Crime –
Gun Ideas

TO: George Stephanopoulos

FROM: Jody Powell

DATE: January 14, 1994

FAX #: 456-2883

OF PAGES: 4 (including this cover)

I realize this is late, but thought I'd send it over anyway.

To: President Clinton
Bruce Reed
Fr: GS

This makes a lot of sense
GS

January 14, 1994

MEMORANDUM

TO: George Stephanopoulos

FROM: Jody Powell JP

RE: Gun Control

I am reluctant to stick my nose into an area in which I am by no means an expert. However, gun control is something that I have thought about a good deal; and I believe it poses real dangers to the administration. So, here goes.

If there is an area that needs "new thinking," "rethinking," "a different kind of Democrat," and all that, crime/gun control is it. From the outside this does not appear to be happening. What I hear and read sounds like the same old ideas being presented with the same worn-out rhetoric.

There are, I think, two cardinal principles that ought to be kept in mind:

1. To make it worth the effort, you must be able to come up with something on gun control that holds real promise of being effective, and, most importantly, being effective in dealing with the type of violent crime that concerns most Americans.

2. You must talk about what you are doing, even in the policy formulation process, in ways that clearly set this effort apart from past Democratic efforts that have proven to be both ineffective and politically costly.

Let's start with effectiveness. The first and last question that must be asked about any of the policy proposals is, "Do you honestly believe this will really make a significant difference in street crime -- not hunting accidents, not domestic violence, but street crime?"

In my humble estimation, the reason we never get the political benefit from gun control that the polls seem to promise is because our proposals are substantively weak. We have yet to propose anything that people believe will make any difference. The people who are generally for gun control don't make it a voting issue because it has no real impact on their lives. On the other hand, the inconvenience and hassle of wading through another round with indifferent and

incompetent bureaucrats and the fear that this is only the first step toward more radical measures are quite real to people who own guns. As much as I hate to say it, the NRA is effective primarily because it is largely right when it claims that most gun control laws inconvenience and threaten the law-abiding while having little or no impact on violent crime or criminals.

(If you doubt this last, call the D.C. government, say you just moved to town with a couple of shotguns for hunting, and ask what you need to do to comply with the law. Then ask yourself whether you think this law and what you are told to do has had, or is ever likely to have, any beneficial impact on your chances of being shot down on the street, or in your car, or in you house by some kid with no hope and no conscience.)

I do not have the answer to the question of what you could propose that really would make a difference. But I do have a thought or two.

Focus on what really upsets and scares people. It is the growing threat of random violence by strangers. What you want to do is get guns off the street. It is certainly true that too many people die in hunting accidents or domestic violence or occasionally because a five-year old got his hands on a loaded gun. But none of that is what drives the crime issue. And none of that is worth the political capital you would have to expend to make a real difference.

It is easy to be distracted from this focus. The much-publicized Emory study of a few months ago is a classic example. You may think that having a gun in the house for personal protection is ill-advised, but the people who think otherwise don't have to be your enemies. And they aren't all nuts. Once you get past all the rhetoric, my read is that the Emory study basically said, that if you have relatives or frequent guests in your home who are inclined to settle arguments by killing people, it is probably not a good idea to have a gun around.

My advice is <u>not</u> to try to go after or spend a lot of time talking about guns in the home. To repeat myself, that is <u>not</u> what is driving the crime issue. Moreover, given the state of this society, trying to convince people to support a law that denies their right to protect their homes is probably a loser.

Whatever you propose will require sacrifices from people who own guns or think they might want to someday. If violent crime is truly is a national emergency, perhaps other compromises need to be considered, too. Specifically, is there not some way to broaden and strengthen the ability of police to act against people carrying unlicensed firearms on their person or readily accessible in their vehicle? That is the guts of the issue. Unless you figure out a way to improve enforcement against this type of behavior, the impact of licensing, registration, and the like is marginal at best.

I support registration in principle. But two questions need to be asked. Are the people causing the problem going to comply voluntarily? If not, do you have a way to effectively enforce compliance? If the answer is "no" in both cases, consider whether the benefits are worth making Bob Dole majority leader.

Finally, a word or rhetoric and positioning. What I have heard thus far are things like, "ending our national love affair with guns" and "making it as least as hard to buy a gun as to get a driver's license." Your problem and the national problem does not come from people who love guns and hunting and other shooting sports. The truth is you need their help. I'm not sure what the second comment means; and I doubt whoever said it is either; but I doubt Washington's murder rate is due to the fact that street punks are insufficiently educated in the safe and effective use of their weapons.

My first bit of advice on positioning is to think carefully before you make gun control the centerpiece of your crime package (which is the way it sounds like you are headed.) Unless you come up with something much more effective than anything yet proposed (which means solving the enforcement problem), it ain't gonna work; and, what is worse, you ain't gonna be able to convince very many people that it will. You will be asking some good Democrats to cast a very tough vote for no good end -- and in a year in which you are already going to be asking for more than a few tough votes.

If you are able to come up with something that really has a chance of working, why not make a direct appeal for the support of rational, reasonable gun owners? That would involve choking off the silly rhetoric noted above, telling the truth about what you are proposing and what it is likely to accomplish, and providing some reassurances from the president that he opposes the more radical agendas of some of your allies in the gun control movement -- such as a total ban on handguns or requiring that hunters deposit their guns in government warehouses or the like. It would also involve acknowledging that we are asking people who are not responsible for the problem to make some sacrifice in terms of time and convenience. Most importantly, it would involve a crime program with other workable, effective elements so you would not be in the untenable position of implying that the problem could be solved through gun control alone.

I would like nothing better than to help kick the NRA's butt. With good substance and decent positioning I think it can be done. I also think it would be possible to put together a strong, well-financed coalition that goes well beyond the traditional gun control groups. Indeed, I think such a coalition is critical. You really don't want the traditional groups as the principal leaders. Though I have supported and contributed to some of them, their ineffectiveness is demonstrable and the goals of some are not consistent with the best interests of the administration.

Sorry this is so long and rambling and late. If any of it makes sense to you and I can help, give me a call.

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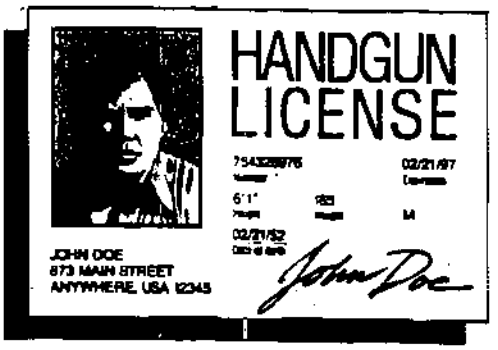
Crime - Gun Ideas

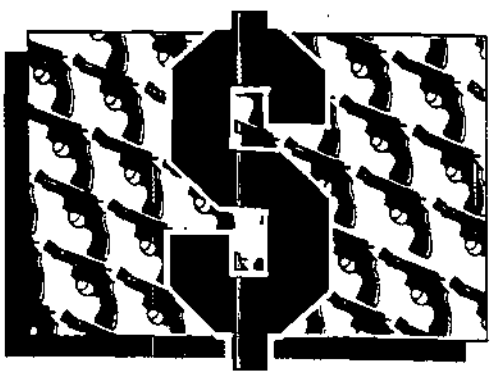
Proposed Comprehensive Bill of Handgun Control, Inc.



Requires a license to buy a handgun; mandates fingerprint checks and safety training for license applicants; includes a permanent 7-day cooling-off period; and requires the registration of handgun transfers.

Prohibits gun possession by those convicted of violent misdemeanors, including spousal abuse and child abuse; and requires a special license for the possession of a gun arsenal (20 guns or 1000 rounds of ammunition).

(any Firearm)



Requires gun dealers to pay an annual license fee of $1000; prohibits the sale of more than one handgun a month to any individual; mandates a federal license for ammunition dealers; requires background checks for gun store employees; bans firearms sales at gun shows; and creates a private cause of action for gun law violations.

Bans semiautomatic assault weapons, Saturday Night Special handguns, and non-sporting ammunition; regulates gun safety; and increases the surtax on handguns and handgun ammunition.

HANDGUN CONTROL

ONE MILLION STRONG . . .

Introduction

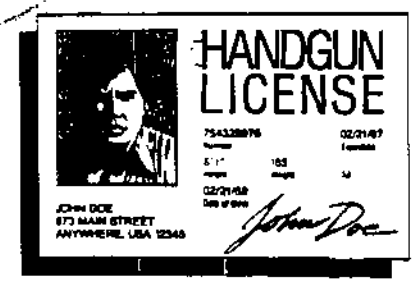
Since 1987, while the homicide rate has soared, the rate of murders committed with all weapons other than handguns has actually declined by 7%. The entire increase in the national murder rate, from 1987 to 1992, was due to a huge, 52% jump in the rate of murders committed with handguns.

Handgun Control has, for years, argued that handguns are the problem, and that we need a "national gun policy" in order to reach a solution. Although the Brady Bill has consumed the public's attention over the past few years, Americans are ready for much more comprehensive initiatives.

According to a 1993 Louis Harris poll, 82% of Americans favor handgun registration, 67% favor limiting purchasers to one-gun-per-month, 63% favor a ban on assault weapons, and 62% favor a special handgun tax.

A Peter Hart Maryland poll conducted in September 1993 found that 80% would support a "comprehensive" handgun bill, including licensing, registration, regulation of private transfers, a mandatory safety examination and a limit of only two handgun purchases per year. This proposal received approval just as broad as a simple ban on assault weapons. But support for a comprehensive approach is even more deep. People want real solutions to the problem of gun violence, and only a comprehensive program provides such a solution.

Therefore, Handgun Control proposes the following comprehensive legislation to regulate every level of the gun industry. While the Brady Bill will save lives, our comprehensive legislation, coupled with education and legal action, will offer a solution to America's epidemic of gun violence.



Handgun License and Registration

The Problem:

Handguns are much too easily accessible in this country. In 24 states, you can buy a handgun just as fast as you can buy a quart of milk. As a result, handguns are obtained and used by felons, fugitives, the mentally ill, and those who resort to violence in the heat of passion or the depths of depression.

The Brady Bill will save many lives by making handguns less accessible. But the Brady Bill will not solve the whole problem. We need to do more. Obtaining a handgun should be more like buying and using a car.

*In our country, we require a drivers' **license** and motor vehicle **registration** because cars are very dangerous consumer products. In order to get a drivers' license, one has to (1) reach a minimum age; (2) present proof of residency; (3) successfully complete a safety examination; (4) present proof of liability insurance coverage; and (5) pay a fee to cover the cost of the license.*

This has proven to be an effective system for regulating drivers and tracking car ownership. We should implement such a licensing and registration system for handguns because handguns are much more dangerous than automobiles. While cars kill by accident, handguns kill because they are designed and intended to do so. The need is clear.

The Solution:

A. A person would have to obtain a handgun license in order to buy, or otherwise receive transfer of any handgun or handgun ammunition. In many ways, a handgun license would be like a driver's license. It would be issued by states and function as a photo identification card. It would remain valid for two years and be renewable. To get a handgun license, an applicant would have to:

(1) Be at least 21 years old. Currently, federal law prohibits licensed dealers from selling handguns to persons under 21 but it is perfectly legal for an unlicensed person to sell or give a handgun to a child of any age.

(2) Present proof of residency such as utility bills. It is illegal for an unlicensed person to buy a handgun outside his/her state. However, several states require very little proof of residency to buy a gun.

(3) Go through both fingerprint and name-based background checks. The Brady Bill requires a name-based criminal history check. But fingerprints provide the most reliable proof of identity.

(4) Successfully complete a mandatory safety training course. An untrained handgun owner is a menace to society and himself/herself.

(5) Present proof of liability insurance coverage.

(6) Pay a fee to cover the cost of the license.

B. Before taking possession of any handgun, a person would display his/her license. Then the transferor, whether a licensed gun dealer or a private individual, would contact the state police or similar authorized agency and:

(1) Confirm that the handgun license is still valid, because licenses would be revoked if the licensee no longer meets the qualifications.

(2) Provide information necessary to register the handgun transfer.

C. The purchaser would then have to wait through a 7-day cooling-off period before receiving a handgun. Even if an applicant has no criminal record, he/she should complete a cooling-off period so shootings will not take place in the heat of passion or depths of depression.

Restrictions on Gun Possession

The Problem:

Currently, there are no restrictions on the possession/ownership of firearms except on persons who are: felons, fugitives, committed to a mental institution, dishonorably discharged from the military, or illegal aliens.

It was perfectly legal for David Koresh to own hundreds of guns and millions of rounds of ammunition. It is legal for children, and most people convicted of violent crimes (i.e., misdemeanor assaults), to possess guns. Federal law needs strengthening.

The Solution:

A. The following would be added to the list of persons prohibited from receiving or possessing firearms:

(1) Persons convicted of violent misdemeanors, such as simple assault;

(2) Persons convicted of spousal abuse or child abuse; and

(3) Persons subject to a protective order.

B. It would be illegal for persons under age 21 to possess handguns, except while under the direct supervision of a parent/guardian or adult instructor authorized by the parent/guardian. It would also be illegal to transfer a handgun to such a juvenile or to negligently store or leave a loaded handgun where it is accessible to a juvenile.

C. There would be required a special federal arsenal license for any person to possess more than 20 firearms or more than 1000 rounds of ammunition. The requirements for getting such a license would be similar to the requirements for a machine gun license, including: (1) a full background check; (2) a fee; and (3) a certificate from local law enforcement approving the license. Anyone who has a personal arsenal is a danger to society. Even if the person never intends to shoot anyone, he/she is a perfect target for gun theft. The federal and local law enforcement authorities should know the location of such arsenals and require strict anti-theft security measures.

D. The authority of ATF to grant "restoration of gun privileges" to prohibited persons would be abolished. Further, states could only restore gun privileges to prohibited persons if the state's reviewing agency affirmatively restores such privileges after specifically considering whether a restoration of *gun* privileges is warranted. In 1986, Congress made it much too easy for guns to be restored to felons. Felons should only have gun privileges restored if state authorities specifically order it.

Restrictions on Sellers/Dealers

The Problem:

There are more than 280,000 federally licensed gun dealers in America. According to the National Alliance of Stocking Gun Dealers, there are only about "16,000 legitimate storefront independent firearms dealers" and "approximately 5,500 chain and department stores" which sell guns. So, more than 90% of federally licensed gun dealers are not engaged in the regular, legitimate sale of guns.

