

# FIREARMS LEGISLATION

---

4 - JUL 27  
Copy 1976

HEARINGS  
BEFORE THE  
SUBCOMMITTEE ON CRIME  
OF THE  
COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES  
NINETY-FOURTH CONGRESS  
FIRST SESSION  
ON  
FIREARMS LEGISLATION

---

These hearings are in 8 parts. Part 1 (Washington) February 18, 20, 27, March 5, 6, 13, 20, 26, and April 9; Part 2 (Chicago) April 14 and 15; Part 3 (Detroit) June 9 and 10; Part 4 (Cleveland) June 16; Part 5 (Denver) June 23; Part 6 (Atlanta) July 21; Part 7 (New York) July 25; Part 8 (Washington) May 14, July 17, 23, 24, September 24, and October 1 and 9, 1975

---

Serial No. 11

---

Part 7

---

New York





# FIREARMS LEGISLATION

---

---

## HEARINGS

BEFORE THE

SUBCOMMITTEE ON CRIME. 1

*United States Congress,  
House.*

OF THE

COMMITTEE ON THE JUDICIARY. 2

HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

FIREARMS LEGISLATION

---

These hearings are in 8 parts. Part 1 (Washington) February 18, 20, 27, March 5, 6, 13, 20, 26, and April 9; Part 2 (Chicago) April 14 and 15; Part 3 (Detroit) June 9 and 10; Part 4 (Cleveland) June 16; Part 5 (Denver) June 23; Part 6 (Atlanta) July 21; Part 7 (New York) July 25; Part 8 (Washington) May 14, July 17, 23, 24, September 24, and October 1 and 9, 1975

---

Serial No. 11

---

Part 7

---

New York



Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1975

58-929

## COMMITTED ON THE JUDICIARY

PETER W. RODINO, JR., *New Jersey, Chairman*

JACK BROOKS, Texas	EDWARD HUTCHINSON, Michigan
ROBERT W. KASTENMEIER, Wisconsin	ROBERT McCLORY, Illinois
DON EDWARDS, California	TOM RAILSBACK, Illinois
WILLIAM L. HUNGATE, Missouri	CHARLES E. WIGGINS, California
JOHN CONYERS, Jr., Michigan	HAMILTON FISH, Jr., New York
JOSHUA EILBERG, Pennsylvania	M. CALDWELL BUTLER, Virginia
WALTER FLOWERS, Alabama	WILLIAM S. COHEN, Maine
JAMES R. MANN, South Carolina	CARLOS J. MOORHEAD, California
PAUL S. SARBANES, Maryland	JOHN M. ASHBROOK, Ohio
JOHN F. SEIBERLING, Ohio	HENRY J. HYDE, Illinois
GEORGE E. DANIELSON, California	THOMAS N. KINDNESS, Ohio
ROBERT F. DRINAN, Massachusetts	
BARBARA JORDAN, Texas	
RAY THORNTON, Arkansas	
ELIZABETH HOLTZMAN, New York	
EDWARD MEZVINSKY, Iowa	
HERMAN BADILLO, New York	
ROMANO L. MAZZOLI, Kentucky	
EDWARD W. PATTISON, New York	
CHRISTOPHER J. DODD, Connecticut	
WILLIAM J. HUGHES, New Jersey	
MARTIN A. RUSSO, Illinois	

EARL C. DUDLEY, Jr., *General Counsel*

GARNER J. CLINE, *Staff Director*

HERRERT FUCHS, *Counsel*

WILLIAM P. SHATTUCK, *Counsel*

ALAN A. PARKER, *Counsel*

JAMER F. FALCO, *Counsel*

MAURICE A. BARBOZA, *Counsel*

THOMAS W. HUTCHISON, *Counsel*

ARTHUR P. ENDRES, Jr., *Counsel*

DANIEL L. COHEN, *Counsel*

FRANKLIN G. POLK, *Counsel*

THOMAS E. MOONEY, *Counsel*

MICHAEL W. BLOMMER, *Counsel*

ALEXANDER B. COOK, *Counsel*

CONSTANTINE J. GEKAS, *Counsel*

ALAN F. COFFEY, Jr., *Counsel*

KENNETH N. KLEE, *Counsel*

---

## SUBCOMMITTEE ON CRIME

JOHN CONYERS, JR., *Michigan, Chairman*

JAMES R. MANN, *South Carolina*

ROBERT McCLORY, *Illinois*

GEORGE E. DANIELSON, *California*

JOHN M. ASHBROOK, *Ohio*

RAY THORNTON, *Arkansas*

WILLIAM J. HUGHES, *New Jersey*

MAURICE A. BARBOZA, *Counsel*

TIMOTHY J. HART, *Assistant Counsel*

CONSTANTINE J. GEKAS, *Associate Counsel*

DOROTHY C. WADLEY, *Clerk*

MARICE C. WERTH, *Clerk*

1. 7 added M.L.U. 2  
6 aug 76

# CONTENTS

## Witnesses—

	<b>Page</b>
Anop, Victor M., executive director, Gun Owners' Action League, Southboro, Mass.....	2365
Prepared statement.....	2387
Beame, Hon. Abraham B., Mayor of New York City.....	2205
Prepared statement.....	2212
Buckley, John J., sheriff, Middlesex County, Mass.....	2317
Prepared statement.....	2343
Carver, John D., executive director, Massachusetts Council on Crime and Corrections, Inc.....	2319
Prepared statement.....	2341
Codd, Hon. Michael J., commissioner of police, New York City.....	2175
Prepared statement.....	2182
Connellie, William G., superintendent of the New York State Police Department.....	2184
Prepared statement.....	2196
Del Tufo, Robert J., first assistant attorney general, State of New Jersey.....	2184
Prepared statement.....	2200
Di Grazia, Hon. Robert J., commissioner of police, Boston, Mass.....	2164
Prepared statement.....	2172
Fink, Hon. Stanley, chairman, New York State Assembly Committee on Codes.....	2214
Prepared statement.....	2217
Fitzgerald, William F., supervisor of firearms, Records Bureau, Massachusetts Department of Public Safety.....	2184
Prepared statement.....	2204
Fox, Hon. John, former judge for the State of Massachusetts.....	2345
George, Thomas, assistant regional director, Regulatory Enforcement, Bureau of Alcohol, Tobacco, and Firearms.....	2295
Goodwin, M. L., acting regional director, North Atlantic Region, Bureau of Alcohol, Tobacco, and Firearms.....	2295
Prepared statement.....	2282
Gressey, Howard D., general counsel, Disarm, Inc.....	2322
Prepared statement.....	2343
Hogan, Hon. William F., chairman, Committee on Public Safety, Massachusetts House of Representatives.....	2214
Lennox, Ian, executive director, Citizens Commission on Crime, Philadelphia, Pa.....	2325
Maloney, Peter J., deputy inspector, New York City Police Department.....	2184
Prepared statement.....	2199
Metaksa, Tanya R., representing the Connecticut Sportsmen's Alliance of Niantic, Conn.....	2365
Prepared statement.....	2403
Morrisey, Harry T., assistant regional director, (Criminal Enforcement), Mid-Atlantic Region, Bureau of Alcohol, Tobacco, and Firearms.....	2295
Prepared statement.....	2287
Potter, Lillian K., executive director, Handgun Alert, Inc., Providence R.I.....	2314
Preiser, Gerry, Federation of Greater New York Pistol and Rifle Clubs.....	2246
Talbot, Hon. Gerald E., member, Maine House of Representatives.....	2214
Volk, Franklin R., chairman, Special Committee on Firearms Legislation, New York State Conservation Council.....	2246
Prepared statement.....	2256

IV

Additional material —

	<b>Page</b>
Bingham, Hon, Jonathan B., a Representative in Congress From the State of New York, Prepared statement.....	2163
Koch, Hon. Edward I., a Representative in Congress From the State of New York, prepared statement.....	2160
Rangel, Hon. Charles B., a Representative in Congress From the State of New York, prepared statement.....	2158
“Speaker’s Summary of the Gun Laws,” the Commonwealth of Massachusetts.....	2222

Appendixes —

Appendix 1.—Correspondence between G. Marie Wilt, Research Institute, Wayne State University and Timothy J. Hart, assistant counsel, Subcommittee on Crime, with enclosed article entitled “Homicide—An Overview”.....	2413
Appendix 2.—Statement of James Mullarkey, president of Northeastern States Council of Sportsmen Inc.....	2420
Appendix 3.—“Handgun Control in Massachusetts: a Report to the Governor”.....	2421
Appendix 4.—“Homicide Analysis—New York City—1973”.....	2434
Appendix 5.—“Tokyo—One City Where Crime Doesn’t Pay”.....	2462
Appendix 6.—Correspondence.....	2521

## FIREARMS LEGISLATION

---

NEW YORK, N.Y.—FRIDAY, JULY 25, 1975

U.S. HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME OF THE  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 8:30 a.m., in the U.S. United Nations Mission Building, the Honorable John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers and McClory.

Also present: Maurice A. Barboza, counsel; Timothy J. Hart, assistant counsel; and Constantine J. Gekas, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

Good morning. The hearings on firearms regulations of the Subcommittee on Crime of the House Committee on the Judiciary continues this morning in the city of New York.

This is the final regional hearing that the committee will be holding in connection with the subject of firearms regulations, having been in several other parts of the country.

On behalf of the subcommittee, I am very pleased to be in the city of New York, to hear testimony from not only the mayor and the police commissioner, distinguished legislators, and others, but we are also going to be hearing from other officials and law enforcement representatives from the general Northeast region.

This has been an extremely important set of hearings, probably the most important we have undertaken. I am proud and privileged to have with me the ranking minority member of this subcommittee, the gentleman from Illinois, Mr. Robert McClory.

Before I yield to him for his opening comments, I would just add that this subcommittee is working now toward a bill of its own. There have been many introduced since our hearings have begun.

The administration has recently moved toward some legislation on this subject. The U.S. Senate is now engaged in constructive and important work which we hope will measure with our own activities. It seems clear to me that the Congress of the United States is now moving toward some new action that would implement and make better operationally the Gun Control Act of 1968. It is in that spirit that this subcommittee comes to New York City to discuss with outstanding law enforcement agents, leaders, citizens, rifle organizations, and other sportsmen the kinds of questions that we know should be given careful consideration as we move toward a final legislative result. I yield now to my good friend from Illinois, Mr. Robert McClory.

Mr. McCLORY. Thank you, Mr. Chairman.

I would likewise want to express my privilege at being here in New York and the very fine arrangements that have been made for us to conduct this final field hearing of the Subcommittee on Crime of the House Judiciary Committee. I have had the opportunity to go over in a preliminary way the testimony, the statements that have been filed here, and I cannot help but feel that they indicate very definitely that there is a need to supplement what is being done in the city and State of New York and the other communities of the Northeastern part of our Nation with effective Federal legislation because the business of trafficking in guns is certainly something that does not—is not bound by community lines or by State borders. I am also pleased to note in this morning's New York Times their editorial giving support to the recommendations of President Ford on the subject of gun control but to the extent that his recommendations—and I might say parenthetically that they do not go as far as the chairman and I would like or we may see fit to support—but nevertheless, it is encouraging that meaningful improvements in the gun control laws, the Federal gun control laws, are getting the active support of the President, of the Attorney General; and of course, from the statements we have received here today, I know we are going to have overwhelming support from the law enforcement agencies and public officials from this area. So I look forward to this final field hearing, and I know that it is going to contribute substantially to the end product of our work which is to improve the existing laws that we have now, to try to find effective ways to help reduce crime in America, through gun control legislation.

It is not the entire answer, but it is perhaps a small part of the total answer that the Nation needs.

Mr. CONYERS. Thank you very much, Mr. McClory.

Our first witness will be the Commissioner of Police from the city of Boston, the Honorable Robert di Grazia.

As he comes forward, I would like to insert in the record the testimony of three of our colleagues in the Congress who are not able to be with us today.

First of all, Congressman Charles B. Rangel has submitted a statement, Congressman Edward I. Koch has a statement that will be submitted, and Congressman Jonathan B. Bingham who has testified previously in Washington and has submitted an additional statement. Without objection, their statements will be entered into the record at this time.

[The prepared statements follow:]

**STATEMENT OF HON. CHARLES B. RANGEL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK**

Mr. Chairman, members of the Subcommittee on Crime:

Welcome to the great city of New York. Donations will be accepted at the door. Thank you for this opportunity to address a most critical concern of mine—gun control legislation. Knowing of your long interest in gun control, Mr. Chairman, I am sure that you recognize the seriousness of this hearing, and therefore will act positively and quickly on this matter.

It is, indeed, appropriate that we are here this morning, amidst the hallowed halls of the United Nations—the universal symbol of peace. For, in many ways, the theme that brings us here today is peace: peace in our city streets; peace in our suburbs and countryside; and most importantly, peace of mind, free from

fear, doubt or anxiety. But, as in the trials and tribulations of the United Nations, we are faced with an elusive peace, swift of foot, difficult to embrace.

The problems of crime in American society can be simply expressed. You have heard the same arguments, the same statistics, the same emotional outbursts all before. But if they must be reiterated before federal legislation is enacted, so be it.

During the past ten years criminal activities, particularly violent crimes, have increased at an alarming rate. What is particularly distressing, in connection with these rising crime figures, is the increased use of handguns in the commission of such crimes as homicides, assaults, robberies and rape. Let me illustrate this point by providing the committee with a few statistics on crime in New York State, which are taken from the report of the New York State Commission of Investigation concerning the availability, illegal possession and use of handguns in New York.

The New York City Police Department has estimated that there are approximately one million illegal handguns in New York City. This condition poses a real threat to life, property and the security of the people of this city and state, as the following figures illustrate.

#### HOMICIDES

The rise of homicides in New York City is truly alarming. In 1943 there were 201 homicides; in 1960 there were 390, during 1973 there were 1,669. Homicides increased 328% during the period 1960 to 1973. During this same period there was a total of 12,573 killings in New York City.

The role of the handgun in these killings cannot be underestimated. For many years the weapon most commonly used in homicides was the knife. However, with the proliferation of easily attainable handguns, the knife has been supplanted as the primary weapon in murders.

In 1966 handguns were responsible for 28% of the homicides in New York City. This percentage increased to an alarming 49% in 1972 with a slight decrease to 47% in 1973. Numerically, there were 184 handguns involved in homicides during 1966, but in 1972 and 1973 this figure swelled to 834 and 795 respectively.

