

# OFFICE OF CONGRESSIONAL AFFAIRS

## Routing Slip

	ACTION	INFO
1. D/OCA		
2. DD/Legislation	X	
3. DD/Senate Affairs		
4. Ch/Senate Affairs		
5. DD/House Affairs		
6. Ch/House Affairs		
7. Admin Officer		
8. Executive Officer		
9. FOIA Officer		
10. Constituent Inquiries Officer		
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SUSPENSE

23MAR88

Date

STAT Officer: [redacted]

Remarks:

*Act on completed file - initial date*

IF 23MAR88

Name/Date



**EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503**

**SPECIAL**

**LEGISLATIVE REFERRAL MEMORANDUM**

**TO:** Department of Transportation - Tom Herlihy (366-9293)  
Department of the Treasury - Carole Toth (566-8523)  
Department of Defense - Samuel T. Brick, Jr. (697-1305)  
Central Intelligence Agency  
Administrative Office of the U.S. Courts


**SUBJECT:** Department of Justice letter on S. 2051, "The Prohibition of Undetectable Firearms Act."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with Circular A-19.

Please provide us with your views no later than

March 23, 1988

Direct your questions to Gregory Jones (395-3454), of this office.

  
James C. Murr for  
Assistant Director for  
Legislative Reference

**Enclosures**

cc: Karen Krop  
Karen Wilson  
Eric Hampl

Jim Fish  
John Mathewson  
Bob Damus

Hilda Schreiber  
Frank Seidl



## Office of Legislative Affairs

NOT CLARIFIED BY OMB

Office of the Assistant Attorney General

Washington, D.C. 20530

March 16, 1988

Honorable James McClure  
United States Senate  
Washington, D.C. 20510

Dear Senator McClure:

The Attorney General has asked me to report to you on the productive talks that have taken place regarding S. 2051, "The Prohibition of Undetectable Firearms Act," since Mr. Meese last wrote to you on this matter on March 1st. He remains grateful to Senator Hatch and you for providing an excellent vehicle for discussions toward a workable solution to a vexing public safety problem.

Your staff has been most cordial and helpful in their negotiations with representatives of the Department regarding S. 2051, and we believe that substantial headway has been made in arriving at a firm agreement as to the terms of a "plastic gun" package which meets the needs of public safety and accommodates the interests of law enforcement and firearms rights groups. The purpose of this letter is to set out a proposal that we hope will build upon your work in order to achieve a plan that meets the objectives that all interested parties share. We understand that you must check with your various co-sponsors and supporters before you can firmly embrace such an agreement and, likewise, it is our desire to determine that the compromise is acceptable to the Administration and to law enforcement groups. //

With respect to our suggested law enforcement additions, it is our understanding that it is your strong preference that these proposals be advanced as a separate bill. With a commitment that this separate bill would be introduced in both the House and Senate within a week of final ratification of the agreement and that all parties to the agreement assure best efforts to secure enactment of the separate bill this year, we find this procedure acceptable. Attached is a copy of the provisions we wish to be included in that separate bill; your staff has indicated no objection to this package of pro-law-enforcement firearms proposals. You have indicated a willingness to include in this bill a provision to increase Public Safety Officer Benefits

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payments from \$50,000 to \$100,000. As you know, the Attorney General strongly supports such an increase. We propose to inquire of law enforcement organizations whether they desire to have that measure included in the separate bill.

As to specific detectability concerns, it is our understanding that you have agreed in principle to a series of modifications of S. 2051 intended to address law enforcement concerns, summarized as follows:

First, you and we agree that we should clarify that entirely non-metallic firearms may not circumvent the ban merely by incorporation of a drop or sliver of metal.

Second, you and we agree that the listing of particular firearms components should be revised to avoid circumvention of the ban through the use of an innovative design which does not include a frame, receiver or cylinder. The attached papers set out suggested language to this end. It may be that the definitional language needs to be adjusted, and we would welcome constructive proposals on that point.

Third, you have no objection to expanding the bill to criminalize sales of undetectable firearms (in addition to importation and manufacture).

Fourth, you will accept an objective threshold standard tied to the most sensitive setting of magnetometers in use at federal security checkpoints controlling public access areas.