Hundreds of thousands of "kitchen table" dealers exist because it is so easy to get a license. All one has to do is fill out a simple form and pay $10 per year.

Further, there are a whole host of loopholes in the law. A federal license is ***not*** *required in order to sell ammunition, and in fact, ammunition is sold across state lines by mail! Felons and children can legally be employed by gun stores to sell guns. And federally licensed dealers are not legally required to cooperate when law enforcement authorities telephone for gun tracing information.*

The Solution:

A. **Federal Firearms Licenses ("FFLs") would be limited to bona fide dealers by requiring:**

(1) **Dealers must prove that they are in compliance with all state and local laws.** Now, the federal government is required to grant a gun license even when it is known that gun sales are forbidden at the licensed premises.

(2) **The annual fee would be increased to $1000 per year.**

(3) **The time granted to ATF to conduct a background check on applicants would be extended from 45 to 180 days.** ATF is simply unable to conduct a reasonable background check in 45 days, especially because applications are currently received at the rate of about 400 per working day.

(4) **The number of yearly inspections permitted would be increased from 1 to 3.** In 1986, Congress restricted the inspection authority of ATF. There is simply no justification for tying the hands of law enforcement.

(5) **Licensees must prove they carry adequate business liability insurance.**

B. **It would be illegal for any person to sell to one person, or buy, more than one handgun per month.** The purpose of this provision, now law in Virginia and South Carolina, is to make gunrunning impractical. Currently, federal law contains no restriction on the number of handguns which can be bought or sold in one transaction. The multiple sale of handguns by a federally-licensed dealer must be reported to ATF pursuant to 18 U.S.C. 923(g)(1)(D)(3). But (a) the reporting occurs after-the-fact, so the gunrunners are long gone before ATF can do anything about them; (b) ATF simply doesn't have the resources to check out a large percentage of the multiple sales reported; and (c) current federal law only applies to transfers by federally licensed dealers, and many multiple handgun sales occur between unlicensed individuals at gun shows. Federal law must be changed in order to stop interstate gunrunning. And the one-handgun-per-month proposal has been proven to work.

C. **No one could engage in the business of selling ammunition without being a federally licensed dealer. The interstate sales of ammunition to non-FFLs would be banned.** Currently, one does not have to be licensed to sell ammunition, or buy ammunition across state lines. In fact, there are mail order catalogues which sell unlimited amounts of ammunition through the mail. They don't even ask if the purchaser is an adult! This means there are no controls at all on who has access to ammunition.

D. **In order to work in a gun store, all employees must pass name-based and fingerprint-based criminal background checks. All**

employees with access to handguns or handgun ammunition must be at least 21 years old and all employees with access to long guns and long gun ammunition must be at least 18 years old. This does not apply to an employee who has no unsupervised access to firearms or ammunition. It is currently not illegal for felons and children to sell guns, or otherwise have unsupervised access to guns and ammunition by working at a gun store. This must he changed.

E. Gun dealers would not be permitted to sell firearms in any location other than the licensed premises. Guns could be exhibited, but not sold, at gun shows. Current federal law explicitly exempts gun shows from the normal requirement that dealers conduct their business at the premises specified in their license. See 18 U.S.C. §923(j). Gun "shows" are really massive gun sales. They provide the ideal setting for gun traffickers to obtain a lot of guns at one time, and it is just impossible for ATF to properly police compliance with federal law at these events.

F. Dealers would be required to cooperate with criminal investigations by:

(1) Responding to ATF's telephone requests for tracing information; and

(2) Reporting all gun thefts and losses to ATF and local police. ATF reports that some gun dealers refuse to cooperate when requests for gun tracing information are requested over the phone. Incredibly, dealers are not required to cooperate. Similarly, dealers are not required to report thefts from their stores even though a quick investigation makes it much more likely to capture the criminals.

G. Component parts of a handgun would be treated as a handgun, so buyers would need a license, sellers would need an FFL, and interstate sales would be illegal. Component parts mean the frame, barrel, stock, receiver, any part of the action, or ammunition magazine. Gun publications regularly advertise gun parts for sale. Since only the lower receiver of a gun, the part containing the serial number, is considered to be a "firearm," all other gun parts can be bought and sold through the mail by unlicensed persons.

H. When delivering firearms, a common carrier must confirm the recipient is an FFL. Companies which deliver firearms from one licensee to another should double-check that the addressee is an FFL by inspecting the license.

I. If an innocent third party injured with a firearm sues for damages, the transferor of that firearm would be held liable for all injuries caused by a violation of the Gun Control Act, and attorney's fees would be assessed against a seller found to have violated the Act. This provision is the key to effective enforcement of federal gun laws. Because the damages inflicted by firearms are so severe, this provision would be a powerful incentive to obey the law. No federal bureaucracy will ever have the impact of civil litigation. Federal civil rights and antitrust laws work primarily because of the private statutory remedies.

Restrictions on Manufacturers/Importers

The Problem:

Contrary to popular belief, a whole range of weapons are currently banned or severely restricted under federal law, mostly through the National Firearms Act, 26 U.S.C. §5801 et seq. Such weapons include machine guns, silencers, sawed-off rifles and shotguns, and non-sporting firearms with a barrel diameter in excess of one-half inch. In addition, non-sporting firearms such as assault weapons and Saturday Night Special handguns, are banned from importation under 18 U.S.C. §925(d). The question, then, is not ***whether*** *to draw a line between acceptable and unacceptable guns, but* ***where*** *to draw that line.*

We propose to add certain types of guns to the prohibited category, specifically: semiautomatic assault weapons, Saturday Night Special handguns, and non-sporting ammunition. All of these are already banned from importation into the United States pursuant to 18 U.S.C. §925(d).

In addition, we propose to ban large-capacity ammunition magazines which are now totally unregulated in America. Since magazines are not defined as "firearms," they can be manufactured, as well as bought and sold across state lines, without any license. Felons can legally purchase and possess large-capacity ammunition magazines.

The Solution:

A. A new system would classify types of firearms into three categories: Class A/Prohibited Firearms; Class B/Licensed Firearms; and Class C/Unlicensed Firearms.

B. Class A/Prohibited Firearms would include weapons currently regulated under the National Firearms Act (such as machine guns), as well as semiautomatic assault weapons, the component parts of machine guns or semiautomatic assault weapons, Saturday Night Special handguns, non-sporting ammunition such as the "dragon's breath" shell, and ammunition magazines with a capacity in excess of six rounds. For all such firearms:

(1) Future manufacture and importation is banned; and

(2) Future transfers would require registration of the weapon, payment of a transfer tax, and approval of local law enforcement.

C. Class B/Licensed Firearms would include handguns and handgun ammunition, and all future transfers of such would require a handgun license.

D. Class C/Unlicensed Firearms would include long guns (rifles and shotguns) and long gun ammunition, and all future transfers by FFLs would be subject to the national instant check system, once it is operational under the Brady Bill.

E. The federal government would be authorized to regulate the safety of firearms, but would be forbidden from banning firearms. Currently, firearm safety is totally unregulated. It is legal to sell a gun which does not function, or which blows up in the hand of the user. More importantly, it is legal to sell guns without the simplest and cheapest of safety devices. Many preventable accidents result.

F. The 10% federal tax on handguns would be increased to 30% and the tax on handgun ammunition would be increased from 11% to 50%. All the proceeds from the handgun/ammo tax should fund a law enforcement program to prevent gun violence, and/or a health care program to treat the victims of gun violence. Currently, there is a 10% surtax on the first sale of a handgun, from the manufacturer or importer to a wholesaler or dealer, and an 11% surtax on long guns and ammunition. The proceeds from this tax are currently disbursed to state fish and game departments through the Pittman-Robertson Program. Those funds are earmarked to benefit hunting and sport shooting.

Gun Ideas

D R A F T

Since November 10, 1993, when the Domestic Policy Council wrote a memorandum to the President on ~~gun~~ policy options to reduce gun violence, the DPC has been working with the State and Treasury Departments to try ~~and~~ to curb the importation of surplus military rifles and handguns and other inexpensive firearms from Eastern Bloc countries and China. At the time, our biggest concern was the millions of firearms coming in from China -- the largest single source of gun imports. This concern was addressed by the President's decision to extend Most Favored Nation trading status to China while simultaneously restricting gun imports. However, we have now detected a new -- and potentially larger -- influx of firearms that has become an issue for the Russian Summit.

I. GENERAL BACKGROUND

Prior to 1968, the U.S. was ~~the dumping ground for~~ flooded with inexpensive surplus military firearms and cheap "Saturday Night Special" type handguns. As firearms import levels rose to 1.2 million in 1967, Congress responded by passing the Gun Control Act of 1968 (GCA), which banned the import of all surplus military firearms and permitted the import of non-military firearms only to the extent that such weapons were designed to meet a "sporting purpose." The "sporting purpose" test stopped the importation of cheaply made, easily concealable handguns that were the crime guns of the day.

The Arms Export and Control Act (AECA), which pre-dates the GCA, also moderated the volume of firearms imports in the late 1960s. Pursuant to the AECA, firearms trading with specific countries designated by the State Department's proscribed list -- such as China, South Africa, Vietnam and the nations of Eastern Europe -- was prohibited.

In recent years, however, several factors have combined to once again make the US a potential dumping ground for cheap weapons from around the world. First, in 1984, Congress amended the GCA to allow surplus military weapons to be imported if the weapons fit within the category of "curios and relics." This amendment originally applied to only a few rare collectibles that were more than 50 years old. But in 1994, virtually all World War II surplus military firearms are eligible for this exemption. Treasury intends to fix this problem soon by amending the regulations defining "curios and relics."

Second, as trade with China and Eastern European countries has opened, these nations have been removed from or granted exceptions from the State Department's proscribed list, lifting the restrictions against arms importation under the AECA. As a result, large quantities of surplus military rifles and handguns are being imported and sold in the U.S., often at prices below

1992? 93?

$100. China, and to a lesser extent Eastern European countries, are apparently converting their military firearms industry to produce civilian firearms for sale in the U.S. Over 300,000 SKS semiautomatic rifles, which sell for about $100, were imported from China in 199 and more than 1 million firearms overall. The President's decision to restrict munitions from China as a condition of extending MFN put a stop to the importation of these Chinese imports. This was accomplished by discontinuing the State Department's 1989 policy decision to effectively grant China, which had remained a proscribed country ineligible to import munitions, presumptive approval of firearms imports.

II. ~~NEXUS WITH~~ RUSSIAN SUMMIT

Like China, Russia remains on the State Department's list of proscribed countries and -- since 1992 -- has been allowed to import firearms on a presumptive approval basis. To date, however, Russia has only imported a relatively small number of firearms (1,036 in 1992 and 18,046 in 1993) and was not the focus of the Administration's attention when the State Department quit processing applications in late February to further study the problem of gun imports. Since that time, Russia has submitted more than 250 license applications to import as many as 7 million firearms of all types and 7 billion rounds of ammunition -- more than twice the number of firearms imported by all countries last year (3 million). Clearly, granting Russia presumptive approval of so many firearms at once would contradict our efforts to curb the importation of assault weapons and large numbers of Chinese firearms of all types.

On the other hand, simply invoking Russia's proscribed status and denying these 250 applications runs counter to our efforts to normalize trade with Russia. According to the State Department, the Russian Deputy Trade Representative has already complained about backlog of firearms import applications and suggested that Yelstin himself might raise this issue during the Summit. These application represent about $1 billion in trade to the Russians, and they fully expect their applications to be approved. Moreover, there is now a proposal before the Summit to remove Russia from the proscribed list in return for their commitment to end arms sales to Iran. And, while it is unclear whether an agreement on this issue will be reached at the Summit, such an agreement would preclude our ability to curb these gun imports in the short-term.

III. Options to Consider

In the short-term, all we can do to curb the flow of Russian firearms is to buy some time until we find a long-term solution. Frankly, as the U.S. continues to promote free trade -- and more and more countries are dropped from the proscribed list -- the number of firearms being imported into the country will only increase. The only sure way to ebb the flow of guns into the country is to further restrict their availability here at home --

a course of action that is not likely in the near future. Here are the short-term options as we see them:

Option 1: **Immediately deny Russia's pending applications.** The only way to guarantee that millions of Russian firearms do not flood our market over the next few weeks or months is to immediately deny Russia's pending applications before Russia is dropped from the proscribed list. Doing so would not solve our long-term concern with the number of Russian guns that will ultimately be imported, but it will buy us some time while we search for solutions. If Russia is dropped from the proscribed list at the Summit, we would have very little time before the applications would be resubmitted. If Russia is kept on the proscribed list, we could still say to Russia that we intend to continue to work with them on this issue, but -- just as crime is a top concern in Russia -- the current political climate on crime precludes the President from allowing so many guns to be imported right after he signed a controversial law restricting their availability at home.

Option 2: **Gamble that Russia will not be dropped from the proscribed list until after the Summit and deny their applications then.** If it looks as though Russia is not yet prepared to quit selling arms to Iran and not about to be dropped from the proscribed list, we could express our concerns with gun imports to the Russians, but avoid taking any action one way or the other. After the Summit, we could deny the applications for gun imports -- citing our previously expressed concerns -- and continue to work with the Russians on resolving this issue.

Option 3: **Negotiate a delayed effective date for Russia being dropped from the proscribed list.** If it looks as though Russia will quit selling arms to Iran and be dropped from the proscribed list, we could propose a delayed effective date, perhaps 6 months, to ensure that all parties have complied with the terms of the agreement. It seems reasonable to ask Russia form some type of probationary period that would allow us to confirm that they have indeed stopped selling arms to Iran before we expedite applications to import 7 million firearms and 7 billion rounds of ammunition. Perhaps we could even make the case that we need time to study the impact of taking Russia off the proscribed list before actually doing so.

Regardless of what course of action you think is best in the short-term, we recommend that an interagency group with representatives from State, Treasury, USTR, Justice and the White House be convened to look for long-term solutions. Possible long-term solutions include developing a new, credible foreign policy rational for limiting gun imports, negotiating bilateral voluntary restraining agreements with countries that are importing large numbers of firearms, or building on Louis Freeh's and Ron Noble's recent trip to Eastern Europe and Russia and pursuing a multilateral agreement on international crime that allows us limit gun imports as we help other countries tackle their crime problems.

