time.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield myself 30 seconds to respond to the previous speaker.

Mr. Speaker, I would say to the gentleman from Illinois (Mr. HYDE), my respect for the gentleman is tremendous, and this is nothing personal towards the gentleman whatsoever. It is actually towards, unfortunately, I feel, some people on the other side.

There have been a lot of quotes in the newspaper, one on June 19 after we had our defeat. "The defeat of the gun safety bill in the House is a great personal victory for me," from the gentleman from Texas (Mr. DELAY).

My job is to try and bring this bill forward. If we can put any pressure, certainly even on the Senate side, then that is what I have to try and do. As far as the gentleman goes, the gentleman is a gentleman and I am always privileged to work with him.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the very generous comments of the gentlewoman from New York, I appreciate them. My admiration for her is multiplied by her admiration for me.

But I would say that the gentleman from Texas (Mr. DELAY), who happens to be the Whip, is a person of strong feelings on this issue. He is entitled to them as an elected Member. But he speaks for himself, not for the entire Republican side on this issue.

This is an issue that is locally difficult for some and easy for others. But I can assure the gentlewoman, with all due respect to our distinguished Whip, that I can muster, he does not make the sole determination, and we are proceeding, I think, effectively and efficiently.

I want to assuage her worries that the gentleman from Texas (Mr. DELAY) speaks for all of us. He does not on this issue. He speaks for me on a lot of issues, but not this one.

Mr. Speaker, I reserve the balance of my time.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California (Ms. LOFGREN).

(Ms. LOFGREN asked and was given permission to revise and extend her remarks.)

Ms. LOFGREN. Mr. Speaker, the conference committee on this item has met just once, formally. That was on August 3. I am a member of that conference committee, as is my colleague, the maker of the motion here today.

At that meeting, and this is only the second time I have been on a conference committee, but we made statements at this meeting. I did, too; we all did. At the conclusion of the statements made by all the Members of the Senate and all the Members of the House who were present, I tried to offer a motion that we would continue to work and to try and get something substantive done.

□ 1615

It was ruled that that motion was out of order. We could not even vote on whether we should actually begin work. What was told to me at that time was that it was necessary for the staff to meet and that they would meet throughout the recess; and, therefore, we could get this to a resolution.

There was a lot of hope expressed that, by the time, roughly, that school started, we would have something ready to go. It is now September 23, and we are still not ready.

I have listened to the discussion here today. I am aware and do readily believe that there have been discussions between the ranking member and the chairman, and I commend those discussions. But there is an aura of mystery around this.

The other conferees, or at least I will speak for myself, I am not aware of the substance of what is being discussed. I hear various things from the press that concern me greatly. I have no way of knowing whether those press reports are accurate or inaccurate.

But I am aware that there are some things that really do need to be in the final product, which is why I think this motion to instruct is a good one.

The first part of the motion directs that we should have a substantive meeting. It has been nearly 2 months since we had our first meeting, and so I think to have our first substantive meeting is not too much to ask so that we could make motions. There is one motion that I would like to make, and it is a necessary one, and it has to do with high capacity clips for assault weapons.

As we know, the Senate had a provision in their bill, and we of course became grid locked and did not have anything on that subject. Subsequent to all of that, on really a technicality type of thing, the Senate's provision was deemed inappropriate since it raised revenue. So there needs to be

some kind of motion for that to be reinstated.

I mention this in particular because I think it is one thing that really does need that attention. I am aware, as a matter of fact, I am proud that the amendment here on the House side was the Hyde-Lofgren amendment. I know the gentleman from Illinois (Chairman HYDE) certainly does not oppose the substance of this. I think that we need to do this.

Certainly the loophole that was created when Senator FEINSTEIN and others pursued this a number of years ago turned out to be nothing that was anticipated. Millions of these high capacity clips are coming in from foreign providers.

I would just say that the TEC-DC9 that was used in Columbine could not have been effective if the ammo was not available. So let us get on it. Let us do it in public. I believe in sunshine laws, being from California. I think, if we have a little sunshine on this process, it will be hard for those opposed to hold their heads up high.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say in response to the remarks of the gentlewoman from California (Ms. LOFGREN) that I certainly share her zeal for banning the large clips, cartridge clips. It was her motion and mine that passed on the floor; but, unfortunately, the bill to which it was attached was not passed. But it is a part of what we are talking about, and I do not think that is in serious dispute.

I just would like to remind the folks on the other side, the gentlewoman from New York (Mrs. MCCARTHY) and the gentlewoman from California (Ms. LOFGREN) that this overriding part of this is juvenile justice, the H.R. 1501, juvenile justice reform. We have been working on that 4½ years. It is that difficult. It has that much emotion involved, that much philosophy, that much concern. So to expect us to stam pede to a resolution now is just ill-advised. In good faith, we are doing our best. We are going to succeed, in my opinion.

I have talked to the gentleman from Michigan (Mr. CONYERS) at some length twice today. I met with him once. We are closer than ever. Please do not push us off the cliff with partisanship. I know how easy it is. I know how strongly my colleagues feel, how passionately they feel. I share that passion.

But compromises are difficult. One does not get everything one wants. One has to make concessions. But those concessions have to be prudent. We understand that. That is true of both sides.

I can only say my colleagues can continue to berate us, and I know they put a soft face on it, but they are. There is a predicate to what they are doing, and that is somehow we are foot dragging. Keep it up. It is all right. We will be here to respond. One of our Members

has one tomorrow. It is kind of becoming a habit. But we are doing our best, and we are going to succeed.

Mr. Speaker, I reserve the balance of my time.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, yesterday I joined with my Democratic women colleagues to call the role of children who have died from gunfire since the tragedy at Columbine on April 20. We cannot even get through the lists. Too many children have lost their lives to senseless gun violence.

Five months since Columbine, and, still, the Republican leadership has failed to take common-sense steps to keep guns out of the hands of children and criminals. Yes, that is the bipartisan compromise that was agreed to in the Senate. What are we in the House waiting for?

We have all watched children fleeing scenes at Columbine High School, a Los Angeles day care center, and now a church in Fort Worth. Just this week we saw a report of a teenage girl in Florida who plotted to murder her entire family but was stopped by a child safety lock.

But the tragedies on the news are only the most prominent. Single killings or accidental shootings where a child kills his brother or sister with a gun thought to be hidden safely in the closet happen with sickening regularity. It all adds up to 13 American children each day dying due to gunfire.

Yesterday morning, one of my Republican colleagues suggested that efforts to keep kids and crooks from getting guns were an insult to the wisdom of our Founding Fathers. Well, this Children's Defense Fund poster captures my response to that notion. It reads, "This can't be what our Founding Fathers had in mind. Children in the United States aged 15 and under are 12 times more likely to die from gunfire than children in 25 other industrialized countries combined. This is a statistic that no one can live with. It is time to protect children instead of guns. With freedom comes a price. That price should not be our children."

Vote for this motion to instruct. Let us pass the common-sense compromise that was passed in the Senate.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I thank the gentlewoman from New York for her courageous work on this issue.

I rise in strong support of this motion, and I am outraged that, once again, the stalling tactics of the majority have forced us to the floor to address gun safety.

My colleagues and I have come together countless times over the past several months with the same simple message: Congress must pass meaningful gun safety legislation. Today, we

repeat that message with added urgency.

When the conferees met this week, and when they continue to meet, they must return with loophole-free substantive measures to combat the gun violence that is killing our children and turning our schools into war zones.

The American people are demanding action. Throughout my district, mothers approach me, children in tow, and ask me why on earth this Congress has not done more to stop the scourge of gun violence attacking our communities. They are afraid to go out on to the streets of their own neighborhoods. They are afraid to send their kids to school. They are afraid to go to church or synagogue. They are searching for courageous leadership from this Congress.

Instead of providing that leadership, Congress has stalled and stonewalled as, week after week, the death toll from gun violence rises. Who can forget Littleton, Paducah, Jonesboro, Springfield, Conyers, Los Angeles, and Fort Worth? How many cities and towns across this country need to be hit with tragedy before something is done?

The Senate passed a gun safety bill which would have prevented felons from buying guns at gun shows, ban the importation of high capacity ammunition clips, and kept guns away from children. But the House took a different route. We had a choice between the public interest and special interest, and the public lost.

Our bill is hollow legislation which ignores the cries of victims of gun violence and their families. We have an opportunity starting today to change our ways. We have a real opportunity to save lives. The conferees must work hard to include strong gun safety measures.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to respond to the gentlewoman (Mrs. LOWEY) for whom my admiration is boundless. I know she does not want to be unfair; I am convinced of that. When she talked about our stalling tactics, I am somewhat bewildered. I wish the gentlewoman would talk to the gentleman from Michigan (Mr. CONYERS) and talk to her staff, her committee staff. There is no stalling going on.

These are complicated, tough issues. It may be clear to a committed liberal the way to go. I am sure it is clear to committed conservatives the way to go. But they are in different directions. We are trying to bring those together. We are trying to work something out. We are doing it with all diligence, all possible diligence.

May I suggest, if the gentlewoman is interested, and I know she is, in helping the gun situation throughout our country, spend some time on urging her administration to enforce existing gun laws. In the last 3 years, there has been one prosecution of a Brady Act violation. We have had a lot of sound and fury for only one prosecution. So there are things that we can do.

But meanwhile, we are not stalling. The word is foreign to us. We are moving ahead. I would have liked to have solved this 2 weeks ago. I can assure the gentlewoman from New York (Mrs. LOWEY) nobody is stalling.

Mrs. LOWEY. Mr. Speaker, will the gentleman would yield?

Mr. HYDE. With pleasure I yield to the gentlewoman from New York.

Mrs. LOWEY. Mr. Speaker, I have worked with the gentleman from Illinois, and I know he is a gentleman, and I have great respect for his commitment to moving this bill. But I would just like to remind my friend and the gentleman that we have been asking for the commonsense gun safety legislation that passed the Senate to come before this House before Memorial Day. It has been quite a while. Look at the lives that have been lost.

I understand that the legislation is complex. I would be delighted to work with the gentleman to call on the Justice Department to enforce the laws. But the commonsense gun legislation that passed the Senate could have been brought to the floor, could have been called from the desk at any time as a separate package.

For me, as for the gentleman from Illinois, we understand how complex this is. But we also understand that there is a madness in this country, and that parents are afraid to send their kids to school.

We have to do what we can to prevent felons from getting through that loophole at gun shows, for example, and getting their hands on guns.

So I wish the gentleman Godspeed. I wish him good luck. I would hope that the juvenile justice bill could pass.

But I would just like to say in conclusion to the gentleman from Illinois, my good friend, that way before Memorial Day, we have been asking for the common-sense legislation to be brought to the floor and to pass. We know it is not the whole answer. Unfortunately, that has not happened, and more lives have been taken. The gentleman's constituents and mine are just afraid.

This is the United States of America, 1999. We know the guns are not the whole answer. But let us begin by making it tougher to get one's hands on a gun.

Mr. HYDE. Mr. Speaker, I do not disagree with much that the gentlewoman from New York (Mrs. Lowey) has said. But there is an expectation that passing another law is going to make a great difference.

Now, I do not deny that there is merit in additional gun laws. I think we can do some more things. I think we are on the verge of doing that. I think the bill that passed the Senate was an excellent one but for one aspect of it, and that is the gun show aspect.

□ 1630

I believe, and we believe, there was some unreasonable aspects to that, and that is a sticking point that we have

been working on and working on and working on.

But I want to remind the gentlewoman, I do not know how many young people were killed in automobile accidents in the period of time that she had reference to with guns, but I daresay more people were killed in automobile accidents. That does not mean we should stop people driving, but it is just a fact of life.

Sixteen Federal laws were violated at Littleton. Sixteen. Nine State laws were violated. So what is our response? Let us heap another law on the fire. But, look, I am for it, notwithstanding the futility, perhaps, of another law. I am working to get one, but I am just suggesting to the gentlewoman these are not easy.

And the Senate operates differently than we do. I think it took the Vice President's vote to get that bill out. Happily, he cannot vote in this body. But we are doing our best.

Mr. Speaker, if the gentleman would continue to yield, I would just like to comment on the gun show loophole, because I know my good colleague, the gentlewoman from New York (Mrs. MCCARTHY), has been a leader on that, and I just do not understand why that issue is so difficult when we know that 90 percent of the people are cleared.

Mr. HYDE. Ninety-five percent.

Mrs. LOWEY. Ninety-five percent. So what we are saying, and what the legislation in the Senate is saying, 3 business days, that is just for the 5 percent of the people who do not get through. So what is wrong with that, when 95 percent get cleared in the first 24 hours or less? So let us do that.

Mr. HYDE. I would just say to the gentlewoman that I have no problem with her formulation; unfortunately, the Lautenberg amendment does much more than that. Much more than that. And therein lies the problem.

I am happy to yield further if the gentleman is going to say something generous. I yield whatever time she wants.

Mrs. LOWEY. I have no doubt that the chairman's intentions are very noble and that he is a wise gentleman, as always.

Mr. HYDE. There is a well-known road paved with good intentions, I am aware of it.

Mrs. LOWEY. However, the gentleman has talked about car registration. I would like to see gun registration as well.

Mr. HYDE. Not in this Congress, though, I would advise the gentlewoman.

Mrs. LOWEY. Unfortunately, that may be the case, my dear friend. I would also like to say that although lives may be lost unfortunately as a result of gun accidents, the gentleman and I are terribly pained for every mother, every father, every family that loses a child, and every day we delay another 13 lives are lost. Every day.

So I would just encourage my good friend, and I am delighted I am on my

good friend's time, I would encourage my good friend to work as expeditiously as he can because, and I really mean this, whether I am in the supermarket or I am in the street, people are afraid. This is the United States of America, and people are afraid to go to school, afraid to go to church, afraid to go to synagogue, afraid to walk the streets. We have the power to do something. Let us make sure the Justice Department enforces the laws, but if we have the power to close some loopholes and pass common sense gun legislation, let us do it.

Mr. HYDE. I am all for that. We are working on common sense gun legislation, and I am confident we will pass something that will better the present situation. It will not be everything the gentlewoman wants. It probably will not be everything I would like. But it will be useful. It will contain a clip ban for those large clips; it will contain safety devices, trigger locks. It will contain a juvenile Brady. It will contain a prohibition for minors for possessing assault weapons. It will have mandatory background checks that are reasonable, including at gun shows. So, if the gentlewoman would let us do our work, we will do it.

I would say, by the way, that I think the gentlewoman would have made a great Senator.

Mrs. LOWEY. Mr. Speaker, I would be delighted to yield back to the gentleman his time so that other people on his side can continue this discussion, and I thank the gentleman.

Mr. HYDE. Mr. Speaker, I reserve the balance of my time.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. BLAGOJEVICH).

Mr. BLAGOJEVICH. Mr. Speaker, let me just associate myself with all the wonderful things that were said by my colleagues on this side of the aisle about the chairman.

Having said that, let me say I do not believe that criminals should get guns and we should do everything we possibly can to prevent criminals from having access to guns. We should close loopholes where they exist that allow criminals to get guns.

And with regard to the issue of gun shows, last year in America there were 54,000 guns that were confiscated in crimes. Criminals purchased them originally at gun shows. And the reason that that happened is because there is a gaping loophole in gun shows.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BLAGOJEVICH. I yield to the gentleman from Illinois.

Mr. HYDE. The current law forbids criminals from acquiring guns. If we could enforce the current law, we might make some progress. I thank the gentleman.

Mr. BLAGOJEVICH. Reclaiming my time, Mr. Speaker, let me reiterate again my great respect for the chairman, the gentleman from Illinois (Mr.

HYDE); and let me say I agree with him, we should certainly do everything we possibly can to enforce existing laws. Let me also say this Congress has not been generous with regards to providing funds to the Bureau of Alcohol, Tobacco and Firearms in its effort to fight gun violence.

But having said that, there are loopholes in the existing law that allows for criminals to go to gun shows and buy guns, as many as they want, with no questions asked. That is why 54,000 of those crime guns were confiscated last year that were originally purchased at gun shows.

The effort in the Senate that passed last May simply applies the Brady law to gun shows. So if I want to go buy a gun at a retail gun show, the same background requirements that I would submit to if I went to a retail store would be applied to me at gun shows. It is very basic and very simple, and I believe all of us who believe the Brady law has been successful, over 400,000 proscribed people were denied the right to buy guns because of that, ought to be for the Lautenberg version that passed the Senate.

And while there is a sense that delay abounds in this chamber and that we have not been able to do what the Senate did in a timely fashion, I think if we are going to heed the lessons of history, we need to keep the pressure on the well-intentioned Members who want to try to achieve what the Senate tried to do in the conference committee.