#### ROBBERIES

While homicides illustrate most vividly the handgun menace, they are by no means the only crime problem caused by the seemingly ubiquitous handgun.

Robbery is defined as the forceful stealing of property from another. The prospect of having one's money or valuables taken at the point of a gun, held by an assailant is terrifying to the normal citizen. The records of the New York City Police Department show that during the five year period from 1969 through 1973, there were 373,200 robberies in New York City.

There has been, however, since 1971 a decline in robberies. But there can be little comfort from this trend because, during this same time period, there was a marked increase in robberies in which handguns were used. In other words, even though there were less robberies reported in 1973, more of these robberies involved the use of the handgun. In 1969 there were 13,705 handgun robberies. There has been a fairly steady increase so that in 1973 there were 20,422 handgun robberies. The fact is that in almost 30% of all robberies committed in 1973, a handgun was the principal weapon used.

#### HANDGUN TRACING STUDY

In my mind, the most compelling argument that I can give to this Committee in favor of federal gun control legislation involves a Handgun Tracing Study, which was conducted by the Federal Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury and the New York City Police Department. The statistics, which this joint study compiled, reveals, in all too certain terms, the tenuous nature of strict gun control legislation at the state level and the urgency for federal legislation.

The New York City Police Department reviewed all handgun cases in the City between January 1, 1973 and July 31, 1973—over 5,000 cases. Recorded serial numbers for over 3,000 of the guns were sent to the Department of the Treasury, where they were traced through their various owners, and then ultimately to the location of the original purchase. The results of that study are as follows:

Traced to States other than New York-----	1,343
Traced to New York State-----	1
Traced to foreign countries-----	13
Stolen (various States)-----	365
Legal handguns not reported stolen-----	22
New York City permit holders-----	48
Other permit holders-----	10
<b>Subtotal -----</b>	<b>1,802</b>
Nontraceable weapons (starter's pistols and homemade guns)-----	111
Companies no longer in business, or no records kept-----	781
Military handguns-----	31
Duplicate requests-----	97
Guns involved in routine tests, or surrendered by permit holder-----	184
<b>Subtotal -----</b>	<b>1,204</b>
<b>Total -----</b>	<b>3,006</b>

These statistics illustrate the vital need for federal gun control legislation to control guns moving across state lines.

It is not sufficient to legislate strict gun control and licensing laws at the state level, as in New York, if the availability of guns in other states is not controlled. Although I laud the great achievements and leadership New York has displayed in gun control legislation, it is not an adequate enough deterrent to the use of handguns in the commission of violent crimes. It does not seem just that New York State should continue to be penalized for its stringent laws simply because other states have been remiss in their duties. As long as one state in the union remains content with lenient laws concerning the purchase of handguns, we as a nation cannot feel secure.

Let me briefly summarize my major points:

(1) The handgun is the criminal's favorite weapon and at an increasingly rapid rate.

(2) Handguns are easily obtainable from states that do not have strict gun control statutes, thus posing a threat to those states that do.

(3) As the number of handguns in circulation has increased, the crime rate has gone up.

(4) Finally, many criminals steal the guns they use.

The only way we can terminate the endless supply of this deadly weapon is to legislate it out of our society, exempting law enforcement agencies from our action. This legislative proposal will not solve the crime problem by itself. But it will significantly reduce incidences of violent crimes in our nation.

Many claim that the issue is not gun control but, rather, getting the criminal off the street. The argument which the National Rifle Association has employed, "Guns don't kill, people do," is an irresponsible justification for supporting unregulated manufacturing and distribution of cheap handguns. Members of this distinguished Committee, I ask you—how many more policemen must die before we realize that the issue is, indeed, adequate gun control legislation? How many more people must get mugged on the streets of New York City by someone with a handgun before the people's Representatives realize that too many people have died? Finally, how many more of our national leaders must fall victims to the deadly handgun, before Congress decides to act?

The time for action has long since passed. We have but one alternative and I hope that this Committee will meet its responsibility to the people. Thank you for allowing me the opportunity to be a part of this process.

---

**STATEMENT OF HON. EDWARD I. KOCH, A REPRESENTATIVE IN CONGRESS FROM  
THE STATE OF NEW YORK**

Mr. Chairman, I regret that because the Congress is in session I am unable to testify in person. Gun control is a matter of great concern to me and my constituents; therefore, I am submitting this statement in lieu of appearing personally.

Ever since the beginning of my service in public office, I have actively supported strong gun control legislation. The reason for this is simple: in 1973 (the latest

year for which detailed statistics are available), 19,510 murders were committed in the United States; and of these, 67% were committed with firearms and 53% with handguns.\* This figure does not even include the far greater number of robberies, aggravated assaults, and forced rapes that involved guns but did not leave the victims dead.

Nearly all the industrial nations of the world require firearms licensing or registration, and many of them prohibit private possession of handguns altogether. Nowhere in the world is the private ownership of handguns on a per capita basis as high as it is in the United States where the Bureau of Alcohol, Tobacco, and Firearms estimates there are 40 million handguns. In Canada there are 30 handguns per 1,000 people; and in Finland, the Netherlands, Greece, Great Britain, and Switzerland there are less than 5 per 1,000. When this statistic was formulated in the United States, there were 135 handguns per 1,000 people. That figure has already grown to 200 per 1,000 people. The result of this extraordinary proliferation should surprise no one: 53% of those 19,510 murders I mentioned above were committed with handguns.

Few people will deny the correlation between the availability of handguns and the incidence of violent crimes. In the United States there are 5.7 gun murders per 100,000 persons each year, as opposed 1.9 in Japan, where it is illegal to own, manufacture, or carry a handgun, and to 1.2 in Great Britain, where handgun laws are almost as restrictive.

For these reasons, I believe strict regulation of handguns to be the most pressing aspect of gun control, and I am cosponsoring two bills—H.R. 3086, introduced by Rep. Abner Mikva, and H.R. 3202, introduced by Rep. Jonathan Bingham—which would closely regulate the manufacture, sale, and transfer of handguns. As far as I'm concerned, handguns have only one significant purpose which is to kill people. I don't believe that people have a right to own handguns except under certain very special circumstances. I have in mind those with an extraordinary need to protect themselves, members of target pistol clubs, and bonafide collectors, as well, of course, as law enforcement officials and members of the Armed Forces. Under no circumstances is there any need for the "Saturday Night Specials" that account for so many of the shootings in our nation's cities. These cheap handguns are easily bought, easily concealed, and easily disposed of. Their only function is crime, and they must be banned.

The need for legislating gun control on a federal level is quite clear. A strict gun law in one state is emasculated if guns can be smuggled in from neighboring states where they can be obtained legally and quietly. New York City, for example, has a strict law governing the registration and licensing of guns, but the impact of that law, which I cosponsored when I sat in the New York City Council in 1967, has been diminished because of the heavy flow of guns from the outside. The proof of this claim lies in a special report on the origins of handguns used to commit crimes in the city by Howard Metzdorff, Deputy Chief of the Intelligence Division of New York City's Police Department. Sections of this report were introduced into the *Congressional Record* by Rep. Bingham starting on May 6, 1974 (p. E42774).

A major intent of gun control legislation is not to restrict the legitimate possession and use of guns by law-abiding citizens, but to make it more difficult for people to obtain casually guns that will later be used to kill out of anger or passion. It is particularly relevant to this point to note that, according to a report before the American Public Health Association's November 1973 conference in San Francisco, 70% of all people killed by handguns in the United States are shot by people they know, most often a relative. With this in mind, I laud the President's June 19 Message to Congress which calls for a ban on multiple sales of handguns, more rigid licensing procedures for gun dealers, a required waiting period between purchase and receipt of a handgun, and mandatory penalties for crimes involving guns in addition to a ban on "Saturday night specials." I might add that I am cosponsoring legislation introduced by Rep. Hamilton Fish that would establish an additional sentence of five to fifteen years for a felony committed with a gun or for felonies that threaten life or property if the offender is unlawfully carrying a gun. For a subsequent offense with a gun, the additional sentence would be ten to thirty years. Severe penalties like these are a necessity if we are to reduce significantly the level of violent crime in America.

While I welcome the President's proposals, I do not think they go far enough. To effectively stem the flow of guns destined to kill relatives and acquaintances,

\*Source: *Crime in the United States, 1973*, Uniform Crime Reports, F.B.I., Sept. 6, 1974.

we must ensure that those who buy guns intend them for lawful purposes. The first step in this direction would be to register all firearms. Surely law abiding citizens would find this a small inconvenience to reduce the vast number of guns floating about our cities. In my own state, New York, a far stronger law requires a license to possess a handgun in one's home or place of business from which it may not be removed and a separate license to carry a handgun. A purchase authorization requiring a license and a strict record of the purchaser in the form of a coupon detached by the gun dealer must be presented to buy a handgun. In addition, the City of New York requires a special target shooter's license. To get this license one must submit an affidavit stating that he is not an alcoholic, not mentally incompetent, not a convicted felon, and not a minor as well as provide information indicating that he is proficient at handling a handgun. This is the kind of law that should apply to the whole country.

While I would like to see such strict gun control, I recognize that more modest controls achievable now are better than none at all. In this spirit, I will shortly introduce a moderate gun control bill aimed at an aspect of this problem that has received little attention to date: gun proficiency. I believe that the responsibility involved in using a gun is no less than that involved in driving a car. Both can and do kill if used improperly. The legislation I will introduce would require everyone who owns, uses, or possesses a gun to be licensed in the same way that they are licensed to drive a car. To obtain a license under my proposed bill, one must successfully complete a certified course in gun safety and pass an examination on gun safety and gun laws. Also, to buy a gun or ammunition one must produce a valid license. The sole intent of this legislation is to achieve competency among gun users. In this way, many of the tragic gun accidents resulting from ignorance and foolishness each year could be prevented.

I am not so naive as to think this legislation will keep guns out of the hands of hardened criminals. It will definitely not do that. What it will do is keep guns away from the casual owner who is not willing to make any commitment to the proper and safe use of firearms. Those who buy guns for whimsical or misguided reasons would not be able to do so unless they take the time to become responsible gun owners. Again, I do not believe that any of this proposed gun control legislation will keep guns out of the hands of hardened criminals. But most murders are not committed by hardened criminals but are the result of family quarrels. These will be diminished by the various gun control laws.

In proposing these safety requirements, I am pleased to see that I do not stand completely alone. Minnesota, the District of Columbia, and New York City have laws requiring training in firearms safety and use for the prospective gun handler. West Virginia now has a law requiring an individual to pass a written examination and demonstrate proficiency before he can obtain a license to carry a pistol. In addition, the legislatures of Maryland, Massachusetts, and New York State considered bills this year that would set up gun safety courses and in Maryland and New York require them before issuing a gun license.

As we all know, the greatest opposition to gun control has come from those who fear that any gun restrictions administered by an unfriendly federal bureaucracy will grow until all guns are taken away. I have discussed my gun safety proposals with ardent gun-control opponents and found that they agree it is reasonable to require gun users to be competent. In the spirit of this tenuous consensus, the gun-safety licensing would be administered by the Department of Interior, a long-time friend of the outdoorsman and firearms user.

My inclination in drafting this legislation is to include an age restriction calling for direct supervision of those under 16 when they are using firearms. Like the age restrictions in automobile licensing, however, this, I think, can prudently be left to the respective states to act.

All the different aspects of gun control I have mentioned would greatly benefit our society. Those who argue that gun control will only restrict the freedoms of law-abiding citizens without affecting the criminal are wrong. According to the Zimring Study of the Federal Gun Control Act of 1968, even this mild law has significantly dented the rate of increase of handgun and firearms assaults. Since, however, pending a change in Congress, the prospects of passing strong gun control legislation are dim, I hope to get what we can—namely gun safety—by working with those who otherwise oppose gun limitations. In this limited area, there is a consensus—let us take advantage of it.

STATEMENT BY HON. JONATHAN B. BINOHAM, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF NEW YORK

Mr. Chairman, although I have already testified before this subcommittee, I wanted to take this opportunity to submit some brief additional remarks. I appreciate the subcommittee's holding hearings here in my home city, and also the opportunity to once again place my views in the hearing record at this time.

In the six months since you began hearings on proposed gun control legislation, Mr. Chairman, the drive for a ban on the private possession of handguns has gained enormously in support. A handgun ban, which I advocate, has been endorsed not only by local gun control organizations around the country, but also by the U.S. Conference of Mayors, the American Civil Liberties Union, Americans for Democratic Action, B'nai B'rith Women, several of the nation's leading religious organizations, the New York City Federation of Women's Clubs, some of our most respected newspapers, and many leading law enforcement officials, including Sheriff Peter Pitchess of Los Angeles County, and Police Commissioners Robert DiGrazia of Boston and Michael Codd of New York City. No other gun control proposal has been so widely advocated.

And for good reason. The public recognizes that no other form of gun control will be effective. Since we are attacking not only crime in the streets, but also senseless violence in our homes, the only rational approach is one which will remove the most commonly used weapon not only from the streets, but also from homes. That weapon is the handgun, and only a complete ban will remove it from circulation.

In testimony before this subcommittee, Mr. Chairman, the myth of the handgun as a defensive weapon has been demolished. We know now that the person who keeps a handgun for self-defense is substantially more likely to turn it on a friend or relative than to use it against a criminal. We know that handguns kept in the homes of ordinary, law-abiding citizens are a major source of supply for criminals. We know that most murders are "crimes of passion," and that most murderers are first offenders, and that handguns are involved in the vast majority of all murders. We know of the tremendous costs, both economic and social, of handgun violence. And we know that a ban on handguns would be both constitutional and enforceable.

We know also that the United States lags far behind the rest of the world in curbing firearms violence. The experience of nations such as Japan and England shows conclusively what a handgun ban can do. Why are we so reluctant to acknowledge these facts?

Mr. Chairman, I am not claiming that a ban on handguns would be an instant remedy for society's entire crime problem, or that it would be totally effective the day after enactment, or that it doesn't present some inconvenience to target shooters and others. Clearly, however, a ban would be such a giant step toward reducing the level of violence in America that any problems and inconveniences would be almost inconsequential.

The whole nation looks to this subcommittee for leadership on gun control. The Administration's proposals have been almost universally recognized as so lacking in substance as to be nearly worthless. After the encouraging news that the Administration would really focus on the problem, the legislation submitted has been a huge disappointment to all but the most dedicated proponents of no control at all.