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CRIME - Gun ideas

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Bruce -- this guy called you yesterday.

March 7, 1994

The Honorable William J. Clinton
The White House
Washington, D.C. 20505

Dear Mr. President:

This letter will serve to confirm my telephone conversation with Goody Marshall of the Vice President's Office whom I have since working as Staff Counsel for Senator Kennedy.

I am concerned about the number of firearms that are in the hands of young people who in turn use them in unspeakable acts of violence towards one another. Of course this is nothing unfor--tunately you have not heard before.

However, I have conducted a study that can make signifigant impact on the flow of weapons that I come in contact with as a Police Officer that costs our country over 20 Billion Dollars in healthcare trauma services and lost productivity.

In order to accomplish this task we must create a relationship that is non adversarial between the Federal Government, Gun Owners, and Law Enforcement. Now this sounds much like a real paradox like using the term "Military Intelligence" but it can exist.

The study I conducted used Los Angeles County as its base. Accor--ding to the statistics given by the County Medical Examiners Office, in 1993 there were recorded about 60,000 deaths.
Of these two thrids or, 40,000 people died from advanced age. The average mean age between 68 to 78 years. Now most likely this means that those individuals moved hear to the greater Los Angeles area after World War 2.

Most of those in this study came from the northeast and midwest and most likely had exposure to firearms for the purposes of recreation hunting, target shooting, etc. Now included with this are War Veterans who at that period of time are those who collected war weapons as momentos.

President William J. Clinton
March 7, 1994

Now the families of these people who died and discovered that amongst the desceased effects were weapons that they neither want nor know what to do with. A gun is not something that you can throw in the trash, or give away to a thrift drive like you do with old clothes.

The bottomline is that these weapons more often than not end up in a garage with the best of intentions that unfortunately get into the hands of drug addicts and other criminals through residential burglaries.

As a County Police Officer I work the gunshot detail at Los Angeles County, University of Southern California Medical Center. Each month my department takes an average of 600 gunshot injury reports. During my career in both Federal, and local law enforce--ment I have either recovered from vehicles, or off of a suspect weapons that more often than not were stolen, or were taken from the home of an unsuspecting family member.

In the past it has been the rule rather than the exception to react to highly visable acts of violence by placing more and more laws to restrict weapons from citizens. Some of these laws I support, but some I disagree with based on the fact that some member of the Congress addressed a local matter with a one size fits all statute that cannot be fairly applied.

The result of this type of legislation creates fear that the Government is going after the average citizen trying protect themselves against a society that their law enforcement officials cannot handle properly to the expectations of their constituancy. More so what happens now when a ammunition company announces for example the stopage of the Black Talon 9mm. Bullet people come out of woodwork lining up around the block in anticipation of buying what they feel is there lifeline to self protect. As a result, the Black Talon Company sold in two weeks more ammunition than they did in three years.

President William J. Clinton
March 7, 1994

My interest is that the Administration propose legislation that would allow the owners of firearms to receive a tax credit for the fair market value of the weapon they redeem to a local Police Department.

The local Police Department would have a form from the Bureau of Alcohol, Tobacco & Firearms. The Police Officer would enter the weapon into the National Crime Information Center as being redeemed. The form would indicate the make and model number of the weapon, and a copy would be given to the owner who would be able to reduce taxes already owed, or to an anticipated refund that would be enhanced through this act.

Now I mentioned the 20 Billion Dollars figure. When you look at the fact that a stolen gun costs between $75.00 to $150.00 and a bullet costs around .15¢ and when a person is shot by such a weapon its can quickly run into the hundreds of thousands of dollars in chief because the victim does not health insurance, but even if they did, the losses to Insurance Carriers are past down to their Policyholders, and to those companies that they invest their monies with.

This is a real common sense investment in our nations health. I hope that you will give it due consideration.

Thank you in advance for your time, and attention in this matter.

Sincerely,

ROBERT A. DANFORD

17808 Sherman Way Suite 208
Reseda, California 91335

Crime - Gun Ideas

THE PRESIDENT HAS SEEN

Police Strategy No. 1:

Getting Guns off the Streets of New York

The Honorable Rudolph W. Giuliani
Mayor of the City of New York

William J. Bratton
Police Commissioner

March 7, 1994

From the President's trip to New York. Should go to Bruce Reed

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Introduction

Getting Guns Off the Streets of New York is the first of a number of major police strategies to be designed and launched by the Giuliani administration. In the coming weeks, similar strategies will be put in place in the areas of school safety and youth violence, narcotics, quality-of-life violations, domestic violence, and auto-related crimes. The first two of these will also deal with illegal firearms as both cause and effect of other crimes.

Taken together, these police strategies must work in concert to reduce violent crime, disorder, and fear in New York. This is part of Mayor Giuliani's larger commitment to make the city an economically vibrant center where people of all races, creeds, and ethnic origins feel free to raise and educate their children and to live in an atmosphere of civility.

Illegal guns—particularly handguns—are an unrelenting and growing plague in New York. In 1960, there were 75 homicides committed in the city with handguns, representing a quarter of the total number of murders for the year. In 1992, there were 1,500 homicides (a 1,900% increase in number) committed with handguns, representing three quarters of the total number of murders (a 200% increase in proportion). In 1960, handgun possession and use by young people was virtually unknown. Today, it is pervasive.

With 90% of the illegal guns in New York flowing into the city from other states, this is clearly a problem that transcends any one city's boundaries. Federal legislation and federal enforcement action are imperative. The Mayor's proposal for a national uniform licensing system for firearms, similar to that required by each state for those wishing to have a driver's license, is but one example.

But the purpose of Police Strategy No. 1 is to discuss what local efforts can and will accomplish—and why local efforts have failed to do what they could have done in the past.

There must be far greater certainty among all citizens that illegal activity will lead to apprehension and jail. For success to be achieved in reaching this goal, it is necessary that arrests, convictions, and jail time for perpetrators increase. It is also

necessary that the entire criminal justice system work together diligently to achieve this.

This will be a reassurance to some and a threat to others. Both are necessary if we are to restore civility as a hallmark of life in New York.

THE PROBLEM

When the final crime reports for 1993 are completed, we may find that reported crime in New York City declined to its lowest level since 1985.

Yet, according to *New York Newsday* (December 16, 1993), a substantial majority of city residents remain afraid—for themselves and their children—of violent crime.

They are afraid for a reason, and that reason has mainly to do with handguns.

- In 1960, 75 homicides were committed with handguns in New York City.
- In 1992, 1500 homicides were committed with handguns.

FACT: Between 1960 and 1992, census figures indicate the population of New York City declined by 6%.
Yet, between 1960 and 1992, homicides committed with handguns increased by 1,900%.

And city residents complained more and more about hearing shots fired in the streets, outside their windows.

- Between 1983 and 1993, the number of 911 calls about shots fired outside nearly quadrupled.

And increasingly, gunshots are hitting human beings. While 1,541 people died in 1992 from gunshots, almost 4,000 more people were wounded.

- During the last fiscal year, patients treated for gunshot wounds cost city hospitals nearly $12 million.

And this dollar figure does not begin to capture the grief, worry, and expense suffered by the individuals who were shot and their families.

Handguns are streaming into New York from outside the state's borders.

- Over 90% of firearms seized in New York City were originally purchased in other states.

Estimates of the number of handguns in circulation on the streets of New York vary widely—from 1-2 million. No one knows the exact number. But we do know one thing:

Whatever we are doing to reduce violent—especially handgun-related—crime is not working.

CURRENT PRACTICE

Until now, despite good intention, a number of new programs, and a series of orders emanating out of One Police Plaza, gun arrests in New York City have largely been viewed in a vacuum: the simple confiscation of a piece of hardware that may, or may not, have been used in another crime.

Rarely have gun confiscations been used to attack a series of related crimes: the trafficking and purchase of the gun in the first instance, other crimes committed with the weapon, or the crimes of accomplices who have not been systematically pursued once the arrest of one defendant is made.

The current practice of the NYPD, described largely in Interim Order 24 (April 9, 1992), is summarized as follows:

When uniformed and non-uniformed members of the Patrol Services Bureau make arrests for crimes in which a gun was involved, they are instructed to:

- call, in cases where both drugs and guns are involved, the Narcotics Division to check its computerized NITRO (Narcotics Investigative Tracking of Recidivist Offenders) database to see if the suspect has a prior conviction on a firearms-related charge; if so, a member of the NITRO unit is supposed to respond to the precinct, augment the case (by pursuing and interviewing witnesses, vouchering additional evidence, etc.), and inquire about the seller of the firearm; or

- call, in cases where drugs are not involved, the Career Criminal Investigation Unit of the Detective Bureau to determine if the suspect has a prior conviction on a firearms-related charge; if so, a member of CCIU is supposed to respond to the precinct, augment the case, and inquire about the seller of the firearm; or

- prepare a Firearm Arrest Enhancement Worksheet, in those cases where CCIU or NITRO is not responsible, and ask the suspect who sold him or her the gun, the seller's address, the caliber of weapons the seller provides, and the method of transporting firearms; and, if appropriate,

- refer the suspect to the joint Organized Crime Investigative Division (NYPD) and Bureau of Alcohol, Tobacco and Firearms (US Department of Treasury) Task Force (known as the Joint Firearms Task Force), if the suspect indicates a willingness to cooperate.

How has this system worked?

In 1993, 11,222 arrests were made for crimes in which a firearm was confiscated, and 13,134 guns were taken off the streets by the NYPD.

Of these arrests, 8,920 were made by uniformed and plainclothes members of the Patrol Services Bureau.

- In addition to its other work, the CCIU of the Detective Bureau augmented 500 firearms-related cases last year and referred 22 cases to the OCID/ATF Task Force.

- In addition to its other work, the NITRO unit of the Narcotics Division found 28 names in its computerized files last year and augmented 14 cases.

- The Joint Firearms Task Force responded to precincts and other elements of the criminal-justice system a total of 66 times to interview potential confidential informants. A total of 10 confidential informants were developed from this list. These informants contributed to a total of 11 arrests (with a dozen more pending), and 105 firearms seized.

FACT: During 1993, the combined efforts of specialized units referenced in Interim Order 24 yielded 4 confidential informants from precinct-based activity, 10 arrests, and 48 guns.

FACT: Firearms-related arrests have been declining since 1991.

FACT: Not all accomplices and gun traffickers who may have been connected to the 11,222 arrests in which firearms were confiscated in 1993 were systematically pursued by the field units of the Detective Bureau.

This is due to the fact that even though firearms-related cases are referred to detectives, they may be cleared and closed with one arrest—even when more suspects are involved.

FACT: In many firearms-related cases, suspects are not routinely interviewed by detectives, the department's personnel who are experienced and have been trained in case-enhancement and debriefing techniques.

This has been due to the fact that members of the Patrol Services Bureau, who had not received formalized training in these techniques, were the personnel instructed to fill out the Firearm Arrest Debriefing Worksheet.

There is anecdotal evidence that lack of training for Patrol in making and presenting gun cases is weakening firearms-related cases, resulting in unnecessary dismissals and acquittals.

FACT: Based on the conviction rates achieved for felony weapons charges between 1981 and 1992 (43-55%), it appears that only half of the suspects arrested primarily on a felony weapons charge are convicted.

But training in the area of firearms-related crimes is not the department's only deficiency. Equipment is another.

FACT: Each year on average, only 15 searches are run at the request of detectives trying to connect two or more crimes by examining a small selection of the tens of thousands of guns, bullets, and shells which have been taken in all evidence cases.

This has been due to the fact that all such test comparisons are done by hand, and it has not been the policy of the NYPD to run such tests on confiscated weapons, except where an investigator has made a hypothetical connection between specific weapons in two or more pending cases.

STRATEGY

As of Monday, March 7, 1994, it will be the policy of the New York Police Department to:

REFOCUS AND EXPAND INVESTIGATIVE RESOURCES

- to identify and pursue all accomplices involved in the commission of violent crimes;

- to identify and pursue gun traffickers inside and outside New York whenever an illegal gun is used in this city;

- to utilize detectives in the precincts to strengthen every gun arrest made by uniformed and plainclothes police officers; and

- to assign case responsibility at the precinct level to encourage results-oriented police and investigative work;

REFOCUS PATROL RESOURCES

- to refocus and expand the Street Crime Unit of the Patrol Services Bureau to attack specific high gun-violence areas;

REVISE AND EXPAND TRAINING

- to teach detectives case development of gun investigations, apprehension of illegal firearms traffickers, confidential-informant registration, and search warrants; and

- to teach police officers to better recognize the signs of weapons possession and to make better cases against individuals they arrest;

OBTAIN AND DEPLOY TECHNOLOGICALLY ADVANCED EQUIPMENT

- to match guns used in more than one outstanding crime; and

- to trace guns to illegal sellers throughout the country;

SECURE COMMITTED SUPPORT

- from the public, to identify and help locate all those who possess, use, or sell illegal firearms in their neighborhoods;

- from the Housing and Transit Police, to pursue a parallel gun strategy.

REFOCUS AND EXPAND INVESTIGATIVE RESOURCES

PRECINCT-BASED DETECTIVES

Responsibility for systematically identifying, pursuing, and capturing accomplices involved in firearms-related crimes and the sellers of weapons used in those crimes will now be assigned to the units of the Detective Bureau located at the precinct level. These units will include the Robbery Identification Program (RIP) Units in the 39 precincts where they are located and the Precinct Detective Units (PDUs or squads) where RIP units do not now exist.

In all cases of arrests involving firearms, these units will interview suspects to augment the case against them, to identify any accomplices, to identify the seller of the weapon, to match the modus operandi of the crime against outstanding cases and re-interview complainants from those cases, and to involve prosecutors in determining disposition of these cases.

The investigative steps performed by these units will be as follows:

1 Interview the suspect(s) to obtain a statement (written if possible) concerning the possession of the weapon and identification of accomplices in all arrests involving firearms.

2 Debrief all defendants to obtain the identity of gun traffickers.

3 Develop information to identify modus operandi, patterns, and leads on outstanding complaints.

4 Conduct line-ups when possible.

5 Prepare information for search warrant applications and develop plans for warrant execution.

6 Cultivate and register confidential informants.

7 Aggressively pursue the apprehension of all accomplices.

8 Organized Crime Control and other investigative units will enhance their own firearms arrests and will follow the steps outlined above.