So let me just close by saying that in view of the history in this chamber and our inability to pass the Senate version here in the House, I think it is reasonable to suggest that we want to talk about this on a daily basis to keep the pressure on and let the American people keep focused on this issue. Because absent that, we probably will not get it done.

Since this Congress began, we have had shootings in Columbine, we have had shootings in Indiana and Illinois, we have had shootings most recently in Fort Worth, Texas. I think it is incumbent upon us to heed what the American people want us to do, and that is to act. The Senate did so, we have not done so.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

(Mrs. JONES of Ohio asked and was given permission to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I am back. Yesterday, on a motion to instruct conferees to craft juvenile justice legislation that would be loophole free so that guns would not reach the hands of those excluded by law from having guns; today, to instruct the conferees, as I said yesterday, to get it on.

Yesterday, I spoke of delay and was chastised. But if as a Member of Congress I am talking about delay, I take part of that responsibility. Today, I

speak of all deliberate speed. I speak to the desire of this Nation to see this issue through and to encourage the conferees to work openly.

I do not want to breathe down the necks of the conferees. I want to be the wind beneath their wings. I want to be the engine that could. Make no mistake. I do not question the good faith of the conferees. I do not question anyone's intentions. It is the intentions of those who choose to defeat gun safety legislation, the spokespersons who continue to carry the NRA banner, those are the ones I am worried about.

We believe that the conferees should meet in public session, that they be allowed to offer motions and amendments and meet substantively and recommend a substitute. We agree that it is the overriding purpose of this bill to do juvenile justice reform to protect our children.

Mr. Speaker, my colleagues and I simply wish to pick up the conferees, to push them along, to encourage them, to urge them, to get them to understand that the time is now. Our children's lives rest in their hands.

And by the way, Mr. Chairman, automobiles were not made to kill, guns were.

Mrs. MCCARTHY of New York. Mr. Speaker, may I inquire about the time remaining?

The SPEAKER pro tempore (Mr. HANSEN). The gentlewoman from New York (Mrs. MCCARTHY) has 16½ minutes remaining, and the gentleman from Illinois (Mr. HYDE) has 14 minutes remaining.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2¼ minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I want to publicly state, as I have before, my great admiration for her commitment to gun control legislation. It comes from personal experience, and I think we all attest to her courage.

I am rising in support of the amendment that she offered to instruct the conferees to meet publicly every weekday until they reach agreement. This is really setting priorities.

I know the chairman of this committee, and I was listening to the discussion. I know he works very diligently. He is a man of great credibility. I have great respect for the chairman of the committee. But I do think it is important, and America is looking at us in terms of are we moving with deliberate speed, do we have open meetings, and do we have them all the time.

One of the reasons I want this, of course, is I hope to achieve the goal that we would close that gun show loophole, the Brady bill, and I would just point out a couple of reasons why I feel strongly.

A joint study by the Departments of Justice and Treasury that was released earlier this year, in January, found that, "Gun shows provide a large mar-

ket where criminals can shop for firearms anonymously. Unlicensed sellers have no way of knowing whether they are selling to a violent felon or someone who intends to illegally traffic guns."

A gun show dealer, quoted in the Lexington, Kentucky, Herald-Leader observed: "A criminal could come here and go booth to booth until he or she finds an individual to sell him or her a gun. No questions asked." It just makes no sense that any person today can walk into a gun show and make a purchase without any precautions whatsoever. Moreover, illegal purchasers know they can go to a gun show without worrying about being denied a purchase.

An Illinois State police study demonstrated that 25 percent of illegally trafficked firearms used in crimes originate at gun shows. In Florida, an inmate escaping from detention, stopped at a gun show to make a purchase while fleeing law enforcement authorities.

Maybe these are some exceptions, but these exceptions indicate that we do need to tighten up the law and to close that loophole. No background check was required, no waiting period. Simply absurd. So this loophole needs to be closed, and I urge the conferees to do just that.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, I would like to thank my colleague from New York for her dedication to this issue, and I would also like to thank the chairman, particularly for his dedication to the issue of making sure that the multiple-round ammunition magazines are banned, which is an issue that is in my bill in the House and that he worked with me and the gentlewoman from California (Ms. LOFGREN) and so many other people to pass. But we do have to pass this. It has not passed.

I have to be honest, I have been very skeptical about the probability of the juvenile justice conferees reporting a bill with any child gun safety legislation. So far it looks like this skepticism is not misplaced, because the conferees have not had a substantive meeting since we returned from the August recess. And they did not work substantively over the recess. So I am here to say, let us not have this foot-dragging; let us pass this legislation.

It is true we have existing laws, and it is true we should enforce those existing laws. But the truth is there is no gun show law in effect that we could have enforced to stop the killers at Columbine, which is four blocks from my district, from buying those guns at a gun show. There is no existing law to stop the multiple-round ammunition magazines which allow people to shoot scores of people before they can be stopped. And there is no existing law to require gun safety locks to be put on guns.

□ 1645

We need common-sense child gun safety locks. The majority of Americans understand this. And my colleague from New York (Mrs. LOWEY) is exactly right. People from Jefferson County, Colorado, not a Democratic district, Republicans, Independents, and Democrats, come to me on the streets of Denver and they beseech me to do something, to pass common-sense child gun safety legislation. It is not a partisan issue. And the gentleman from Illinois (Mr. HYDE) has amply demonstrated this. But I fear that there are others in the leadership of this House who are not letting this happen.

Please pass this motion to instruct.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from New York for yielding me the time, and I thank her for her leadership, and I am delighted to join her on the conference committee.

I want to speak to the chairman. I appreciate his presence and his acknowledgment that we can work together. But I think these are two very viable points in this motion to instruct.

First of all, Mr. Speaker, I believe we should meet this week. Secondly, I believe that it is important that we have public meetings, and I will tell my colleagues why.

First of all, the chairman of the Committee on the Judiciary, along with so many of us, as the previous speaker from Colorado has mentioned, that many of us are supporting the high-capacity ammo clips, the prohibition on those, which were the cause of the sin, if you will, on several recent shootings, including the tragic shooting in California with the Jewish Community Center and, of course, the shootings just this past week in Fort Worth, Texas, my own State, the shootings in Illinois, all generated because of these automatic clips. Yet there are some on the conference and some Republicans who are trying to classify it as a tax bill which would delay and stymie its being part of our gun safety reform.

I think the other aspect of what I would like to speak to, Mr. Speaker, is why I am standing here today. For, as I go into my communities, many of them will acknowledge that for years many inner-city poor neighborhoods were besieged by gun violence. Many mothers in inner cities for years had "Saturday Night" and "Friday Night Specials." And what were they? The tragedy of the burial of their young children, gun violence and gang violence.

So many of my constituents in inner-city Texas districts asked why all of a sudden are we raising our eyes and our ire about gun violence? Public hearings will let them know that we distinguish between no one. The death of a child is still the death of a child. And we ac-

knowledge the years and years that this Congress stood and watched as there was inner-city violence with "Saturday Night Specials" and probably did nothing. So the fact that we open these to public hearings is valuable.

Then secondarily, I think it is important to note what we are talking about with gun shows. It is absolutely hypocritical and outrageous for the National Rifle Association to say that we are trying to put gun shows out of business.

Frankly, I do not find them entertaining. We have had one every week in the State of Texas. But what we are saying is there is a loophole as big as a truck that they can go to a gun show and go to one licensed dealer over here and have an official Brady check and go to an unlicensed dealer over there and get no check, and we are simply saying that the unlicensed dealer should use the same process of going through an official process and a 3-day wait period so that we do not have the tragedies of what we have had with the shooting in the Jewish Community Center.

I am really trying to, hopefully, have dialogue with the National Rifle Association, which pitches all of us as wanting to come and take guns out of people's homes and close down gun shows. Well, we may not like gun shows, but we have no intent of closing them down.

What we do want to do, as the Lautenberg effort wants to do in amendment, is to ensure that there is a consistency in every single person that comes in there to buy a gun so an anonymous criminal cannot come out and shoot someone.

The additional thing that I hope my colleagues will respond to is that, unlike movie theaters where a child must be accompanied by an adult who goes into an X-rated or an R-rated movie, children can go into gun shows with no supervision, we need to make sure that an adult accompanies a child to a gun show if they go.

Let us pass this motion to instruct and pass real gun safety reform for all of our children in America.

Mrs. MCCARTHY of New York. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore (Mr. HANSEN). The gentlewoman from New York has 9¼ minutes remaining. The gentleman from Illinois (Mr. HYDE) has 14 minutes remaining.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

(Ms. SCHAKOWSKY asked and was given permission to revise and extend her remarks.)

Ms. SCHAKOWSKY. Mr. Speaker, I thank my colleague the gentlewoman from New York (Mrs. MCCARTHY), who is really an inspiration to all of us on this issue, for yielding me the time.

Mr. Speaker, say to the chairman, I need to tell him that the most com-

monly asked question in the Ninth Congressional District, which borders on the district of the chairman, is why can the House not do something about guns?

My constituents asked me that after Columbine and they asked me after there was the shooting in my district of the worshippers going home from the synagogue who were shot on the street and the murder of Ricky Birdsong in Skokie, which is in my district, and they asked me if the shootings at the Jewish Community Center in California were going to be enough finally for us to ask. And when the mad gunman was in Atlanta, they thought, well, this has got to be it, that is going to tip the scales. And then Fort Worth, where even the church was a dangerous place.

And when I go home, they look at me and they scratch their head and they look in my face and they want to know an answer. They want to know what is it going to take, how many children are we going to bury, how many school shootings are there going to be. And I really do not have an answer.

So why do we not open up the process? Why do we not let the people of America in on the mystery of how Congress addresses issues like gun violence?

The chairman spoke about inching closer, inching closer. But inching closer is not a consolation when I go to the funerals in my district, and I have been to three in the last recent months, of children who were killed by gun violence. Inching closer does not satisfy. They want to know when.

Let us do it now. Let us open the process. Let us restore confidence in people that this Congress can act, that we can do something, that there is an orderly process, that there is real debate, that there is real movement.

If we pass the motion of the gentlewoman, we can at least include the American people who want action in on this process and, hopefully, we can resolve this issue before another incident, which I guarantee, my colleagues, will occur if we do not act and do not act now.

So I rise in support of the motion.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN).

(Ms. LOFGREN asked and was given permission to speak out of order.)

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1501, JUVENILE JUSTICE REFORM ACT OF 1999

Ms. LOFGREN. Mr. Speaker, pursuant to clause 7 of rule XX, I hereby announce my intention to offer a motion to instruct conferees on H.R. 1501. The form of the motion is as follows:

Ms. LOFGREN moves that the managers on the part of the House on the conference on the disagreeing votes of the two houses on the Senate amendment to the bill, H.R. 1501, be instructed that the committee on the conference recommend a conference substitute that includes provisions within the scope of conference which are consistent with the

Second Amendment to the United States Constitution (e.g., (1) requiring unlicensed dealers at gun shows to conduct background checks; (2) banning the juvenile possession of assault weapons; (3) requiring that child safety locks be sold with every handgun; and (4) a Juvenile Brady bill.)

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been interesting. Yesterday's motion was interesting, and today's motion, and tomorrow's, and then next week's, every day, I am sure.

We have a nice discussion, a serious discussion about these problems; and that is all to the good. But something is missing.

Guns are important. Guns are the instruments by which these killings occur. But at the same time, there is so much more to this problem that is not being discussed by anybody and that is the violence that our children are being fed in the entertainment industry, in the movies, in the music, in the Internet games that are played.

Violence is a staple. It has desensitized, it has calloused people's sensitivities. And nobody seems to get exercised about that. I got exercised about it. I thought that, since obscenity is not protected by the First Amendment, violence, the purveying of violence ought to not be protected because it is a form of obscenity.

I got overwhelmed because the lobbyists came out and said, gee, you are going to hurt the retailers that are retailing this stuff. And so, nobody really cares about that, it is guns that are the problem.

I say we are filling our children with a culture of death and we are worrying about the guns, the instruments of some of this death. I worry about it, too, and I do not disregard that. But I would like to see some sensitivity on the liberal side for the climate that we are raising our kids in, that is at the day-care centers, where the socialization of our children develops according to the law of the jungle, where parents cannot find the time to spend with their children.

There are profound problems with our culture that are not getting better. "Deviancy" is being defined down in the famous phrase of the famous Senator from New York. But we are talking about guns. That is okay. Guns are a serious problem. They are dangerous instrumentalities.

There is a Second Amendment, however, that I respect. Most of the constitutional scholars that exist that talk about protecting the Constitution kind of gloss over the Second Amendment. But it is there. It is in the Constitution, and it serves a very useful purpose. Because I would not like to see Americans disarmed because the government sometimes in some cultures and histories becomes the adversary, and I think a protection of freedom is that people can maintain arms.

But I also believe, as in freedom of speech, that reasonable regulation is appropriate. Freedom of speech is not

unregulated. We condition yell "fire" in the proverbial crowded theater. There are laws against obscenity, slander, libel, copyrights, all sorts of restrictions on free speech. That does not diminish the significance of it, but it just says it is constitutionally possible to have restrictions.

The same thing is true of the Second Amendment. I think everyone should have the right if they are otherwise normal and qualified to own a gun if they want to. There are hunters. There are sportsmen. There is a right to protect our homes. But, at the same time, I believe reasonable restrictions are possible.

I do not think criminals should have guns. I do not think young children should have guns. There are all sorts of reasonable restrictions. Assault weapons, by definition, do not belong in the civilian community. I am willing to support those. But I think we have to be honest, and I think that the intellectual community ought to understand that entertainment and advertising and music and culture today is at the bottom of a lot of this problem.

Something fills the heart and souls of our kids other than hope and love. There is hate. There is fear. There is a culture of death animating the kids who pull those guns, put them up against the little girl's head and says, Do you believe in God? And she said yes, and then he pulled the trigger.

The gun did not go off by itself. That kid pulled that trigger because there was something inside him that was terribly wrong. I think we ought to start addressing this broad picture, not just focusing on the instrumentality of assassination. A knife in the hands of a surgeon is one thing. A knife in the hands of an assassin is another thing.

□ 1700

The knife is neutral. It is what animates the user that is really the root problem here, which nobody wants to address because we bump into the entertainment industry, and God forbid we get between a buck and the industry.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, as usual the gentleman from Illinois has made an extremely passionate and eloquent and very persuasive argument.

I do not pretend to stand and represent the liberal element of this Congress. I do not know if anyone has designated me as such. But I might remind the gentleman that when we were doing the telecommunications bill, there were many of us, Democrats and Republicans alike, who joined on an obscenity-prevention amendment or provision with respect to the Internet, and we ultimately, Mr. Chairman, were ruled unconstitutional or at least ruled out of order, if my colleague will, by the Supreme Court.

I would say to the gentleman that his point about cultural violence is a strong point, but I would also raise the fact that, if we look statistically, the young people will tell us that 95 percent of our youth are good and the 5 percent may be the ones that are caught up in some of these heinous acts. At the same time they are caught so we are concerned about what they get in school and in music. We have adults that have already gone past our training.

We have got the very deranged individual who went into the Jewish Community Center and did it out of hate, but what happened is he did not use a knife. The hateful gentleman in Illinois did not use a knife. They used guns, and I have said over and over to my friends in Texas:

I am in a very difficult position, coming from the State of Texas because they hold on to their weapons very strongly, and I have been consistently a person who believes in gun regulation, and I am not alone with the gentleman from Illinois (Mr. HYDE) asking to pierce the sanctity of someone's home to take their guns out that they legally own or to close down gun shows in which I do not like, frankly; but what I am saying, that the Second Amendment can live consistently and constitutionally with gun regulation.

Mr. HYDE. Mr. Speaker, I agree with the gentlewoman.

Ms. JACKSON-LEE of Texas. So, Mr. Speaker, I think we are not in disagreement. I believe there have been many of us who have risen to the floor of the House to speak against the heinous violent music or violent words or Internet violence, but we must admit that guns do kill and they are in the hands of individuals who use them to kill.

Mr. HYDE. Guns are the instrumentality, but the spirit of killing is the person who pulls the trigger, and we ought to take a look at that.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I join the gentleman from Illinois in that. I hope we can do both together.

Mr. HYDE. I do, too.

Let me just say in closing, this interesting philosophical seminar the gentleman from Chicago (Mr. BLAGOJEVICH) commented that we did not fund the Bureau of Alcohol, Tobacco and Firearms adequately for their job. During the last 5 years the Justice Department's funding has doubled; it is about 14.7 billion now, and gun prosecutions by the Justice Department have dropped almost in half. So we can look there, too, as long as we are exercising the searching gaze of the House of Representatives.