It is time that Congress caught up with the public on this issue. The available evidence and the weight of public opinion point in the direction of a handgun ban. I respectfully urge this subcommittee to take the leadership on this issue, by reporting legislation banning the private possession of handguns to the full Judiciary Committee, and by working diligently to convince our colleagues in the Congress of the necessity for such action.

Mr. CONYERS. Welcome, Commissioner di Grazia.

We note you have a very distinguished background in law enforcement work in addition to your present assignment, that you have been the Superintendent of Police of St. Louis County and that you have attended a number of colleges and universities in developing the academic side of your profession.

We know of your great concern on this subject and appreciate the fact that you have prepared a very detailed statement. Without objection, we will enter it into the record at this time.

That will free you to either read parts of it, outline it, or proceed in any way you wish.

**TESTIMONY OF HON. ROBERT DI GRAZIA, COMMISSIONER OF  
POLICE, CITY OF BOSTON**

Commissioner DI GRAZIA. Thank you, Mr. Chairman, Mr. McClory. I certainly appreciate the opportunity to be here this morning to present my views on handguns.

I hope I do not take up too much of your time but I feel the short time I have here, I will cover everything that I need.

Thank you for giving me the opportunity to present my views on handguns. It is gratifying to see this important issue the focus of the committee's study.

I will not inundate you with statistics, nor shock you with horrifying stories of the gruesome toll caused by handguns. I have no new or surprising study which clearly and emphatically prove my point of view. The facts and studies have already been documented. I come before you today to just talk commonsense.

Let me begin by clarifying a point. I am not in favor of gun control. I am for handgun control. The term gun control is a misnomer which has aroused passions and confused the issue. Some people have come to believe that the control of handguns is the first step toward taking all guns away from people. I am not now, nor will I ever be, in favor of restricting people from owning rifles or other long-arm guns for the purpose of sport. My concern is for the handgun, which is both concealable, and deadly and which, in a civilized society, serves no useful social purpose.

It is my view that law must banish private handguns from this country. I am not asking for registration or licensing or outlawing cheap "Saturday night specials," I am saying that no private citizen, whatever his claim, should possess a handgun; only police officers and the military should. I want to see this accomplished by outlawing the manufacture, distribution, sale, ownership, and possession of handguns. During the first 6 months after the law is passed, all handgun owners should be permitted to turn in their guns, receiving fair market value for them. After the end of that amnesty period, anyone caught with a handgun in his possession should be severely punished. Any crime committed with one, should be punished far more severely than that same crime committed without a handgun.

Many people think this is a radical position. My position is not radical. It is the current situation which is radical and unreasonable. They ask "wouldn't you accept something less?" My answer to that is "No." Let me explain why.

As long as we have handguns available they will continue to be misused. People will continue to accidentally shoot one another as well as themselves. Lives and limbs will be lost needlessly. They will continue to be the main source of violent crime. It is often said that guns don't commit crimes, people do. The supposition here is that if handguns were not available the criminal would find something else.

Undoubtedly, this would be true in some cases, the unavailability of a handgun could mean the noncommission of a violent crime. The wife and husband arguing would not be able to grab a handgun and easily end a life. The juvenile robber might not have the perverted boldness to commit his crime without the handgun. The concealability of a handgun, its depersonalized lethal nature, all give him the slight psychological edge needed to commit his crime. Given another weapon, he might not think he has the force to commit his crime. With a handgun he knows he has the ultimate force, the power to easily kill. In short, people do commit crimes, but handguns make it easier and in some cases inspire the commission of violent crimes.

But, some will ask, why the elimination of handguns? Why not the registration of handguns so that only responsible people would have guns. This is just not practical when you look at the millions of guns stolen each year and the thousands stolen right after they are manufactured. As long as handguns are available, "Saturday night specials" or more expensive models, irresponsible people will have them. The only way to keep them from being used improperly is to keep them from coming into existence. Eliminating "Saturday night specials" might remove the cheap handgun from circulation but millions of other handguns will still be available. In effect, it won't solve the problem, just up the ante.

Registration might make it easier to trace the handgun to its original owner but it does nothing, however, about preventing violent crimes. I am asking for the abolition of handguns so that we can remove one of the root causes of violent crime.

If we abolish handguns and have people turn them in, won't only the criminals have handguns? In the beginning, the answer to this is probably yes. But that is what the police are for. We have been entrusted with the responsibility for personal protection. Individuals need not, and in fact will not be safer by carrying their own handguns. America has not yet returned to those yesteryears where one gun toting citizen must protect himself against another gun toting citizen. In our more civilized society we have turned the use of legal force over to the police. The police will continue to protect citizens against harm while handguns are removed from circulation. It will take time, but eventually the handgun will be as rare as the buffalo roaming the prairies. Perhaps then we will be as safe from the carnage of handguns as other civilized nations which long ago eliminated this lethal anachronism.

People have argued with me that if we abolish the handgun because it causes death then we should also abolish the automobile because it causes more deaths than the handgun. There is however one significant difference between the automobile and the handgun. The former has a useful social purpose while the latter has none. It is important that people be able to easily move from place to place in our mobile society. It is unfortunate that a byproduct of this is accidental deaths and injuries. But what purpose does the handgun have? Its primary purpose is to kill or maim. It is a people hunter, it is a people killer. It is not just unfortunate, but predictable, that it not only causes accidental deaths and injuries but also causes intentional deaths and injuries. We are forcing manufacturers to make cars safer with seat belts and other safety devices with the hope that cars will eventually

be safe to serve their intended purpose. But how do we make handguns safe? How can we make them safe when their only purpose is to do harm? My answer is to eliminate them. Those few who believe they have a right to shoot their handgun for target practice—although it is legally clear they have no constitutional right—must give up this enjoyment of a trivial social significance for the greater social good.

For these reasons, I am here today to plead with you for some national action against the spiralling menace of handguns. As a police commissioner, I urge you to take action to save the lives of my police officers. Can you imagine what it is like to patrol the streets of Boston, respond to robbery calls or family disputes, knowing that behind any door could be an armed person who will kill you? Can you imagine how you would feel if you knew perfectly well that every time you go to work you take your life in your hands? Police officers know that. They do it every single day.

The loss of one police officer's life is one too many. Yet nationwide nearly 200 officers will be killed this year mostly by handguns. Something must be done.

As police commissioner, I also urge you to take action against handguns to save the lives of the citizens of my city and reduce the fear of violent crime. If we are to make serious inroads into the reduction of violent crime, then you must do something about the facilitator of violent crimes.

Only you can take the necessary step. National legislation is needed because scattered tough State laws can't do the job. Guns don't observe State boundaries. As long as there is a pool of handguns available there will always be the same problems. Congress must take the first step since the President won't.

I am woefully distressed at President Ford's package on crime. The control of handguns was not meaningfully addressed. As I said earlier, Saturday night specials are not the problem—all handguns are. Severe punishment after the fact does not prevent violent crime. I can imagine the terrible burden of issues facing the President. With worldwide crises and national problems of all types it may appear that the handgun control issue is peripheral and even philosophical. It is however a problem, the consequences of which I see and deal with everyday. I therefore, humbly, but vigorously disagree with the President's position, or rather lack of position, on handgun control.

The President has emphasized the importance of détente with Russia as an important ingredient to international disarmament through the SALT talks; it concerns me that the President does not see the arms race in this country. The proliferation of handguns will turn this country into an armed camp. We need a national disarmament so as to bring about national peace. I, therefore, call on the President to convene national SALT talks to begin national disarmament. While the international SALT talks stand for Strategic Arms Limitation Talks, the National SALT talks could stand for "Save American Lives Today."

As this Nation approaches its 200th birthday, it is perhaps appropriate to look at the goals set out for us by our Founding Fathers. The preamble of the Constitution declares the need to "insure domestic tranquility." Two hundred years later I would hope that we now see

that national legislation abolishing handguns is the only step that will meet this goal.

Thank you very much.

Mr. CONYERS. That is a powerful statement, Commissioner. I applaud your courage and your thoughtfulness. As far as I can tell, there are five members in the Congress who have shared similar forthrightness of their views.

They are Senator Phil Hart of Michigan; Congressman Michael Harrington of your State; Congressman Robert Drinan; Congressman Jonathan Bingham of New York; and Congressman Ron Dellums of California.

With the exception of those five Members of Congress, though there may be others, it is my view that notwithstanding the validity and cogency of your argument, there is quite frankly not sufficient support at this time to move much beyond the outlawing of cheap guns, the tightening up of licensing requirements, the reduction of the number of dealers that float around in this business, the closing up of the loopholes that allow foreign parts to come into the country and be assembled into cheap handguns. But, I honestly cannot detect a great sentiment for the strongly articulated position you present to this subcommittee.

Now, the dilemma that I am in, as the Chairman, is what do we do under those circumstances? What would you do?

Regardless of the merits of your proposal, the rest of the country has not caught up with Commissioner di Grazia of Boston. What I am trying to do is move between some other possible considerations. After all, we are trying to move the country forward.

Within the last 6 months, since this committee started its work, people have begun to examine the issues in a far more sober light than they had earlier.

The Senate has begun to move. The administration now is at least making some sense with regard to gun laws, so it seems to me that we are caught between our better nature on this subject and the realities of the legislative process.

You won't believe it but that was a question.

Commissioner DI GRAZIA. Mr. Chairman, I came down this morning because I had a long session with the city council in Boston last night that went on past 12 o'clock so I recognize that both as a statement and a question.

I realize that there are only five and probably a couple more that have expressed this strong a viewpoint but at the same time that we should be aware of what the general feeling is across the country by the citizens.

It has been running at least two-thirds in favor of extremely strong legislation in this regard and just 2 weeks ago at the annual conference of the National Conference of Mayors, this same identical approach was voted by the mayors as far as very strict elimination of handguns in the United States.

Mr. CONYERS. Was this made up of the big city mayors, small-town mayors or the amalgamation?

Commissioner DI GRAZIA. All of them together, the National Conference of Mayors. You had them from all size communities.

Certainly, of course, as usual, I guess the big cities wield some power but this was certainly across the spectrum of communities in the United States.

The concern I have and it was mentioned, I believe, by Mr. McClory by legislation in 1968 that was the last gun control legislation we had and probably nothing to write home about, what I have great concern about is we have legislation that has passed in 1975 or 1976 which is not as strong as it should be and then people will sit back and say, well, there has been new legislation, another attack on handguns has been taken and then we have to wait for another 7 or 8 years before we bring up the subject again with enough intensity so some action will be taken.

I can only express my viewpoint and point out also the comments about citizens and mayors as an example that are demanding this type of legislation from you, the lawmakers of our Nation.

Mr. CONYERS. Counsel Barboza brings to our attention a CBS poll taken in July of this year that showed that 51 percent of the people polled, and they admit it was a sample of only 889 persons, 51 percent were for the banning the sale of handguns and that was taken across the country.

Now it is not unknown that sometimes the legislature is the last body to get the message, not only on gun control, but on other issues. This has happened before.

Occasionally, the reverse occurs but we are nevertheless confronted with this reality. The members with whom I serve from the State of Michigan, with the exception of one, and the representatives of your great State, with the exception of two, are apparently unprepared to move on the experiences that are reflected by the Conference of Mayors and by some polls of limited scope, so that we are in a bit of a dilemma.

Let me try out some halfway measures on you and see how they work. Suppose we were to put together a piece of legislation, I do not know how Bob McClory and I would sell this to an executive branch or even the U.S. Senate, but suppose we reported a bill that in addition to what I think most people would admit are the fundamental things that ought to be done, that would begin an education program nationally. Also there ought to be some requirements for knowing who has guns and there ought to be a national tracing center. We ought to organize the licensing provisions so they make sense and get rid of all of the individual citizens who are merely buying a license for convenience. But, over and beyond that, suppose we took the most giant step forward in my judgment that could be taken in the year 1975. Suppose we attempted to prohibit the manufacture and sale of a certain class of handguns, namely, a class that we would define as concealable which would be a legislative judgment. For example, some requirements perhaps that concealability would revolve around 5 $\frac{3}{4}$ -inch. I am sorry, 5 $\frac{3}{4}$ -inch frame and a barrel length of 4 inches, which would be a fairly good size weapon. That would be the line beyond which we would begin to argue its concealability. We would define concealability on the basis of specific overall lengths and say that all weapons that are larger than that class are thereby unconcealable and, therefore, will be approved for manufacturing and those less than that are concealable and will be prohibited by definition and by law.

Now, taking into view the legislation reality, would you be willing to live with that after you made whatever appropriate remarks about your legislators for not doing what you really wanted them to do?

Commissioner DI GRAZIA. Live with it, I guess I would have to. I feel very strongly though about—we would have an 18-inch barrel and it would still be concealable and it is interesting that we say 5¾.

Why don't we say 6¼ and we eliminate all of the 6-inch barrels which are a great number of handguns, as an example.

I realize that we have to talk about concessions and how can we get the best law, whichever one of course, with a great body representing many people and many views and get something worth while so certainly I can live with that but that still would not change my opinion the same way it does not change on the cause of crime and how much police can do about crime when we should be looking at the right cause of crime the same way with the situation of handguns, another cause and we should eliminate all handguns.

If you are asking for total support from me, when we get to 5¾ or 6¼, I would have to give qualified, but certainly it would have to be an improvement over the situation but again, maybe I am just stubborn but I think there has been enough, I have seen enough myself personally and I think the only way to do it is completely eliminate it because there will always be that feeling with the public the same way that there is at the present time, if someone else can have a 6-inch, than I better get an 8-inch, whatever, something bigger or more powerful, whatever, and than is what we have.

People are even going out in our community and buying fake handguns. For \$32 you can get an exact duplicate of a U.S. Army Colt .45 but it is made in Japan and it is, it does not fire but it ejects cartridges, takes clips, and looks like the authentic thing and it is obvious what they are doing, they feel that everybody else has one and they want one and they still feel they have to have one and that is what I am talking about the problem in this country.

Mr. CONYERS. That is a very important point, but would you not concede, while we are along the road to compromise, that this provision would be better than none at all?

Suppose I gave you a very unhappy choice between a bill that had this in it and a bill that did not have this in it, would it make sense to start at this point? Or, would it be better to hold out until we can eliminate, if that be the will of this committee and the Congress, that we eliminate handguns from civilian use?

Commissioner DI GRAZIA. Mr. Chairman, a strong step not just any step but a strong step in the right direction we have to see. I cannot bend from my view of what we have to do eventually.