JOINT FIREARMS TASK FORCE

NYPD and ATF personnel committed to the Task Force will be increased. Additionally, the Federal Bureau of Investigation will assign two agents to the Task Force. NYPD detectives and ATF agents will target illegal gun traffickers locally and pursue accomplices who supply 90% of illegal guns from six states. Detectives will be deputized as U.S. Marshals so that, along with their ATF colleagues, they will be able to use federal gun statutes, wiretap provisions, and grand juries, as well as travel out of state with full police powers, to pursue gunrunners along the pipelines from key supplier states.

WARRANT DIVISION

The Warrant Division—with its 137 investigators, 41 supervisors, commanding officer, and 57 civilians—is transferred from the Office of the Deputy Commissioner, Legal Matters, to the Detective Bureau. The Detective Bureau will prioritize the outstanding warrants for firearms-related crimes, coordinate this activity with RIP and precinct detective units, and execute these warrants expeditiously.

REFOCUS PATROL RESOURCES

STREET CRIME UNIT

The 86 police officers and 12 supervisors of the elite, citywide Street Crime Unit will be increased by 25% and deployed in a concentrated approach in one high-crime area at a time, on a 7-day, 24-hour a day basis, to determine to what extent they can increase firearms-related arrests, reduce violent crime in those communities, and address crime displacement into neighboring areas. Precinct resources will then be used to maintain areas taken by the Street Crime Unit.

REVISE AND EXPAND TRAINING

Revised training will move forward on three fronts:

1 RIP unit detectives will receive a five-day course which will focus on robbery investigations, case development of gun investigations, and apprehension of illegal firearms traffickers. These detectives will be trained to be more thorough when preparing the pertinent warrant information on the On Line Booking Sheet. They also will be instructed in interviewing and interrogation techniques for debriefing prisoners held in gun-related cases.

   This training will be completed by July 15, 1994.

2 Precinct Detective Units will receive precinct-based training on case development of gun investigations, apprehension of illegal firearms traffickers, registration of confidential informants, and search warrants.

   This training will be completed by July 15, 1994.

3 Uniformed and plainclothes members of the Patrol Services Bureau will receive precinct-based training on the "Anatomy of a Gun Arrest," from the initial street encounter to courtroom testimony. This will enable police officers to find concealed weapons more effectively, safely effect arrests, and help obtain higher rates of conviction by making better presentations to prosecutors, grand juries, and judges.

   This training will be completed by July 15, 1994.

OBTAIN AND DEPLOY TECHNOLOGICALLY ADVANCED EQUIPMENT

The technology of the late 20th century must be brought to bear on rapidly proliferating firearms-related crimes.

COMPUTERIZED BALLISTICS

If approved by the New York State Legislature, the Governor's Budget provides approximately $600,000 to purchase for the New York Police Department its first computerized system for comparing spent bullets and discharged shells.

Bullet Proof is a computerized imaging analysis system used for examining and comparing spent bullets recovered from victims and crime scenes.

Drug Fire is a computer which photographs, through a comparison microscope, the breech face and firing pin impressions of discharged shells.

GUN TRACING

The Federal Bureau of Alcohol, Tobacco and Firearms (ATF) is providing $20,000 to install a computerized connection to the new ATF tracing center under construction in Martinsburg, Virginia. This information will be used by the NYPD and the ATF in pursuing gun trafficking investigations.

Procurement and installation of this system is targeted for completion by April 1994.

AUTOMATED PISTOL LICENSE RECORDS MANAGEMENT

The New York Police Department will begin automation of all firearm ownership and license records in March 1994 and complete data entry one year later. Individuals in possession of suspected unlicensed firearms or of weapons suspected of being carried in violation of the Department's regulations will be checked against this database.

SECURE COMMITTED SUPPORT

FROM THE PUBLIC

The Crime Stoppers program funded by the New York City Police Foundation is offering rewards up to $1,000 for information leading to the arrest of anyone illegally possessing a firearm. Cases not resulting in immediate arrest will be referred to the RIP units and precinct detective squads for follow-up. The Crime Stoppers hotline, (212) 577-TIPS, will be publicized for those who have information about individuals with illegal guns.

WNBC-TV has promised to produce all 30-second spots for airing on their station and all others in the New York market. Negotiations are currently under way with all commercial stations to secure high-visibility slots for broadcasting these spots.

In addition, precinct commanders will work with local community groups to gain information about individuals who possess what may be illegal handguns in their neighborhoods.

Gun-exchange programs, in which people who turn in firearms to the police receive a cash or other kind of reward, will continue to be encouraged. Private donors for rewards of this kind are being sought.

FROM THE TRANSIT AND HOUSING POLICE

Both the Transit and Housing Police will be asked to run parallel and/or joint operations against firearms-related crime in the subway and housing developments of the city.

EVALUATION

After deploying these strategies for a period of six months, a report on their impact will be submitted to the Mayor, with recommendations for strategic and operational adjustments as required.

RON WYDEN
OREGON
3D DISTRICT

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500 NE MULTNOMAH, SUITE 250
PORTLAND, OR 97232
(503) 231-2300

Bruce Reed

Congress of the United States
House of Representatives

ENERGY AND COMMERCE COMMITTEE
SUBCOMMITTEES:
HEALTH AND THE ENVIRONMENT
TELECOMMUNICATIONS AND FINANCE
OVERSIGHT AND INVESTIGATIONS

SMALL BUSINESS COMMITTEE
CHAIRMAN,
SUBCOMMITTEE ON REGULATION,
BUSINESS OPPORTUNITIES AND TECHNOLOGY

JOINT ECONOMIC COMMITTEE
CO-CHAIRMAN,
FORESTRY 2000 TASK FORCE
CO-CHAIRMAN,
EXPORT TASK FORCE

FACSIMILE TRANSMISSION FROM CONGRESSMAN RON WYDEN

(202) 225-4811 (o)

File: Gun Ideas

TO: Rahm Emmanuel

FROM: Ron Wyden

THERE ARE 32 PAGES TO THIS TRANSMISSION, INCLUDING THIS COVER SHEET. IF YOU HAVE EXPERIENCED ANY DIFFICULTY, PLEASE CONTACT Carolyn AT THE ABOVE NUMBER.

THIS STATIONERY PRINTED ON PAPER MADE OF RECYCLED FIBERS

Thurs.

HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

RON WYDEN
THIRD DISTRICT, OREGON

Dear Rahm,

Thanks for taking time to discuss my crime bill.

I appreciate your looking at it, and your consideration.

Hope all is well with you, and we have a chance to get together in person soon.

Best –

Ron

SAFE PUBLIC HOUSING ACT
SUMMARY

I. Amends the United States Housing Act of 1937 to allow residents to vote to either:

1) Ban guns on the premises of their public housing development.

2) Require all guns on the premises of the public housing development to be registered with the public housing agency.

3) Require gun owners to be registered with the public housing agency to bring guns onto the premises of the public housing development.

II. Upon approval of a referendum on restricting guns, non-residents will be prohibited from bringing guns onto the premises of a public housing development:

1) This bill would establish as a federal crime the possession of any firearm on the premises of a public housing development, unless the person possessing the firearm is 1) a resident at the development, 2) a law enforcement officer, 3) any other person authorized to possess a firearm in the housing development by the federal, state, or local government, or by the public housing authority.

2) Violators would be penalized with a fine of up to $5,000 or up to 5 years in prison.

3) For a non-resident to bring a gun onto the premises of a public housing development, he or she must receive authorization from the public housing authority.

III. Procedure of the vote:

1) 10% of the residents in a public housing development must sign a petition to initiate the referendum on guns. HUD must voice any objections to the petition within one month, after which the petition will be automatically considered to be certified.

2) The referendum must be no later than 60 days after certification of the petition. HUD will make such rules as necessary to ensure that the vote is publicized and held at a time and place convenient for the residents. The vote will be held by secret ballot. The housing agency will oversee the referendum and tally the vote. However, at the request of the resident council, the housing agency may designate a non-profit organization to administer the vote.

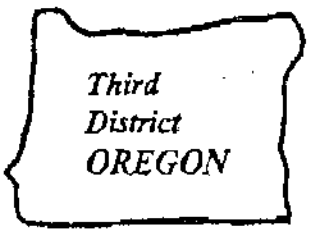
IV. Procedure of the gun ban:

1) If the referendum passes, the housing agency will have 30 days to notify residents of the new provision in their lease.

2) Breaking the ban will be grounds for termination of the lease.

3) Money from the Drug Elimination Program may be used by the Secretary for grants to housing developments that have taken such a vote for enforcement purposes, such as metal detectors, gun lockers, registration material, etc.

NEWS FROM
CONGRESSMAN
RON WYDEN



1111 Longworth House Office Building * Washington D.C. * (202) 225-4811

STATEMENT OF CONGRESSMAN RON WYDEN
INTRODUCING THE SAFE PUBLIC HOUSING ACT OF 1994
March 16, 1994

Across America over 3 million of our citizens live in public housing projects and many live in fear. In too many public housing communities, the children cannot go safely outside to play, and the residents can't sit on their stoops to visit. At bedtime, the doors are bolted and the beds placed strategically far from windows that might be shattered by stray bullets.

The fact is that the rate of violent crime and drug offenses is far higher in public housing than in other neighborhoods. In a Rand Corporation report, researchers found that public housing often had between 2 to 6 times as much violent crime as surrounding neighborhoods.

No American deserves to live in this state of siege, and public perception has unfortunately painted too many public housing communities as either clusters of weak victims or perpetrators of crime themselves.

The fact is these images are untrue. Like most Americans, the majority of public housing residents are law-abiding citizens. They want a safer community, and they deserve one. Several years ago, residents of Columbia Villa, a troubled public housing development in Portland, Oregon approached my staff about what might be done to control gun violence in their community.

Other public housing public housing communities across the country have also wrestled with this problem, and this is why Congressman John Lewis and I have worked with public housing residents from across the country to fashion a new approach for increasing safety.

Our approach is straight-forward: Empower residents to reduce gun violence in their communities. Give residents the power to take back control of their lives, and get out from under the scourge of gun violence and crime. Give residents the right to make their community gun-free, and keep non-resident criminals from terrorizing communities. Give residents the opportunity to secure the most basic civil right -- safety in their community. Give the children in these communities the right to have a full life.

(MORE)

Under our proposal, residents could petition the housing authority to hold a referendum on banning and restricting guns. The housing authority would be required to hold a vote on either banning guns completely or requiring gun or gun owner registration. If the vote passes, then the gun ban will be triggered in the resident's lease after 30 days and a violation will cause the lease to be terminated.

After a vote for a gun ban or restriction provision, all non-residents will be banned from bringing firearms onto the premises of a public housing project. The penalty for a non-resident violation of the ban would be up to 5 years in prison or a fine of up to $5,000. Too often it is the non-residents who prey on the residents and bring violence into the public housing communities.

Additionally, resources needed to enforce a gun ban -- such as metal detectors and gun lockers -- will be made an eligible expense under the Drug Elimination Program.

Some have inquired as to whether such a measure is constitutional. The evidence clearly indicates that it is. In Richmond, Virginia and in Portland, Maine, federal and state courts have upheld gun bans imposed by the management. According to the American Law Division of the Congressional Research Service, since public housing developments receive substantial funding from the federal government and given the scope of the commerce clause to regulate items carried interstate, the federal government has a sufficient jurisdiction to regulate guns in public housing.

Even though gun bans in public housing are constitutional, without our proposed law a state or local government could pass a law overriding gun restrictions imposed in public housing. This has already been attempted in Virginia. This legislation would preempt such state and local laws.

Finally, we have been asked "What about residents who are trying to control their own destiny by keeping guns for their own safety?"

I believe this question was best answered by a lieutenant with the Portland police in my hometown. Lt. John Hren with the neighborhood response team at Iris Court in Portland, Oregon said, "That's an issue the residents have to face when they choose to vote. The question is, do they want to give up their right to have that protection in exchange for the law that says anyone in the complex with a gun is subject to arrest."

####

F:\M\WYDEN\WYDEN.059 H.L.C.

FINAL DRAFT

H.R. 4062 (Introduced 3/16/94)

103D CONGRESS
2D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. WYDEN (for himself and Mr. LEWIS of Georgia) introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the United States Housing Act of 1937 to provide for referenda among residents of public housing developments to determine whether firearms shall be prohibited or limited in such developments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe Public Housing Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

1 (1) a disproportionate amount of violent crime,
2 including crime with guns, is committed in or near
3 public housing developments;
4 (2) public housing developments are funded and
5 regulated by the Federal Government;
6 (3) many guns responsible for violence in public
7 housing have been transported between States; and
8 (4) under the commerce clause of the Constitu-
9 tion of the United States, the Congress has the au-
10 thority to regulate the presence of guns in public
11 housing and establish crimes relating to guns in
12 public housing.