Mr. Speaker, I yield back the balance of my time.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the reason that we are doing this motion is because, and I am glad we have this conversation today



and the debate going back and forth because it reminds me of the debate that we had on June 19 when we were talking about only the amendments that we are trying to get passed. I think people have to stop, think, and hopefully actually read what the amendment says. There is nothing in the amendment on trying to close the gun show loophole that will affect someone's Second Amendment rights. We have to make that extremely clear.

Right now, if someone wants to buy a gun, when they go to a gun store, they have a federally licensed dealer. When they go to a gun show, 45 percent of those selling guns there are federally licensed dealers. All we are saying is that those that come into gun shows and are not federally licensed should not be able to sell a gun to someone because the criminals know where to go get the guns; that is the problem. The criminals do know where to go get the guns.

So all we are saying is if someone is going to sell a gun at a gun show, that person should have to go under the same rules and regulations as those legal dealers at the gun show. That is all we are saying.

As was mentioned, 95 percent of the people that go to gun shows get their guns instantly through the check. We are dealing with a very, very small percentage, very, very small percentage of people that might have to wait a couple of hours. Then we even go further to a smaller percentage that actually might have to wait 24 hours.

This is what I am saying: How can I stand here and not fight to do whatever I can to make sure that guns do not get in the wrong hands? How can I stand here and make sure that what we do here in the House will be the right thing? Because if we pass a bill and that bill is not strong enough to stop the criminal from getting the gun, and then God forbid someone buys a gun at a gun show, goes to one of our schools, goes to one of our churches, goes to one of our synagogues and does their killing, how can we live with each other? How can we even face the victims of those crimes? That is what we have to do.

I am someone that actually supports the Second Amendment. I happen to believe in the Second Amendment, and I have to tell my colleagues I know of an awful lot of gun owners that are coming up to me more and more and more, even saying, and actually they are very proud when they come up to me and say, Mrs. MCCARTHY, I am an NRA member, and I do believe that I have a right to own a gun. But I also believe that we have to take a little more responsibility for our guns.

All we are asking for our citizens and for everybody that wants to buy a gun: Are you willing to take 3 business days, 3 business days, to make sure that a criminal or a child does not get their hand on a gun? The majority of Americans are saying yes to that. Unfortunately, that sound has not gotten in here, inside of Washington.

We have to have good standards. That is why we are all here. We set the laws of the land, and we are certainly going to have disagreements, and I understand that. The majority of us know that we always have to compromise, and we accept that also. But there comes a point when that compromise could cause a lot of loss of lives, and we have to be very clear on that, very, very clear on that.

Mr. Speaker, I hope between now and when the bill comes up for a vote again that the clear information will be out there. As my colleagues know, there is a part in the amendment where they talk about tracing. They do not like the idea of tracing. Mr. Speaker, I have to tell my colleagues every successful police department throughout this country that really works with the ATF on tracing, they are the ones that have the lowest crime rates because they are able to find those illegal gun dealers. Traces are an extremely important part of the bill. We cannot let that go.

Mr. Speaker, we do need more funding for that so that the Boston project that has worked so wonderfully, has cut down murders in Boston, especially among the young people; it is a project that works, and we are seeing it work throughout the country. We are supposed to support those things. That is tracing.

Here it was brought up earlier that gun shows do not really have guns go to criminals. Well, we have a report, and I offer this which includes the letters from police organizations that support the original bills, as they were, and I want to submit this, the ATF report, so this can go into the RECORD so people can look at this when they want more information.

The materials referred to are as follows:

POLICE FOUNDATION,  
WASHINGTON, DC,  
September 16, 1999.

Hon. ORRIN G. HATCH,  
U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: The Police Foundation is a private, independent, non-partisan, and nonprofit organization dedicated to supporting innovation and improvement in policing. Established in 1970, the foundation has conducted seminal research in police behavior, policy, and procedure, and works to transfer to local agencies the best new information about practices for dealing effectively with a wide range of important police operational and administrative concerns. On behalf of the Police Foundation, I am writing today in strong support of the gun-related provisions adopted by the Senate as part of S. 254. These measures are crucial in reducing access to guns by children and criminals.

As you and other conferees meet, the Police Foundation urges you to focus on an issue of importance to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently required when a firearm is purchased from a licensed gun dealer.

We believe it is critical to have at least three business days to do a thorough background check, especially to access records that may not be available on the Federal Na-

tional Instant Check Background System (NICS), such as a person's history of mental illness, domestic violence, or recent arrests. For law enforcement officials, it is not how fast a background check can be done but rather how thorough the check is conducted. Without a minimum of three business days, the risk increases that guns will be sold to criminals or others prohibited from purchasing guns.

The Police Foundation is concerned that neither the 24-hour or 72-hour requirements allow for an adequate background check. The FBI has analyzed NICS background check data for the last six months and estimates that if the law had required all background checks to be completed in 72 hours, 9,000 people found to be disqualified would have been able to obtain a weapon. If there had been a 24-hour background check time limit, 17,000 prohibited purchasers would have obtained weapons in the last six months. The FBI also found that a gun buyer who could not be cleared by NICS in under two hours was twenty times more likely to be a prohibited purchaser.

We strongly believe that all gun sales—be they in gun stores or at gun shows—should be subject to a three-business-day background check requirement; without such standards, gun shows will continue to be a major source of weapons for violent felons, straw purchasers, the dangerously unstable, and others who threaten our communities. Despite being convicted of multiple felonies, Hank Earl Carr was able to purchase multiple guns at gun shows—guns he used to murder his stepson and three police officers in Florida in 1998.

The Police Foundation supports other Senate-passed provisions, including requiring child safety locks with every handgun sold; banning all violent juveniles from buying guns when they turn eighteen; banning juvenile possession of assault weapons; enhancing penalties for transferring a firearm to a juvenile; and banning the importation of high capacity ammunition magazines.

In order to protect the safety of our families and our communities, it is important to adopt the Senate-passed, gun-related provisions. The Police Foundation is committed to working with you and your colleagues in the Congress in supporting and enacting sensible measures to protect all Americans and most especially our children.

Sincerely yours,

HUBERT WILLIAMS.

INTERNATIONAL ASSOCIATION OF  
CHIEFS OF POLICE,

Alexandria, VA, September 14, 1999.

Hon. ORRIN G. HATCH,  
U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: On behalf of the more than 18,000 members of the International Association of Chiefs of Police (IACP), I am writing to express our strong support for several vitally important firearms provisions that were included in S. 254, the Violent and Repeat Juvenile Offender Accountability Act of 1999.

As conference work on juvenile justice legislation begins, I would urge you to consider the views of our nation's chiefs of police on these important issues. Specifically, the IACP strongly supports provisions that would require the performance of background checks prior to the sale or transfer of weapons at gun shows, as well as extending the requirements of the Brady Act to cover juvenile acts of crime.

The IACP has always viewed the Brady Act as a vital component of any comprehensive crime control effort. Since its enactment, the Brady Act has prevented more than 400,000 felons, fugitives and others prohibited from owning firearms from purchasing firearms. However, the efficacy of the Brady Act



is undermined by oversights in the law which allow those individuals prohibited from owning firearms from obtaining weapons, at events such as gun shows, without undergoing a background check. The IACP believes that it is vitally important that Congress act swiftly to close these loopholes and preserve the effectiveness of the Brady Act.

However, simply requiring that a background check be performed is meaningless unless law enforcement authorities are provided with a period of time sufficient to complete a thorough background check, law enforcement executives understand that thorough and complete background checks take time. The IACP believes that to suggest, as some proposals do, that the weapon be transferred to the purchaser if the background checks are not completed within 24 hours of sale sacrifices the safety of our communities for the sake of convenience.

Requiring that individuals wait three business days is hardly an onerous burden, especially since allowing for more comprehensive background checks ensures that those individuals who are forbidden from purchasing firearms are prevented from doing so.

Finally, the IACP believes that juveniles must be held accountable for their acts of violence. Therefore, the IACP also supports modifying the current Brady Act to permanently prohibit gun ownership by an individual, while a juvenile, commits a crime that would have triggered a gun disability if their crime had been committed as an adult.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me at 703/836-6767.

Sincerely,

RONALD S. NEUBAUER,  
President.

INTERNATIONAL BROTHERHOOD OF  
POLICE OFFICERS,  
Alexandria, VA, September 15, 1999.

Hon. ORRIN G. HATCH,  
Senate Committee on the Judiciary, Wash-  
ington, DC.

DEAR CHAIRMAN HATCH: The International Brotherhood of Police Officers (IBPO) is an affiliate of the Service Employees International Union, AFL-CIO. The IBPO is the largest police union in the AFL-CIO.

On behalf of the entire membership of the IBPO I wish to express our strong support of the gun-related provisions adopted by the Senate as part of S. 254. The IBPO knows that passage of these measures will keep guns away from children and criminals.

The IBPO requests that the conferees continue to focus on the need for adequate time to conduct background checks at "gun shows." As I am sure that you are aware, the Federal Bureau of Investigation has estimated that over 17,000 disqualified individuals would have been able to purchase a gun if a twenty-four hour time limit was required for a background check. Accordingly, if such time requirement is legislated 17,000 more felons will be able to purchase guns.

The IBPO is also in support of extending the requirements of the Brady Act to cover juvenile acts of crime. Our union has supported legislation which seeks to comprehensively control crime. The Brady Act is a major part of such efforts.

Thank you for your consideration of these issues that are significant to all law enforcement officers and the citizens of the United States of America.

Sincerely,

KENNETH T. LYONS,  
National President.

ARAPAHOE COUNTY  
SHERIFF'S OFFICE,  
Littleton, CO, September 15, 1999.

Chairman ORRIN HATCH,  
Senate Judiciary Committee,  
Washington, DC.

DEAR CHAIRMAN HATCH: As you and other conferees meet to craft juvenile justice legislation, I urge you to adopt the gun-related provisions adopted by the Senate as part of S. 254, The Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. We at the National Sheriffs' Association (NSA) appreciate your efforts to curb violent juvenile crime.

We feel that S. 254 combines the best provisions of each legislative attempt to reform and modernize juvenile crime control. As you know, sheriffs are increasingly burdened with juvenile offenders, and they present significant challenges for sheriffs. The so-called core mandates requiring sight and sound separation, jail removal and status offender mandates are so restrictive, that even reasonable attempts to comply with the mandates fall short. We welcome modest changes to the core mandates to make them flexible without jeopardizing the safety of the juvenile inmate. We agree that kids do not belong in adult jail and therefore we appreciate the commitment to find appropriate alternatives for juvenile offenders.

Additionally, NSA supports the Juvenile Accountability Block Grant program. S. 254 sets aside \$4 billion to implement the provisions of the bill and this grant funding will enable sheriffs to receive assistance to meet the core mandates. NSA is also hopeful that the prevention programs in the bill will keep juveniles out of the justice system. Kids that are engaged in constructive activities are less likely to commit crimes that those whose only other alternative is a gang. We applaud the focus on prevention, and we stand ready to do our part to engage America's youth.

In addition, you may be asked to consider the following amendments that I support.

Four ways to close loopholes giving kids access to firearms:

1. The Child Access Loophole: Adults are prohibited from transferring firearms to juveniles, but are not required to store guns so that kids cannot get access to them. This Child Access Prevention (CAP) proposal would require parents to keep loaded firearms out of the reach of children and would hold gun owners criminally responsible if a child gains access to an unsecured firearm and uses it to injure themselves or someone else.

2. The Gun Show Loophole: So-called "private collectors" can sell guns without background checks at gun shows and flea markets thereby skirting the Brady Law which requires that federally licensed gun dealers initiate and complete a background check before they sell a firearm. No gun should be sold at a gun show without a background check and appropriate documentation.

3. The Internet Loophole: Similar to the Gun Show Loophole: Many sales on the internet are performed without a background check, allowing criminals and other prohibited purchasers to acquire firearms. No one should be able to sell guns over the internet without complying with the Brady background check requirements.

4. The Violent Juveniles Purchase Loophole: Under current law, anyone convicted of a felony in an adult court is barred from owning a weapon. However, juveniles convicted of violent crimes in a juvenile court can purchase a gun on their 21st birthday. Juveniles who commit violent felony offenses when they are young should be prohibited from buying guns as adults.

The National Sheriffs Association and I welcome passage of this legislation. We look

forward to working with you to ensure swift enactment of S. 254.

Respectfully,

PATRICK J. SULLIVAN, Jr., Sheriff.

NATIONAL ASSOCIATION OF  
SCHOOL RESOURCE OFFICERS,  
September 16, 1999.

Chairman HATCH,  
Senate Judiciary Committee, Washington, DC.

DEAR CHAIRMAN HATCH: The National Association of School Resource Officers (NASRO) is a national organization that represents over 5000 school based police officers from municipal police agencies, county sheriff departments and school district police forces. On behalf of our entire membership nationwide, I am writing today in strong support of the gun-related provisions adopted by the Senate as part of S. 254. These measures are crucial in reducing child and criminal access to guns.

As you and other conferees meet to craft juvenile justice legislation, NASRO urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed gun dealer.

As law enforcement officials we know from experience that it is critical to have at least three business days to do a thorough background check. Law enforcement officials need time to access records that may not be available on the federal National Instant Check Background System (NICS) such as a person's history of mental illness, domestic violence or recent arrests. What is important to law enforcement is not how fast a background check can be done but how thorough it is conducted. Without a minimum of three business days this will increase the risk that criminals will be able to purchase guns.

NASRO is concerned that 72 or 24 hours is not an adequate amount of time for law enforcement to do an effective background check. The FBI analyzed all NICS background check data in the last six months and estimated that—if the law had required all background checks to be completed in 72 hours—9,000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set at just 24 hours, 17,000 prohibited purchasers would have gotten guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under 2 hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

It is impossible to tell precisely how many lives will be saved by applying the same background check system that now applies to gun store sales to gun shows. We know, however, that without such equivalent treatment gun shows will continue to be the purchase points of choice for murderers, armed robbers and other violent criminals like Hank Earl Carr, who was a frequent gun show buyer despite being a multiple convicted felon. Carr's crimes didn't stop until 1998, when he shot his stepson and three police officers before turning a gun on himself.

On June 23, 1999 a Colorado man shot and killed his three daughters, ages 7, 8 and 10 just hours after purchasing a gun from a licensed dealer. The dealer completed a NICS check, but the check failed to reveal that the man had a domestic abuse restraining order against him. If law enforcement had consulted local and state records using both computerized and non-computerized data bases than the man probably would have never been able to purchase the gun.

The other Senate passed provisions NASRO supports include requiring that child safety locks be provided with every handgun sold; banning all violent juveniles from buying

guns when they turn 18; banning juvenile possession of assault rifles; enhancing penalties for transferring a firearm to a juvenile; and banning the importation of high capacity ammunition magazines.

It is important to adopt the Senate-passed gun-related provisions in order to protect the safety of our families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals.

Sincerely,

CURTIS LAVARELLO,  
*Executive Director.*

NATIONAL ORGANIZATION OF  
BLACK LAW ENFORCEMENT EXECUTIVES,  
*September 15, 1999.*

Hon. ORRIN HATCH,  
*Chair, Senate Judiciary Committee, U.S. Senate,  
Washington, DC.*

DEAR SENATOR HATCH: The National Organization of Black Law Enforcement Executives (NOBLE) representing over 3500 black law enforcement managers, executives, and practitioners strongly urge you to support the gun related provisions adopted by the Senate as a part of S. 254. These measures are crucial in reducing child and criminal access to guns.

As you and other conferees meet to craft juvenile justice legislation, NOBLE urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed dealer.

NOBLE is concerned that 24 hours is not an adequate amount of time for law enforcement to do an effective background check. The FBI analyzed all National Instant Check Background System (NICS) data in the last 6 months and estimated that—if the law had required all background checks to be completed in 72 hours, 9000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set for 24 hours, 17,000 prohibited purchasers would have gotten guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under 2 hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

It is impossible to tell precisely how many lives will be saved by applying the same background check system that now applies to gun store sales to gun shows. We know, however, that without such equivalent treatment gun shows will continue to be the purchased points of choice for murders, armed robbers and other violent criminals like Hank Earl Carr, who was a frequent gun show buyer despite being a multiple convicted felon. Carr's crimes did not stop until 1998, when he shot his stepson and three police officers before turning the gun on himself.

The other Senate passed provisions NOBLE supports include requiring that child safety locks be provided with every handgun sold; banning all violent juveniles from buying guns when they turn 18; banning juvenile possession of assault rifles; enhancing penalties for transferring a firearm to a juvenile; and banning the importation of high capacity ammunition magazines.

It is important to adopt the Senate passed gun related provisions in order to protect the safety of our families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals.

