

August 28, 2002

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to you on behalf of the membership of the Fraternal Order of Police to respond to your letter of 19 August regarding your disappointment with our position on the creation of several hundred new Federal "attempt" laws. If you wish to work together on this issue, I would welcome the opportunity.

With that said and your disappointment notwithstanding, I stand by the considered position of our organization. In our view, the proposal was not an "important modernization" of the Federal criminal code, but an attempt to "Federalize" virtually all State and local crimes. That the large majority of conferees agreed with us vindicates our reasoned position. The proposal was included into H.R. 5118, the "Corporate Fraud Accountability Act," without any review by an appropriate House or Senate committee. There were no hearings, no mark-ups and no opportunity for the Fraternal Order of Police to weigh in with our views on which crimes are appropriate for attempt liability. There are cases in which the creation of a new Federal offense may be appropriate, but without the benefit of having input into what those cases are, we felt that we could not support the provision.

Your 19 August letter was the first time we heard from you about this particular proposal. In fact, I have to say that I was surprised to hear from you at all. Though I have sent you numerous letters on many issues facing your committee, this is the first time in your tenure that you communicated with me, or my predecessor, in your tenure as Chairman.

For instance, our numerous requests for Judiciary Committee action on H.R. 218, the "Community Protection Act," have gone completely unacknowledged, yet I am sure you know that the passage of this bill is the number one priority of the Fraternal Order of Police. Though you have not responded to any of the letters I have sent to you on this issue, I do have several copies of your "standard reply" letter which were provided to me by members who did receive a reply from you. You describe the bill as "an affront to state sovereignty and the Constitution" because State laws governing the carrying of firearms would be preempted. Your opposition to this bill is such that you are preventing the Subcommittee on Crime, Terrorism and Homeland Security from considering the bill and have blocked several attempts by other lawmakers to amend other pieces of legislation with the language of H.R. 218. While this is certainly your

prerogative as chairman of the committee of jurisdiction, I would have thought that a bill with such broad bipartisan support, and with a majority of the Republican caucus as cosponsors, would merit some consideration. This bill is not at all controversial and passed the full House as an amendment to another bill in 1999 by a vote of 372 to 53.

Given your record of supporting Federal exemptions on the carrying of firearms for employment purposes, I must confess I am at a loss to understand why you oppose H.R. 218. After all, you recently voted in favor of H.R. 4635, the “Arming Pilots Against Terrorism Act,” which your committee discharged on 9 July without review. The bill would deputize airline pilots who volunteer to perform as “Federal flight deck officers.” Section 2(f)(3) of that legislation reads: “PREEMPTION - Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from one State to another State.”

Clearly, this is language—which you voted for—that does preempt State laws governing the carrying of firearms. This is a Federal mandate on the States that grants a certain class of persons—based upon the nature of their employment—to carry firearms in all States. This is essentially what H.R. 218 would do. I do not understand how you could support an exemption for pilots and oppose one for fully trained and sworn law enforcement officers.

Similarly, Congress has acted to force States to accept licenses issued by other States in 1993 and in 1998. On 18 June 1993, the House passed H.R. 1189, the “Armored Car Industry Reciprocity Act,” by voice vote and did so again when the amended bill returned from the Senate on 13 July. The bill, which was ultimately signed into law, mandated reciprocity for weapons licenses issued to armored car company crew members among the several States (including the District of Columbia). On 26 February 1998, you also voted in favor of H.R. 624, the “Armored Car Reciprocity Amendments Act,” (Roll Call Vote #25), which provided that the State issuing the licenses must renew them every two years.

Federal law currently allows armored car guards—who do not have nearly the same level of training and qualifications as law enforcement officers—to receive a license to carry a firearm in one State and forces other States to recognize its validity. This is another case of a Federal mandate on the States granting a certain class of persons—again based on the nature of their employment—the right to carry firearms in all States. I do not understand and do not know how to explain to my members why you support exemptions for pilots and armored car guards, but not for police officers. I do hope you send me a second letter explaining these conflicting positions.

When I was elected to serve as National President of the Fraternal Order of Police last August, I had hoped to work closely with you and your staff on the full range of Judiciary issues. Needless to say, I have been greatly disappointed. We should be working together—we need to be working together.

I do not ask that you support legislation if you feel that you cannot do so in good conscience, but I do ask that you take our views and those of our 300,000 members into consideration and give us a role in helping to shape law enforcement policy. I would welcome the opportunity to sit

down and discuss H.R. 218, H.R. 5118 and other issues with you. If this is possible, please contact me or Executive Director Jim Pasco through my Washington office.

Sincerely,

Steve Young
National President

cc: U.S. Representative J. Dennis Hastert, Speaker of the House
U.S. Representative Richard K. Armey, Majority Leader
U.S. Representative Tom DeLay, Majority Whip
U.S. Representative Richard A. Gephardt, Minority Leader
U.S. Representative John Conyers, Jr., Ranking Member, Committee on the Judiciary
U.S. Representative Lamar S. Smith, Chairman, Subcommittee on Crime, Terrorism and Homeland Security
U.S. Representative Bobby Scott, Ranking Member, Subcommittee on Crime, Terrorism and Homeland Security
Members, House Committee on the Judiciary
Executive Board, National Fraternal Order of Police
Board of Trustees, National Fraternal Order of Police
State Lodge Presidents, National Fraternal Order of Police