13 **SEC. 3. REFERENDA REGARDING PROHIBITING AND REG-**
14 **ISTERING FIREARMS IN PUBLIC HOUSING DE-**
15 **VELOPMENTS.**

16 (a) IN GENERAL.—Title I of the United States Hous-
17 ing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by
18 adding at the end the following new section:

19 **"SEC. 26. REFERENDA REGARDING PROHIBITING AND REG-**
20 **ISTERING FIREARMS IN PUBLIC HOUSING DE-**
21 **VELOPMENTS.**

22 "(a) PROHIBITION AND REGISTRATION OF FIRE-
23 ARMS.—
24 "(1) PROHIBITION.—No resident of a covered
25 public housing development described in subsection

1 (b)(1)(A) may knowingly possess or cause to be
2 present a firearm in the covered public housing de-
3 velopment, or attempt to do so.
4 "(2) REGISTRATION OF FIREARMS.—No resi-
5 dent of a covered public housing development de-
6 scribed in subsection (b)(1)(B) may knowingly pos-
7 sess or cause to be present a firearm in the covered
8 public housing development, or attempt to do so, un-
9 less the resident has registered such firearm with
10 the public housing agency, as the Secretary shall re-
11 quire.
12 "(3) REGISTRATION OF FIREARMS OWNERS.—
13 No resident of a covered public housing development
14 described in subsection (b)(1)(C) may knowingly
15 possess or cause to be present a firearm in the cov-
16 ered public housing development, or attempt to do
17 so, unless the resident has registered with the public
18 housing agency as a possessor of firearms, as the
19 Secretary shall require.
20 "(4) REGISTRATION STANDARD.—A public
21 housing agency may refuse to register a firearm for
22 a resident under paragraph (2) or to register a resi-
23 dent to possess firearms under paragraph (3), if the
24 agency has probable cause to believe that possession
25 of a firearm by such resident will be a threat to the

1 safety of residents of the covered public housing de-
2 velopment.
3 "(5) LAW ENFORCEMENT EXCEPTIONS.—Para-
4 graphs (1), (2), and (3) shall not apply to the pos-
5 session of a firearm by—
6 "(A) a law enforcement officer acting in
7 his or her official capacity; or
8 "(B) a Federal official or a member of the
9 Armed Forces if such possession is otherwise
10 authorized by law.
11 "(b) COVERED PUBLIC HOUSING DEVELOPMENT.—
12 For purposes of this section, the term 'covered public
13 housing development' means a qualified public housing de-
14 velopment for which—
15 "(1) a referendum under subsection (c) or
16 (j)(1) has been held to determine whether the devel-
17 opment shall be subject to—
18 "(A) the prohibition under subsection
19 (a)(1) regarding the possession of firearms by
20 residents;
21 "(B) the requirements under subsection
22 (a)(2) regarding registration of firearms by
23 residents; or

1 "(C) the requirements under subsection
2 (a)(3) regarding registration of residents who
3 possess firearms;
4 "(2) the Secretary of Housing and Urban De-
5 velopment has certified under subsection (i)(1) or
6 (j)(4) that the referendum was approved;
7 "(3) the 30-day period beginning upon such
8 certification has expired; and
9 "(4) notice that the development shall cease to
10 be a covered public housing development has not
11 subsequently been published pursuant to subsection
12 (j)(5)(B)(i).
13 "(c) REFERENDUM.—Not later than the expiration of
14 the 60-day period beginning upon the certification under
15 subsection (e)(2) of a petition requesting a referendum
16 under this section for a qualified public housing develop-
17 ment to ascertain whether the development shall be a cov-
18 ered public housing development and subject to paragraph
19 (1), (2), or (3) of subsection (a), such a referendum shall
20 be conducted among the residents of the development who
21 are adults. The referendum shall be conducted by the pub-
22 lic housing agency, except that, at the request of the resi-
23 dent council for the qualified public housing development,
24 the public housing agency may designate a nonprofit orga-

1 nization to conduct the referendum if the agency deter-
2 mines such organization is qualified to do so.
3 "(d) SUBMISSION OF PETITION AND REVIEW.—Upon
4 submission to the Secretary of a petition for a referendum
5 under this section, the Secretary shall immediately notify
6 the public housing agency that administers the public
7 housing to which the petition relates that the petition has
8 been submitted and shall review the petition to determine
9 if it complies with the requirements for certification of the
10 petition under subsection (e)(1) or (j)(2), as applicable.
11 The Secretary shall make such determination before the
12 expiration of the 30-day period beginning upon the sub-
13 mission of the petition to the Secretary. The public hous-
14 ing agency responsible for administering the public hous-
15 ing to which the petition relates shall provide to the Sec-
16 retary any information necessary for the Secretary to
17 make such a determination.
18 "(e) CERTIFICATION OF PETITION.—
19 "(1) REQUIREMENTS FOR CERTIFICATION.—
20 The Secretary may certify a petition for a referen-
21 dum under subsection (c) only if the petition meets
22 the following requirements:
23 "(A) CONTENTS OF PETITION.—The peti-
24 tion shall—

1 "(i) clearly state that the purpose of
2 the petition is to request the Secretary to
3 conduct a referendum under subsection (c)
4 to ascertain whether the public housing de-
5 scribed in the petition shall be—
6 "(I) a covered public housing de-
7 velopment for purposes of this section;
8 and
9 "(II) subject to the provisions of
10 paragraph (1), (2), or (3) of sub-
11 section (a), and shall specify which
12 paragraph;
13 "(ii) clearly describe the limitations
14 regarding firearms that will apply to the
15 public housing development if the referen-
16 dum is approved and the penalties for vio-
17 lations of such limitations;
18 "(iii) clearly describe the public hous-
19 ing to which the petition relates in a man-
20 ner sufficient for the Secretary to deter-
21 mine whether such housing is a qualified
22 public housing development;
23 "(iv) clearly state that each of the sig-
24 natories represents that, as of the date of
25 signing the petition, the signatory is a law-

1 ful resident of the public housing described
2 in the petition and is an adult; and
3 "(v) contain the name and address of
4 each signatory.
5 "(B) SIGNATURE REQUIREMENTS.—Not
6 less than 10 percent of the adults who, as of
7 the date that the petition is submitted to the
8 Secretary, reside in the public housing de-
9 scribed in the petition have signed the petition
10 during the 12-month period ending upon such
11 date of submission.
12 "(C) QUALIFIED PUBLIC HOUSING DEVEL-
13 OPMENT.—The public housing to which the pe-
14 tition relates is a qualified public housing devel-
15 opment under subsection (l).
16 "(2) CERTIFICATION.—Upon determining that
17 a petition under this section complies with the re-
18 quirements for certification under paragraph (1) of
19 this subsection or subsection (j)(2), as applicable,
20 the Secretary shall immediately certify such compli-
21 ance and notify, in writing, the public housing agen-
22 cy for the qualified public housing development to
23 which the petition relates of such certification.
24 "(3) DENIAL OF CERTIFICATION.—Upon deter-
25 mining that a petition fails to comply with the re-

1 quirements for certification, the Secretary shall im-
2 mediately notify, in writing, the public housing agen-
3 cy for the qualified public housing development to
4 which the petition relates of such failure.

5 "(4) FAILURE TO NOTIFY.—If, pursuant to the
6 submission of a petition for a referendum under this
7 section to the Secretary, the Secretary fails to deter-
8 mine whether the petition complies with the require-
9 ments for certification before the expiration of the
10 30-day period under subsection (d) and provide no-
11 tice of the determination in accordance with para-
12 graph (2) or (3) of this subsection before such date,
13 the petition shall be considered as certified for pur-
14 poses of this section.

15 "(f) REQUIREMENTS OF REFERENDUM.—The Sec-
16 retary shall, by regulation, establish requirements for
17 referenda held under this section. Such regulations shall
18 provide, with respect to a referendum for a qualified public
19 housing development—

20 "(1) that the referendum shall be restricted to
21 residents of the development who are adults;

22 "(2) for giving reasonable notice to residents of
23 the development of the time, place, and manner of
24 the referendum;

1 "(3) for holding the referendum at such time
2 and place and in such a manner that the adult resi-
3 dents of the development have a reasonable oppor-
4 tunity to participate;
5 "(4) that the referendum shall be conducted by
6 secret ballot; and
7 "(5) that the referendum shall be administered
8 by officials or employees of the public housing agen-
9 cy or the nonprofit organization designated pursuant
10 to subsection (c).
11 "(g) TALLY.—The public housing agency or non-
12 profit organization conducting a referendum under this
13 section shall determine the result of the referendum and
14 immediately upon such determination notify the Secretary
15 of the result.
16 "(h) STANDARDS FOR APPROVAL.—The proposition
17 presented in a referendum under this section shall be con-
18 sidered to have been approved only if—
19 "(1) a majority of the residents of the develop-
20 ment who are adults voted in the referendum; and
21 "(2) a majority of such residents voting in the
22 referendum voted in favor of the proposition pre-
23 sented in the referendum.
24 "(i) REVIEW AND CERTIFICATION OF RESULTS BY
25 SECRETARY.—

1 "(1) IN GENERAL.—Not later than 30 days
2 after receiving notice of the result of a referendum
3 under subsection (c), the Secretary shall—
4 "(A) review the referendum to determine
5 whether the referendum was held in accordance
6 with the requirements of this section and the
7 regulations issued pursuant to this section; and
8 "(B) if the Secretary determines that the
9 referendum was held in accordance with such
10 requirements and regulations, certify the result
11 of the referendum.
12 "(2) NOTICE.—If the Secretary certifies a ref-
13 erendum under subsection (b) as having been ap-
14 proved for a qualified public housing development,
15 the Secretary shall—
16 "(A) immediately notify the public housing
17 agency that administers the qualified public
18 housing development of the certification and the
19 firearms limitation effective date (as defined in
20 subsection (o)) for the development;
21 "(B) before the firearms limitation effec-
22 tive date for the development, cause to be pub-
23 lished in the Federal Register notice—

1 "(i) that the development shall be
2 classified as covered public housing devel-
3 opment for purposes of this section;
4 "(ii) that the prohibition or limitation
5 under paragraph (1), (2), or (3) of sub-
6 section (a) that was approved under the
7 referendum shall take effect with respect
8 to the public housing development; and
9 "(iii) describing the specific obliga-
10 tions and effects resulting from such clas-
11 sification (including the effects of section
12 922(s) of title 18, United States Code and
13 of the lease provisions required under sec-
14 tion 6(l)(6) of this Act), the firearms limi-
15 tation effective date for the development,
16 and the boundaries of the development;
17 "(C) before the firearms limitation effec-
18 tive date for the development, provide written
19 notice to each resident of the development con-
20 taining the information required in notice pub-
21 lished under subparagraph (B); and
22 "(D) require the public housing agency to
23 post notice of the prohibitions or limitation that
24 shall apply to the covered public housing devel-
25 opment in prominent places in the development

1 before the firearms limitation effective date for
2 the development.
3 "(j) REFERENDUM TO ALTER FIREARMS PROHIBI-
4 TION OR LIMITATION.—
5 "(1) IN GENERAL.—Not later than the expira-
6 tion of the 60-day period beginning upon the certifi-
7 cation under subsection (e)(2) of a petition that re-
8 quests a referendum under this subsection for a cov-
9 ered public housing development to—
10 "(A) ascertain whether the development
11 shall cease to be a covered public housing devel-
12 opment for purposes of this section, or
13 "(B) ascertain whether the prohibition or
14 limitation under paragraph (1), (2), or (3) of
15 subsection (a) that applies to the development
16 at such time shall cease to apply and another
17 such prohibition or limitation shall apply,
18 such a referendum shall be conducted among the
19 residents of the development who are adults. The
20 referendum shall be conducted by the public housing
21 agency, except that, at the request of the resident
22 council for the covered public housing development,
23 the public housing agency may designate a nonprofit
24 organization to conduct the referendum if the agency
25 determines such organization is qualified to do so.

1 "(2) REQUIREMENTS FOR CERTIFICATION OF
2 PETITION.—The Secretary may certify a petition for
3 a referendum under paragraph (1) only if—
4 "(A) the petition clearly states that the
5 purpose of the petition is to request the Sec-
6 retary to conduct a referendum under para-
7 graph (1) to ascertain whether the development
8 shall—
9 "(i) cease to be a covered public hous-
10 ing development for purposes of this sec-
11 tion; or
12 "(ii) instead of being subject to the
13 prohibition or limitation under paragraph
14 (1), (2), or (3) of subsection (a) that ap-
15 plies to the development at such time, be
16 subject to another prohibition or limitation
17 under one of such paragraphs, and shall
18 specify which paragraph;
19 "(B) the petition clearly describes any limi-
20 tations regarding firearms that will apply to the
21 covered public housing development if the ref-
22 erendum is approved and the penalties for viola-
23 tions of such limitations;

1 "(C) the petition clearly describes the cov-
2 ered public housing development to which the
3 petition relates;
4 "(D) the petition clearly states that each
5 of the signatories represents that, as of the date
6 of signing the petition, the signatory is a lawful
7 resident of the covered public housing develop-
8 ment described in the petition and is an adult;
9 "(E) the petition contains the name and
10 address of each signatory;
11 "(F) not less than 10 percent of the adults
12 who, as of the date that the petition is submit-
13 ted to the Secretary, reside in the covered pub-
14 lic housing development described in the peti-
15 tion have signed the petition during the 12-
16 month period ending upon such date of submis-
17 sion; and
18 "(G) the public housing to which the peti-
19 tion relates is a covered public housing develop-
20 ment.
21 "(3) PROCEDURE FOR CERTIFICATION OF PETI-
22 TION.—The provisions of paragraphs (2) through
23 (4) of subsection (e) and subsections (f), (g), and (h)
24 shall apply to any petition for a referendum under
25 paragraph (1) of this subsection submitted to the

1 Secretary and any referendum conducted pursuant
2 to certification of such petition.
3 "(4) REVIEW OF AND CERTIFICATION OF REF-
4 ERENDUM RESULTS BY SECRETARY.—Not later than
5 30 days after receiving notice of the result of a ref-
6 erendum under paragraph (1), the Secretary shall—
7 "(A) review the referendum to determine
8 whether the referendum was held in accordance
9 with the requirements of this section and the
10 regulations issued pursuant to this section; and
11 "(B) if the Secretary determines that the
12 referendum was held in accordance with such
13 requirements and regulations, certify the result
14 of the referendum.
15 "(5) NOTICE.—If the Secretary certifies a ref-
16 erendum under paragraph (1) as having been ap-
17 proved for a covered public housing development, the
18 Secretary shall—
19 "(A) immediately notify the public housing
20 agency that administers the covered public
21 housing of the certification and, if applicable,
22 the firearms limitation effective date for the
23 new firearms prohibition or limitation that will
24 apply to the development;

1 "(B) before the expiration of the 30-day
2 period beginning upon such certification, cause
3 to be published in the Federal Register—
4 "(i) in the case of a referendum con-
5 ducted for the purpose under paragraph
6 (1)(A), notice that, effective upon such
7 publication, the development shall cease to
8 be a covered public housing development
9 for purposes of this section and describing
10 the boundaries of the development; or
11 "(ii) in the case of a referendum con-
12 ducted for the purpose under paragraph
13 (1)(B), notice—
14 "(I) that the prohibition or limi-
15 tation under paragraph (1), (2), or
16 (3) of subsection (a) that applies at
17 such time to the development shall
18 cease to apply;
19 "(II) that the prohibition or limi-
20 tation that was approved under the
21 referendum shall take effect with re-
22 spect to the public housing develop-
23 ment; and
24 "(III) describing the specific obli-
25 gations and effects resulting from

1 such classification (including the ef-
2 fects of section 922(s) of title 18,
3 United States Code and of the lease
4 provisions required under section
5 6(l)(6) of this Act), the firearms limi-
6 tation effective date under paragraph
7 (5) of this subsection for the new fire-
8 arms prohibition or limitation that
9 will apply to the development, and the
10 boundaries of the development;
11 "(C) before the expiration of such 30-day
12 period, provide written notice to each resident
13 of the qualified public housing development that
14 contains the information required in notice
15 under clause (i) or (ii) of subparagraph (B),
16 whichever is applicable; and
17 "(D) in the case of a referendum con-
18 ducted for the purpose under paragraph (1)(B),
19 require the public housing agency to post notice
20 of the new prohibitions or limitation that shall
21 apply to the covered public housing development
22 in prominent places in the development before
23 the firearms limitation effective date for the de-
24 velopment under paragraph (5).