What you just mentioned, of course, gives me a lot of pleasure, I guess is the best way to say it because it is probably the strongest view I have heard, as far as I would hope an opportunity to pass.

Again, I would suggest rather than 5¾, I suggest 6¼ because 6-inch barrels there are a great number of handguns with 6-inch barrels and certainly I think any step in that direction would help but again I would have to say wholeheartedly, no, but certainly it is a great step in the right direction.

Mr. CONYERS. The final question, what about your State and local laws? How are they working and what is your experience?

Commissioner DI GRAZIA. It is one of the things I am glad you brought up because I was going to mention, when you talk about trying to get some measures in, the gentleman is the audience, Judge Foxx, who pushed for one of the bills in the Commonwealth of Massachusetts which made mandatory sentencing for just the possession of firearms and it is obvious that is helping somewhat.

We also have strong registration laws in Massachusetts but still about 87 percent of the crimes committed where we recover the handguns, those handguns came from outside the State so everyone should be trying something but at the same time, of course; national legislation is the only way we can really do it because as pointed out, we can try something in Massachusetts, New York may have a strong law but you can easily purchase something just across the border, then of course, we are not accomplishing anything either.

Mr. CONYERS. What about your ID card? That is a provision that this committee is considering, among others.

Has that shown any signs of being successful?

Commissioner DI GRAZIA. You are speaking of Judge Foxx's law which requires the person have an ID card that has a firearm because if they do not, they receive minimum 1-year mandatory sentences.

Mr. McCLORY. That ID card provision just became effective April 1.

Commissioner DI GRAZIA. Right. But we have seen some changes already because of that. My officers report that there appear to be less handguns on the streets.

Mr. CONYERS. Do you have any idea how many people have been prosecuted under that law?

Commissioner DI GRAZIA. I believe that five since April 1. I believe though and this is just about 2 or 3 weeks ago when he reported that in the news media, 121 under arrest and 5 prosecuted at this state.

Of course, as Congressman McClory pointed out, it is only since April 1, so there really has not been a big impact or we do not have the statistics.

Mr. CONYERS. Thank you very much. I turn the questioning over to Congressman McClory.

Mr. McCLORY. Commissioner, in recommending the banning of all handguns, manufacture and possession of handguns to all persons except military and law enforcement and I suppose pistol clubs would be allowed to have them?

Commissioner DI GRAZIA. No, sir.

Mr. McCLORY. Not under your recommendations?

Commissioner DI GRAZIA. No, sir.

Mr. McCLORY. You do not have any legislation by ordinance in the city of Boston or by statute in the State of Massachusetts?

Commissioner DI GRAZIA. No, we do not. There have been attempts in the past few years to pass that kind of legislation without any success.

Mr. McCLORY. Now, tell me this, what would you suggest as a remedy for the person that is required to turn in his gun and he does not turn in the gun?

What would you regard as your position as the law enforcement officer with regard to the person that has the handgun; he had it before the law was passed and he keeps it after the law is passed and does not turn it in.

Would you get out a search warrant and go into the person's home and take that gun?

Commissioner DI GRAZIA. You are talking if someone has it registered?

Mr. McCLORY. No; I am talking about if your idea is carried out and we ban the possession of handguns to private individuals, how would you get that gun if the person does not turn it over?

I am thinking now of their constitutional rights of all these handgun owners and I guess we have 40 million of them so it is sort of a monumental job as far as the Federal Government or any government is concerned.

Commissioner DI GRAZIA. I think there are somewhere between 40 million and a 100 million. I guess in 1968 there were 40 million. The way they are proliferating at this time I guess you would call it 100 million.

I do not know if you would call them owners because most of them are floating around the country stolen but certainly you would have to give them a period of time to turn them in, as I point out in my statement, an amnesty period, and certainly they would receive a fair market value for that handgun.

If they did not turn it in, say after a 6-month period, then they certainly should be subject to the penalties of the law. If they are observed with them, if someone advises us that they are stashed some place, then certainly we should take action to take that gun off the street and to take proper action against the person who has maintained a handgun.

Mr. McCLORY. You know, one of the objections to my suggestion for a registration program or registration and licensing program is that it would be too expensive, you would have to have a bureaucracy.

Do you have any idea how expensive it would be to pay for the guns which were turned in, because under our constitution, we would have to provide just compensation for the taking of property?

Commissioner DI GRAZIA. That is what I advocate. I have no idea how much it would cost but I guess the best answer to that is what is one life worth?

Mr. McCLORY. Well, would you—\$50 would be a rather small amount, would it not? That would be a low price.

Commissioner DI GRAZIA. I think we would have to give a fair market value.

Mr. McCLORY. If we have 40 million guns at \$50, that is \$2 billion. I just think that we have to know what the cost of the program is.

It is not necessarily critical. I do not know what some of the other programs would cost either but if we estimated that each gun would be compensated for \$50, that would be \$2 billion.

Commissioner DI GRAZIA. With the amount of expenses of running this country and with all of the difficulties we have in the crime picture and the situation, I feel this is one item that most citizens in this country would be most happy to disburden themselves with, if they felt it would allow them to walk the streets a little bit.

Mr. McCLORY. I judge you regard it as a high priority item but I guess we must consider what the cost of the program is or would be.

Commissioner DI GRAZIA. Most certainly.

Mr. CONYERS. On this same point, would you feel that your proposal would have been compromised out of existence if it contained a grand-

father clause on existing weapons so that there would be a ban on manufacture and possession and there would be a voluntary turning in program which means that probably many would not be turned in but that clause would be there so that you would not run into the confiscation or the compensation problem?

Commissioner DI GRAZIA. The concern I would have on that is that the people—that there be too many people that would feel there are still too many guns out there and therefore they would have to retain because the next one would have to have it, they would have to have it and they would have to take a chance to go out illegally because the fear again that too many others have them.

I think that is something that we have to be concerned with.

Mr. McCLORY. In addition to the fact that we do not have much experience with the identification cards, which as Mr. Conyers said, is a subject that is under consideration as far as Federal legislation is concerned, in other words, for people who want their own guns should assume the responsibility for indicating their own responsibility sufficient to own a handgun.

You really have not had any experience with that sufficient to pass judgment as to whether or not this is highly desirable or perhaps desirable.

Commissioner DI GRAZIA. I cannot answer to that directly. I would say it has not been around that long but I think the important part of that legislation is not so much the ID but the fact of the mandatory sentencing and again, when we talk about the confiscation of handguns, then, of course, we have to talk about very strict punishment for those violations and I feel that the strongest part of that legislation is the fact that it does carry a minimum, just a minimum of 1 year with maximum 5-year mandatory sentence.

Mr. McCLORY. And you feel the principal value of that is the deterrent effect it has on persons who violate the law, with respect to carrying a weapon or using a weapon illegally?

Commissioner DI GRAZIA. I have not been an advocate of tight punishment as a deterrent to crime but it appears, from what we have seen so far, that that piece of legislation that is what is happening and of course, we will have to wait for further developments.

Mr. McCLORY. Commissioner, I certainly want to thank you very much for your testimony. You have made your position eminently clear and I am sure we will take your views into thoughtful consideration.

Thank you.

Mr. CONYERS. Thank you.

Commissioner DI GRAZIA. Mr. Chairman, thank you.

[The prepared statement of Commissioner di Grazia follows:]

#### STATEMENT OF COMMISSIONER ROBERT J. DI GRAZIA

Thank you for giving me the opportunity to present my views on handguns. It is gratifying to see this important issue the focus of the committee's study.

I will not inundate you with statistics, nor shock you with horrifying stories of the gruesome toll caused by handguns. I have no new or surprising study which clearly and emphatically proves my point of view. The facts and studies have already been documented. I come before you today to just talk common sense.

Let me begin by clarifying a point. I am not in favor of gun control. I am for handgun control. The term gun control is a misnomer which has aroused passions and confused the issue. Some people have come to believe that the control

of handguns is the first step toward taking all guns away from people. I am not now, nor will I ever be, in favor of restricting people from owning rifles or other long-arm guns for the purpose of sport. My concern is for the handgun, which is both concealable, and deadly and which, in a civilized society, serves no useful social purpose.

It is my view that law must banish private handguns from this country. I am not asking for registration or licensing or outlawing cheap "Saturday Night Specials," I am saying that no private citizen, whatever his claim, should possess a handgun; only police officers and the military should. I want to see this accomplished by outlawing the manufacture, distribution, sale, ownership, and possession of handguns. During the first six months after the law is passed, all handgun owners should be permitted to turn in their guns, receiving fair market value for them. After the end of that amnesty period, anyone caught with a handgun in his possession should be severely punished. Any crime committed with one, should be punished far more severely than that same crime committed without a handgun.

Many people think this is a radical position. My position is not radical. It is the current situation which is radical and unreasonable. They ask "wouldn't you accept something less"? My answer to that is "No". Let me explain why.

As long as we have handguns available they will continue to be misused. People will continue to accidentally shoot one another as well as themselves. Lives and limbs will be lost needlessly. They will continue to be the main source of violent crime. It is often said that guns don't commit crimes, people do. The supposition here is that if handguns were not available the criminal would find something else. Undoubtedly, this would be true in some cases, although it may not lead to as many deaths. However, in many other cases, the unavailability of a handgun could mean the non-commission of a violent crime. The wife and husband arguing would not be able to grab a handgun and easily end a life. The juvenile robber might not have the perverted boldness to commit his crime without the handgun. The concealability of a handgun, its depersonalized lethal nature, all give him the slight psychological edge needed to commit his crime. Given another weapon, he might not think he has the force to commit his crime. With a handgun he knows he has the ultimate force, the power to easily kill. In short, people do commit crimes, but handguns make it easier and in some cases inspires the commission of violent crimes.

But, some will ask, why the elimination of handguns? Why not the registration of handguns so that only responsible people would have guns. This is just not practical when you look at the millions of guns stolen each year and the thousands stolen right after they are manufactured. As long as handguns are available, Saturday night specials or more expensive models, irresponsible people will have them. The only way to keep them from being used improperly is to keep them from coming into existence. Eliminating Saturday night specials might remove the cheap handgun from circulation but millions of other handguns will still be available. In effect, it won't solve the problem, just up the ante.

Registration might make it easier to trace the handgun to its original owner but it does nothing, however, about preventing violent crimes. I am asking for the abolition of handguns so that we can remove one of the root causes of violent crime.

If we abolish handguns and have people turn them in, won't only the criminals have handguns? In the beginning, the answer to this is probably yes. But that is what the police are for. We have been entrusted with the responsibility for personal protection. Individuals need not, and in fact will not be safer by carrying their own handguns. America has not yet returned to those yesteryears where one gun toting citizen must protect himself against another gun toting citizen. In our more civilized society we have turned the use of legal force over to the police. The police will continue to protect citizens against harm while handguns are removed from circulation. It will take time, but eventually the handgun will be as rare as the buffalo roaming the prairies. Perhaps then we will be as safe from the carnage of handguns as other civilized nations which long ago eliminated this lethal anachronism.

People have argued with me that if we abolish the handgun because it causes death then we should also abolish the automobile because it causes more deaths than the handgun. There is however one significant difference between the automobile and the handgun. The former has a useful social purpose while the latter has none. It is important that people be able to easily move from place to place in our mobile society. It is unfortunate that a by product of this is accidental deaths and injuries. But what purpose does the handgun have? Its primary purpose is to

kill or maim. It is a people hunter, it is a people killer. It is not just unfortunate, but predictable, that it not only causes accidental deaths and injuries but also causes intentional deaths and injuries. We are forcing manufacturers to make cars safer with seat belts and other safety devices with the hope that cars will eventually be safe to serve their intended purpose. But how do we make handguns safe? How can we make them safe when their own purpose is to do harm? My answer is to eliminate them. Those few who believe they have a right to shoot their handguns for target practice—although it is legally clear they have no constitutional right—must give up this enjoyment of a trivial social significance for the greater social good.

For these reasons, I am here today to plead with you for some national action against the spiralling menace of handguns. As a Police Commissioner, I urge you to take action to save the lives of my police officers, can you imagine what it is like to patrol the streets of Boston, respond to robbery calls or family disputes, knowing that behind any door could be an armed person who will kill you? Can you imagine how you would feel if you knew perfectly well that every time you go to work you take your life in your hands? Police officers know that, they do it every single day.

The loss of one police officer's life is one too many. Yet nationwide nearly two hundred officers will be killed this year mostly by handguns, something must be done.

As Police Commissioner, I also urge you to take action against handguns to save the lives of the citizens of my city and reduce the fear of violent crime. If we are to make serious inroads into the reduction of violent crime, then you must do something about the facilitator of violent crimes.

Only you can take the necessary step. National legislation is needed because scattered tough State laws can't do the job. Guns don't observe State boundaries. As long as there is a pool of handguns available there will always be the same problems. Congress must take the first step since the President won't.

I am woefully distressed at President Ford's package on crime. The control of handguns was not meaningfully addressed. As I said earlier Saturday night specials are not the problem—all handguns are. Severe punishment after the fact does not prevent violent crime. I can imagine the terrible burden of issues facing the President. With worldwide crisis and national problems of all types it may appear that the handgun control issue is peripheral and even philosophical. It is however a problem, the consequences of which I see and deal with everyday. I therefore, humbly, but vigorously disagree with the President's position, or rather lack of position, on handgun control.

The President has emphasized the importance of detente with Russia as an important ingredient to international disarmament. The Administration is deeply committed to international disarmament through the SALT talks; it concerns me that the President does not see the arms race in this country. The proliferation of handguns will turn this country into an armed camp. We need a national disarmament so as to bring about national peace. I, therefore, call on the President to convene national SALT talks to begin national disarmament. While the international SALT talks stand for Strategic Arms Limitation Talks, the national SALT talks could stand for Save American Lives Today.

As this Nation approaches its 200th birthday, it is perhaps appropriate to look at the goals set out for use by our founding fathers. The Preamble of the Constitution declares the need to "insure domestic tranquillity." Two hundred years later I would hope that we now see that national legislation abolishing handguns is the only step that will meet this goal.

Mr. CONYERS. Our next witness is the Police Commissioner of New York City, the Honorable Michael J. Codd.

We welcome you, Commissioner, and note that you, for 2½ years, before becoming the Commissioner of Police last year, served as chief inspector, the highest uniformed rank here in the city police. You are also an ex-field grade officer from the U.S. Army.

You have distinguished yourself as chairman of the Firearms Control Board of the city of New York, and you have served also on the New York State Crime Control Planning Board, just to mention a few of your accomplishments to becoming Commissioner of Police of the largest city in the country.