Sincerely,

ROBERT L. STEWART,  
*Executive Director.*

HISPANIC AMERICAN POLICE COMMAND OFFICERS ASSOCIATION, THE  
RONALD REAGAN BUILDING &  
INTERNATIONAL TRADE CENTER,  
*Washington, DC, September 15, 1999.*

Chairman HATCH,  
*Senate Judiciary Committee, Washington, DC.*

DEAR CHAIRMAN HATCH: The Hispanic American Police Command Officers Association (HAPCOA) represents 1,500 command law enforcement officers and affiliates from municipal police departments, county sheriffs, and state and federal agencies including the DEA, U.S. Marshals Service, FBI, U.S. Secret Service, and the U.S. Park Police. On behalf of our entire membership nationwide, I am writing today in strong support of the gun-related provisions adopted by the Senate as part of S. 254. These measures are crucial in reducing child and criminal access to guns.

As you and other conferees meet to craft juvenile justice legislation, HAPCOA urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed gun dealer.

As law enforcement officials we know from experience that it is critical to have at least three business days to do a thorough background check. Law enforcement officials need time to access records that may not be available on the federal National Instant Check Background System (NICS) such as a person's history of mental illness, domestic violence or recent arrests. What is important to law enforcement is not how fast a background check can be done but how thorough it is conducted. Without a minimum of three business days this will increase the risk that criminals will be able to purchase guns.

HAPCOA is concerned that 72 or 24 hours is not an adequate amount of time for law enforcement to do an effective background check. The FBI analyzed all NICS background check data in the last six months and estimated that—if the law had required all background checks to be completed in 72 hours—9,000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set at just 24 hours, 17,000 prohibited purchasers would have gotten guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under two hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

It is impossible to tell precisely how many lives will be saved by applying the same background check system that now applies to gun store sales to gun shows. We know, however, that without such equivalent treatment gun shows will continue to be the purchased points of choice for murderers, armed robbers and other violent criminals like Hank Earl Carr, who was a frequent gun show buyer despite being a multiple convicted felon. Carr's crimes didn't stop until 1998, when he shot his stepson and three police officers before turning a gun on himself.

On June 23, 1999 a Colorado man shot and killed his three daughters, ages 7, 8 and 10 just hours after purchasing a gun from a licensed dealer. The dealer completed a NICS check, but the check failed to reveal that the man had a domestic abuse restraining order against him. If law enforcement had consulted local and state records using both computerized and non-computerized data bases than the man probably would have never been able to purchase the gun.

The other Senate passed provisions HAPCOA supports include requiring that child safety locks be provided with every handgun sold; banning all violent juveniles

from buying guns when they turn 18; banning juvenile possession of assault rifles; enhancing penalties for transferring a firearm to a juvenile; and banning the importation of high capacity ammunition magazines.

It is important to adopt the Senate-passed gun-related provisions in order to protect the safety of families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals.

Sincerely,

JESS QUINTERO,  
*National Executive Director.*

POLICE EXECUTIVE RESEARCH FORUM,  
*Washington, DC, September 14, 1999.*

Hon. ORRIN G. HATCH,  
*Chairman, Senate Committee on the Judiciary,  
Washington, DC.*

DEAR CHAIRMAN HATCH: The Police Executive Research Forum (PERF) is a national organization of police professionals dedicated to improving policing practices through research, debate and leadership. On behalf of our members, I am writing today in strong support of the gun-related provisions adopted by the Senate as part of S. 254. These measures are crucial in reducing children's and criminals' access to guns.

As you and other conferees meet to craft juvenile justice legislation, PERF urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed gun dealer.

As law enforcement officials, we know from experience that it is critical to have at least three business days to do a thorough background check. While most checks take only a few hours, those that take longer often signal a potential problem regarding the purchaser. Without a minimum of three business days, the risk that criminals will be able to purchase guns increases. The FBI analyzed all NICS background check data in the last six months and estimated that, if the law had required all background checks to be completed in 72 hours, 9,000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set at just 24 hours, 17,000 prohibited purchasers would have obtained guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under two hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

PERF also strongly supports measures that impose new safety standards on the manufacture and importation of handguns requiring a child-resistant safety lock. PERF helped write the handgun safety guidelines—issued to most police agencies more than a decade ago—on the need to secure handguns kept in the home. Our commitment has not wavered. I also urge you to clarify that the storage containers and safety mechanisms meet minimum standards to ensure that the requirements have teeth.

PERF also encourages the enactment of proposals that prohibit the sale of an assault weapon to anyone under age 18 and to increase the criminal penalties for selling a gun to a juvenile. PERF also supports banning all violent juveniles from buying any type of gun when they turn 18, and supports banning the importation of high-capacity ammunition magazines. PERF knows we must do more to keep guns out of the hands of our nation's troubled youth.

PERF supports strong, enforceable "Child Access Prevention" laws. Once again, we have witnessed the carnage that results when children have access to firearms. PERF has supported child access prevention bills in

the past because we have seen first hand the horror that can occur when angry and disturbed kids have access to guns.

We must do more to keep America's children safe—not just because of recent events, but because of the shootings, accidents and suicide attempts we see with frightening regularity. It is important to adopt the Senate-passed gun-related provisions in order to protect our families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals. Thank you for considering the views of law enforcement. We applaud your efforts to help make our communities safer places to live.

Sincerely,

CHUCK WEXLER,  
*Executive Director.*

**GUN SHOWS: BRADY CHECKS AND CRIME GUN TRACES—JANUARY 1999, EXECUTIVE SUMMARY**

More than 4,000 shows dedicated primarily to the sale or exchange of firearms are held annually in the United States. There are also countless other public markets at which firearms are freely sold or traded, such as flea markets. Under current law, large numbers of firearms at these public markets are sold anonymously; the seller has no idea and is under no obligation to find out whether he or she is selling a firearm to a felon or other prohibited person. If any of these firearms are later recovered at a crime scene, there is virtually no way to trace them back to the purchaser.

The Brady Handgun Violence Prevention Act (Brady Act) provides crucial information about firearms buyers to Federal firearms licensees (FFLs), but does not help nonlicensees to identify prohibited purchasers. Under the Brady Act, FFLs contact the Federal Bureau of Investigation's National Instant Criminal Background Check System (NICS) to ensure that a purchaser is not a felon or otherwise prohibited from possessing firearms. Until the Brady Act was passed, the only way an FFL could determine whether a purchaser was a felon or other person prohibited from possessing firearms was on the basis of the customer's self-certification. The Brady Act supplemented this "honor system" with one that allows licensees to transfer a firearm only after a records check that prevents the acquisition of firearms by persons not legally entitled to possess them. Since 1994, the Brady Act has prevented well over 250,000 prohibited persons from acquiring firearms from FFLs.

The Brady Act, however, does not apply to the sale of firearms by nonlicensees, who make up one-quarter or more of the sellers of firearms at gun shows. While FFLs are required to maintain careful records of their sales and, under the Brady Act, to check the purchaser's background with NICS before transferring any firearm, nonlicensees have no such requirements under current law. Thus, felons and other prohibited persons who want to avoid Brady Act checks and records of their purchase buy firearms at these shows. Indeed, a review of criminal investigations by the Bureau of Alcohol, Tobacco and Firearms (ATF) reveals a wide variety of violations occurring at gun shows and substantial numbers of firearms associated with gun shows being used in drug crimes and crimes of violence, as well as being passed illegally to juveniles.

On November 6, 1998, President Clinton determined that all gun show vendors should have access to the same information about firearms purchasers.<sup>1</sup> He directed the Secretary of the Treasury and the Attorney General to close the gun show loophole.

President Clinton was particularly concerned that felons and illegal firearms traffickers could use gun shows to buy large quantities of weapons without ever disclosing their identities, having their backgrounds checked, or having any other records maintained on their purchases. He asked the Secretary of the Treasury and the Attorney General to provide him with recommendations to address this problem.

In developing recommendations for responding to the President's directive, the Department of the Treasury and the Department of Justice sought input from United States Attorneys, FFLs, law enforcement organizations, trade associations, and a wide range of other groups interested in firearms issues. The suggestions of these disparate groups ranged from doing nothing to establishing an outright ban on all sales of firearms at gun shows or by anyone other than an FFL. The United States Attorneys expressed particular concern with the complexity of the statutory definition of "engaged in the business" of dealing in firearms and noted that this made unlicensed firearms traffickers unusually difficult to prosecute.

The recommendations in this report build upon existing systems and expertise to achieve the President's goals of preventing sales to prohibited persons and better enabling law enforcement to trade crime guns.

First, "gun show" would be defined to include not only traditional gun shows but also flea markets and others similar venues where firearms are sold.

Second, ATF would register all persons who promote gun shows. Promoters would be required to notify ATF of the time and location of each gun show, provide ATF with a list of vendors at the show, indicate whether the vendors are FFLs, ensure that all vendors are provided with information about their legal obligations, and require that vendors acknowledge receipt of this information. If a registered promoter fails to fulfill these obligations, ATF would consider revoking or suspending the promoter's registration or imposing a civil monetary penalty. Criminal penalties would also be available in certain circumstances.

Third, if any part of a firearms transaction, including display of the weapon, occurs at a gun show, the firearm could be transferred only by, or with the assistance of, an FFL. Therefore, if a nonlicensee sought to transfer a firearm, an FFL would be responsible for positively identifying the purchaser, conducting a Brady Act check on the purchaser, and maintaining a record of the transaction. This is the same system that has been used successfully for many years when someone wishes to transfer a firearm to a nonlicensee in another State.

Fourth, FFLs would be responsible for submitting strictly limited information concerning all firearms transferred at gun shows (e.g., manufacturing/importer, model, and serial number) to ATF's National Tracing Center (NTC). No information about either the seller or the purchaser would be given to the Government (with the exception of instances in which multiple sales are required.<sup>2</sup> Instead, the licensees would maintain this information in their files, as is done with all firearms sold by FFL today. The NTC would request this information from an FFL only in the event that the firearm subsequently became the subject of a law enforcement trace request.

Fifth, the Department of the Treasury and the Department of Justice will review the definition of "engaged in business" and make recommendations for legislative or regulatory changes to better identify and prosecute, in all appropriate circumstances, illegal traffickers in firearms and suppliers of guns to criminals.

Sixth, the Federal Government should commit additional resources to combat the illegal trade of firearms at gun shows. Without a commitment to financially support this initiative, the effectiveness of this proposal would be limited.

Seventh, in conjunction with the firearms industry, a campaign should be undertaken to encourage all firearms owners to take steps when selling or otherwise disposing of their weapons to ensure that they do not fall into the hands of criminals, unauthorized juveniles, or other prohibited persons.

Taken together, these recommendations will address the President's goals of preventing firearms sales to prohibited persons at gun shows and better enabling law enforcement to trace crime guns. Whenever any part of a firearms transaction takes place at a gun show, the requirements of the Brady Act will apply, and records will be kept to allow the firearm to be traced if it is later used in crime. If unlicensed individuals wish to sell their personal collections of firearms at gun shows, they will now have the obligation—and the means—to ensure that they are not selling their guns to felons or other prohibited persons. The recommended steps impose reasonable obligations in connection with firearms transactions at gun shows while significantly enhancing law enforcement's ability to prevent criminals from getting guns and to apprehend those who use firearms in the commission of crimes.

#### 1. DESCRIPTION OF GUN SHOWS

##### *Sponsorship and Operation of Gun Shows*

Shows that specialize primarily in the sale and exchange of all types of firearms are frequent and popular events.<sup>3</sup> According to the periodical "Gun Show Calendar" (Krause Publications), 4,442 such shows were advertised for calendar year 1998. The following are the 10 States where shows were conducted most frequently in 1998:

State	Number of shows
Texas .....	472
Pennsylvania .....	250
Florida .....	224
Illinois .....	203
California .....	188
Indiana .....	180
North Carolina .....	170
Oregon .....	160
Ohio .....	148
Nevada .....	129

Most of the shows were promoted by approximately 175 organizations and individuals. Most promoters are State and local firearms collector organizations with large memberships, including one group that has 28,000 members. The remainder of the gun shows were promoted by individual collectors and businesspeople. Ordinarily, gun shows are held in public arenas, civic centers, fairgrounds, and armories, and the vendor rents a table from the promoter for a fee ranging from \$5 to \$50. The number of tables at shows varies from as few as 50 to as many as 2,000.

Most of the shows are open to the public, and individuals generally pay an admission price of \$5 or more to the promoter. In rare instances, public access is limited by invitation only. Most gun shows occur over a 2-day period, generally on weekends, and draw an average of 2,500-5,000 people per show.<sup>4</sup>

Both FFLs and nonlicensees sell firearms at these shows. FFLs make up 50 to 75 percent of the vendors at most gun shows. The majority of vendors who attend shows sell firearms and associated accessories and other paraphernalia. Examples of accessories and paraphernalia include holsters, tactical gear, knives, ammunitions, clothing, food, military artifacts, books, and other literature. Some of the vendors offer accessories and paraphernalia only and do not sell firearms.

<sup>1</sup>Footnotes follow this text.

Public markets for the sale of firearms are not limited to the specialized firearms shows. Large quantities of firearms are also sold by nonlicensees at flea markets and other organized events. As some flea markets, FFLs have established permanent premises from which they conduct their business.

Both the specialized firearms shows and the broader commercial venues such as flea markets are collectively referred to as "gun shows" in the remainder of this report.

#### *Types of Firearms Sold*

The types and variety of firearms offered for sale at gun shows include new and used handguns, semiautomatic assault weapons,<sup>5</sup> shotguns, rifles, and curio or relic firearms.<sup>6</sup> In addition, vendors offer large capacity magazines<sup>7</sup> and machinegun parts<sup>8</sup> for sale.

The "high-end" collector and antique shows and the sporting recreational shows are generally produced by the sporting organizations or avid collectors and enthusiasts. The overall knowledge of the Federal firearms laws and regulations by these promoters is good, and the weapons offered for sale are mostly curios or relics or higher quality modern weapons. At other shows, vendors may be less knowledgeable about the Federal firearms laws, and many of the guns sold are of lower quality and less expensive.

#### *Atmosphere*

The casual atmosphere in which firearms are sold at gun shows provides an opportunity for individual buyers and sellers to exchange firearms without the expense of renting a table, and it is not uncommon to see people walking around a show attempting to sell a firearm. They may sell the firearms to a vendor who has rented a table or simply to someone they meet at the show. Many nonlicensees entice potential customers to their tables with comments such as, "No background checks required; we need only to know where you live and how old you are." Many of these unlicensed vendors actively acquire firearms from other vendors to satisfy a buyer's request for a specific firearm that the vendor does not currently possess. Some unlicensed vendors replenish and subsequently dispose of their inventories within a matter of days, often at the same show. Although the majority of people who visit gun shows are law-abiding citizens, too often the shows provide a ready supply of firearms to prohibited persons, gangs, violent criminals, and illegal firearms traffickers.

Many Federal firearms licensees have complained to ATF about the conduct of nonlicensees at gun shows.<sup>9</sup> These licensees are understandably concerned that the casual atmosphere of gun shows, combined with the absence of any requirement that an unlicensed vendor check the background of a firearms purchaser, provides an opportunity for felons and other prohibited persons to acquire firearms. Because Federal law neither requires the creation of any record of these unlicensed sales nor places any obligations upon gun show promoters, information is rarely available about the firearms sold should they be recovered in a crime.

#### *Gun Shows and Crime*

It is hardly surprising, therefore, that a review of ATF's recent investigations indicates that gun shows provide a forum for illegal firearms sales and trafficking. In preparing this report, the Department of the Treasury, the Department of Justice, ATF, and outside researchers<sup>10</sup> reviewed 314 recent investigations that involved guns shows in some capacity.<sup>11</sup> The investigative reports came from each of ATF's 23 field divisions throughout the country<sup>12</sup> and involved a wide range of criminal activity by FFLs, un-

licensed vendors, and felons conspiring with FFLs.<sup>13</sup> The investigations also involved a wide variety of firearms, including handguns, semiautomatic assault rifles, and machineguns.

Together, the ATF investigations paint a disturbing picture of gun shows as a venue for criminal activity and a source of firearms used in crimes. Felons, although prohibited from acquiring firearms, have been able to purchase firearms at gun shows. In fact, felons buying or selling firearms were involved in more than 46 percent of the investigations involving gun shows.<sup>14</sup> In more than a third of the investigations, the firearms involved were known to have been used in subsequent crimes.<sup>15</sup> These crimes included drug offenses, felons in possession of a firearm, assault, robbery, burglary, and homicide.<sup>16</sup>

Firearms involved in the 314 reviewed investigations numbered more than 54,000.<sup>17</sup> A large number of these firearms were sold or purchased at gun shows. More than one-third of the investigations involved more than 50 firearms, and nearly one-tenth of the investigations involved more than 250 firearms. The two largest investigations were reported to have involved up to 7,000 and 10,000 firearms, respectively. These numbers include both new and used firearms.<sup>18</sup>

The investigations reveal a diversity of Federal firearms violations associated with gun shows.<sup>19</sup> Examples of these violations include straw purchases,<sup>20</sup> out-of-State sales by FFLs, transactions by FFLs without Brady Act checks, and the sale of kits that modify semiautomatic firearms into automatic firearms. Engaging in the business without a license was involved in more than half of all the investigations. Nearly 20 percent involved FFLs who were selling firearms "off-the-book."<sup>21</sup> The central violation in approximately 15 percent of the investigations was the transfer of firearms to prohibited persons such as felons or juveniles not authorized to possess firearms. Nearly 20 percent of the investigations involved violations of the National Firearms Act (NFA), which regulates the possession of certain firearms such as machineguns.<sup>22</sup>

An examination of individual cases illustrates how gun shows are connected to criminal activity.