Finally, both you and we agree as to the need for a prompt and comprehensive assessment of current security threats and capabilities. We are concerned that any statutory direction with respect to specific settings for magnetometers would be counterproductive, restricting needful law enforcement flexibility and constraining our work unnecessarily at the very time when technology is evolving. In this regard, we plan to commence this security assessment immediately, even without a legislative mandate, because we strongly believe it is needed.

Attached is a copy of S. 2051 revised to reflect these five points, setting out what we believe--on the strength of discussions that the Attorney General thanks you for making possible--can be the revisions generally acceptable to all sides.

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Once you have had an opportunity to review this and consult your colleagues, we will be pleased to meet with you and your staff further in an effort to iron out any minor problems or misunderstandings. In the meantime, the Attorney General and the Department of Justice are deeply grateful to you for your leadership in attempting to fashion a compromise measure which can accommodate the interests and concerns of all appropriate parties, and for your helpful consideration of the comments and additions to which Mr. Meese made reference in his letter of March 1st.

Sincerely,



Thomas M. Boyd  
Acting Assistant Attorney General

100TH CONGRESS  
2D SESSION

# S. 2051

Entitled the "Prohibition of Undetectable Firearms Act".

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 4 (Legislative day, FEBRUARY 2), 1988

Mr. McCURE (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

Entitled the "Prohibition of Undetectable Firearms Act".

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE AND CONGRESSIONAL FINDINGS.

4 (a) SHORT TITLE.—This Act may be cited as the "Pro-  
5 hibition of Undetectable Firearms Act".

6 (b) CONGRESSIONAL FINDINGS—The Congress finds  
7 that—

8 (1) heightened concerns regarding airport security,  
9 international terrorism, and evolving small arms tech-  
10 nology require legislation to address perceived gaps in  
11 security at our Nation's airports; and

1 (2) detection technology, though more advanced  
2 than nonmetallic small arms technology, is not being  
3 fully utilized at our Nation's airports; and

4 (3) an interim measure may be required to ensure  
5 the continued effectiveness of our security efforts.

6 SEC. 2. DEFINITION.

7 Section 921 (a) of title 18, United States Code, is  
8 amended by adding at the end thereof a new paragraph as  
9 follows:

10 "(25) The term 'plastic firearm' means a firearm, as de-  
11 fined in section 921(a)(3)(A), in which the structurally necessary elements of  
12 or the frame or receiver, and cylinder, if any, of which ~~is each con-~~  
13 are composed exclusively  
14 ~~structed entirely~~ of polymer or ceramic, or any combination  
15 thereof".

15 SEC. 3. PROHIBITION.

16 Section 922 of title 18, United States Code, is amended  
17 by adding at the end thereof the following:

18 "(p) It shall be unlawful for any person to manufacture,  
19 import, or sell a plastic firearm unless:

20 "(1) the barrel of such firearm is constructed, in  
21 whole or in part, of a metallic substance susceptible of  
22 being detected by use of a magnetometer or set at the most sensitive level  
in use at a security  
checkpoint controlling out

23 "(2) the identifying information required to be en- access  
24 graved, cast, or stamped on the frame, barrel, or re- under  
25 ceiver of a firearm by section 928(i) of title 18, United federal  
jurisdiction

8

1 States Code, is engraved, cast, or stamped in a metal-  
 2 lic substance susceptible of being detected by <sup>use of</sup> a magne-  
 3 tometer, and ~~at the most sensitive level in use at a security~~  
~~checkpoint controlling public access under~~  
~~federal jurisdiction~~  
 4 "(3) the polymer portions of the frame or receiver,  
 5 barrel, and slide or cylinder of the firearm have been  
 6 infused with quantities of barium sulfate or other such  
 7 compound sufficient to render such firearm capable of  
 8 being detected through the use of a cabinet x ray  
 9 system as defined in regulations prescribed by the Food  
 10 and Drug Administration (21 CFR 1020.40(b)(3)) de-  
 11 signed for inspection of carry on baggage."