We deeply appreciate your coming before this committee. Having examined your statement, which we will incorporate into the record, we welcome you and invite you to proceed with your own observations.

**TESTIMONY OF HON. MICHAEL J. CODD, COMMISSIONER OF  
POLICE, NEW YORK CITY**

Commissioner Codd. Good morning, Mr. Chairman, Mr. McClory; I can assure you that I share Mayor Beame's deep concern with the proliferation of illegal handguns in New York City.

Mr. Chairman, members of the Subcommittee on Crime, you may recall that just this past winter, within a short space of weeks, five New York City police officers were brutally shot and killed in the line of duty, together with a private citizen who tried to assist a police officer.

If men skilled in the use of arms and trained to defend themselves against attacks can be cut down in such numbers, then, clearly, the average citizen has little chance at the hands of a gunman.

Add to the names of these brave police officers the names of the thousands of their fellow New Yorkers victimized by handguns each year in this city. Only then will the true dimensions of the enforcement problem begin to emerge.

Over the past 5 years, New York City has witnessed a staggering increase in the number of gun-related homicides, assaults, and robberies.

In 1969, firearms were identified as the cause of death in 445 homicides in this city. By 1974, this figure had risen by 72.8 percent, or a total of 769 homicides by firearms.

Moreover, 1974 and 1975 police records indicate that now virtually half of all homicides within the city are committed with firearms, compared with some 28 percent in 1966 and 19 percent in 1960.

Similarly, between 1969 and 1974, robberies committed with firearms, reported to police, rose by 60.8 percent; and assaults committed with firearms rose by 88.8 percent over the same period.

What this means to New York City, is that before this day is out, we may anticipate—

That two citizens will be murdered by firearms;

That 60 robberies will occur, in which firearms were used;

That 22 citizens will be assaulted by gunmen; and

That at least one police officer will be either fired upon or threatened with a gun in this city.

Present estimates of the numbers of illegal handguns on the streets of this city have already exceeded 1 million. Naturally, there is no way of knowing the exact number. We do know this, however, the problem cannot be resolved by New York City law-enforcement authorities alone.

Despite the fact that New York State's gun laws are among the most stringent in the Nation, and despite the fact that New York City's police force is the largest urban police force in the United States, the illegal handgun problem has far outdistanced the capabilities of a single city or State to deal with it.

In 1973, in an attempt to more accurately determine the source of illegal handguns in this city, the police department's intelligence divi-

sion conducted an extensive study of selected gun cases handled by the department within a control period of 6 months.

With the cooperation of the U.S. Alcohol, Tobacco, and Firearms Bureau, completed tracings of 1,802 handguns recovered by the police between January 1, 1973 and July 31, 1973, were reviewed along with information from sources inside and outside the Department.

Of the 1,802 handguns studied, one was traced to an illegal purchase in New York State; 1,343 were traced to States other than New York; only 13 were traced to foreign countries; a total of 365 were listed as stolen in various States and some 48 handguns were the property of New York City permit holders.

The study also identified those States which are the chief source of supply of New York City's illegal handguns. Although 39 States in all were identified as sources, the study traced 69 percent of all illegally imported guns to just four Southern States: South Carolina, Florida, Virginia, and Georgia. Moreover, the study established that of all handguns traced to these four States, 97 percent were not purchased by the person ultimately arrested for possession.

This study confirms that most of New York City's handguns are purchased illegally in other States by or for New York residents and carried in or shipped into this city, for use here. Clearly, not even New York's rigid "Sullivan" law can interdict the massive importation of handguns from our neighboring States evidenced by this study.

Police records in this city are replete with the grim results of illegal importation of handguns.

In 1973, New York City Police seized six weapons under a duly authorized search warrant. During a gunfight which ensued during the execution of the warrant three detectives were wounded by these weapons. All six handguns were later traced to a gunshop in Hampton, Va., whose proprietors had been selling guns illegally out of the trunk of their car.

Forensic ballistics experts established that at least two of these guns had figured in several crimes reported in this city in 1973.

In January 1973, one was used to murder a man in the 81st precinct.

In February 23, 1973, two New York City police officers were assaulted with these weapons while on patrol in the 73d precinct.

In March 2, 1973, two New York City police officers were fired upon with one of these weapons while on patrol in the 75th precinct.

In June 3, 1973, one of these guns was used to kill a New York City Transit patrolman.

In July 13, 1973, shots from these weapons were fired during a bank robbery in the 43d precinct.

The proprietors of the L. & J. Gunshop in Hampton, Va., were arrested in October of 1973. Both pleaded guilty in a Federal court conviction of the Gun Control Act of 1968. One received a 6-month jail sentence and 3 years probation. The other was still awaiting sentence as this study was completed.

Another aspect of the problem which other States pose for New York City, stems from the absence of restriction in Federal law on the number of handguns which may be purchased by a single individual.

In Greensboro, S.C., during 1972, four South Carolina residents legally purchased over 3,000 handguns from a licensed dealer. In fact, more than 300 handguns passed in a single transaction. Unfortunately,

before this operation was uncovered, most of these handguns had reached New York City. Ballistics studies of 67 guns from these sales indicate that these guns had been used to murder, rob, and assault in this city.

Although the Alcohol, Tobacco, and Firearms Bureau has moved recently to require notification to that agency by gun dealers, of the purchase of more than one handgun by a single individual it must be remembered that sales to these individuals have not been proscribed by such regulation. Much more is required to intimidate the would-be gunman on the streets of this city.

In addition to severe penalties provided by State law for illegal possession and use of handguns, New York requires that no handgun may be owned legally within this city without a license issued by the police department. Moreover, where a permit to carry is requested, none will be issued except upon good cause shown. In addition, sales by gun dealers in New York City are closely regulated and their inventories and sales records are routinely reviewed by the police department's license division to assure compliance with the law.

Quite evidently, however, the lack of similar safeguards in other States has provided criminals with an easy way around our best efforts to control the use of handguns in this city.

Nonetheless, this department continues to make every effort to penetrate the illegal market in guns in New York City. Two years ago, a special gun unit was established within the department's organized crime control bureau. This unit, which works closely on major investigations with the Alcohol, Tobacco, and Firearms Bureau, directs its major effort at intersecting large shipments of weapons into the city and in identifying major distributing syndicates operating locally.

In one case alone, this year, the gun unit's special investigators recovered a cache of 758 .22-caliber revolvers, which had been converted from starter pistols.

In addition to establishing a separate gun unit within the department, the criminal justice liaison bureau has been directed to closely monitor the processing of illegal gun possession cases through the criminal justice system over the past 4 years.

In 1973, the New York State Commission of Investigation, acting at the direction of the Governor, conducted an extensive review of the problems posed by handguns in New York City. CJLB's followup studies were closely reviewed by the commission and in its final report, the panel indicated these studies had prompted their own independent survey of the prosecution and sentencing patterns in gun possession cases. At the completion of its study, the State Investigation Commission recommended to the city's prosecutors and to the courts that a higher priority be accorded felony level gun possession cases in the criminal justice system.

In my view, equal attention must be accorded every aspect of the gun control problem in this city and in other cities, if the legislation produced by this committee is to be truly effective.

Over the past 10 years, both the Federal Government and the State of New York have produced volumes of legislation and regulation in respect of another awesome problem, the control of dangerous drugs in the United States. Entire agencies have been created devoted exclusively to the national and local drug enforcement effort. We have

sion conducted an extensive study of selected gun cases handled by the department within a control period of 6 months.

With the cooperation of the U.S. Alcohol, Tobacco, and Firearms Bureau, completed tracings of 1,802 handguns recovered by the police between January 1, 1973 and July 31, 1973, were reviewed along with information from sources inside and outside the Department.

Of the 1,802 handguns studied, one was traced to an illegal purchase in New York State; 1,343 were traced to States other than New York; only 13 were traced to foreign countries; a total of 365 were listed as stolen in various States and some 48 handguns were the property of New York City permit holders.

The study also identified those States which are the chief source of supply of New York City's illegal handguns. Although 39 States in all were identified as sources, the study traced 69 percent of all illegally imported guns to just four Southern States: South Carolina, Florida, Virginia, and Georgia. Moreover, the study established that of all handguns traced to these four States, 97 percent were not purchased by the person ultimately arrested for possession.

This study confirms that most of New York City's handguns are purchased illegally in other States by or for New York residents and carried in or shipped into this city, for use here. Clearly, not even New York's rigid "Sullivan" law can interdict the massive importation of handguns from our neighboring States evidenced by this study.

Police records in this city are replete with the grim results of illegal importation of handguns.

In 1973, New York City Police seized six weapons under a duly authorized search warrant. During a gunfight which ensued during the execution of the warrant three detectives were wounded by these weapons. All six handguns were later traced to a gunshop in Hampton, Va., whose proprietors had been selling guns illegally out of the trunk of their car.

Police ballistics experts established that at least two of these guns had figured in several crimes reported in this city in 1973.

In January 1973, one was used to murder a man in the 81st precinct.

On January 25, 1973, two New York City police officers were assaulted with these weapons while on patrol in the 73d precinct.

On March 2, 1973, two New York City police officers were fired upon with one of these weapons while on patrol in the 75th precinct.

On June 5, 1973, one of these guns was used to kill a New York City Transit patrolman.

On July 13, 1973, shots from these weapons were fired during a bank robbery in the 43d precinct.

The proprietors of the L. & J. Gunshop in Hampton, Va., were arrested in October of 1973. Both pleaded guilty in a Federal court to violation of the Gun Control Act of 1968. One received a 6-month jail sentence and 5 years probation. The other was still awaiting sentence as this study was completed.

Another aspect of the problem which other States pose for New York City, stems from the absence of restriction in Federal law on the numbers of handguns which may be purchased by a single individual.

In Greensboro, S.C., during 1972, four South Carolina residents legally purchased over 3,000 handguns from a licensed dealer. In fact, more than 500 handguns passed in a single transaction. Unfortunately,

before this operation was uncovered, most of these handguns had reached New York City. Ballistics studies of 67 guns from these sales indicate that these guns had been used to murder, rob, and assault in this city.

Although the Alcohol, Tobacco, and Firearms Bureau has moved recently to require notification to that agency by gun dealers, of the purchase of more than one handgun by a single individual it must be remembered that sales to these individuals have not been proscribed by such regulation. Much more is required to intimidate the would-be gunman on the streets of this city.

In addition to severe penalties provided by State law for illegal possession and use of handguns, New York requires that no handgun may be owned legally within this city without a license issued by the police department. Moreover, where a permit to carry is requested, none will be issued except upon good cause shown. In addition, sales by gun dealers in New York City are closely regulated and their inventories and sales records are routinely reviewed by the police department's license division to assure compliance with the law.

Quite evidently, however, the lack of similar safeguards in other States has provided criminals with an easy way around our best efforts to control the use of handguns in this city.

Nonetheless, this department continues to make every effort to penetrate the illegal market in guns in New York City. Two years ago, a special gun unit was established within the department's organized crime control bureau. This unit, which works closely on major investigations with the Alcohol, Tobacco, and Firearms Bureau, directs its major effort at intersecting large shipments of weapons into the city and in identifying major distributing syndicates operating locally.

In one case alone, this year, the gun unit's special investigators recovered a cache of 758 .22-caliber revolvers, which had been converted from starter pistols.

In addition to establishing a separate gun unit within the department, the criminal justice liaison bureau has been directed to closely monitor the processing of illegal gun possession cases through the criminal justice system over the past 4 years.

In 1973, the New York State Commission of Investigation, acting at the direction of the Governor, conducted an extensive review of the problems posed by handguns in New York City. CJLB's followup studies were closely reviewed by the commission and in its final report, the panel indicated these studies had prompted their own independent survey of the prosecution and sentencing patterns in gun possession cases. At the completion of its study, the State Investigation Commission recommended to the city's prosecutors and to the courts that a higher priority be accorded felony level gun possession cases in the criminal justice system.

In my view, equal attention must be accorded every aspect of the gun control problem in this city and in other cities, if the legislation produced by this committee is to be truly effective.

Over the past 10 years, both the Federal Government and the State of New York have produced volumes of legislation and regulation in respect of another awesome problem, the control of dangerous drugs in the United States. Entire agencies have been created devoted exclusively to the national and local drug enforcement effort. We have

entered into international agreements to control illicit drug production in foreign nations. We have spent countless millions of dollars on research into methods of treatment and rehabilitation of both the purveyors and victims of dangerous drugs.

All of these efforts are laudatory and have had widespread public support.

But, what drug is more deadly than a concealed weapon in the hands of a criminal?

Where, then, are the like efforts of State and National government to control the effects of handguns as they have controlled the effects of drugs; where are the laws that will keep the handgun out of the reach of children; that will insure its sale to legitimate purchasers; that will interdict its entry at our Nation's borders?

If we have produced a climate in this country where it is a simpler matter to purchase handguns illegally than to purchase drugs illegally, then it is time we restored matters to their true perspective.

Drug addicts, at least, have some chance at rehabilitation, but I know of no appeal from the deadly work of a gun.

Gentlemen, I recommend to your committee and to the Congress, that you enact legislation which will curtail the illegal importation and distribution of handguns in my city and in cities across the Nation. If you in the Congress will give us the legislative tools we need, I can promise you, we will do our job better.

Thank you.

Mr. CONYERS. That is an excellent statement.

Are you for eliminating the manufacture and possession of handguns?

Commissioner CODD. Pragmatically, I do not think it is realistic.

Mr. CONYERS. Well, if we were—if we all had our way, you could see some merit in that?

Commissioner CODD. Yes.

Mr. CONYERS. Are you for eliminating the manufacture and possession of concealable handguns which might be limited to guns that exceed 6 inches in barrel length?

Commissioner CODD. Actually, Mr. Chairman, that is a halfway measure. All handguns are concealable. Many of your long guns are doctored so they too are concealable so I think we should recognize the fact that every handgun, regardless of its barrel length, as long as it is what can be classed as a handgun is a concealable weapon.

Mr. CONYERS. How far can we go in this area? I am presuming that you are for education programs, tighter licensing, probably a national tracing center so we can, as you pointed out, help you and your law enforcement officers check where the guns are coming from, but where do we draw the line in terms of manufacture and possession of handguns?

What is your recommendation?

Commissioner CODD. My recommendation would be, Mr. Chairman, that there be a Federal requirement that all States have a licensing procedure for handguns and a Federal requirement then that within the States, handguns could be sold only to licensees.