1 "(6) FIREARMS LIMITATION EFFECTIVE DATE
2 FOR ALTERATION OF FIREARMS PROHIBITION OR
3 LIMITATION.—In the case of referendum conducted
4 for the purpose under paragraph (1)(B) that is cer-
5 tified by the Secretary as having been approved, the
6 prohibition or limitation under paragraph (1), (2),
7 or (3) of subsection (a) in effect for the covered pub-
8 lic housing development at the time of the referen-
9 dum shall cease to apply and the prohibition or limi-
10 tation that was considered under the referendum
11 shall take effect with respect to the development,
12 upon the expiration of the 30-day period beginning
13 upon such certification.
14 "(k) TIMING OF PROHIBITION REFERENDUM.—The
15 Secretary may not certify a petition under this section for
16 any public housing that is submitted before the expiration
17 of the 12-month period beginning on the date of any ref-
18 erendum under this section relating to any such housing
19 that was certified by the Secretary as having been ap-
20 proved.
21 "(l) QUALIFIED PUBLIC HOUSING DEVELOP-
22 MENTS.—Public housing for which a petition is submitted
23 under subsection (d) shall be a qualified public housing
24 development for purposes of this section only if the Sec-

1 retary determines that the boundaries of the housing de-
2 scribed in the petition accurately describe—
3 "(1) a group of buildings (and the grounds and
4 other appurtenances thereto) that comprise or are
5 associated, treated, or administered as a single pub-
6 lic housing development; or
7 "(2) a single building or a group of buildings
8 comprising public housing, and the grounds and
9 other appurtenances thereto, that, in the determina-
10 tion of the Secretary, has a continuous or other
11 boundary or other geographic or administrative asso-
12 ciation that would allow treatment as a unitary de-
13 velopment if the housing becomes a covered public
14 housing development for purposes of this section.
15 The Secretary may make a determination of whether cer-
16 tain public housing is a qualified public housing develop-
17 ment before the submission of a petition under subsection
18 (d) for the public housing.
19 "(m) WITHHOLDING OF AMOUNTS FOR FAILURE TO
20 CONDUCT REFERENDUM.—If any referendum is required
21 under this section to be conducted (pursuant to certifi-
22 cation of petition for a referendum under subsection (e)
23 or (j)(3)) and is not conducted in accordance with the pro-
24 visions of this section, the Secretary may withhold any
25 amounts provided under this Act for the public housing

1 agency that administers such housing until the referen-
2 dum is conducted.
3 "(n) LIABILITY.—A public housing agency admin-
4 istering a covered public housing development that makes
5 a good faith effort to comply with the requirements under
6 this section applicable to such agency regarding such de-
7 velopment shall not be liable for any injury caused by a
8 firearm because of any failure to prevent any activity in
9 the development that violates any provision under this sec-
10 tion or section 922(s) of title 18, United States Code.
11 "(o) DEFINITIONS.—For purposes of this section:
12 "(1) ADULT.—The term 'adult' means an indi-
13 vidual who is 18 years of age or older.
14 "(2) DEVELOPMENT.—The term 'development',
15 when used in reference to public housing, has the
16 meaning given the term 'project' in section 3(b) of
17 this Act.
18 "(3) FIREARMS LIMITATION EFFECTIVE
19 DATE.—The term 'firearms limitation effective date'
20 means, with respect to a qualified public housing de-
21 velopment or covered public housing development,
22 the date under subsection (b)(3) or (j)(6), respec-
23 tively, on which the prohibition or limitation under
24 paragraph (1), (2), or (3) of subsection (a) that was

1 approved under the referendum takes effect with re-
2 spect to the development.
3 "(4) NONPROFIT ORGANIZATION.—The term
4 'nonprofit organization' means a private organiza-
5 tion no part of the net earnings of which inures to
6 the benefit of any member, shareholder, founder,
7 contributor, or individual.
8 "(5) QUALIFIED PUBLIC HOUSING DEVELOP-
9 MENT.—The term 'qualified public housing develop-
10 ment' means public housing that has been deter-
11 mined by the Secretary under subsection (l) to be a
12 qualified public housing development.
13 "(6) RESIDENT COUNCIL.—The term 'resident
14 council' means any incorporated nonprofit organiza-
15 tion or association that—
16 "(A) is representative of the residents of
17 the housing;
18 "(B) adopts written procedures providing
19 for the election of officers on a regular basis;
20 and
21 "(C) has a democratically elected govern-
22 ing board, elected by residents of the housing.
23 "(p) EFFECT ON STATE LAW.—The provisions of
24 this section and section 6 do not annul, alter, or affect,
25 or exempt any person subject to the provisions of such

1 sections from complying with, the laws of any State with
2 respect to possession or registration of firearms, except
3 to the extent that such laws are inconsistent with any pro-
4 vision of this section or section 6, and then only to the
5 extent of such inconsistency.".

6 (b) REGULATIONS.—The Secretary shall issue any
7 regulations necessary to carry out the provisions in the
8 amendment made by subsection (a).

9 **SEC. 4. TERMINATION OF TENANCY IN PUBLIC HOUSING**
10 **DEVELOPMENT FOR VIOLATION OF PROHIBI-**
11 **TION OR LIMITATION ON POSSESSION OF**
12 **FIREARMS.**

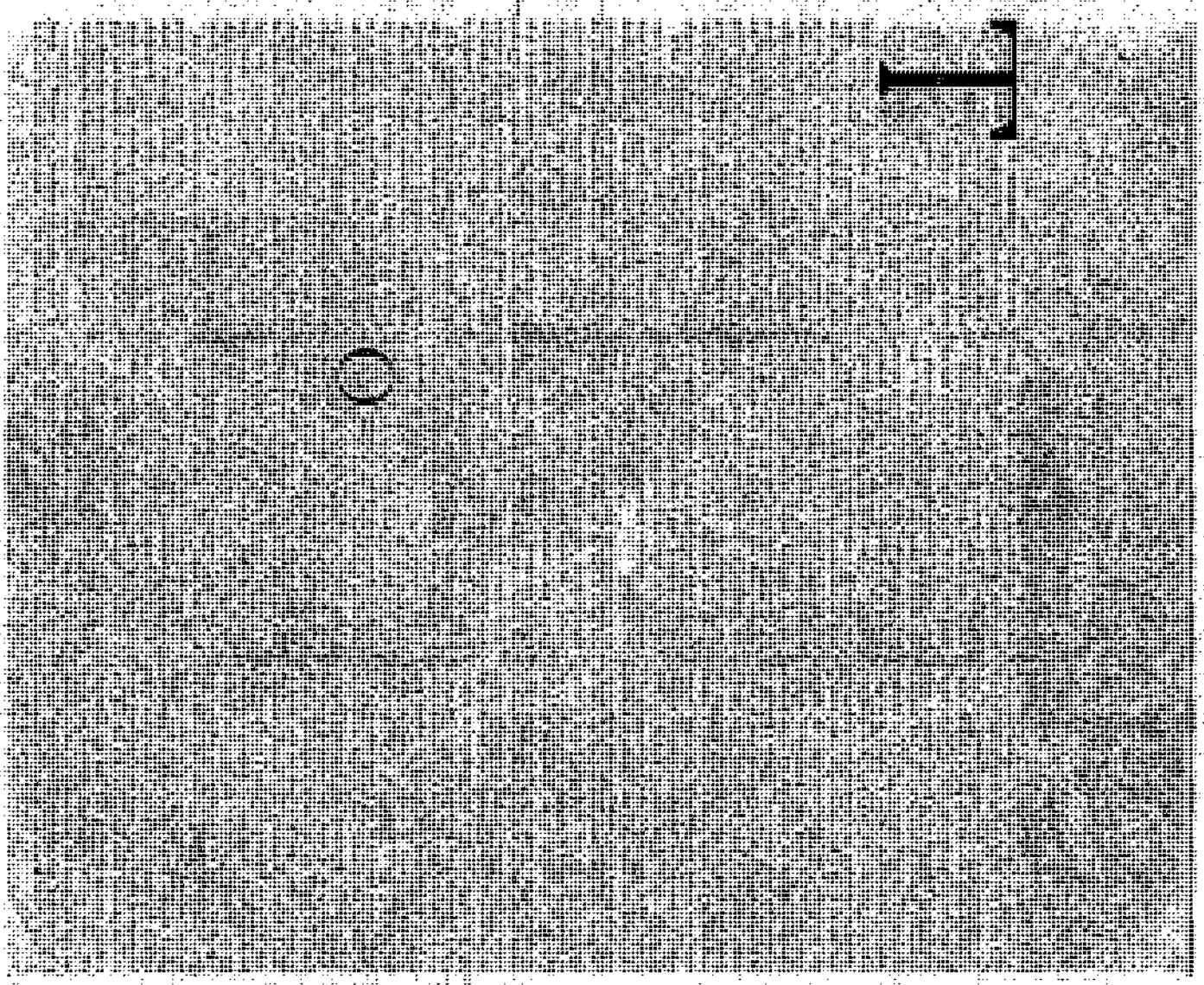
13 (a) EXPEDITED ADMINISTRATIVE GRIEVANCE PRO-
14 CEDURE.—Section 6(k) of the United States Housing Act
15 of 1937 (42 U.S.C. 1437d(k)) is amended in the 1st sen-
16 tence of the matter that follows paragraph (6)—

17 (1) by striking "or any" and inserting ", in-
18 volves any"; and

19 (2) by inserting after "such premises," the fol-
20 lowing: "or involves any activity that violates a lease
21 provision required under subsection (l)(6),".

22 (b) LEASE PROVISION.—Section 6(l) of the United
23 States Housing Act of 1937 (42 U.S.C. 1437d(l)) is
24 amended—

1 (1) in paragraph (5), by striking "and" at the
2 end;
3 (2) by redesignating paragraph (6) as para-
4 graph (7); and
5 (3) by inserting after paragraph (5) the follow-
6 ing new paragraph:
7 "(6) provide that, if the public housing in which
8 the dwelling unit subject to the lease is located in or
9 becomes a covered public housing development for
10 purposes of section 26, the tenancy may be termi-
11 nated for any activity—
12 "(A) that violates the particular prohibi-
13 tion or limitation under section 26(a) that ap-
14 plies to such covered public housing develop-
15 ment that is engaged in by a public housing
16 resident, any member of the resident's house-
17 hold, or any guest or other person under the
18 resident's control, or
19 "(B) that violates the prohibition under
20 section 922(s) of title 18, United States Code
21 that is engaged in by any guest or other person
22 under the resident's control,
23 except that a resident shall not be considered to
24 have control of any guest or other person for pur-
25 poses of this paragraph if the resident makes a good



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o is to pass a crime bill" with the ssault weapon ban included, Clinon said. "If we an get a majority n Congress] to vote on any reaonable version of banning assault eapons, then it seems to me that e will have crossed a significant ivide in this debate. . . . Then I hink we need to review the whole ederal gun licensing operation. 'he permits are too inexpensive, and] they're indiscriminately issued and they override state and ocal law."

In the wide-ranging session, Clinton also:

- Renewed his pledge not to seek broad-based tax to fund his ealth care reform plan, despite ounting criticism in Congress hat his current plans to pay for ealth reform don't add up. He said hat he might agree to congressional demands to phase in the inancing of his plan more slowly han he has proposed.
- Predicted that he can convince he entertainment industry to volntarily reduce the levels of violence in films and on television vithout forcing him to follow hrough on Atty. Gen. Janet Reno's hreat to impose new federal limits.
- Expressed concern that a global trade accord may not be reached n time to meet a Dec. 15 U.S. eadline. He warned that France must agree to settle its critical rade disputes with the United tates a week before the Dec. 15 eadline to avoid a breakdown in he broader negotiations.
- Warned that tight budget contraints limit his ability to aid alifornia's faltering economy, and xpressed frustration that some iembers of the California congressional delegation have voted to npose tougher spending limits at ie same time that they are deanding that Clinton spend more oney to aid California.

On gun control, Clinton said he is itrigued by an idea raised last eek by New York City's Republin Mayor-elect, Rudolph W. Giuani, and supported by Los Angel- Mayor Richard Riordan, calling r either the federal government the states to establish gun ensing and training systems for tential gun owners, similar to the ensing requirements states now ive for motorists.

Clinton said he plans to ask the torney general to study the idea.

"I think we ought to look at some rt of standards for ownership, st the way every state does with tomobiles," Clinton said. "I think at that really has some merit, d that's probably the next place ought to look. . . .

"I'm going to have the attorney neral review, make a recomendation to me about it. . . . I'm suggesting that it might be sier to have the national government say you have to have standrds in these areas, some training grams or education programs or atever and then let the state ure out how to do it."

Clinton said that with passage of Brady bill, which imposes a iting period of five business days ore handgun buyers can receive eapon, the politics of gun con- seem to have undergone a nificant shift in favor of tougher asures. He noted that even lawkers from rural states, including home state of Arkansas, joined an legislators to support the asure, the first major gun con- legislation to make it through Congress since 1968.

Clinton said that he sees gun control and the broader issue of crime prevention as top priorities for his Administration.

"If we can't restore the sense of basic physical security to people in their homes and on the streets and their schools and their workplaces, it's going to be very difficult to have the American people have the proper state of mind to make all the changes we got to make to move toward the 21st Century."

Clinton's renewed pledge not to seek a broad-based tax to finance his health care reform plan comes just as Democratic leaders in Congress seem increasingly wary of endorsing the Administration's financing plan. The White House health plan relies heavily on reaping savings from steep cuts in the rate of growth of Medicare and Medicaid as a way to avoid having to propose broader tax increases. The taxes in the current plan are limited to a 75 cents-per-pack cigarette tax and a levy on corporations that do not join the federally sponsored health system.

"All this skepticism about the financing, you know, is rooted in the conviction that America must always have the most expensive health care system in the world, and that it must be the most expensive for irrational, not rational reasons, and that any attempt to curb it is crazy."