In 1993, ATF uncovered a Tennessee FFL who purchased more than 7,000 firearms, altered the serial numbers, and resold them to two unlicensed dealers who subsequently transported and sold the firearms at gun shows and flea markets in North Carolina. The scheme involved primarily new and used handguns. All three pled guilty to Federal firearms violations. The FFL was sentenced to 15 months' imprisonment; the unlicensed dealers were sentenced to 21 and 25 months' imprisonment, respectively.

In 1994, ATF recovered two 9mm firearms and the NTC traced them to an FFL in Whittier, California. The FFL had sold over 1,700 firearms to unlicensed purchasers over a 4-year period without maintaining any records. Many of the sales occurred at swap meets in California. The firearms were then sold to gang members in Santa Ana and Long Beach, California. Many of the firearms were recovered in crimes of violence, including homicide. Of the five defendants charged, two were convicted—the FFL and one of his unlicensed purchasers. Each was sentenced to 24 months' imprisonment.

In 1995, an ATF inspector in Pontiac, Michigan, discovered a convicted felon who used a false police identification to buy handguns at gun shows and resold them for profit. Among the firearms purchased were sixteen new and inexpensive 9mm and .380 caliber handguns. Detroit police recovered several of the firearms while investigating a

domestic disturbance. The defendant pled guilty to numerous Federal firearms violations and was sentenced to 27 months' imprisonment.

In addition to analyzing the ATF investigations, ATF supplemented the information with data from the NTC. Approximately 254 individuals identified in the ATF gun show-related investigations were checked against data in the Firearms Tracing System and related data bases. Of these, 44 appeared in the multiple purchase records with an average of 59 firearms per person. Of the 44 individuals, 15 were associated with 50 or more multiple sale firearms; these individuals had a total of 188 crime guns traced to them, an average of approximately 13 firearms each. The largest number of multiple sales firearms associated with one individual was 472; this individual had 53 crime guns traced to him. These patterns are not in and of themselves proof of trafficking. Rather, they are indicators investigators use to assist in trafficking investigations.

It is difficult to determine the precise extent of criminal activities at gun shows, partly because of the lack of obligations upon unlicensed vendors to keep any records. Nevertheless, the information obtained from the ATF investigations demonstrates that criminals are able to obtain firearms with no background check and that crime guns are transferred at gun shows with no records kept of the transaction.

## 2. CURRENT LAW AND REGULATION OF GUN SHOWS

The gun show loophole results both from the existing legal framework governing firearms transactions and the limits on the application of existing laws to gun shows. Gun shows themselves are not subject to Federal regulation. Instead, only transfers by FFLs at gun shows are regulated. Few limitations apply to sales by nonlicensees at gun shows or elsewhere. The Federal legal framework governing gun shows and firearms vendors, as well as the State legal framework governing gun shows, is summarized below.

### *The Federal Framework*

#### *Federal Regulations of Firearms Vendors Licensed firearms dealers*

The GCA requires that those seeking to "engage in the business" of importing, manufacturing, or dealing in firearms must obtain a Federal firearms license from the Secretary of the Treasury.<sup>23</sup> The Federal firearms license entitles the holder to ship, transport, and receive firearms in interstate or foreign commerce.<sup>24</sup> The bearer of that license, the FFL, must comply with the obligations that accompany the license. In particular, FFLs must maintain records of all acquisitions and dispositions of firearms and comply with all State and local laws in transferring any firearms.<sup>25</sup> They must positively identify the purchaser by inspecting a Government-issued photographic identification, such as a driver's license. FFLs must also complete a multiple sales report if they sell two or more handguns to the same purchaser within 5 business days. FFLs may not transfer firearms to felons, persons who have been committed to mental institutions, illegal aliens, or other prohibited persons.<sup>26</sup> FFLs also may not knowingly transfer firearms to underage persons or handguns to persons who do not reside in the State where they are licensed.<sup>27</sup>

FFLs must also comply with the provisions of the Brady Act prior to transferring any firearm to a nonlicensee. The Brady Act requires licensees to contact NICS prior to transferring a firearm to any nonlicensed person in order to determine whether receipt of a firearm by the prospective purchaser would be in violation of Federal or State

law.<sup>28</sup> FFLs must maintain a record but need not contact NICS when they sell from their personal collection of firearms. Federal law requires licensees to respond to requests for firearms tracing information within 24 hours.<sup>29</sup> Moreover, ATF has a statutory right to conduct warrantless inspections of the records and inventory of Federal firearms licensees.<sup>30</sup> An FFL who willfully violates any of the licensing requirements may have his or her license revoked and is subject to imprisonment for not more than 5 years, a fine of not more than \$250,000, or both.<sup>31</sup>

The obligations imposed upon FFLs serve to implement the crime-reduction goals of the GCA. For example, the recordkeeping requirements, interstate controls, and other requirements imposed on licensees are designed to allow the tracing of crime guns through the records of FFLs and to give States the opportunity to enforce their firearms laws.<sup>32</sup>

#### *Licensed firearms collectors*

The GCA also requires persons to obtain a license as a collector of firearms<sup>33</sup> if they wish to ship, transport, and receive firearms classified as "curios or relics" in interstate or foreign commerce.<sup>34</sup> For transactions involving firearms other than curios or relics, the licensed collector has the same status as a nonlicensee. "Curio or relic" firearms generally are firearms that are of special interest to collectors and are at least 50 years old or derive their value from association with a historical figure, period, or event.<sup>35</sup> A licensed collector may buy and sell curio or relic firearms for the purpose of enhancing his or her personal collection, but may not lawfully engage in a firearms business in curio or relic firearms without obtaining a dealer's license.<sup>36</sup> Recordkeeping requirements are imposed on licensed collectors, and ATF has a statutory right to conduct warrantless inspections of the records and inventory of such licensees.<sup>37</sup> Licensed collectors, like other licensees, are required to respond to requests for firearms trace information within 24 hours.<sup>38</sup> However, licensed collectors are not subject to the requirements of the Brady Act.<sup>39</sup>

#### *Nonlicensed firearms sellers*

In contrast to licensed dealers, nonlicensees can sell firearms without inquiring into the identity of the person to whom they are selling, making any record of the transaction, or conducting NICS checks.<sup>40</sup> Because nonlicensed gun show vendors are not subject to the Brady Act and indeed cannot now conduct a NICS check under Federal law, they often have no way of knowing whether they are selling a firearm to a felon or other prohibited person. The GCA does, however, prohibit nonlicensed persons from acquiring firearms from out-of-State dealers and prohibits nonlicensees from shipping or transporting firearms in interstate or foreign commerce.<sup>41</sup> Nonlicensees are also prohibited from transferring a firearm to a nonlicensed person who the transferor knows or has reasonable cause to believe does not reside in the State in which the transferor resides.<sup>42</sup> A nonlicensee also may not transfer a firearm to any person knowing or having reasonable cause to believe that the transferee is a felon or other prohibited person.<sup>43</sup> Finally, nonlicensed persons may not transfer handguns to persons under the age of 18.<sup>44</sup> Of course, because nonlicensees are not required to inspect the buyer's driver's license or other identification, they may never know that the buyer is underage.

#### *"Engaged in the Business"*

Whether an individual seeking to sell a firearm will be regulated as an FFL or nonlicensee depends on whether that individual is "engaged in the business" of importing,

manufacturing, or dealing in firearms. When Congress enacted the GCA in 1968, it did not provide a definition of the term "engaged in the business." Courts interpreting the term supplied various definitions,<sup>45</sup> and upheld convictions for engaging in the business without a license under a variety of factual circumstances.<sup>46</sup>

In 1986, the law was amended to provide the following definition:

(21) The term "engaged in the business" means—

\* \* \* \* \*

(C) as applied to a dealer in firearms, . . . a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms. . . .<sup>47</sup>

The 1986 amendments to the GCA also defined the term "with the principal objective of livelihood and profit" to read as follows:

(22) The term "with the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection; *Provided*, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. . . .<sup>48</sup>

Unfortunately, the effect of the 1986 amendments has often been to frustrate the prosecution of unlicensed dealers masquerading as collectors or hobbyists but who are really trafficking firearms to felons or other prohibited persons.

#### *Federal Regulation of Gun Shows*

Current Federal law does not regulate gun shows. The GCA does regulate the conduct of FFLs who offer firearms for sale at gun shows. Although the GCA generally limits licensees to conduct business only from their licensed premises,<sup>49</sup> in 1984, ATF issued a regulation allowing licensees to conduct business temporarily at certain gun shows located in the same State as their licensed premises.<sup>50</sup> The regulatory provision was codified into the law as part of the 1986 amendments to the GCA. To qualify for the exception, the gun show or event must be sponsored by a national, State, or local organization devoted to the collection, competitive use, or other sporting use of firearms; and the gun show or event must be held in the State where the licensee's premises is located.

As a result, an FFL may buy and sell firearms at a gun show provided he or she otherwise complies with all the GCA requirements governing licensee transfers. Nonlicensees, however, may freely transfer firearms at a gun show without observing the record-keeping and background check requirements imposed upon licensees.

#### *State Statutory and Regulatory Framework*

More than half of the States impose no prohibition on the private transfer of firearms among nonlicensed persons and do not regulate the operation of gun shows. In some States, the only restrictions imposed on the private sales or transfers of firearms are similar to certain prohibitions set forth by the GCA. For example, Arkansas, Oklahoma, Texas, Louisiana, and Mississippi prohibit the transfer of certain firearms to felons; minors (or minors without parental consent);

or persons who are intoxicated, mentally disturbed, or under the influence of drugs. Some States require permits to obtain a firearm and impose a waiting period before the permit is issued (e.g., 14 days in Hawaii). Other States impose additional requirements (such as completion of a firearms safety course in California) to obtain a license or permit. Some impose a waiting period for all firearms (e.g., Massachusetts), others only for handguns (e.g., Connecticut). Maryland directly regulates the sale of firearms by nonlicensees at gun shows, requiring nonlicensees selling handguns or assault weapons at a gun show to undergo a background check to obtain a temporary transfer permit, and limits individuals to five such permits per year.

Exhibit 2 provides an overview of the laws of those States that regulate the transfer of some or all firearms by persons not licensed as a dealer, and of those States that directly regulate gun shows. None of the solutions proposed in this report will affect any State law or regulation that is more restrictive than the Federal law.

#### *3. EARLIER LEGISLATIVE PROPOSALS AND COMMENTS FROM INTERESTED PARTIES*

In developing the recommendations of this report, prior legislative proposals addressing gun shows were considered along with results of surveys of United States Attorneys, interest groups, and individuals concerned with firearms issues. Comments from FFLs and law enforcement officials were also considered.

#### *Legislative Proposals*

In the 105th Congress, Representative Rod Blagojevich introduced legislation addressing gun shows, H.R. 3833. Senator Frank Lautenberg introduced a similar bill, S. 2527. The proposed bills generally required any person wishing to operate a "gun show" to obtain a license from the Secretary of the Treasury and to provide 30 days' advance notice of the date and location of each gun show held. The gun show licensee would be required to comply with the provisions applicable to dealers under the Brady Act, the general record-keeping provisions of the GCA, and the multiple sales reporting requirements. These requirements would apply only to transfers of firearms at the gun show by unlicensed persons. Unlicensed vendors would be required to provide the gun show licensee with written notice prior to transferring a firearm at the gun show. The gun show licensee would also be required to deliver to the Secretary of the Treasury all records of firearms transfers collected during the show within 30 days after the show.

#### *Responses to Surveys*

##### *United States Attorneys*

The Department of Justice requested information from United States Attorneys regarding their experience prosecuting cases involving illegal activities at gun shows or in the "secondary market."<sup>51</sup> Those United States Attorneys who reported cases were asked to describe any particular problems of proof that arose in the cases and whether the existing levels of prosecutorial and investigative resources are adequate to address the violations that are identified. Finally, they were asked for their proposals on how to curtail illegal activity at gun shows.

Some United States Attorneys' offices have had significant experience investigating and prosecuting cases involving illegal activities at gun shows, while others reported no experience with these cases at all. Several common themes emerge from the responses.

There was widespread agreement among United States Attorneys that it can be difficult to prove that a nonlicensed person is

"engaging in the business" of firearms dealing without a license under current law. The definitions create substantial investigative and proof problems.<sup>52</sup> Significant undercover work and follow-up by ATF required to prepare a case against someone for "engaging in the business."

The United States Attorneys were virtually unanimous in their call for additional resources. The number of ATF agents available to investigate cases in many judicial districts falls far below the number required to mount effective enforcement activities at gun shows. United States Attorneys also noted that it will be difficult to devote scarce prosecutorial resources to gun show cases, so long as a number of the offenses remain misdemeanors.

United States Attorneys offered a wide range of proposals to address the gun show loophole. These include the following: (1) allowing only FFLs to sell guns at gun shows so that a background check and a firearms transaction record accompany every transaction; (2) strengthening the definition of "engaged in the business" by defining the terms with more precision, narrowing the exception for "hobbyists," and lowering the intent requirement; (3) limiting the number of private sales permitted by an individual to a specified number per year; (4) requiring persons who sell guns in the secondary market to comply with the recordkeeping requirements that are applicable to FFLs; (5) requiring all transfers in the secondary market to go through an FFL; (6) establishing procedures for the orderly liquidation of inventory belonging to FFLs who surrender their license; (7) requiring registration of non-licensed persons who sell guns; (8) increasing the punishment for transferring a firearm without a background check as required by the Brady Act; (9) requiring the gun show promoters to be licensed and maintain an inventory of all the firearms that are sold by FFLs and non-FFLs at a gun show; (10) requiring that one or more ATF agents be present at every gun show; and (11) insulating unlicensed vendors from criminal liability if they agree to have purchasers complete a firearms transaction form.

A small number of United States Attorneys suggesting that existing laws are adequate even though the resources available to enforce these laws are not. While gun shows do not appear to be a problem in every jurisdiction, the majority of United States Attorneys agreed that gun shows are part of a larger, pervasive problem of firearms transfers in the secondary market.

#### Law Enforcement Officials

Of the 18 State law enforcement officials who responded to the survey, only 1 opposed new restrictions on gun shows. Seventeen officials share the President's concern with the sale of firearms at gun shows without a background check or other recordkeeping requirements and support changes to make these requirements for all gun show transfers. The majority of respondents urged that any changes apply not only to gun shows but to flea markets, swap meets, and other venues where firearms are bought and sold. Several respondents suggested limits on the number of gun shows or caps on the quantities of guns sold by nonlicensees. Others urged increased cooperation with the United States Attorneys to assist in the prosecution of those individuals who violate Federal firearms laws. Finally, the National Sheriffs Association suggested that gun show operators be required to obtain a permit and notify ATF of any gun show.

#### FFLs

FFLs submitted 219 responses, of which approximately 30 percent requested additional regulations to prevent unlawful activities at

gun shows. Many of these FFLs supported a ban on firearms sales by unlicensed persons or, if permitted, urged that Brady checks be required to prevent prohibited persons from acquiring firearms. Other FFLs expressed frustration that unlicensed persons were able to sell to buyers without any paperwork (and advertise this fact), leaving the FFL at a competitive disadvantage. Others suggested that all vendors, licensed or not, should follow the same requirements whether at gun shows, flea markets, or other places where guns are sold. Many of the FFLs recommending additional regulations provided suggestions, some quite detailed, for closing the gun show loophole. These suggestions included registering all firearms owners, licensing promoters, restricting attendance at gun shows, conducting surprise raids at gun shows, requiring that all transfers go through an FFL, and requiring a booth for law enforcement to conduct background checks for all firearms purchases.

A number of the FFLs who responded believed that the problems at gun shows could be solved if current laws were more strictly enforced. Several of these respondents noted that ATF is already "spread too thin" to enforce additional laws. Others suggested that courts need to do a better job of enforcing the existing laws. Many others preferred stiffer sentences for violators of existing law. More than half, however, stated that new laws or restrictions are not the answer. Of this group, many stated that they do not see any illegal activity at gun shows and concluded that no new laws are necessary. Others expressed their belief that sales of private property should not be federally regulated, or they expressed distrust of the Government in general. Also included in this group were FFLs who reported that they do not sell at gun shows for a variety of reasons but oppose new regulations nonetheless.