Mr. CONYERS. Thank you.

Mr. McClory?

Mr. McCLORY. Thank you.

I want to commend you, Commissioner on a very excellent statement. I can see you have done a very great deal of research to bring precise and very helpful facts to the attention of this committee, indicating the importance of Federal legislation in order to implement and supplement the local measures that are taken to try to control the traffic and the illegal use of, particularly, the handgun.

You made reference in your statement to one instance where I think a single purchaser had purchased 500 guns and in other instances, where there were a large number of guns purchased by a single individual.

I judge that you are in support of the measure, the regulation recently adopted by the Alcohol, Tobacco, and Firearms Bureau which would require special reporting with regard to sales of five guns or more to a single purchaser?

Commissioner Cobb. Again, that is a halfway measure, Mr. McClory.

Mr. McClory. Now, would you think that a person who purchased a large number of guns himself or herself ought to have a license, for instance, a person purchases 500 guns, it is not just an individual buying guns for sporting purposes or hunting or something like that?

Commissioner Cobb. Absolutely not. He is obviously in the business of transferring those guns to other persons.

Mr. McClory. Do you have any experience with pawnbrokers? I understand a very high percentage of the guns used in connection with the commission of crimes are purchased through pawnbrokers.

What do you think about pawnbrokers being gundealers?

Commissioner Cobb. We do not have that in this city and the study that I mentioned of the 1,802 guns, this was only one illegal transaction within the State of New York so that is not a source.

Mr. McClory. You do not license or permit pawnbrokers to deal in guns in New York City?

Commissioner Cobb. No, sir.

Mr. McClory. So that such a regulation or such a restriction at the Federal level would be salutary as far as you are concerned then, would it not?

Commissioner Cobb. It could well deal with situations that exist in other places.

Mr. McClory. Since the problem, since you experienced the primary, that of guns that are purchased outside the State, you, of course, make a very strong argument for some sort of overall Federal guidelines, Federal programs which would give the people of the Nation a handle on where the guns are sold and to whom they are sold and locating guns that are moving about the country and such Federal guidelines for, say State and local registration and licensing would be in your opinion extremely useful?

Commissioner Cobb. Yes, I think there could be, well, an area for Federal legislation that could require several States to adopt legislation that could be relatively common.

Mr. McClory. One of the problems we have is that we have, say 99 percent or more of the owners of handguns are law-abiding citizens. They never come in contact with you because they have their guns for whatever purpose. They are collectors or they have them in their homes for a feeling of security or their shop, because they feel it is important to them, or they are target shooters, whatever.

Now, considering that fact, don't you feel that responsible gun owners, law-abiding citizens, can themselves be benefited by gun registration and licensing laws?

Commissioner Codd. Well, I would question the belief that 99 percent of the possessors of guns are law abiding. There are, for instance, in New York State, none law abiding that require licensing and since they are in violation of the law, it may be that they have been more lucky than others who we have apprehended for another violation of law and they have not come to our attention.

Mr. McClory. I am talking about the persons who are presently in compliance with the law. Either there is no State or local requirement for licensing or registration which is the general pattern throughout the country.

I am talking about that high percentage of persons and I assume that figure is right. I have no reason to believe that 99 percent is wrong but nobody has contradicted that so far.

What I am getting at is this, if their guns are stolen, the law-abiding person's gun is stolen, if it is loaned to someone and used in connection with a crime, if it is merely lost, this would nevertheless enable the law-abiding citizen to either get a return of his gun or know what happened to his gun.

It is a protection to him; is it not?

Commissioner Codd. Of the estimate of a million handguns or more in New York City, there are less than 29,000 legally possessed. That is the number of licenses that the police department has issued.

Mr. McClory. Well, based on this, would you feel that a Federal requirement that handguns be registered would be effective?

Commissioner Codd. If coupled with licensing. What I am suggesting is that there be a need shown for the possession and that then it be a licensed possession.

Mr. McClory. Now, what if we did not get at all of the guns that are presently in possession of individuals but concerned ourselves with guns that are being sold in the future and to require information that—in a central repository with regard to purchasers of handguns?

That would be a start, would it not?

Commissioner Codd. Well, you would start out with an inventory of anywhere from 40 to whatever million of guns that you would not have a trace of.

Mr. McClory. You would have what, about 2 million added each year?

Commissioner Codd. Yes.

Mr. McClory. So you would have a record of those?

Commissioner Codd. You would have a record of those, but you would always have that unknown inventory about which you have no information.

Mr. McClory. With respect to guns used in connection with crime, it does appear, does it not, that most of those were purchased very recently?

Commissioner Codd. Not necessarily, Mr. McClory, and of course, many of these guns that are in the possession of a law abiding citizen end up being the gun with which one child kills another child or ends up being the gun in which a husband kills a wife or vice versa, so they do end up being the mechanism for violent crime and death.

Mr. McCLORY. That would not necessarily be a violent crime. That might be an accidental death.

Commissioner CODD. With the child, it is generally accidental. With the adult, it is generally purposeful.

Mr. McCLORY. Educational programs would help reduce the number of accidental deaths from handguns?

Commissioner CODD. The children do not generally read, 7-year-old children.

Mr. McCLORY. How about educating the parents on where to keep and how to use a gun in a responsible manner?

Commissioner CODD. Right.

Mr. McCLORY. Commissioner, thank you very much for your very helpful testimony.

Commissioner CODD. Thank you, sir.

Mr. CONYERS. We will allow one question from counsel Mr. Gekas.

Mr. GEKAS. Commissioner, traveling throughout the country, we have heard much about the laws of New York State. The statistics that the Bureau of Firearms has given us, from the New York Project Education and in your statistics, it appears the New York State law is successful in stopping criminal acquisition of guns.

Of course, the New York State and the New York City law cannot extend beyond the boundaries of those jurisdictions, but the very high percentage of figures for the guns that are used in crimes, coming from outside New York City, suggests that the law works in stopping acquisition of guns by criminals within the city and the State.

Commissioner CODD. Right. Through lawful and legal channels.

Mr. GEKAS. Right. Now, there are two things I have to evaluate as to the success of a law.

No. 1, does it stop the criminal acquisition of guns within the reach of the law, that is, within the jurisdiction, and No. 2, does it stop the criminal use of guns?

Well, because guns are coming in from outside the State, it cannot of course prevent the ultimate use but it is successful within the reach of the jurisdiction of preventing criminal acquisition.

Commissioner CODD. Yes; it is.

Mr. GEKAS. So the Sullivan law is working?

Commissioner CODD. It does work with respect to controlling the distribution through the regulated channels for guns.

Mr. GEKAS. Well, it has been much maligned as we traveled across the country and I wanted to clear that up.

Commissioner CODD. We have helped the importation with our marvelous Interstate Highway System.

Mr. GEKAS. Thank you, Mr. Chairman.

Mr. CONYERS. Thank you, Commissioner. Your testimony has been very helpful.

I hope that you will continue to make recommendations to the subcommittee and I hope the rest of the members of the congressional delegation in New York will be fully advised of your experience and views on this subject.

Commissioner CODD. Thank you, Mr. Chairman.

Mr. CONYERS. It was a pleasure to have you here.

[The prepared statement of Commissioner Codd follows:]

## STATEMENT OF HON. MICHAEL J. CODD, COMMISSIONER OF POLICE, NEW YORK CITY

Mr. Chairman, members of the Sub-Committee on Crime: I can assure you that I share Mayor Beame's deep concern with the proliferation of illegal handguns in New York City. You may recall that just this past winter, within a short space of weeks, five New York City Police Officers were brutally shot and killed in the line of duty, together with a private citizen who tried to assist a police officer.

If men skilled in the use of arms and trained to defend themselves against attack can be cut down in such numbers, then, clearly, the average citizen has little chance at the hands of a gunman.

Add to the names of these brave Police Officers the names of the thousands of their fellow New Yorkers victimized by handguns each year in this City. Only then will the true dimensions of the enforcement problem begin to emerge.

Over the past five years, New York City has witnessed a staggering increase in the number of gun related homicides, assaults and robberies.

In 1969, firearms were identified as the cause of death in 445 homicides in this city. By 1974, this figure had risen by 72.8%, or a total of 769 homicides by firearms.

Moreover, 1974 and 1975 police records indicate that now virtually half of all homicides within the city are committed with firearms, compared with some 28% in 1968 and 19% in 1960.

Similarly, between 1969 and 1974, robberies committed with firearms, reported to police, rose by 60.8% and assaults committed with firearms rose by 88.8% over the same period.

What this means to New York City, is that before this day is out we may anticipate: That two citizens will be murdered by firearms; that sixty robberies will occur, in which firearms were used; that twenty-two citizens will be assaulted by gunmen; and that at least one Police Officer will be either fired upon or threatened with a gun in this city.

Present estimates of the numbers of illegal handguns on the streets of this city have already exceeded 1,000,000. Naturally there is no way of knowing the exact number. We do know this however, the problem cannot be resolved by New York City law enforcement authorities alone.

Despite the fact that New York State's gun laws are among the most stringent in the nation and despite the fact that New York City's police force is the largest urban police force in the United States, the illegal handgun problem has far outdistanced the capabilities of a single city or state to deal with it.

In 1973, in an attempt to more accurately determine the source of illegal handguns in this city, the Police Department's Intelligence Division conducted an extensive study of selected gun cases handled by the Department within a control period of six months.

With the cooperation of the U.S. Alcohol, Tobacco and Firearms Bureau, completed tracings of 1,802 handguns recovered by the Police between January 1, 1973 and July 31, 1973 were reviewed along with information from sources inside and outside the Department.

Of the 1,802 handguns studied, one was traced to an illegal purchase in New York State; 1,343 were traced to states other than New York; only 13 were traced to foreign countries; a total of 365 were listed as stolen in various states and some 48 handguns were the property of New York City permit holders.

The study also identified those states which are the chief source of supply of New York City's illegal handguns. Although 39 states in all were identified as sources, the study traced 69% of all illegally imported guns to just four southern states: South Carolina, Florida, Virginia and Georgia. Moreover, the study established that of all handguns traced to these four states, 97% were not purchased by the person ultimately arrested for possession.

This study confirms that most of New York City's handguns are purchased illegally in other states by or for New York residents and carried in or shipped into this city, for use here. Clearly, not even New York's rigid "Sullivan" law can interdict the massive importation of handguns from our neighboring states evidenced by this study.

Police records in this city are replete with the grim results of illegal importation of handguns.

In 1973, New York City Police seized six weapons under a duly authorized search warrant. During a gunfight which ensued during the execution of the warrant three detectives were wounded by these weapons. All six handguns were

later traced to a gunshop in Hampton, Virginia, whose proprietors had been selling guns illegally out of the trunk of their car.

Police ballistics experts established that at least two of these guns had figured in several crimes reported in this city in 1973.

In January, 1973, one was used to murder a man in the 81st Precinct.

On January 25, 1973, two New York City Police Officers were assaulted with these weapons while on patrol in the 73rd Precinct.

On March 2, 1973, two New York City Police Officers were fired upon with one of these weapons while on patrol in the 75th Precinct.

On June 5, 1973, one of these guns was used to kill a New York City Transit patrolman.

On July 13, 1973, shots from these weapons were fired during a bank robbery in the 43rd Precinct.

The proprietors of the L & J gunshop in Hampton, Virginia were arrested in October of 1973. Both pleaded guilty in a Federal Court to violation of the Gun Control Act of 1968. One received a six month jail sentence and five years probation. The other was still awaiting sentence as this study was completed.

Another aspect of the problem which other states pose for New York City, stems from the absence of restriction in Federal law on the numbers of handguns which may be purchased by a single individual.

In Greensboro, South Carolina, during 1972, four South Carolina residents legally purchased over 3,000 handguns from a licensed dealer. In fact, more than 500 handguns passed in a single transaction. Unfortunately, before this operation was uncovered, most of these handguns had reached New York City. Ballistics studies of 67 guns from these sales indicate that these guns had been used to murder, rob and assault in this City.

Although A.T.F. has moved recently to require notification to that agency by gun dealers, of the purchase of more than one handgun by a single individual it must be remembered that sales to these individuals have not been proscribed by such regulation. Only the numbers of handguns transferred will be noted. Much more is required to intimidate the would-be gunman on the streets of this city.

In addition to severe penalties provided by State Law for illegal possession and use of handguns, New York requires that no handgun may be owned legally within this city without a license issued by the Police Department. Moreover, where a permit to carry is requested, none will be issued except upon good cause shown. In addition, sales by gun dealers in New York City are closely regulated and their inventories and sales records are routinely reviewed by the Police Department's License Division to assure compliance with the law.

Quite evidently, however, the lack of similar safeguards in other states has provided criminals with an easy way around our best efforts to control the use of handguns in this city.

Nonetheless, this Department continues to make every effort to penetrate the illegal market in guns in New York City. Two years ago, a special Gun Unit was established within the Department's Organized Crime Control Bureau. This unit, which works closely on major investigations with the Alcohol, Tobacco and Firearms Bureau, directs its major effort at intercepting large shipments of weapons into the city and in identifying major distributing syndicates operating locally.

In one case alone, this year, the Gun Unit's special investigators recovered a cache of 758 22 caliber revolvers, which had been converted from starter pistols.

In addition to establishing a separate Gun Unit within the Department, the Criminal Justice Liaison Bureau has been directed to closely monitor the processing of illegal gun possession cases through the criminal justice system over the past four years.

In 1973, the New York State Commission of Investigation, acting at the direction of the Governor, conducted an extensive review of the problems posed by handguns in New York City. CJLB's follow up studies were closely reviewed by the Commission and in its final report, the panel indicated that these studies had prompted their own independent survey of the prosecution and sentencing patterns in gun possession cases. At the completion of its study, the State Investigation Commission recommended to the City's prosecutors and to the Courts that a higher priority be accorded felony level gun possession cases in the criminal justice system.

In my view, equal attention must be accorded every aspect of the gun control problem in this city and in other cities, if the legislation produced by this committee is to be truly effective.

Over the past ten years, both the Federal government and the State of New York have produced volumes of legislation and regulation in respect to another awesome problem, the control of dangerous drugs in the United States. Entire agencies have been created devoted exclusively to the national and local drug enforcement effort. We have entered into international agreements to control illicit drug production in foreign nations. We have spent countless millions of dollars on research into methods of treatment and rehabilitation of both the purveyors and victims of dangerous drugs.

All of these efforts are laudatory and have had widespread public support.