12 SEC. 4. EXEMPTION.

13 No provision of this Act shall apply to any firearm man-  
 14 ufactured, imported, or possessed prior to the date of enact-  
 15 ment of this Act; nor shall this Act affect, in any way, the  
 16 possession, transfer, acquisition, or receipt of any firearm  
 17 model manufactured or imported prior to the date of the en-  
 18 actment of this Act.

19 SEC. 5. EFFECTIVE DATE AND DURATION.

20 These provisions shall take effect ninety days after the  
 21 date of enactment of this Act and shall be effective for ten  
 22 years from the date of enactment, provided that the Secre-  
 23 tary shall declare an earlier termination of the effectiveness  
 24 of this Act if equipment is available which is capable of de-  
 25 tecting a plastic firearm.



Sec. 6 Federal Security Assessment and Coordination. The Attorney General, in consultation with the Secretary of the Treasury, the Secretary of Transportation, the Secretary of Defense and the Director of Central Intelligence, shall evaluate security threats posed by firearms, explosives and other dangerous articles and devices and report to the President, not later than 180 days after the effective date of this Act, regarding changes needed to achieve the most effective response thereto. This evaluation shall address training for security operators, procedures to be employed at security check-points, proper operation of available detection equipment, coordinated acquisition of new security equipment, coordinated federal research and development efforts related to improved detection technology, and other matters necessary to enhance security capability and performance.

**Sec. CLARIFICATION OF DEFINITION OF DRUG TRAFFICKING  
CRIMES IN WHICH USE OR CARRYING OF FIREARMS AND ARMOR PIERCING  
AMMUNITION IS PROHIBITED.** Paragraph (2) of subsection 924(c) of  
title 18 of the United States Code and paragraph (2) of  
subsection 929(a) of title 18 of the United States Code are both  
amended to read as follows:

"(2) for purposes of this subsection, the term 'drug  
trafficking crime' means any felony punishable under the  
Controlled Substances Act (21 U.S.C. 801 et seq.), the  
Controlled Substances Import and Export Act (21 U.S.C. 951  
et seq.), or the Maritime Drug Law Enforcement Act (46 App.  
U.S.C. 1901 et seq.)."

**Sec. MANDATORY PENALTY FOR USING OR CARRYING A FIREARM IN  
COMMITTING ASSAULTS ON FEDERAL OFFICERS.** Section 111 of title 18  
of the United States Code is amended by adding "other than a  
firearm," after the words "deadly or dangerous weapon," in the  
second paragraph and by adding a new paragraph at the end thereof  
as follows:

"Whoever, during and in relation to the commission of any  
such acts, uses a firearm shall be imprisoned for five years  
(which term shall not run concurrently with any other term of  
imprisonment) and may be fined in accordance with the provisions  
of this title, or both."

**Sec. (a) POSSESSION OF A FIREARM IN A FEDERAL COURTROOM.**

Chapter 44 of title 18 of the United States Code is amended by adding at the end thereof a new section 930 as follows:

**§ 930. Possession of firearms in Federal courtrooms.**

"(a) Except as provided in subsection (b), whoever knowingly possesses or causes to be present any firearm in a Federal courtroom during any official proceeding therein, or attempts to do so, shall be sentenced to imprisonment for not more than five years, or fined in accordance with the provisions of this title, or both.

"(b) Subsection (a) shall not apply to any act performed in the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law.

"(c) Nothing in this section shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt; nor shall anything in this section interfere with or limit in any way the power of a court of the United States to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building, or upon any grounds appurtenant thereto, housing any such court or any of its proceedings.

"(d) As used in this section --

(1) the term 'Federal courtroom' means that part of a building in which is conducted a proceeding before a judge

or court of the United States, a United States Magistrate, a bankruptcy judge, or a Federal grand jury; and

"(2) 'during any official proceeding' includes, in addition to periods when a proceeding as described in the preceding paragraph is in progress, any time in which spectators at such a proceeding are allowed to be present in the courtroom."

(b) Notice to the effect of subsection (a) shall be posted conspicuously by the United States Marshal at one or more public entrances to each Federal courtroom, but the failure to so post or maintain such notice shall not be a defense to any violation of the provisions of subsection (a).