#### Interest Groups, Trade Groups, and Other Responses

Eight responses were received from firearms interest or trade groups. The National Rifle Association (NRA) opposes any changes to existing laws, contending that only 2 percent of firearms used by criminals come from gun shows. The NRA suggested that regulating the private sale of firearms would create a vast bureaucratic infrastructure and that ATF should instead continue to prosecute those who illegally trade in firearms. The NRA also suggested that many of the current unlicensed dealers would be under ATF scrutiny had they not been discouraged from holding a firearms license. The NRA expressed willingness to publicize the licensing requirements for those who deal in firearms. Similarly, Gun Owners of America recommended no changes to existing law, but suggested a "stop to this insidious ongoing Federal government assault on American citizenry and to return to the rule of law."

By contrast, the National Alliance of Stocking Gun Dealers (NASGD), a trade association consisting of firearms dealers, suggested that every firearm sale at a gun show be regulated and that the purchaser undergo a NICS check. In addition, NASGD suggested: (1) licensing all gun show promoters, auctioneers, and exhibitors; (2) limiting the number of times an FFL may sell at gun shows in a given year; (3) having non-licensees comply with the same standards as FFLs; (4) requiring promoters to provide ATF and other authorities with the list of vendors at a gun show; and (5) having promoters maintain firearms transaction records and NICS transaction records for all firearms sold at a gun show.

Handgun Control, Inc. (HCI), suggested that gun show promoters be licensed and that they be authorized to conduct a NICS

check on every firearms transfer by an unlicensed dealer. HCI also suggested that a 30-day temporary license be issued (limited to one per year) to any individual wishing to sell at a gun show. The proposed license would permit the sale of no more than 20 handguns, the serial numbers of which would be included in the license application. HCI suggested that "engaged in the business" be defined to limit the number of handguns sold from a "personal collection" to no more than 3 in a 30-day period. This restriction would not apply to sales to licensees or within one's immediate family. The Coalition to Stop Handgun Violence suggested licensing promoters, requiring a background check on all gun purchases, additional recordkeeping, a limit on the number of firearms purchased by any one person at a gun show, and increased enforcement resources and penalties.

The Trauma Foundation of San Francisco recommended requiring a background check for all firearms sales, licensing promoters, permitting only FFLs to sell at gun shows, and limiting the number of firearms purchased at a gun show. The United States Conference of Mayors supported one-gun-a-month legislation, background checks on all purchases, and increased funding for law enforcement.

Finally, in reply to open letters posted on the Internet, ATF received 274 responses. The vast majority of these responses either opposed any new restrictions on gun shows or favored enforcement of existing law. Approximately 5 percent favored new laws, usually suggesting a background check for firearms purchasers.

#### 4. RECOMMENDATIONS

##### *Summary of the Recommendations*

These recommendations close the gun show loophole by adding reasonable restrictions and conditions of firearms transfers at gun shows.<sup>53</sup> The recommendations also ensure that there are adequate resource to enforce the law and that all would-be sellers of firearms at gun shows understand the law and the consequences of illegally disposing of guns. Each recommendation will be discussed in detail, but they may be summarized as follows:

1. Define "gun show" to include specialized gun events, as well as flea markets and other markets outside of licensed firearms shops at which 50 or more firearms, in total, are offered for sale by 2 or more persons.

2. Require gun show promoters to register and to notify ATF of all gun shows, maintain and report a list of vendors at the show, and ensure that all vendors acknowledge receipt of information about their legal obligations.

3. Require that all firearms transactions at a gun show be completed through an FFL. The FFL would be responsible for conducting a NICS check on the purchaser and maintaining records of the transactions. The failure to conduct a NICS check would be a felony for licensees and nonlicensees.

4. Require FFLs to submit information necessary to trace all firearms transferred at gun shows to ATF's National Tracing Center. This information would include the manufacturer/importer, model, and serial number of the firearms. No information about either an unlicensed seller or the purchaser would be given to the Government. Instead, as today with all firearms sold by licensees, the FFLs would maintain this information in their files.

5. Review the definition of "engaged in the business" and make recommendations within 90 days for legislative or regulatory changes to better identify and prosecute, in all appropriate circumstances, illegal traffickers in firearms and suppliers of guns to criminals.

6. Provide additional resources to combat the illegal trade of firearms at gun shows.

7. In conjunction with the firearms industry, educate gun owners that, should they sell or otherwise dispose of their firearms, they need to do so responsibly to ensure that they do not fall into the hands of felons, unauthorized juveniles, or other prohibited persons.

#### *Explanation of the Recommendations*

##### *Definition of Gun Show*

There would be a new statutory definition of "gun show."<sup>54</sup> The definition would read as follows: "Gun Show. Any event (1) at which 50 or more firearms, 1 or more of which has been shipped or transported in interstate or foreign commerce, are offered or exhibited for sale, transfer or exchange; and (2) at which 2 or more persons are offering or exhibiting firearms for sale, transfer, or exchange."

This definition encompasses not only events at which the primary commodities displayed and sold are firearms but qualifying flea markets, swap meets, and other secondary markets where guns are sold as well. Requiring there to be two or more persons offering firearms exempts from the definition FFLs selling guns at their business location, as well as the individual selling a personal gun collection at a garage or yard sale. In addition, the legislation requires a minimum of 50 firearms to be offered for sale in order for an event to become a gun show that is subject to the other new requirements. This minimum quantity ensures that private sales of a small number of firearms can continue to take place without being subject to the new requirements.

##### *Gun Show Promoters*

Any person who organizes, plans, promotes or operates a gun show, as newly defined, would be required to register with ATF. Gun show promoters would complete a simple form which entitles the promoter to operate a gun show. The registration requirement would go into effect 6 months after the enactment of the legislation to allow time for gun show promoters to comply.

Thirty days before any gun show, a promoter would be required to inform ATF of the dates, duration, and estimated number of vendors who are expected to participate. This information serves four purposes: First, it advises ATF that a gun show will be taking place. If ATF is in the process of investigating individuals who are violating the law at gun shows in a particular field division, the advance notice will assist ATF in determining whether the target of the investigation might appear at the gun show. Second, the information gives ATF a good idea about the scope and scale of the gun show to enable the agency to make the determination whether ATF should allocate resources to the show for the purpose of investigating possible crimes there. Third, it allows ATF to notify State and local law enforcement about the show, as suggested by the National Sheriffs Association. Finally, the notice involves the promoter at an early stage in identifying who is participating at the gun show.

Next, by no later than 72 hours before the gun show, the promoter would provide a second notice to ATF identifying all the vendors who plan to participate at the show. The promoter's notice would include the names and licensing status, if any, of all those who have signed up to exhibit firearms. The primary benefits of this notification are twofold. First, the notice gives ATF specific information about vendors who plan to participate at the gun show, along with their status as an FFL or nonlicensee. For any open investigations, this information would prove extremely useful in ATF's enforcement activities. Second, promoters will

learn the identities of the vendors so that they can plan for the show. For example, the promoter can determine which of the FFLs will conduct background checks for non-licensees and, if a significant number of non-licensees plan to participate in the show, the promoter can plan to have enough "transfer" FFLs<sup>55</sup> present to meet the demand for NICS checks.

Although vendors who do not sign up for the gun show by the time that the promoter submits the 72-hour notice may still sign up to participate at the show, they will be required to sign the promoter's ledger acknowledging their legal obligations before they may transact business. The promoter will be required to submit the ledger to ATF within 5 business days of the end of the show. All vendors will also be required to present to the promoter a valid driver's license or other Government-issued photographic identification.

A gun show promoter who fails to register or comply with any of these requirements would be subject to having his or her registration denied, suspended, or revoked, as well as being subject to other civil or administrative penalties. Certain violations would be subject to criminal penalties. Vendors who sell at gun shows without signing the promoter's ledger would be similarly subject to civil and criminal penalties. In addition, if the vendor provides false information to the promoter in the ledger, the vendor would be liable for making a false statement.

Imposing these requirements on gun show promoters will make them more accountable for controlling their shows and ensuring that only vendors who comply with the law participate at gun shows. Although promoters will not be directly responsible for the performance of NICS background checks at gun shows, it will be in the promoter's interest to make sure that background checks are being performed in connection with each and every firearms transfer that takes place in whole or in part at the gun show. Gun show promoters profit greatly from the gun sales that take place at gun shows. However, until now, the Federal Government has not imposed any obligations on the promoter to encourage compliance with the law by all of the participants at the gun show. Placing an affirmative obligation on gun show promoters to notify vendors of their legal obligations will go a long way toward ensuring that only lawful transactions take place at gun shows.

Requiring vendors to sign the ledger and acknowledge that they have received information about and understand their legal obligations will prevent vendors from claiming that they did not know that they were required to complete all firearms transactions at a gun show through an FFL.

##### *NICS Checks*

No gun would be sold, transferred, or exchanged at a gun show before a NICS background check is performed on the transferee. The Brady Act permit exception would apply to firearms sales at gun shows. FFLs who participate in the gun show would be required to request NICS checks for all buyers, whether the FFL sells firearms out of the FFL's inventory or the FFL's personal collection. Nonlicensed sellers at the gun show must arrange for all purchasers to go to a transfer FFL to request a NICS check. Any FFL attending a gun show may act as a transfer FFL to facilitate nonlicensee sales of firearms. However, FFLs will not be required to perform this service; they will do so only voluntarily. FFLs may choose to charge a fee for providing this service. By having the FFL request the background check, the proposal takes full advantage of the existing licensing scheme for FFLs, the

FFLs' knowledge of firearms, and the FFLs' access to NICS.

The unlicensed seller may not transfer the firearm to the purchaser until the seller receives verification that the transfer FFL has performed a NICS background check on the purchaser and learned that there is no disqualifying information. The FFL's role is limited to facilitating the transfer by performing the NICS check and keeping the required records. Any FFL or non-FFL who transfers a firearm in whole or in part at a gun show without completing a NICS check on the purchaser to determine that the transferee is not prohibited could be charged with a felony.<sup>56</sup>

Prohibiting any firearms from being sold, transferred, or exchanged in whole or in part at a gun show until the transferee has been cleared by a background check establishes parameters that encompass all vendors, regardless of whether they are licensed. No FFL may claim that a background check is not required because the firearm is being sold out of the FFL's personal collection, nor will the distinction between FFLs and non-licensed dealers make any difference for NICS checks. When any part of the transaction takes place at a gun show,<sup>57</sup> each and every vendor at a gun show will require a transferee to undergo a background check before the firearm can be transferred.<sup>58</sup>

##### *Records for Tracing Crime Guns*

Before clearing a transfer of any firearm by a nonlicensee, the transfer FFL would complete a form similar to the firearms transaction record currently used by FFLs. This firearms transaction record would be maintained in the FFL's records, along with the other records of firearms transferred directly by the FFL.

In addition, FFLs would be responsible for submitting to the NTC strictly limited information concerning firearms transferred at gun shows, whether the FFL is the seller or merely the transfer FFL. The information would consist of the manufacturer/importer, model, and serial number of the firearm. No personal information about either the seller or the purchaser would be given to the Government. Instead, as today with all firearms sold by FFLs, the licensees would maintain this information in their files. The NTC would request this information from an FFL only in the event that the firearm subsequently becomes the subject of a law enforcement trace request. In addition, FFLs would complete a multiple sale form if they record the sale by a nonlicensee of two or more handguns to the same purchaser within 5 business days, as is currently required for transactions by FFLs.

This requirement provides a simple and easy-to-administer means of reestablishing the chain of ownership for guns that are transferred at gun shows. If the firearm appears at a crime scene and there is a legitimate law enforcement need to trace the firearm, ATF will be able to match the serial number of the crime gun to the record and identify the FFL who is maintaining the firearms transaction form. ATF can then go to the FFL who submitted the information on the firearm and review the record that is on file with the FFL. This form will contain information about the transferor and transferee, and ATF can trace the firearm using that information. It is important to emphasize that ATF traces guns according to specific protocols and requirements, ensuring that the firearms information will not be used to identify purchasers of a particular firearm except as required for a legitimate law enforcement purposes.

##### *Definition of "Engaged in the Business"*

Not surprisingly, significant illegal dealing in firearms by unlicensed persons occurs at



gun shows. More than 50 percent of recent ATF investigations of illegal activity at gun shows focused on persons allegedly engaged in the business of dealing without a license. Unfortunately, the current definition of "engaged in the business" often frustrates the prosecution of people who supply guns to felons and other prohibited persons. Although illegal activities by unlicensed traffickers often become evident to investigators quickly, months of undercover work and surveillance are frequently necessary to prove each of the elements in the current definition and to disprove the applicability of any of the several statutory exceptions.

To draw a more distinct line between those who are engaged in the business of firearms dealing and those who are not, and to facilitate the prosecution of those who are illegally trafficking in guns to felons and other prohibited persons—at gun shows and elsewhere—the GCA should be amended. Accordingly, the Department of the Treasury and the Department of Justice will review the definition of "engaged in the business" and make recommendations within 90 days for legislative or regulatory changes to better identify and prosecute, in all appropriate circumstances, illegal traffickers in firearms and suppliers of guns to criminals.

#### Need for Additional Resources

To adequately enforce existing law as well as the foregoing proposals, more resources are needed. There are more than 4,000 specialized gun shows per year, and enforcement and regulatory activity must also occur at the other public venues where firearms are sold.

All of the previous recommendations will help close the existing gun show loophole, but they will not completely eradicate criminal activity at gun shows and in the rest of the secondary market. As the review of ATF investigations and United States Attorney prosecutions revealed, a substantial number of the crimes associated with gun shows are committed by FFLs who deal off the book and ignore their legal obligations. While a requirement that all gun show transactions be recorded and NICS checks completed will make it somewhat easier to identify off-the-book dealers, a markedly increased enforcement effort will be required to shut down these illegal markets. Further, ATF will need to focus on preventive educational initiatives, as described below. To accomplish all of these goals, significant resources will be required for more criminal and regulatory enforcement personnel, as well as prosecutors.

Without a commitment to financially support his initiative, its effectiveness will be limited. The Departments of Justice and the Treasury will submit budget proposals to fund this initiative at an appropriate level.

#### Educational Campaign

Finally, a campaign should be undertaken in conjunction with the firearms industry to educate firearms owners that, should they sell or otherwise dispose of their firearms, they need to do so responsibly to ensure that the weapons do not fall into the hands of felons, unauthorized juveniles or other prohibited persons. The vast majority of firearms owners are law-abiding and certainly do not want their firearms to be used for crime but, under the current system, they can unwittingly sell firearms to prohibited persons.

The educational campaign could involve setting up booths at gun shows to explain the law, encouraging unlicensed sellers to "know their buyer" by asking for identification and keeping a record of those to whom they sell their firearms; developing videos and news articles for promoters, dealers, trade groups, and groups of firearms owners describing legal obligations and liability and

the need to exercise personal responsibility; and distributing posters and handouts with tips for identifying and reporting suspicious activity.

#### 5. CONCLUSION

Although Brady Act background checks have been successful in preventing felons and other prohibited persons from buying firearms from FFLs, gun shows leave a major loophole in the regulation of firearms sales. Gun shows provide a large market where criminals can shop for firearms anonymously. Unlicensed sellers have no way of knowing whether they are selling to a violent felon or someone who intends to illegally traffic guns on the streets to juveniles or gangs. Further, unscrupulous gun dealers can use these free-flowing markets to hide their off-the-book sales. While most gun show sellers are honest and law-abiding, it only takes a few to transfer large numbers of firearms into dangerous hands.

The proposals in this report strike a balance between the interests of law-abiding citizens and the needs of law enforcement. Specifically, the proposals will allow gun shows to continue to provide a legal forum for the sale and exchange of firearms and will not prevent the sale or acquisition of firearms by sportsmen and firearms enthusiasts. At the same time, this initiative will ensure background checks of all firearms purchasers at gun shows and assist law enforcement in preventing firearms sales to felons and other prohibited persons, as well as inhibiting illegal firearms trafficking. The proposals also ensure that gun show promoters run their shows responsibly, that all firearms purchases at gun shows are subject to NICS checks, and that all firearms sold at the shows can be traced if they are used in crime. Further, these recommendations will guarantee that everyone selling at gun shows understands the legal obligations and the risks of disposing of firearms irresponsibly and that law enforcement has the resources necessary to investigate and prosecute those who violate the law. In short, as requested by President Clinton, the proposals will close the gun show loophole.

#### FOOTNOTES

<sup>1</sup> See exhibit 1.