Clinton said his critics can't believe that "we can fix what's bad about the system, without hurting what's good."

Yet faced with mounting resistance on the issue, Clinton said that as long as Congress passes the basic legislation next year, he might agree to let Congress work out some of the details of the financing of health care reform in 1995.

Meanwhile, Clinton made it clear that he hopes to take advantage of his close ties to Hollywood to cajole the entertainment industry to tone down film and television violence before Washington has to take tougher action. In October, Atty. Gen. Reno warned that if the industry didn't clean up its act, "government action will be imperative."

He noted that when a society has a significant underclass of people who feel "dysfunctional" and alienated from the larger culture, then the people involved with developing the popular entertainment for the masses have a special responsibility. A "mindless assault on the basic institutions of the society is irresponsible" by film and television, he noted.

Still, Clinton, who spoke at a Democratic fund-raiser Saturday night at Creative Artists Agency, a powerful Hollywood institution, tried to strike a conciliatory note on film violence during the interview.

"You start with an outstretched hand, not with a clenched fist," Clinton said. "Most people I know out here . . . really want to do something," Clinton said. "And I think most of these folks are smart enough to know they can make a bunch of money without making the fabric of society weaker."

He said that Reno was trying to "engage the American producers in entertainment—who are better at that than anybody on earth—in a constructive dialogue about how we can use these same forces to recreate the [illegible]

behavior.

But the main purpose of Clinton's trip to Los Angeles was to highlight his Administration's efforts to aid slumping California. Clinton clearly believes the state is critical both to the success of his domestic policies, as well as to his political future. The President met with aerospace workers Saturday at Rockwell International in Canoga Park, a day after his Administration unveiled $50 million in new defense conversion projects.

Clinton conceded that his California initiatives are inadequate to solve the state's economic woes.

"No, it's not enough money to do what needs to be done, but given the amount of money we have at the national level, California is doing very very well indeed," Clinton said. But he suggested that many members of the California congressional delegation were hypocritical on the issue when they voted to impose even tougher spending limits on Clinton in late November at the same time they were asking for more aid.

The spending limit measure, which called for Clinton to cut an additional $90 billion from the budget over five years, failed in the House, but similar budget restraint measures, including a balanced budget amendment to the Constitution, are likely to come up early next year.

"A number of members of Congress from California voted for it because they thought that's what their people back home wanted," Clinton said, "[but it would have imposed] further defense conversion cuts, pretty much ended the prospect of health care reform and undermined our ability to invest more money in California."

On foreign policy matters, Clinton conceded that he has made a series of errors. He singled out, as an example, allowing the humanitarian mission in Somalia to transformed into a quasi-po effort to hunt down Somali war Mohammed Farah Adid. Yet another regional conflict, Bos he noted with a sigh, "What I d know is whether there is anyth else I could have done to see original policy prevail." He hin that he doesn't foresee going yond the Administration's curr policy on Bosnia in the near futu

"I think what we've done about all we could have d there," Clinton said.

Clinton also still seemed to smarting from the public relati fiasco that stemmed from his in mous haircut on an earlier visi Los Angeles. When asked how feels the media is treating today, Clinton said that he belie the press coverage of his Admin tration has improved in rec months. But Clinton said that ea in his term the press seemed det mined to make him look silly, cited the airport haircut as prime example.

"You know when I was out h [in May] and they made that tot bogus story about me delaying flights and getting a $200 hair neither of which is true. The hi cut was under $200; took 10 m utes and didn't delay any flights."

Clinton May Back National Gun Licensing

12/5/93

By JAMES RISEN
TIMES STAFF WRITER

President Clinton said Saturday that he views the passage of the Brady bill as only the beginning of a much broader effort by his Administration to seek sweeping gun control measures, and noted that he is considering whether to push for a national gun licensing system.

In an interview session with editors and executives of The Times, Clinton said that he strongly supports a proposal by Sen. Dianne Feinstein (D-Calif.) to ban a wide array of assault weapons, and may also back proposals to prevent people from modifying legally obtained weapons so that they operate like machine guns.

Feinstein's proposed ban is included in the Clinton crime bill, which will be considered by Congress early next year.

"The next thing that we ought to

■ Q&A WITH CLINTON
The President answers questions from Times editors. A38

Please see CRIME, A43

[illegible] PHOTOCOPY

PRESERVATION PHOTOCOPY

Crime — Gun Ideas

Massachusetts Governor Urges Tough Gun Control

By SARA RIMER
Special to The New York Times

BOSTON, Sept. 30 — With voters growing increasingly fearful of gunfire on the streets, Gov. William F. Weld of Massachusetts reversed course this week and proposed some of the most stringent gun control laws in the country.

Mr. Weld, a Republican who will run for re-election next year, called for a statewide ban on assault weapons — a proposal he opposed during his 1990 campaign — as well as a waiting period for buying handguns and a prohibition on handgun ownership by anyone under 21. His proposed legislation would also limit the number of handguns an individual could buy and would impose tough penalties for illegal gun sales and gun-related crimes.

"The purpose of this common sense legislation is to remove deadly guns from our streets and to take weapons out of the hands of many teens who themselves are becoming deadly killers," the Governor said.

As a candidate three years ago, Mr. Weld's position on gun control measures had won him the endorsement of the Gun Owners' Action League, a local lobbying group affiliated with the National Rifle Association. And while many law enforcement officials this week praised his turnaround, his critics charged that the Governor was acting out of political expediency.

"I'm glad that he's changed his mind and his position, but this is just totally contrary to everything that he has said for the last three years," said Attorney General Scott Harshbarger, a Democrat, who is considering a run for Governor next year.

Michael D. Yacino, the executive director of the Gun Owners' Action League, said his group had been betrayed by the Governor, who is an avid hunter and owns four shotguns. "He broke his word to us," Mr. Yacino said.

A reversal on guns follows the voters' mood.

"I really can't stand a liar. I don't know why he's done such a complete turnaround."

'Realities Are Changing'

The Governor's spokesman, Ray Howell, said today that the Governor had been working on the gun-control legislation for several months. "Realities are changing," Mr. Howell said. "The nature of crime in cities is changing."

Mr. Howell suggested that the Governor had not so much reversed his stance, as moderated it. Earlier, he said, the Governor had "thought gun control a less critical component" than imprisoning criminals. "He has supported the Brady Bill from its inception," Mr. Howell added.

Mr. Weld's critics said they could not recall the Governor making any public statements on behalf of the so-called Brady bill, name for James Brady, the White House press secretary who was wounded in the 1981 assassination attempt against President Ronald Reagan.

Mark Roosevelt, a Democratic state legislator who plans to run for Governor next year, said: "I'm glad he's for gun control. Now, let's get it done. But we have a pattern here. He was adamantly pro life. Now he's pro choice. He used to be anti-gay rights. Now, he's for it. He was opposed to more money for education. Now, he's for it. He opposed gun control. Now, he's for it."

During the mayoral primary here, polls ranked crime the top issue among voters. And in New Jersey this week, a poll indicated that one of the reasons for Gov. Jim Florio's revived popularity is his strong gun control legislation. With the election there five weeks away, voters told polls that one of the best things Mr. Florio has done is enact stricter gun control.

Michael Goldman, a political consultant for Mr. Harshbarger, said today, "National and local polling indicates that crime, and especially, the desire to control guns, has become the pre-eminent issue in the minds of voters, replacing that of abortion and in many places jobs."

Since the defeat of George Bush, Mr. Weld, a moderate Republican, has been mentioned frequently as a possible Presidential contender. But the Governor recently told the editorial board of the Quincy Patriot Ledger that he had no plans to run for President.

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Howard G. Paster

9/29

BRUCE –

PLEASE LET ME ASAP IF YOU THINK WE CAN (SHOULD) DO ANY OF THE IDEAS LISTED BY RICHARD. THE PRESIDENT'S FOCUS ON VIOLENT CRIME MAKES ANTI-GUN DIRECTIVES LOGICAL –

LET ME KNOW YOUR VIEWS –

HOWARD

cc: JOSE

→ CM - I NEED THIS BACK FOR

Crime - Gun Ideas

HANDGUN CONTROL

ONE MILLION STRONG . . . working to keep handguns out of the wrong hands.

Richard M. Aborn
President

September 28, 1993

Mr. Howard G. Paster
Assistant to the President and
Director for Legislative Affairs
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Howard:

In preparation for the possibility of Sarah, Jim and I meeting with the President, we thought the White House might want to consider signing some additional Presidential directives which would help demonstrate the President's continuing commitment to fighting gun violence.

I'd be happy to discuss these with you and would like to discuss with you the actual meeting with the President.

Best regards,

Very truly yours,

Richard M. Aborn

CENTER TO PREVENT HANDGUN VIOLENCE

ADDITIONAL PROPOSALS FOR GUN CONTROL INITIATIVES NOT REQUIRING NEW LEGISLATION

INTRODUCTION

On August 11, 1993, President Clinton issued Directives calling for a reexamination of current federal regulatory policy concerning the importation of assault pistols and the licensing of gun dealers. These Directives recognized that the Bureau of Alcohol, Tobacco and Firearms ("ATF") has the authority, under existing statutes, to undertake significant new regulatory initiatives against gun violence. Although the specific proposals made in the Directives represent an important federal commitment to utilize ATF's statutory power to combat gun violence more effectively, even more can, and should, be done. This Memorandum sets out four additional important steps the Administration can take without seeking new legislative authority for ATF.

PROPOSAL #1: MANDATE MINIMUM DEALER SECURITY MEASURES TO PREVENT GUN THEFT

Because gun dealers are in the business of selling lethal weapons, they should be required to implement anti-theft security measures that exceed those required of retailers of less dangerous products. Gun theft represents more than simply a property loss to the dealer. Since stolen guns inevitably are destined for black market sale to the criminal element, gun thefts are a direct and immediate threat to public safety.

Many gun dealers, however, employ sensible security measures only after they are victimized. For example, a California dealer decided to remove his guns from their display cases after hours and lock them up only after 20 handguns had been stolen in the most recent of several burglaries of that dealer. (See "Gun theft sparks safety measures," Santa Cruz Sentinal, July 30, 1991.) Last year it was reported that a handgun used to kill four people in Montgomery County, Maryland had been stolen from an Appomattox, Virginia gun shop when a glass display case was broken into after hours. (See "Gun That Killed 4 Was Stolen in Va.," The Washington Post, Oct. 14, 1992, D1.) Some gun dealers apparently use security measures less stringent than the average jewelry store.

Theft of guns from licensed dealers is a serious problem. One report indicated that from August 1989 to March 1992, nearly 1500 guns had been taken from more than 60 gun stores and pawnbrokers in Virginia and Maryland. (See "Gun store burglary feared a sign of more to come," Washington Times, March 4, 1992, B3.) California's Attorney General has spoken of the "hundreds, perhaps thousands" of guns stolen during last year's Los Angeles riots, and ATF itself reported burglaries at 40 Los Angeles area gun and pawnshops – involving about 4,000 guns – in the four months preceding April of 1993. (See "Around L.A., the Laying In of Arms", Washington Post, April 4, 1993, A3.)

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The authority of ATF to promulgate anti-theft regulations for its licensees was established in National Council to Control Handguns v. Blumenthal, No. 77-1574 (D.D.C. Oct. 24, 1978), in which the Court relied upon the traditional deference of courts to the exercise of regulatory discretion by agencies. See also National Rifle Association v. Brady, 914 F.2d 475 (4th Cir. 1990) (holding that Firearms Owners Protection Act of 1986 preserved broad ATF regulatory authority). Licensees should be required to implement sound security measures, including locking up their inventory in a secure vault after hours.

PROPOSAL #2: AS A CONDITION FOR LICENSE RENEWAL, REQUIRE GUN DEALERS TO DEMONSTRATE THAT THEY ARE SELLING FIREARMS "AS A REGULAR COURSE OF TRADE OR BUSINESS"

The Presidential Directive on Gun Dealer Licensing strongly denounced "the present system of gun dealer licensing, which encourages a flourishing criminal market in guns." Because "we have made it easier to get a license to sell guns than it is to get and keep a driver's license," the Directive estimates that there are in excess of 287,000 federal firearms licensees. The Administration found that the vast majority of these licensees are not "bona fide storefront gun dealers," but rather fall into one of two categories: (1) those who sell no firearms at all, using the license merely "to obtain the benefits of trading interstate and buying guns at wholesale," and (2) those who sell relatively small numbers of guns, usually from their homes and often without regard for state and local business-related laws. This latter category -- the "kitchen table" dealers -- operate without any real oversight by ATF. There is mounting evidence that many "kitchen table" dealers are heavily involved in diverting guns into the black market.

The Presidential Directive proposes a number of specific reforms to tighten the dealer licensing system. More, however, can be done.

To be licensed, a dealer must have "premises from which he conducts business subject to license under this chapter." 18 U.S.C. § 923(d)(1)(E)(emphasis added). The "business subject to license under this chapter" is described in the statutory definition of "dealer"; that is, 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...." 18 U.S.C. §§ 921(11) and (21)(D). In order to enforce fully the "business premise" requirement, renewal of licenses should be contingent upon demonstration by the licensee that he/she has conducted business as defined in the statute.

When dealers apply for license renewal, they should be required to submit tax returns for their business, as well as aggregate sales information for the period of the license. Applicants who cannot demonstrate "a regular course of trade or business" would be denied renewal.

PROPOSAL #3: IMMEDIATELY SUSPEND THE LICENSE OF ANY DEALER CONVICTED OF A FELONY AND MAINTAIN THE SUSPENSION DURING THE APPEALS PROCESS

Under 18 U.S.C. § 925(b), a licensee "who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provision of this chapter, continue operation pursuant to his existing license...during the term of such indictment and until any conviction pursuant to the indictment becomes final." ATF currently interprets this provision to mean that a licensee convicted of a felony can continue to sell guns under his/her license until all appeals of the conviction are exhausted. The appeals process, of course, may take several years. Permitting convicted felons to sell guns during protracted appeals is totally at odds with the Administration's goal, stated in the August 11 Directive, to "keep guns out of the hands of criminals."