(c) The analysis at the beginning of chapter 44 of title 18 of the United States Code is amended by adding at the end thereof the following:

"930. Possession of firearms in Federal courtrooms."

Sec. PERMITTING CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES. Paragraph (1) of subsection 3142(f) of title 18 of the United States Code is amended by --

- (1) striking out "or" before subparagraph (D);
- (2) redesignating subparagraph (D) as subparagraph (E);

and

- (3) inserting a new subparagraph (D) as follows:

"(D) an offense under 18 U.S.C. 844(a) that is a violation of 18 U.S.C. 842(d), (h), or (i), or an offense

under 18 U.S.C. 924(a) that is a violation of 18 U.S.C. 922(d), (g), (h), (i), (j), or (o); or".

Sec. (a) EXPANSION OF POSSESSION OF EXPLOSIVES OFFENSE TO CERTAIN AIRPORTS AND STRENGTHENING OF PENALTY. Subsection 844(g) of title 18 of the United States Code is amended --

(1) by inserting "in an airport that is subject to the regulatory authority of the Federal Aviation Administration or" after "possesses an explosive";

(2) by inserting "or airport" after "such building";  
and

(3) by striking out "not more than one year, or fined not more than \$1,000, or both" and inserting in lieu thereof "not more than five years, or fined under this title, or both".

(b) STRENGTHENING OFFENSE OF USING OR CARRYING AN EXPLOSIVE IN THE COMMISSION OF A FEDERAL FELONY. Subsection 844(h) of title 18 of the United States Code is amended --

(1) by striking out "unlawfully" in paragraph (2); and

(2) by striking out "shall be sentenced" and all that follows through the remainder of the subsection and inserting in lieu thereof the following:  
"including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for five years. In the case of a second or subsequent

conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."

Sec. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NONRESIDENTS. Paragraph (5) of subsection 922(a) of title 18 of the United States Code is amended by striking out "resides" and all that follows through "(or other than that in which its place of business is located if the transferor is a corporation or other business entity);" and inserting in lieu thereof: "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;".

Sec. (a) COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS. Subsection 922(j) of title 18 of the United States Code is amended by striking out the words "or which constitutes," and inserting in lieu thereof "which constitutes, or which has been shipped or transported in,".

(b) **COMMERCE NEXUS FOR TRAFFICKING IN FIREARMS WITHOUT SERIAL NUMBERS.** Subsection 922(k) of title 18 of the United States Code is amended by inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce" after "altered".

**Sec. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) Subparagraph (1)(B) of subsection 923(d) of title 18 of the United States Code is amended by striking out "(h)" and inserting in lieu thereof "(n)".

(b) (1) Paragraph (1) of subsection 925(a) of title 18 of the United States Code is amended by inserting "possession," before "or importation".

(2) Subsection 925(c) of title 18 of the United States Code is amended by striking out the word "conviction" and inserting in lieu thereof the word "disability".

(c) Paragraph (3) of subsection 922(g) of title 18 of the United States Code is amended by inserting "who" before the words "is an unlawful user".

(d) Subsection 923(a) of title 18 of the United States Code is amended by striking out the period after the word "licensing" in the second sentence.

(e) Subsection 924(a) of title 18 of the United States Code is amended by striking out ", and shall become eligible for parole as the Parole Commission shall determine" both places

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those words appear. This amendment shall be effective with respect to any offense committed after November 1, 1987.

(f) Paragraph (1) of subsection 924(c) of title 18 of the United States Code is amended by striking out the second comma following the words "drug trafficking crime" the first time those words appear, by striking out the comma following the words "drug trafficking crime" the second time those words appear, and by striking out the second comma following the words "drug trafficking crime" the third time those words appear.

(g) Paragraph (1) of subsection 929(a) of title 18 of the United States Code is amended by striking out the comma following the words "drug trafficking crime" the second time those words appear, and by inserting a comma following the word "device" the first time that word appears.

(h) Paragraph (5) of subsection 842(d) of title 18 of the United States Code is amended to read as follows:

"(5) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))."

(i) Paragraph (3) of subsection 842(i) of title 18 of the United States Code is amended to read as follows:

"(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or"