<sup>2</sup> As required by the Gun Control Act, FFLs must complete multiple sales records whenever two or more handguns are sold to the same purchaser within 5 business days.

<sup>3</sup> ATF interviewed promoters, made field observations, and reviewed data obtained over a 5-year period to provide information for this report.

<sup>4</sup> This information was provided by officials from the National Association of Arms Shows, which represents many of the gun show promoters.

<sup>5</sup> Semiautomatic assault weapons may be legally transferred in unrestricted commercial sales if they were manufactured on or before September 13, 1994. Weapons manufactured after that date may be transferred to or possessed by law enforcement agencies, law enforcement officers employed by such agencies for official use, security guards employed by nuclear power plants, and retired law enforcement officers who are presented the weapons by their agencies upon retirement. (See 18 U.S.C. § 922(v).)

<sup>6</sup> Curios or relics are firearms of special interest to collectors by reason of some quality other than those associated with firearms intended for sporting use or as offensive or defensive weapons. Curios or relics include firearms that are at least 50 years old, are certified by the curator of a Government museum to be of museum interest, or are other firearms that derive a substantial part of their value from the fact that they are novel, rare, or bizarre or because of their association with some historical figure, period, or event. (See 27 CFR 178.11.)

<sup>7</sup> Magazines with a capacity of more than 10 rounds may be transferred or possessed without restriction if they were manufactured on or before September 13, 1994. Large capacity magazines manufactured after that date may be transferred to or possessed by law enforcement agencies, law enforcement officers employed by such agencies for official use, security guards employed by nuclear power plants, and re-

tired law enforcement officers who are presented the magazines by their agencies upon retirement. (See 18 U.S.C. § 922(w).)

<sup>8</sup> The National Firearms Act (NFA), 26 U.S.C. Chapter 53, regulates machineguns, which are defined as any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term also includes the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person. (See 26 U.S.C. § 5845.) Machineguns must be registered with the Secretary of the Treasury, and those manufactured on or after May 19, 1986, are generally unlawful to possess. (See 18 U.S.C. § 922(o).) Parts for machineguns that do not fall within the statutory definition of machinegun (e.g., they are not conversion kits or frames or receivers) may be legally sold without restriction.

<sup>9</sup> When appropriate, ATF investigated these complaints and took action ranging from warning letters explaining the need for a license to engage in the business of dealing in firearms, to referring a case to the United States Attorney for prosecution.

<sup>10</sup> David M. Kennedy and Anthony Braga, both of the John F. Kennedy School of Government, Harvard University.

<sup>11</sup> See Appendix, table 1. The large majority of the investigations reviewed for this report were from 1997 and 1998. The remainder of the investigations was from the years 1994 through 1996, with one investigation each from 1991 and 1992. Forty-one investigations involved what may be described as flea markets, and three investigations involved firearms sales at auctions. The methodology of the review and a more detailed analysis of the results are set forth in the appendix.

<sup>12</sup> See Appendix, table 2.

<sup>13</sup> See Appendix, table 3. Current and former FFLs were the subject of a significant number of investigations.

<sup>14</sup> See Appendix, table 3.

<sup>15</sup> See Appendix, table 4.

<sup>16</sup> See Appendix, table 4.

<sup>17</sup> See Appendix, table 5.

<sup>18</sup> See Appendix, table 6. Because tracing a firearm generally requires an unbroken chain of dispositions from manufacturer to first retail purchaser, used guns—including those sold at gun shows—have rarely been traceable.

<sup>19</sup> See Appendix, table 7.

<sup>20</sup> A "straw purchase" occurs when the actual buyer of a firearm uses another person, the "straw purchaser," to execute the paperwork necessary to purchase a firearm from an FFL. Specifically, the actual buyer uses the straw purchaser to execute the firearms transaction record, purporting to show that the straw purchaser is the actual purchaser of the firearm. Often, a straw purchaser is used because the actual purchaser is prohibited from acquiring the firearm because of a felony conviction or another disability.

<sup>21</sup> "Off-the-book" sales are those made by FFLs without conducting Brady Act background checks and without recording the sale as required by the law and regulations.

<sup>22</sup> Under the NFA, certain firearms and other weapons must be registered. (See 26 U.S.C. chapter 53.) Table 8 shows the types of weapons involved in the investigations involving NFA violations. For example, more than half of the NFA investigations involved machineguns, while 11 percent involved grenade launchers.

<sup>23</sup> 18 U.S.C. §§ 922(a)(1) and 923(a).

<sup>24</sup> See id.

<sup>25</sup> See 18 U.S.C. §§ 922(a)(1), (a)(3), (a)(5), (b)(2), and 923(g).

<sup>26</sup> See 18 U.S.C. § 922(d). The 1986 amendments to the GCA also made it unlawful for any person to transfer any firearm to any person knowing or having reasonable cause to believe that such person is a prohibited person.

<sup>27</sup> See 18 U.S.C. §§ 922(b)(1), 922(b)(3), and 922(x).

<sup>28</sup> See 18 U.S.C. § 922(t). A NICS check is not required if the buyer represents to the FFL, a valid permit to possess or acquire a firearm that was issued not more than 5 years earlier by the State in which the transfer is to take place, and the law of the State provides that the permit is to be issued only after a Government official verifies that the information available to the official, including a NICS check, does not indicate that the possession of the firearm by the person would violate the law.

<sup>29</sup> See 18 U.S.C. § 923(g)(7).

<sup>30</sup> See 18 U.S.C. § 923(g)(1)(B). Warrantless inspections are limited to those conducted (1) in the

course of a criminal investigation of a person other than the licensee, (2) during an annual compliance inspection, and (3) for purposes of firearms tracing. Id. Inspections may also be conducted pursuant to a warrant issued by a Federal magistrate upon demonstration that there is reasonable cause to believe that a violation of the GCA has occurred and that evidence of such violation may be found on the licensee's premises. See 18 U.S.C. § 923(g)(1)(A).

<sup>31</sup> See 18 U.S.C. § 923(e) and 924(a)(1)(D). Under current law, an FFL's failure to perform a NICS check is a misdemeanor.

<sup>32</sup> S. Rep. No. 1501, 22, 25 (1968).

<sup>33</sup> See 18 U.S.C. § 923(b).

<sup>34</sup> See 18 U.S.C. §§ 922(a)(2), (a)(3).

<sup>35</sup> See 7 C.F.R. § 178.11.

<sup>36</sup> See 18 U.S.C. §§ 922(a)(1), and 923(a).

<sup>37</sup> See 18 U.S.C. §§ 923(g)(2), (g)(1)(C).

<sup>38</sup> See 18 U.S.C. § 923(g)(7).

<sup>39</sup> See 18 U.S.C. § 922(t)(1).

<sup>40</sup> See 18 U.S.C. §§ 922(t), and 923(g)(1)(A).

<sup>41</sup> See 18 U.S.C. § 922(a)(3). An exception to this rule is provided for sales of rifles or shotguns by licensed dealers to nonlicensed persons if the purchaser appears in person at the dealer's licensed premises and the sale, delivery, and receipt comply with the legal conditions of sale in both the seller's State and the buyer's State. See 18 U.S.C. § 922(b)(3).

<sup>42</sup> See 18 U.S.C. § 922(a)(5). Exceptions to this prohibition are provided for transfers of firearms made to carry out a bequest or intestate succession of a firearm and for the loan or rental of a firearm for temporary use for lawful sporting purposes. Id.

<sup>43</sup> See 18 U.S.C. § 922(d).

<sup>44</sup> See 18 U.S.C. § 922(x). A number of exceptions apply to this prohibition, including temporary transfers in the course of employment, for ranching or farming, for target practice, for hunting, or for firearms safety instruction. These exceptions all require that the juvenile to whom the handgun is transferred obtain prior written consent from a parent or guardian and that the written consent be in the juvenile's possession at the time the juvenile possesses the handgun. Id.

<sup>45</sup> Compare *United States v. Gross*, 451 F.2d 1355, 1357 (7th Cir. 1971) (one engages in a firearms business where one devotes time, attention and labor for the purpose of livelihood or profit) with *United States v. Shirling*, 572 F.2d 532, 534 (5th Cir. 1978) (profit motive not determinative where one has firearms on hand or ready to procure them for purpose of sale).

<sup>46</sup> See *United States v. Hernandez*, 662 F.2d (5th Cir. 1981) (30 firearms bought and sold over a 4-month period); *United States v. Perkins*, 633 F.2d 856 (8th Cir. 1981) (three transactions involving eight firearms over 3 months); *United States v. Huffman*, 518 F.2d 80 (4th Cir. 1975) (more than 12 firearms transactions over "a few months"); *United States v. Ruisi*, 460 F.2d 153 (2d Cir. 1972) (codefendants sold 11 firearms at a single gun show); *United States v. Gross*, 451 F.2d 1355 (7th Cir. 1971) (11 firearms sold over 6 weeks); *United States v. Zeidman*, 444 F.2d 1051 (7th Cir. 1971) (six firearms sold over 2 weeks).

<sup>47</sup> 18 U.S.C. § 921(a)(21)(C).

<sup>48</sup> 18 U.S.C. § 921(a)(22).

<sup>49</sup> 18 U.S.C. § 923(a).

<sup>50</sup> T.D. ATF-191, 49 Fed. Reg. 46,889 (November 29, 1984).

<sup>51</sup> The "secondary market" refers to the sale and purchase of firearms after FFLs sell them at retail.

<sup>52</sup> A recent case of an unlicensed individual who bought and sold numerous firearms illustrates the difficulty involved with prosecuting defendants charges with engaging in the business of dealing in firearms without a license. ATF agents discovered that an unlicensed person had purchased 124 handguns and 27 long guns from an FFL, as well as additional firearms from flea markets and garage sales. When questioned, the defendant admitted that he intended to resell them. At trial, the defendant contended that buying and selling guns was his hobby. The court, relying on the statutory definition, instructed the jury that a person engages in the business of dealing in firearms when it occupies time, attention, and labor for the purpose of livelihood and profit, as opposed to as a pastime, hobby, or being a collector. When the jury asked for a definition of "livelihood," the court explained that the term was not defined in the law and that the jury needed to rely on its common understanding of the term. The jury acquitted the defendant for engaging in the firearms dealing business. However, the jury convicted the defendant for falsely stating on the firearms transaction record executed at the time of purchase that he was the actual buyer, when in fact, he had intended to resell them.

<sup>53</sup> All of the recommendations except number 7 and part of number 5 would require legislation.

<sup>54</sup> Although the GCA does not define "gun show," the GCA does refer to "gun shows" in 18 U.S.C. § 923(j), the exception that permits FFLs to sell firearms away from their business premises under certain circumstances, including "gun shows."

<sup>55</sup> The transfer FFL does not act as the seller, but rather acts voluntarily in connection with a transfer by a nonlicensee or licensed collector.

<sup>56</sup> The legislative proposal would elevate the gravity of the offense of not conducting a NICS check for FFLs from a misdemeanor—which is presently contained in the Brady Act—to a felony regardless of the venue of the transaction.

<sup>57</sup> Requiring a NICS check when "any part of the transaction takes place at a gun show" ensures that buyers and sellers do not attempt to avoid the requirement by completing only a part of the sale, exchange, or transfer at the gun show. For example, if a nonlicensed vendor displays a gun at a gun show but the actual transfer occurs outside the gun show in the parking lot, the vendor is prohibited from transferring the gun without a NICS check on the purchaser.

<sup>58</sup> The recommendations made in this report would be in addition to any requirements imposed under State or local law.

#### [Exhibit 1]

THE WHITE HOUSE,

OFFICE OF THE PRESS SECRETARY,

Highfill, AR, November 6, 1998.

Memorandum for the Secretary of the Treasury

The Attorney General

Subject: Preventing Firearms Sales to Prohibited Purchasers.

Since 1993, my Administration has worked hand-in-hand with State and local law enforcement agencies and the communities they serve to rid our neighborhoods of gangs, guns, and drugs—and by doing so to reduce

crime and the fear of crime throughout the country. Our strategy is working. Through the historic Violent Crime Control and Law Enforcement Act of 1994, we have given communities the tools and resources they need to help drive down the crime rate to its lowest point in a generation. Keeping guns out of the hand of criminals through the Brady Handgun Violence Prevention Act's background checks has also been a key part of this strategy. Over the past 5 years, Brady background checks have helped prevent a quarter of a million handgun sales to felons, fugitives, domestic violence abusers, and other prohibited purchasers—saving countless lives and preventing needless injuries.

On November 30, 1998, the permanent provisions of the Brady Law will take effect, and the Department of Justice will implement the National Instant Criminal Background Check System (NICS). The NICS will allow law enforcement officials access to a more inclusive set of records than is now available and will—for the first time—extend the Brady Law's background Law's background check requirement to long guns and firearm transfers at pawnshops. Under the NICS, the overall number of background checks conducted before the purchase of a firearm will increase from an estimated 4 million annually to as many as 12 million.

We can, however, take additional steps to strengthen the Brady Law and help keep our streets safe from gun-carrying criminals. Under current law, firearms can be—and an untold number are—bought and sold entirely without background checks, at the estimated 5,000 private gun shows that take place across the country. This loophole makes gun shows prime targets for criminals and gun traffickers, and we have good reason to believe that firearms sold in this way have been used in serious crimes. In addition, the failure to maintain records at gun shows often thwarts needed law enforcement efforts to trace firearms. Just days ago, Florida voters overwhelmingly passed a ballot initiative designed to facilitate background checks at gun shows. It is now time for the Federal Government to take appropriate action, on a national level, to close this loophole in the law.

Therefore, I request that, within 60 days, you recommend to me what actions our Administration can take—including proposed legislation—to ensure that firearms sales at gun shows are not exempt from Brady background checks or other provisions of our Federal gun laws.

WILLIAM J. CLINTON.

#### EXHIBIT 2.—DIGEST OF SELECTED STATES WITH LAWS REGULATING TRANSFERS OF FIREARMS BETWEEN UNLICENSED PERSONS OR GUN SHOWS (12/21/98)

State	Regulation of gun shows?	Regulation of all firearms transfers?
Pennsylvania: 18 Pa. Stat. Ann. § 6111; § 6113. ....	NO. ....	YES. Nonlicense wishing to transfer firearm to nonlicensee must do so through licensee or at county sheriff's office. The licensee must conduct background check as if he or she were the seller. Exclusions apply for certain firearms, family member transfers, law enforcement, or where local authority certifies that transferee's life is threatened.
California: Cal. Penal Code § 12071.1; § 12082. ....	YES. Must receive state certificate of eligibility to operate gun show..	YES. All transfers for firearms must be through a licensed dealer who must conduct a background check.
Illinois: 430 Ill. Comp. Stat. Ann. §§ 65/2(a)(1), 65/3. ....	NO. ....	YES. No one may lawfully possess any firearm without possessing a Firearms Owner's Identification Card (FOIC) issued by the State police. Each transferee of any firearm must possess a valid FOIC. Transferor must keep record of transaction for 10 years.
Virginia: Va. Code Ann. §§ 52-8.4-1, 54.1-4200, 54.1-4201.1..	YES. Promoter of firearm show must provide 30 days' notice, and provide pre- and post-show list of each vendor's name and business address..	NO.
District of Columbia: D.C. Code Ann. § 6-2311. ....	NO. ....	YES. It is unlawful to possess any firearm that is not registered.
Virgin Islands: V.I. Code tit. 23, § 461. ....	NO. ....	YES. No transfer of a firearm is lawful without prior approval by Commissioner of Licensing and Consumer Affairs.
Florida: .....	NO. ....	Under Art. VIII, Sec. 5 of Florida Constitution, counties are now free to impose waiting periods and background checks for all firearm sales in places where public has the right of access; "sale" requires consideration.
Puerto Rico: P.R. Laws Ann., tit. 25, §§ 429, 438, 439. ....	NO. ....	YES. All firearms must be registered and transfers must be through a licensed dealer.
North Carolina: N.C. Gen. Stat. § 14-402. ....	NO. ....	NO. However, no transfer of a pistol is lawful without the transferee first obtaining a license from the county sheriff.
Hawaii: Haw. Rev. Stat. §§ 134-2, 134-3, 134-4. ....	NO. ....	YES. No person may acquire ownership of a firearm until the person first obtains a permit from the local police chief. A separate permit is required for each handgun or pistol: a shotgun or rifle allows multiple acquisitions up to one year.
Iowa: Iowa Code Ann. § 724.16. ....	NO. ....	NO. However, it is unlawful to transfer a pistol or revolver without an annual permit to acquire pistols and revolvers.
Minnesota: Minn. Stat. Ann. §§ 624.7131, 624.7132. ....	NO. ....	NO. However, it is unlawful to transfer a pistol or semiautomatic assault weapon without executing a transfer report, signed by transferor and transferee and presented to the local police chief of the transferee, who shall conduct a background check.