But, what drug is more deadly than a concealed weapon in the hands of a criminal?

Where, then, are the like efforts of State and National Government to control the effects of handguns as they have controlled the effects of drugs: where are the laws that will keep the handgun out of the reach of children; that insure its sale to legitimate purchasers; that will interdict its entry at our nation's borders?

If we have produced a climate in this country where it is a simpler matter to purchase handguns illegally than to purchase drugs illegally then it is time we restored matters to their true perspective.

Drug addicts, at least, have some chance at rehabilitation . . . but I know of no appeal from the deadly work of a gun.

Gentleman, I recommend to your Committee and to the Congress, that you enact legislation which will curtail the illegal importation and distribution of handguns in my city and in cities across the nation. If you in the Congress will give us the legislative tools we need, I can promise you, we will do our job better.

Thank you.

Mr. CONYERS. Our next set of witnesses will appear as a panel.

The Honorable William J. Connelie, superintendent, New York State Police accompanied by Lee Thomas, senior investigator, Firearms Licensing Division;

Peter J. Maloney, deputy inspector, License Division, New York Police Department;

Robert J. Del Tufo, first assistant attorney general, State of New Jersey;

William F. Fitzgerald, supervisor of firearms records bureau, Massachusetts Department of Public Safety, Boston Mass.

We have all of the prepared statements that have been submitted and we will enter them without objection into the record at this time. They will appear printed immediately after this introduction. This will allow us to get into more direct questions about the entire subject of firearms regulations, your experience in trying to implement these laws, how the Federal law can be improved with regard to State and local laws and any other particular recommendations that you might have.

Superintendent Connelie, your name appears first so I would call upon you, unless there is other agreement between you as to who should initiate this discussion.

**TESTIMONY OF HON. WILLIAM J. CONNELIE, SUPERINTENDENT, NEW YORK STATE POLICE, ACCOMPANIED BY PETER J. MALONEY, DEPUTY INSPECTOR, LICENSE DIVISION, NEW YORK POLICE DEPARTMENT; ROBERT J. DEL TUFO, FIRST ASSISTANT ATTORNEY GENERAL, STATE OF NEW JERSEY; AND WILLIAM F. FITZGERALD, SUPERVISOR OF FIREARMS RECORDS BUREAU, MASSACHUSETTS DEPARTMENT OF PUBLIC SAFETY**

Superintendent CONNELIE. Yes; Mr. Chairman, we have had the Sullivan Law for about 64 years now and Commissioner Codd said it has proved successful.

There are some changes we would like to make and we believe with the amendments to that law, that it would be a model law for the United States. If every State has the same law with the amendments we suggest, I believe it would be a proper control.

Mr. CONYERS. A lot of people knock the law around the country. We are glad we are here in New York because we want to put on the record very clearly what you perceive to be its strengths and weaknesses, as your experience has proven.

It is very easy to say the law is not working because a great amount of gun deaths occur and guns are proliferating in New York as fast or faster than many other places in the country.

Superintendent CONNELIE. Well, we believe among the people who are licensed, the incidence of crime has been very low, it has been so low we do not have any statistics on it so it does have some restraint on the people who are controlled.

The law in New York, there were different laws for New York City, Nassau, Suffolk County, than in the State. They have the same licensing restrictions as in the city and in Nassau and Suffolk County, the police commissioner licenses them but upstate it is the judges and the main difference is that in the downstate counties, it is done for a limited period of time, where upstate once a license is given, it is given forever.

That is where one of our main problems comes in. We do know about it eventually. We are notified of the fact a person was issued a license but we do not know what happens from then on, whether a person dies or was disabled, whether he has gone to an asylum; and that is one of the main problems.

Mr. CONYERS. What has been the experience in getting the State law amended?

Superintendent CONNELIE. It has been tried but it has not proven successful.

Mr. CONYERS. Do you have any other comments you would like to add?

Superintendent CONNELIE. Those are the main comments.

Mr. CONYERS. All right. Does Senior Investigator Thomas have anything that he would like to add to this discussion?

Mr. THOMAS. Well, as the two previous Commissioners did get into the subject of the Saturday night specials, in the past legislature, 1974, New York State, the State did authorize the superintendent of State police to come up with a method through regulation of the manufacture in this State of Saturday night specials.

Now, it is generally acknowledged that these guns by definition, Saturday night specials, come from the South. The experience of New York State has been that one of the current manufacturers now in the South originally started in New York City. New York City passed a local ordinance establishing regulations for the manufacture, and they moved to a different county. That county then followed with a similar set of regulations, and they hence had moved out of the State.

That has happened on two different occurrences, two different occasions, with two separate manufacturers, who are now in the Southern States.

The definition Saturday night special as such, frankly I have not seen a successful definition of what is a Saturday night special.

Mr. CONYERS. So let's draft the definition. What is so magic about the term "Saturday night special?" It was just coined in connection with a Detroit-Toledo run that was being made, so why do we keep bedeviling ourselves with a colloquial term that defies definition?

Let's talk about something else. Let's talk about cheap handguns or let's talk about guns of a certain length in size.

Mr. McCLORY. If the chairman would yield, I do not know whether we can legislate with regard to cheapness. I think the existing law enables the Bureau of Alcohol, Tobacco, and Firearms to exclude certain handguns from importation on the basis they do not have any sport value, they do not shoot straight, they are unreliable, they have poor materials, other factors, and it would seem to me, if we would take the same factoring system that is in the present regulations, that would be a basis for outlawing the domestic manufacture and sales of that type of gun which is prohibited from being imported.

Does not that sound like a valid way of handling that problem?

Mr. THOMAS. Only to the point it is limited to sporting purposes. When you say sporting purposes, we are speaking of hunting.

I think we have to go a step further and not limit it, because of a possible use but because the gun is inherently unsafe, both to the user and whoever he might attempt to use it against.

The outlawing of a gun because it has a 2-inch barrel as opposed to a 4-inch barrel is rather meaningless.

It is easy to take a 6-inch barrel to cut it down to 2, 3, or nothing. If you attack the problem on the basis that a gun is inherently unsafe to be used, because of that unsafeness, naturally you get back to the point of it being cheap.

It is cheap to manufacture, therefore cheap to sell, and therefore it is limited value in any sporting purpose or any law enforcement purpose. When you say cut a firearm off from manufacture because it has X number of inches of barrel, you are also cutting it off for military or legal use.

Mr. McCLORY. I do not think we can legislate with respect to a gun and outlaw a gun because of price.

Mr. THOMAS. But it always comes back to the question of price in that when you legislate against a firearm because it is insound, unsafe, whatever, basically it comes back to the fact it is cheap to manufacture.

Mr. CONYERS. This seems to be a circular discussion. I think the point that originally got us to talking among ourselves was this Saturday night definition.

I think my colleague feels that cheapness, in and of itself, is not a basis of proscribing production, and I think you are suggesting that going beyond Saturday night definitions and cheapness is the fact we could legislate on the basis of its inherent danger, whether it is cheap, expensive, long or short, regardless of size or cost; is that correct?

Mr. THOMAS. Definitely correct.

Mr. CONYERS. Now, what about the whole question before we turn to our New Jersey and Massachusetts friends, what about the whole question of whether this Congress should draw the line.

Are any of you here, and I am going to ask everybody the same question now, so I do not have to keep going over it, who is prepared.

to tell us the time has come to stop the manufacture of handguns as an inherently dangerous commodity?

Who is here that is ready to tell us that there is some less drastic remedy that we might be able to employ?

That seems to be, out of our hearings today, to be the central question over which we are struggling. I think the Police Commissioner of Boston picked this line of inquiry up, and I am trying to pursue it.

Superintendent CONNELIE. The point I was trying to make is that the Sullivan law with proposed amendments, I think would stand a chance of being passed in our society and would do a job, would do a sufficient job to alleviate much of the problem.

Mr. McCLORY. As I understand, Commissioner, your position is that we need some uniformity, we need some national guidelines in order for the States and local areas to enforce their own gun control laws?

Superintendent CONNELIE. That is true, Mr. McClory, but our experience of the Sullivan law for 64 years should not go to waste, and what mistakes were made in that time should be corrected, and it can be used as a guide for the rest of the Nation.

Mr. CONYERS. Is the Sullivan law generally a licensing statute?

Superintendent CONNELIE. Yes, it is, Mr. Chairman.

Mr. CONYERS. And you think tightening that up is—which would have nothing to do, I suppose, with the manufacturing and sale; how does it limit the sale of handguns?

Superintendent CONNELIE. Well, it would allow anyone with a legitimate reason to get a permit, and then with that permit, go and purchase a handgun; this would be the only ones that would be sold, period.

Mr. CONYERS. Plenty of places have that proviso. All you do is fill out the form, prove you are not an ex-convict, a dope addict, you are over 18 years of age, and you are in business. But you still do not have to show the legitimate reason for having it. You say I am in a dangerous neighborhood, or I have to carry money once a week, or the guy next door to me got ripped off, or I have been threatened. You can make up excuses. Everything is dangerous in New York, they say.

Superintendent CONNELIE. I agree; but of the 8 million people, there is only 29,000 who have been permitted to have a firearm.

Mr. CONYERS. What is the criteria that is used to determine who gets it?

Inspector MALONEY. I am Inspector Maloney and in New York City the criteria is the applicant must show some danger exists to him, that would distinguish him from other people doing business in the community. This has to be a special danger that distinguishes him.

Mr. CONYERS. For example he almost got stuck up last week; that is a special danger to him?

Inspector MALONEY. Well—

Mr. CONYERS. Or that he, in fact, did get held up last week?

Inspector MALONEY. That is true, that would be considered, the neighborhood, the type of business he is engaged in.

Mr. CONYERS. I do not see how you limit it to 29,000 people. It seems to me to apply validly to half the population of the city.

Inspector MALONEY. I would disagree, the criteria—

Mr. CONYERS. If you lived in Harlem, how in God's name could you not give anybody a permit there?

Inspector MALONEY. You could not license everybody in Harlem or you would have an armed camp.

Mr. CONYERS. You have already. I mean, it is just illegal but what about the citizens—I say this seriously, sir, here is an area of the city that is as dangerous as any place in America. What would a citizen have to show in Harlem to get a license to carry a gun?

Inspector MALONEY. Once again, we apply this criteria—special danger—that would distinguish him from the other people doing business in the community.

If I may, I believe the point was raised about the utility of the handgun, legitimately possessed as a deterrent toward robbery or as a safeguard where it is in the home or it is in a place of business and our statistics which show it is of only limited use.

We ask those persons to seek alternate security-type measures to use as a deterrence for robbery. The statistics do show, the statistics that we have compiled with the licensing division show that in 170 cases, in two-thirds of those robberies, the licensee lost his weapon. He offered no resistance and lost his weapon, so the weapon was actually given to the criminal.

In those cases where he did resist, there were 8 of those cases where the licensee himself was injured, 13 criminals were shot and in addition 3 bystanders were shot so our statistics show that the fact that a person is carrying a legalized weapon does not insure him against robbery and it is of only limited use.

Mr. CONYERS. Inspector Maloney, there is no question in my mind that the myth of a handgun in the home for defensive purposes is nothing more than that, so we are in total agreement. But let's get back to the reality of the provisions of this Sullivan law which I came to New York, perfectly prepared to endorse and support, still do, I guess. How many more times dangerous is it to live in Harlem than in many of the other places of the city of New York? I do not know, is it X number of times? I do not know whether it is 2, 4, 5, or 10. I do not know, but what showing would a perfectly law-abiding citizen, residing in that part of New York called Harlem, what showing would they have to make specifically. You may refer to your records and give me some examples of people in Harlem that have been licensed, to show that they should be entitled to carry a weapon, either as a business person or as a homeowner.

Since you are granting 29,000 permits and I applaud the fact that they are restricted, but who in town needs to be protected more than them? That is the whole problem, don't you see?

Inspector MALONEY. I do see.

Mr. CONYERS. Then give me some examples of some Harlem residents that have received, in fact, permission to purchase handguns under the Sullivan law.

Inspector MALONEY. We may take the grocery store, where the grocer is in business. The grocer is doing business long hours. He is usually the smaller groceries, working 12, 14 hours a day, some of them work 7 days a week. He shows he has cash on hand he cannot get out of his store to a bank, he will show that he does make large cash deposits. He may have had previous holdups.

We will be aware of the fact that in Harlem or in that particular area that the crime statistics, robbery statistics are higher, so we will evaluate all of that and he will receive his license.

First, he has to qualify, the law requires certain qualifications, that we take the fingerprints, we examine them for any previous record of felonies or serious misdemeanors or be assured that he is of good character.

Mr. CONYERS. Don't most inquiries pass that test?

Inspector MALONEY. Yes; they do.

Mr. CONYERS. Thank you. How many then, how many people in Harlem then have been licensed under the Sullivan law in the past 10 years to acquire a handgun?

Inspector MALONEY. I do not have the statistics. I do not have the statistics broken down.

Mr. CONYERS. Well, can you—they come in by precincts?

Inspector MALONEY. No; they do not.

Mr. CONYERS. Is there a possibility of determining it?

Inspector MALONEY. It would require us to manually research our records and sort them out by precincts.

Mr. CONYERS. Is there any way we can tell who is getting licensed under this law or who is not?

Excuse me. Let me rephrase that. Who is getting licensed and from what areas of the city?

Inspector MALONEY. At present—

Mr. CONYERS. Could you find that out for us? I do not mean to try to require you to produce it now but it would be very instructive because the point I am making to you, before I yield to my colleague, is that in places like Harlem, there would be very strong resistance to the suggestions that we abolish handgun possession. There would be strong resistance to the Sullivan law because people do not feel safe under the present police safeguards. And that raises, sir, the whole question of what the police are doing to insure greater protection for the citizens, allowing for the myth that the handgun is really not a weapon that can protect you in your home. So, as we move into more legislation in this area, gentlemen, it would seem to me incumbent on law enforcement agencies, especially urban police departments, to do a lot more to assure the citizenry that there will be increased protection.

Is that connection not obvious to you?

Inspector MALONEY. Yes.

Mr. CONYERS. Then what kind of assurances can we elicit along those lines and I am sorry I did not bring this question up to the previous two police chiefs. I will contact them, though. The fact that they did not talk about it here does not mean we will not talk about it. But, don't you see that we cannot gain citizen support for many of the measures that are being proposed because the myth "self defense" is alive and well?