ATF's interpretation of "final conviction" does not conform to the concept of finality in other parts of the criminal code enacted subsequent to the Gun Control Act. For example, the 1984 Sentencing Reform Act states that a judgment of conviction is final notwithstanding that it can later be modified, corrected or appealed. 18 U.S.C. §§3562(b), 3572(c), 3582(b). This is consistent with the general presumption that a conviction is valid until reversed on appeal, placing the burden on the defendant to demonstrate that it was contrary to law. Glasser v. United States, 315 U.S. 60, 80 (1942). Given this presumption, it makes no sense to allow licensees convicted of serious crimes to sell firearms during protracted appeals.

PROPOSAL #4: ALLOW ONLY MACHINEGUN LICENSEES TO PURCHASE MACHINEGUN REPLACEMENT PARTS

As part of the McClure/Volkmer Act in 1986, Congress banned the possession and sale of machineguns made after May 19 of that year. 18 U.S.C. § 922(o). Machineguns lawfully possessed before that date can continue to be bought and sold, but must be registered and are taxed pursuant to the provisions of the National Firearms Act (NFA). 26 U.S.C. § 5801 et seq. Thus, the 1986 statute was intended to effectively "freeze" the number of machineguns in the civilian population to the number lawfully registered as of May 19, 1986.

Current ATF regulations, however, make it easy to violate the machinegun freeze by converting semi-automatic assault weapons into machineguns using machinegun "replacement parts". Although it is illegal to sell or possess "any part designed and intended solely and exclusively...for use in converting a weapon into a machinegun," 18 U.S.C. § 922(o) and 26 U.S.C. §5845(b), there are no limits on the sale or possession of replacement parts for a machinegun. This loophole made it possible for the Branch

Davidian cult in Waco, Texas to use machinegun replacement parts to convert at least 100 semiautomatic assault weapons into machineguns.

According to an ATF affidavit in the Waco case, upon investigating one of the companies which sold machinegun parts to Branch Davidian leader David Koresh, ATF found that "the company maintained their inventory of these parts as 'replacement parts' so they fell easily within a loophole in the Federal law which prohibited ATF from seizing the parts. Special Agent Mutz stated that the company had all the necessary parts to convert AR-15 rifles and semi-automatic AK-47 rifles into machineguns if their customers had the upper and lower receivers for those firearms...." Koresh bought dozens of these upper and lower receivers from other gun companies.

ATF clearly has regulatory authority to carry out the provisions of the Gun Control Act, including the 1986 machinegun freeze, and the National Firearms Act. See 18 U.S.C. § 926(a) and 26 U.S.C. § 7805(a). In furtherance of that authority, ATF could simply require that machinegun replacement parts may be sold only to buyers who have a NFA license to possess the machinegun for which the parts are intended. This regulation would ensure that replacement parts are not used to manufacture new machineguns in violation of the 1986 machinegun freeze.

Crime - Gun Ideas

MEMORANDUM FOR: HOWARD PASTER

FROM: BRUCE REED
JOSE CERDA III

RE: HANDGUN CONTROL'S PROPOSALS FOR GUN CONTROL INITIATIVES

PROPOSAL #1: MANDATE MINIMUM DEALER SECURITY MEASURES TO PREVENT GUN THEFT

Handgun Control argues that, consistent with National Council to Control Handguns v. Blumenthal, No. 77-1574 (D.D.C. Oct. 24, 1978), ATF has the regulatory discretion to promulgate anti-theft regulations for its licensees.

- However, in its "Memorandum Addressing Imported Assault Pistols and Modified Assault Rifles," ATF explicitly states that this action would require additional legislation and that there is no authority in the statute for the Secretary to condition licenses based on the security measures secured by firearms dealers.

This was originally included in the August 11 Directive, but was pulled by ATF counsel.

PROPOSAL #2: AS A CONDITION FOR LICENSE RENEWAL REQUIRE GUN DEALERS TO DEMONSTRATE THAT THEY ARE SELLING FIREARMS "AS A REGULAR COURSE OF TRADE OR BUSINESS"

Handgun Control argues that even though the Presidential Directive addressed the need to tighten the dealer licensing system, additional reforms could be instituted when dealers apply for license renewal. These reforms include the submission of tax returns for their businesses, as well as aggregate sales information for the period of the license.

- To improve compliance with present licensing requirements, the list of possible reforms includes measures which will either directly, or indirectly, accomplish the ends for which Handgun Control is striving. These measures are listed as follows:

(c) making the "premises" requirement of the statue more meaningful by increasing field checks and the use of other procedures to verify compliance; (d)

increasing the scrutiny of licensees' multiple handgun sales reports and providing automated access to multiple sales report information by serial number for firearms trace purposes; and (h) expanding ATF's capabilities to utilize effectively the firearms transaction records of out-of-business licensees for tracing purposes through the use of automation and other technology.

Reform (c) directly addresses Handgun Control's wish to ensure that dealers are conducting "a regular course of trade or business." If the ATF increases its field checks and other mechanisms for verifying compliance, then it will be routinely made aware of those businesses which are conducting irregular or "suspect" business practices. Reform (d) seemingly eliminates the need for an aggregate sales report from dealers if they are required to provide multiple handgun sales reports, along with access to serial numbers by automation. In similar fashion, reform (h) will maintain a "check" system on the interstate commerce of firearms if performed properly. ATF's established system of verifying the activities of applicants and their business intent has caused those applicants not seriously intent on conducting a "legitimate" business to withdraw their application upon investigation by ATF.

PROPOSAL #3: <u>IMMEDIATE SUSPEND THE LICENSE OF ANY DEALER CONVICTED OF ANY FELONY AND MAINTAIN THE SUSPENSION DURING THE APPEALS PROCESS</u>

Handgun Control argues that because the appellate process can be lengthy, the suspension of firearms licensing upon conviction, regardless of the term of the appellate process, will ensure that convicted felons would not be able to conduct business. This ability, it argues, during protracted appeals, "...is totally ad odds with the Administration's goal, stated in the August 11 Directive, to 'keep guns out of the hands of criminals.'" They claim that ATF's interpretation of "final conviction" is inconsistent with the concept of finality in other parts of the criminal code enacted after the Gun Control Act, (i.e., the 1984 Sentencing Reform Act states that a judgment of conviction is final notwithstanding that it can later be modified, corrected or appealed 18 U.S.C. §§3562(b) 3572(c), 3582(b)).

- The previously mentioned memorandum from ATF states that this action would reverse 25 years of consistent interpretation of the statute, that allows a licensee who has been convicted to continue to operate until the conviction becomes "final," (all appeals are exhausted). They argue that a new interpretation would be both legally difficult to defend and impractical. In the past, this interpretation has allowed defense contractors or some other major corporations to continue selling firearms despite being convicted of violations totally unrelated to those sells. To stop "bad" dealers from selling during the appeals process, judges have made this prohibition a condition of the defendant's release pending appeal, or as a condition of sentencing.

PROPOSAL #4: <u>ALLOW ONLY MACHINEGUN LICENSES TO PURCHASE MACHINEGUN REPLACEMENT PARTS</u>

Handgun Control is suggesting that because machinegun replacement parts are used to upgrade semiautomatic weapons to the status and power of machine guns, that the ATF has the regulatory authority to carry out the provisions of the Gun Control Act, which instituted a machine gun freeze in 1986, and mandated that only machine gun license holders be allowed to purchase machine gun replacement parts.

- Though the ATF is currently in the process of investigating this particular aspect of gun control initiatives, restriction suggested by this regulation is almost impossible because there is no current system of regulating dealers of machine gun parts. There is statute regulation that covers restrictions on the framer receiver on machine guns and parts specifically used for converting semiautomatic weapons to the caliber of machine guns. Nevertheless, this statute does not cover machine gun parts in general. Since there is no regulation covering parts dealers, there can be no regulation concerning the selling of those parts.

American Enterprise Institute for Public Policy Research

GUNS - IDEAS

On the Issues

Just Take Away Their Guns

By James Q. Wilson

Forget gun control. To separate guns from the people who kill, let police stop likely suspects on the street, frisk them, and seize their weapons.

The president wants still tougher gun control legislation and thinks it will work. The public supports more gun control laws but suspects they won't work. The public is right.

Legal restraints on the lawful purchase of guns will have little effect on the illegal use of guns. There are some 200 million guns in private ownership, about one-third of them handguns. Only about 2 percent of the latter are employed to commit crimes. It would take a Draconian, and politically impossible, confiscation of legally purchased guns to make much of a difference in the number used by criminals. Moreover, only about one-sixth of the handguns used by serious criminals are purchased from a gun shop or pawnshop. Most of these handguns are stolen, borrowed, or obtained through private purchases that wouldn't be affected by gun laws.

What is worse, any successful effort to shrink the stock of legally purchased guns (or of ammunition) would reduce the capacity of law-abiding people to defend themselves. Gun control advocates scoff at the importance of self-defense, but they are wrong to do so. Based on a household survey, Gary Kleck, a criminologist at Florida State University, has estimated that every year, guns are used—that is, displayed or fired—for defensive purposes more than a million times, not counting their use by the police. If his estimate is correct, this means that the number of people who defend themselves with a gun exceeds the number of arrests for violent crimes and burglaries.

The available evidence supports the claim that self-defense is a legitimate form of deterrence. People who report to the National Crime Survey that they defended themselves with a weapon were less likely to lose property in a robbery or be injured in an assault than those who did not defend themselves. Statistics have shown that would-be burglars are threatened by gun-wielding victims about as many times a year as they are arrested (and much more often than they are sent to prison) and that the chances of a burglar being shot are about the same as his chances of going to jail. Criminals know these facts even if gun control advocates do not and so are less likely to burgle occupied homes in America than occupied ones in Europe, where the residents rarely have guns.

Some gun control advocates may concede these points but rejoin that the cost of self-defense is self-injury: Handgun owners are more likely to shoot themselves or their loved ones than a criminal. Not quite. Most gun accidents involve rifles and shotguns, not handguns. Moreover, the rate of fatal gun accidents has been declining while the level of gun ownership has been rising. There are fatal gun accidents just as there are fatal car accidents, but in fewer than 2 percent of the gun fatalities was the victim someone

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mistaken for an intruder.

Those who urge us to forbid or severely restrict the sale of guns ignore these facts. Worse, they adopt a position that is politically absurd. In effect, they say, "Your government, having failed to protect your person and your property from criminal assault, now intends to deprive you of the opportunity to protect yourself."

Opponents of gun control make a different mistake. The National Rifle Association and its allies tell us that "guns don't kill, people kill" and urge the government to punish more severely people who use guns to commit crimes. Locking up criminals does protect society from future crimes, and the prospect of being locked up may deter criminals. But our experience with meting out tougher sentences is mixed. The tougher the prospective sentence the less likely it is to be imposed, or at least to be imposed swiftly. If the legislature adds on time for crimes committed with a gun, prosecutors often bargain away the add-ons; even when they do not, the judges in many states are reluctant to impose add-ons.

Worse, the presence of a gun can contribute to the magnitude of the crime even on the part of those who worry about serving a long prison sentence. Many criminals carry guns not to rob stores but to protect themselves from other armed criminals. Gang violence has become more threatening to bystanders as gang members have begun to arm themselves. People may commit crimes, but guns make some crimes worse. Guns often convert spontaneous outbursts of anger into fatal encounters. When some people carry them on the streets, others will want to carry them to protect themselves, and an urban arms race will be underway.

Our goal should not be the disarming of law-abiding citizens. It should be to reduce the number of people who carry guns unlawfully, especially in places—on streets, in taverns—where the mere presence of a gun can increase the hazards we all face. The most effective way to reduce illegal gun-carrying is to encourage the police to take guns away from people who carry them without a permit. This means encouraging the police to make street frisks.

The Fourth Amendment to the Constitution bans "unreasonable searches and seizures." In 1968 the Supreme Court decided (Terry v. Ohio) that a frisk—patting down a person's outer clothing—is proper if the officer has a "reasonable suspicion" that the person is armed and dangerous. If a pat-down reveals an object that might be a gun, the officer can enter the suspect's pocket to remove it. If the gun is being carried illegally, the suspect can be arrested.

The reasonable-suspicion test is much less stringent than the probable-cause standard the police must meet in order to make an arrest. A reasonable suspicion, however, is more than just a hunch; it must be supported by specific facts. The courts have held, not always consistently, that these facts include someone acting in a way that leads an experienced officer to conclude criminal activity may be afoot; someone fleeing at the approach of an officer; a person who fits a drug courier profile; a motorist stopped for a traffic violation who has a suspicious bulge in his pocket; a suspect identified by a reliable informant as carrying a gun. The Supreme Court has also upheld frisking people on probation or parole.

Some police departments frisk a lot of people, but usually the police frisk rather few, at least for the purpose of detecting illegal guns. In 1992 the police arrested about 240,000 people for illegally possessing or carrying a weapon. This is only about one-fourth as many as were arrested for public drunkenness. The average police officer will make *no* weapons arrests and confiscate *no* guns during any given year. Mark Moore, a professor of public policy at Harvard University, found that most weapons arrests were made because a citizen complained, not because the police were out looking for guns.

It is easy to see why. Many cities suffer from a shortage of officers, and even those with ample law-enforcement personnel worry about having their cases thrown out for constitutional reasons or being accused of police harassment. But the risk of violating the Constitution or engaging in actual, as opposed to perceived, harassment can be substantially reduced.

Each patrol officer can be given a list of people on probation or parole who live on that officer's beat and be rewarded for making frequent stops to ensure that they are not carrying guns. Officers can be trained to recognize the kinds of actions that the court will accept as providing the "rea-

sonable suspicion" necessary for a stop and frisk. Membership in a gang known for assaults and drug dealing could be made the basis, by statute or court precedent, for gun frisks.

And modern science can be enlisted to help. Metal detectors at airports have reduced the number of airplane bombings and skyjackings to nearly zero. But these detectors only work at very close range. What is needed is a device that will enable the police to detect the presence of a large lump of metal in someone's pocket from a distance of 10 or 15 feet. Receiving such a signal could supply the officer with reasonable grounds for a pat-down. Underemployed nuclear physicists and electronics engineers in the post-cold-war era surely have the talents for designing a better gun detector.

Even if we do all these things, there will still be complaints. Innocent people will be stopped. Young black and Hispanic men will probably be stopped more often than older white Anglo males or women of any race. But if we are serious about reducing drive-by shootings, fatal gang wars, and lethal quarrels in public places, we must get illegal guns off the street. We cannot do this by multiplying the forms one fills out at gun shops or by pretending that guns are not a problem until a criminal uses one.

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