## EXHIBIT 2.—DIGEST OF SELECTED STATES WITH LAWS REGULATING TRANSFERS OF FIREARMS BETWEEN UNLICENSED PERSONS OR GUN SHOWS (12/21/98)—Continued

State	Regulation of gun shows?	Regulation of all firearms transfers?
Maryland: 27 Md. Code Ann. §§ 442, 443A(a).	YES. Nonlicensed persons selling a handgun or assault weapon at a gun show must obtain a transfer permit; a background check is conducted on the applicant. An individual is limited to five permits per year.	NO.
Missouri: Mo. Rev. Stat. Ann. § 571.080.	NO.	YES. It is unlawful to buy, sell, exchange, loan, or borrow a firearm without first receiving a valid permit authorizing the acquisition of the firearm.
South Dakota: S.D. Codified Laws §§ 23-7-9, 7-10.	NO.	NO. However, it is unlawful to transfer a pistol to a person who has purchased a pistol until after 48 hours of the sale. Exceptions apply for holders of concealed pistol permit.
New York: NY Penal Law § 400.00(16) and §§ 265.11-13.	NO.	YES. As a general matter, no person may possess, receive, or sell a firearm without first obtaining a permit or license from the State. Thus, all lawful firearms transfers in New York, including those at gun shows, would be between licensees or permittees.
New Jersey: N.J. Stat. Ann. § 2C: 39-3; 58-3.	NO.	YES. It is unlawful to sell a firearm unless licensed or registered to do so. No unlicensed person may acquire a firearm without a purchase permit or firearms purchaser identification card.
New Hampshire: N.H. Rev. Stat. Ann. § 159.	NO.	NO. However, it is unlawful for a nonlicensee not engaged in the business to transfer a pistol to a person who is not personally known to the transferee.
Connecticut: Connecticut General Statute §§ 29-28 through 29-37.	NO.	YES. Anyone who sells 10 or more handguns in a calendar year must have a FFL or a State permit. Nonlicensees wishing to transfer a firearm must receive from the prospective purchaser an application which is then submitted to local and State authorities. Exceptions are for licensed hunters purchasing long guns and members of the Armed Forces.
Massachusetts: Mass. Gen. Laws Ann. Ch. 140 § 129C; § 128A; § 128B.	NO.	NO. However, State law provides that any person may transfer up to four firearms to any nonlicensed person per calendar year without obtaining a State license, provided seller forwards name of seller, purchaser, and information about the firearm to State authorities.
Rhode Island: R.I. Gen. Laws §§ 11-47-35, 36, 40.	NO.	YES. No person may sell a firearm without purchaser completing application which is submitted to State police for background check. Seller obligated to maintain register recording information about the transaction, such as date, name, age and residence of purchaser.
Michigan: Mich. Comp. Laws §§ 750.223; 750.422.	NO.	NO. However, no transfer of a pistol is lawful without the transferee first obtaining a handgun purchase permit from the local CLEO.
Nevada: Nev. Rev. Stat. Ann. § 202.254.	NO.	NO. However, a private person wishing to transfer a firearm may request a State background check on the prospective transferee.

APPENDIX  
METHODOLOGY

The following analyses are based on a survey of ATF special agents reporting information about recent investigations associated with gun shows. The investigations reflect what ATF has encountered and investigated; they do not necessarily reflect typical criminal diversions of firearms at gun shows or the typical acquisition of firearms by criminals through gun shows. Furthermore, they do not provide information about the significance of diversion associated with gun shows with respect to other sources of diversion. Nevertheless, they suggest that the criminal diversion of firearms at and through gun shows is an important crime and public safety problem.

The analyses use data from investigations referred for prosecution and adjudicated, and investigations that have not yet been referred for prosecution. Thus, not all violations described will necessarily be charged as crimes or result in convictions. As a consequence, the exact number of offenders in the investigation, the numbers and types of firearms involved, and the types of crimes associated with recovered firearms may not have been fully known to the case agents at the time of the request, and some information may be underreported. For example, it is likely that the number of firearms involved in the investigations could increase, as could the number and types of violations, as more information is uncovered by the agents working the investigations.

Information generated as part of a criminal investigation also does not necessarily capture data on the dimensions ideally suited to a more basic inquiry about trafficking and trafficking patterns. For example, investigative information necessary to build a strong case worth of prosecution may provide very detailed descriptions of firearms used as evidence in the case but may not even estimate, much less describe in detail, all the firearms involved in the trafficking enterprise.

Information was not provided with enough consistency and specificity to determine the number of handguns, rifles, and shotguns trafficked in a particular investigation. Likewise, special agents may not have information on trafficked firearms subsequently used in crime. Such information is not always available. Comprehensive tracing of crime guns does not exist nationwide and, until the very recent Youth Crime Gun Interdiction Initiative, most major cities did not trace all recovered crime guns. The fig-

ures on new, used, and stolen firearms reflect the number of investigations in which the traffickers were known to deal in these kinds of weapons. The figures on stolen firearms are subject to the usual problems associated with determining whether a firearm has been stolen. Many stolen firearms are not reported to the police. Such limitations apply to much of the data collected in this research.

Finally, except where noted, the unit of analysis in the review of investigations is the investigation itself. The data show, for example, the proportion of investigations that were known by agents to involve new, used, and stolen firearms, but these figures do not represent a proportion or count of the number of new, used, or stolen firearms being trafficked at gun shows. The data show what proportion of investigations were known to involve a firearm subsequently used in a homicide, but not how many homicides were committed by firearms trafficked through gun shows. It was not possible to gather more specific information within the short timeframe of the study.

It was, for the most part, not possible to review and verify all of the information provided in the survey responses. However, ATF Headquarters personnel took a random sample of 15 cases each from the 31 investigations reported to have involved 101-250 firearms and from the 30 investigations reported to have involved 251 or more firearms, and reviewed with ATF field personnel the information leading to those reports. A breakdown of the results of this review showing the basis for reporting the firearms volume is provided below. Based on this review, ATF concludes that the numbers of firearms reported in connection with the investigations have a reasonable basis.

Procedure	N = 32 <sup>1</sup>	
	Number	Percent
Firearms seized/purchased/recovered and reconstruction of dealer records	10	31.2
Reconstruction of dealer records	9	28.1
Firearms seized/purchased/recovered	6	18.8
Reconstruction of dealer records and confidential information	3	9.4
Firearms seized and admission by defendant(s)	2	6.2
ATF NTC compilation and confidential information	1	3.1
Unknown	1	3.1

<sup>1</sup> This breakdown includes, in addition to the basis for the numbers of firearms reported in the randomly selected cases, the basis for the numbers of firearms reported in the two investigations involving the largest volumes of firearms, 10,000 and 7,000 firearms respectively. The case involving 7,000 firearms used a combination of an audit of firearms seized and the reconstruction of dealer records, while the case involving 10,000 firearms used a combination of NTC records and information from confidential informants.

TABLE 1.—INITIATION OF INVESTIGATION

Reason	N=314	
	Number	Percent
Confidential informant	74	23.6
Referred from another Federal, State, or local investigation	60	19.1
ATF investigation at gun show (e.g., gun show task force)	44	14.0
Trace analysis after firearms recovery	37	11.8
Review of multiple sales forms	34	10.8
Licensed dealers at gun shows reported suspicious activity	26	8.3
Tip or anonymous information	18	5.7
Field interrogation after firearm recovery	4	1.3
Gun show promoter reported suspicious activity	2	0.6
Analysis of out-of-business records	1	0.3
Unknown	14	4.4

TABLE 2.—INVESTIGATIONS SUBMITTED BY FIELD DIVISIONS

Field division	N=314	
	Number of investigations	Percent
Dallas	43	13.7
Houston	42	13.1
Detroit	41	13.1
Philadelphia	34	10.8
Miami/Tampa	20	6.3
Kansas City	19	6.1
Nashville	16	5.1
Columbus	15	4.8
Seattle	11	3.5
St. Paul	10	3.2
Louisville	9	2.9
New Orleans	9	2.9
Phoenix	8	2.5
Washington, DC	8	2.5
Charlotte	8	2.5
Los Angeles	6	1.9
Atlanta	6	1.9
Chicago	5	1.6
San Francisco	1	0.3
Baltimore	1	0.3
Boston	1	0.3
New York	1	0.3

TABLE 3.—MAIN SUBJECT OF INVESTIGATION

Subject	N=314	
	Number of investigations	Percent
Unlicensed dealer	170	54.1
Unlicensed dealer (never FFL)	118	37.6
Former FFL	37	11.8
Current FFL and former FFL	8	2.5
Unlicensed dealer and former FFL	2	0.6
Current FFL and Unlicensed dealer	4	1.3
Current FFL/Former FFL/unlicensed	1	0.3
Current FFL	73	23.2
Felon purchasing firearms at gun show	33	10.5
Straw purchasers at gun show	20	6.4

TABLE 3.—MAIN SUBJECT OF INVESTIGATION—Continued

Subject	N=314	
	Number of investigations	Percent
Unknown gun show source .....	18	5.7

Note.—Overall, 46.2 percent of the investigations involved a felon associated with selling or purchasing firearms. This percentage was derived from aggregate investigations in which trafficked firearms were recovered from felons; unlicensed dealers' criminal histories included felony convictions; felons had purchased firearms at gun shows, and a licensed dealer had a convicted felon as an associate. When only a licensed dealer was the main subject of the investigation, a convicted felon was involved in 6.8 percent (5 of 73) of the investigations as an associate in the trafficking of firearms. When the investigation involved an unlicensed dealer or a former FFL, 25.3 percent (43 of 170) of the investigations revealed that he/she had at least one prior felony conviction.

TABLE 4.—FIREARMS ASSOCIATED WITH GUN SHOW INVESTIGATIONS KNOWN TO HAVE BEEN INVOLVED IN SUBSEQUENT CRIMES

[34.4 percent of the investigations (108 of 314) had at least one firearm recovered in crime]

Crime	N=108	
	Number <sup>1</sup>	Percent
Drug offense .....	48	44.4
Felon in possession .....	33	30.6
Crime of violence .....	47	43.5
Homicide .....	26	24.1
Assault .....	30	27.8
Robbery .....	20	18.5
Property crime (burglary, B&E) .....	16	14.8
Criminal possession (not felon in poss.) .....	15	13.9
Juvenile possession .....	13	12.0

<sup>1</sup> Number of investigations with at least one category.

Note.—Since firearms recovered in an investigation may be used in many different types of crime, an investigation can be included in more than one category.

TABLE 5.—NUMBER OF FIREARMS RECORDED IN GUN SHOW INVESTIGATIONS

Number of firearms	N=314	
	Number of investigations	Percent
Less than 5 .....	70	22.3
5 to 10 .....	37	11.8
11 to 20 .....	22	7.0
21 to 50 .....	47	15.0
51 to 100 .....	47	15.0
101 to 250 .....	31	9.9
251 or greater .....	30	9.6
Unknown .....	30	9.6

Note.—For further details about this information, see the Methodology section of this report.

TABLE 6.—NEW, USED AND STOLEN GUNS KNOWN TO BE INVOLVED IN GUN SHOW INVESTIGATIONS

Type of firearm	N=314	
	Number of investigations	Percent
Used firearms .....	167	53.2
New firearms .....	156	49.7
Stolen firearms .....	35	11.1
unknown .....	75	23.9
MUTUALLY EXCLUSIVE CATEGORIES		
New firearms and used firearms .....	80	25.5
Used firearms only .....	62	19.7
New firearms only .....	61	19.4
Used firearms and stolen firearms .....	13	4.1
New firearms, used firearms, and stolen firearms .....	12	3.8
Stolen firearms only .....	7	2.2
New firearms and stolen firearms .....	3	0.9
unknown .....	75	23.9

Note.—Since more than one type of firearm can be recovered in an investigation, an investigation can be included in more than one category.

TABLE 7.—VIOLATIONS IN THE MAIN INVESTIGATIONS

Violation	N=314	
	Number of investigations	Percent
Engaging in the business of dealing without license .....	169	53.8
Possession and receipt of firearm by convicted felon .....	76	24.2
Illegal sales and/or possession of NFA weapons .....	62	19.7
Licensee failure to keep required records .....	60	19.1
Providing false information to receive firearms .....	54	17.2
Transfer of firearm to prohibited person .....	46	14.6

TABLE 7.—VIOLATIONS IN THE MAIN INVESTIGATIONS—Continued

Violation	N=314	
	Number of investigations	Percent
Straw purchasing .....	36	11.5
False entries/fraudulent statements in licensee records .....	27	8.6
Illegal transfer of firearms to resident of another State by nonlicensee .....	27	8.6
Illegal transfer of firearms to resident of another State by licensee .....	21	6.7
Receipt and sale of stolen firearms .....	15	5.8
Obliterating firearms serial numbers .....	14	4.5
Drug trafficking .....	11	3.5
Trafficking of firearms by licensee (unspecified violation) .....	9	2.9
Transfer of firearm in violation of 5-day waiting period .....	7	2.2
Illegal out of state sales by nonlicensee .....	7	2.2
Licensee doing business away from business premises .....	5	1.6
Illegal manufacture and transfer of assault weapon .....	3	1.0
Sales by a prohibited person .....	2	0.6
Forgery or check fraud to obtain firearms .....	2	0.6

Note.—Since an investigation may involve multiple violations, an investigation can be included in more than one category.

TABLE 8.—WEAPONS ASSOCIATED WITH NFA VIOLATIONS IN GUN SHOW INVESTIGATIONS

NFA violation	N=62	
	Number <sup>1</sup>	Percent
Machine guns .....	33	53.2
Converted guns .....	19	30.6
Silencers .....	9	14.5
Explosives (e.g., grenades) .....	8	12.9
Grenade launchers .....	7	11.3
Conversion kits/parts .....	7	11.3
Other (short barrel) .....	5	8.1

<sup>1</sup> Number of NFA investigations with at least one category.

Note.—Since investigations may involve different types of NFA violations, an investigation can be included in more than one category. However, "converted guns" have not been included in the "machinegun" count.

The SPEAKER pro tempore (Mr. HANSEN). The time of the gentlewoman from New York (Mrs. MCCARTHY) has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from New York (Mrs. MCCARTHY).

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Ms. LOFGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

#### TAXPAYER REFUND AND RELIEF ACT OF 1999—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States; which was read and, without objection, referred to the Committee on Ways and Means:

*To the House of Representatives:*

I am returning herewith without my approval H.R. 2488, the "Taxpayer Refund and Relief Act of 1999," because it ignores the principles that have led us to the sound economy we enjoy today and emphasizes tax reduction for those who need it the least.

We have a strong economy because my Administration and the Congress have followed the proper economic course over the past 6 years. We have focused on reducing deficits, paying down debt held by the public, bringing down interest rates, investing in our people, and opening markets. There is \$1.7 trillion less debt held by the public today than was forecast in 1993. This has contributed to lower interest rates, record business investment, greater productivity growth, low inflation, low unemployment, and broad-based growth in real wages—and the first back-to-back budget surpluses in almost half a century.

This legislation would reverse the fiscal discipline that has helped make the American economy the strongest it has been in generations. By using projected surpluses to provide a risky tax cut, H.R. 2488 could lead to higher interest rates, thereby undercutting any benefits for most Americans by increasing home mortgage payments, car loan payments, and credit card rates. We must put first things first, pay down publicly held debt, and address the long-term solvency of Medicare and Social Security. My Mid-Session Review of the Budget presented a framework in which we could accomplish all of these things and also provide an affordable tax cut.

The magnitude of the tax cuts in H.R. 2488 and the associated debt service costs would be virtually as great as all of the on-budget surpluses the Congressional Budget Office projects for the next 10 years. This would leave virtually none of the projected on-budget surplus available for addressing the long-term solvency of Medicare, which is currently projected by its Trustees to be insolvent by 2015, or of Social Security, which then will be in a negative cash-flow position, or for critical funding for priorities like national security, education, health care, law enforcement, science and technology, the environment, and veterans' programs.

The bill would cause the Nation to forgo the unique opportunity to eliminate completely the burden of the debt held by the public by 2015 as proposed by my Administration's Mid-Session Review. The elimination of this debt would have a beneficial effect on interest rates, investment, and the growth of the economy. Moreover, paying down debt is tantamount to cutting taxes. Each one-percentage point decline in interest rates would mean a cut of \$200 billion to \$250 billion in mortgage costs borne by American consumers over the next 10 years. Also, if we do not erase the debt held by the public, our children and grandchildren will have to pay higher taxes to offset the higher Federal interest costs on this debt.

Budget projections are inherently uncertain. For example, the Congressional Budget Office found that, over the last 11 years, estimates of annual deficits or surpluses 5 years into the future erred by an average of 13 percent