It would seem that if we had assurances, plans, intentions, to upgrade the amount of safety afforded, especially in the dangerous parts of the city, it would help. I do not know. Maybe it is unfair to isolate Harlem. Maybe there are other areas that are almost as dangerous; I do not know.

I am not trying to make that determination but the point is, it seems like we have some collateral responsibility even as we move toward more thoughtful firearms regulations.

I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I just have one question.

At the point you were talking about issuing licenses to persons under the Sullivan law and that is in addition to the danger that the person may establish, who, himself, or his property, are there requirements with regard to the capability of the person?

Do you have to establish knowledge on how to handle the gun?

Inspector MALONEY. There is no specific requirement under the law that the person has to qualify as to his knowledge for either the law or regarding training.

Mr. McCLORY. That would be an important improvement in the law.

Inspector MALONEY. That has been—bills in that area have been pending but they have not passed.

Mr. McCLORY. That would be one of your recommendations though?

Inspector MALONEY. We will probably propose this in the next session of the legislature.

Mr. McCLORY. That is all I have at this point.

Mr. CONYERS. Do you have any concluding remarks? I want to turn now to the first assistant attorney general of the State of New Jersey, Mr. Robert Del Tufo, please dive in at any point along these proceedings.

Mr. DEL TUFO. Mr. Chairman, Mr. McClory, perhaps, I had not planned to do this but let me briefly state my conclusions first, if I might.

I think licensing has a utility. I do not think that licensing is the total effective answer to gun control and I think it raises fantastic pragmatic problems, especially if there is any suggestion it be applied retroactively or as a better phrase, as applied to existing ownership of firearms.

I believe that a law such as that that is in effect in New Jersey, which is licensing to a certain extent, but more than that seeks to prevent the acquisition of ownership of firearms by elements that should not be owning or possessing firearms is a desirable approach to the problem. I do not think that goes far enough.

I believe in the last analysis the only real effective control is a prohibition; I realize what you have been saying, Mr. Chairman, the possibilities of legislation, but I must say a prohibition of the ownership, possession, sale, transfer of handguns is the direction we should be moving and we should end up in. Short of that, I think we should try at this point of time to secure the best possible legislation that we possibly can.

If that is impossible, I think the idea should be stated and I think we should take what we can get and if it is possible to get something along the lines you mentioned, the concealability idea, it is a start in terms of regulating or getting towards the prohibition of handgun sales and possession and I might say, and I do not mean this in any kind of backhanded way, but once you are there with the definition of concealability, I think it might be far easier after you have developed some type of record in the operation of that law to expand that definition, it should be restricted depending on the practical examples.

Now, if I could back up, when Congressman Conyers contacted myself, he suggested we should provide some indication of the New Jersey experience under the New York gun control law of 1966.

I have attempted to do that with my prepared statement that is in the record. I would simply and very, very briefly say that the purpose of the law is as outlined in the statement and as described by the New Jersey Supreme Court, as being designed toward preventing criminal and other unfit elements from acquiring firearms while enabling the fit elements of society to obtain them with minimal burdens and inconvenience.

The operation of the statute forbids the acquisition of rifle shotguns, handguns and the like, by persons subject to certain statutory disqualifications. Those disqualifications are set forth on page 2 of the statement, criminal record, mental disorders and a variety of other things set forth, with the final provision, a person who wants to acquire a firearm must either secure a firearm identification card or a permit to purchase that firearm.

The permit to purchase deals with handguns. The identification card deals with long guns and the identification card is good until the holder, unless and until the holder becomes subject to statutory disqualification; the permit for the purchase of handguns is good for a period of only 90 days.

In each instance there is a fingerprint check of the applicant for the permit or for the card and also some further investigation into his background. Approximately 3 percent of the applicants for an identification card or for a permit, some 15,000 people, have been denied access to firearms since the law went into effect in 1966. There have been 510,000 applications.

I believe the statistics set forth in the prepared statement indicate that the law has in fact been effective in reducing the incidence of crime committed with a firearm.

The New Jersey levels are below the national levels or below the levels of homicide and assaults committed with firearms in the city of Philadelphia or the State of New York.

So, on a balance, I think the New Jersey experience since 1966 has demonstrated that a law designed to prevent the acquisition of firearms by certain elements in society, which had some licensing and registration features, can be effective and also can be administered without really undue inconvenience to people, sportsmen and the like, who have an interest in firearms.

Mr. McCLORY. Well, a lot of people were complaining that they had to wait a year to buy a shotgun.

Is that accurate at all?

Mr. DEL TUFO. The application of the law was much more expeditious. I would say from the last year or 6 months or year and a half, because of the fiscal problems that the State is having, the State police processing of these matters has substantially slowed down. We are making efforts to correct that.

Mr. McCLORY. Is there a 6- or 8-month backlog?

Mr. DEL TUFO. There was at a point in time, maybe 3 or 4 months ago. I think that has improved but it is a question of processing, it is a question of manpower, it is a question of resources and, as I say, hopefully, with some—if the legislature today which is meeting in New Jersey solves our budgetary problems, it will help.

We do have a problem of importation of firearms from other States. I think the enactment of laws such as in effect, in New Jersey, by other States or under sole Federal initiative would be useful.

Mr. McCLORY. What about mandatory sentencing as distinguished law enforcement officers here stated. This committee has been besieged by requests to tighten up the law.

Of course, many people do not realize under the Federal law to begin with, we do not sentence that many people for firearms violations but the whole concept of increasing the punishment for people who commit an offense with firearms, in some instances, I suppose, who violate firearms regulations without committing offenses, would receive mandatory sentences.

What is your experience about this?

Mr. DEL TUFO. I am very much opposed to mandatory sentences generally. I would be opposed to mandatory sentences in this area.

I believe it would be a legitimate tool to provide by some statutory means that a judge in discretion may impose admissional penalties upon persons committed for crimes with firearms, if he feels it is justified but to make it a mandatory across-the-board additional punishment due to the fact that somebody used a firearm, I do not subscribe to.

Mr. CONYERS. Do you feel, Mr. Attorney General, that the support for mandatory sentences is somehow, it reflects at least by implication on our confidence in the judiciary system or how would you attribute this?

Mr. DEL TUFO. I attribute it somewhat to the idea of perhaps reverse English on the concept, that the criminals may still have guns and if you are banning certain types of firearms, other citizens will not have access to them and also the thought that somehow mandatory additional penalties would work some deterrent effect upon people and try to dissuade them from committing crimes with firearms. I think that is where it extends from.

I doubt the deterrent effect of it although somebody might think twice about it. I think it comes more from that standpoint than from any lack of confidence of the judiciary.

Mr. CONYERS. Do you have any other observations that you want us to know about in connection with this subject matter?

Mr. DEL TUFO. Just a restatement of the idea that a law such as New Jersey's which I think would be desirable for other States to pursue or under some type of Federal program because it does have an effect of keeping guns away from people.

Again, where I believe we should be is a prohibition upon the sale and possession of handguns and, again, I feel that we should at this point in time try to get the best type of restrictions and regulations and possession of sale of handguns that we can.

Mr. CONYERS. Without trying to provoke a war between the States, what is a difference between your laws and the much touted Sullivan law?

I have now representatives from two States, telling me they have, both have great laws but we ought to have a Federal law that really eliminates handguns from civilian possession. But short of that, we have just had the Superintendent of the New York State Police, with his assistant, tell us that if everybody had the Sullivan law, things

would be great. Now you are telling us they would be equally fine if we followed the New Jersey example.

What is the difference?

Mr. DEL TUFO. I think both the New York law and New Jersey law have the effect of keeping guns out of the possession of undesirable elements in society.

Mr. McCLORY. Will the chairman yield?

The problem I have with that, is if the Sullivan law results in licensing 29,000 persons in New York City and it is estimated by the inspector that there are a million handguns outstanding, I am just wondering how we reconcile your statement to that effect?

Mr. DEL TUFO. I will have to turn to my New Jersey statistics. I think it is a—what I was trying to get at, I think people from New York are saying that a more effective Federal licensing system might be a solution to the problem.

I personally believe that the State of New Jersey, the Federal Government, we should be going beyond licensing.

I wonder as to the utility of licensing, as to the great proliferation, the fact that you have a lot of homicides in the homes, that guns are available, people have them in stores, that a homeowner may reach for a gun, and I think we have to get rid of the guns.

I do not think licensing does it.

Mr. McCLORY. If the chairman would yield, it is true that a very high percentage of those guns that are illegally in New York City, are purchased outside the State and it was shown here earlier, that a very high percentage of them came from four Southern States.

Mr. DEL TUFO. I heard Commissioner Codd comment.

Mr. CONYERS. New York, how would you respond to my colleague's question?

Superintendent CONNELIE. I think New York and New Jersey's laws are similar and if all 50 States had the same type of laws, we would not have the problem of buying them in different States and bringing them into New York and New Jersey.

Mr. CONYERS. Is it not true in both States that there are thousands upon thousands of guns illegally circulating through people who do not care what the States' laws are and how many Sullivan laws exist.

Is that just a mistaken impression I have?

Superintendent CONNELIE. That is true, Mr. Chairman, but I think the reason for it is because it is so easy to go to acquire them in some States.

If all of the States had a similar law, it would not be that easy to acquire them to bring them into New York.

Mr. CONYERS. Let's bring Massachusetts into this act.

Mr. FITZGERALD. In listening to the members of the committee and the various witnesses, it gives me added faith to the Massachusetts firearms law. I think we have a fine law and I think some of the recommendations made here today are already included in our law.

I would ask that the committee look to the Massachusetts law with their thoughts in their minds as to what they have for the future and with that thought in mind, I would read a prepared statement that I have made, so that I can emphasize the points.

The history of Massachusetts firearms law dates back to 1906, and the initial requirements were simple and the number of firearms' licenses were very small. Laws were almost nonexistent, and although simple in nature, they were adequate for the particular times. Crime during that era, of course, was not the factor or scope that it is today.

The first extensive changes in Massachusetts law came about in 1958 which then required the fingerprint taking and the photograph of the applicant for the license. This provision was tested in Massachusetts court, and the Massachusetts Supreme Court ruled the police department had a right to a positive identification of the licenseholder.

The next change in the Massachusetts law came about in 1968, and they were the direct results of President Kennedy's assassination. At this time, there were considerable changes in both the Federal and the State law level.

One point I would like to make here, there has been some references and we know it goes on, a lot of weapons being bought in any bordering States, but the Federal Gun Control Act of 1968 has a provision which prohibits the purchase of a handgun in any State except the State in which you reside. It allows the purchase of rifles and shotguns in contiguous States, and you have to show proof or supposedly show proof of identification in that particular State in which you buy these weapons, so there is a control in that area which is being flouted, we know.

The assassination of Robert Kennedy and Martin Luther King added strength to the theory of gun control. Massachusetts firearms laws require any individual owning or possessing a firearm, rifle, shotgun, or ammunition to obtain a firearm identification card. This card is issued by the local chief of police and is, in fact, a registration of the individual; registration of weapons in Massachusetts is a voluntary matter.

Mr. CONYERS. Which means it does not work.

Mr. FITZGERALD. The individual that has brought it home does not have to register with the Commonwealth of Massachusetts, but the dealers have to be licensed, and there were some 100 licensed dealers in the Commonwealth of Massachusetts. These individuals were all checked; they are licensed by the local chief of police in the area in which they are going to do their business. They are required on a numbered form to record the sale of—every sale of firearms or rifle they will make, to the Department of Public Safety within a 7-day period. Those forms are then computerized, and at the present time we have on computerized system in excess of 700,000 records.

Upon the request of a police department or law enforcement agency within the Commonwealth or any Federal agency, we can do a search by various means of 700,000 records in 7 minutes, so we have a central repository of weapons sold in Massachusetts.

Additionally, any request that is made by a police department for a search is entered in this system. The system is not purged. All of the information, all of the requests, all of the records are maintained. Each working day we introduce 250 to 300 additional records into this particular system.

Mr. CONYERS. You have a good choice and capability.

Mr. FITZGERALD. And we advocate that.

Mr. CONYERS. We have been applying that notion to the national scene. We do not have, as you know, the central repository.

Mr. FITZGERALD. I would invite you to look at the system, that the laws of Massachusetts have. I think we have been innovative in this particular area. Statistics are hard to come by, hard to prove. They do not tell you much. You can twist them to go up or down, and I think Massachusetts is far out in front.

Mr. CONYERS. Well, Mr. Fitzgerald, I quite agree with that part of it, and of course, we are not trying to nitpick, but we have to get to the problems.

There is no point in holding testimonial banquets about the good parts. Where are the problems in your State, especially in relation to Federal regulations?

Mr. FITZGERALD. I think if you would let me pursue my own thoughts, I think we could come to an answer to that question.

We have been very successful in our Commonwealth through the general court that, the legislature, in bringing forth some amendments to the firearms law, as they became necessary. We have under our law a classification of ammunition which includes mace or similar devices, so if the individual who possesses and purchases this type of device must be licensed, and the dealer who sells it must be licensed.

Additionally, we have included in our definition a firearm, the byby rifle. We also know some of these weapons have no strong velocity, but we also recognize, too, that they are being manufactured in foreign countries, and some of these weapons now develop velocities exceeding the cheap .22, so they have become a problem.

We have an attorney general that classified the handgun type of byby weapon as a firearm, since the Department of Public Safety puts all of these weapons in the classification of a firearm or rifle. It should be noted the licenses and the identification cards are two separate devices. Both are issued by the chief of police in each town in Massachusetts, with responsibility for issuing these permits.

The firearms identification is a right, so to speak, under the Massachusetts law; unless you have certain disqualifying features, you are entitled to it. The license to carry firearms is the prerogative of the chief of police. It depends on his knowledge of the individual plus the statutory discreditability factors, and he is aware of the particular systems and circumstances in his particular area.

Now, one of the main functions of the Department of Public Safety Firearms Bureau is the fact they have a central depository bureau. All of the checks come through one central agency. We have a computerized agency, and they are available to all law enforcement agencies, and it is on a minute's notice we can invite an answer.

Probably one of the most objectionable parts of the Massachusetts law is the investigation, but investigation is a small price to pay, as far as I am concerned. With the recently enacted law which carries a mandatory minimum sentence of 1 year, it has added strength to an already strong Massachusetts Bartley-Fox law.

A massive education program was undertaken on television, radio; signs have been posted at the main entrances to the Commonwealth inviting their attention to the fact that carrying weapons without licenses is a mandatory sentence.

We now receive information from street officers to the effect that the presence of firearms, officers on vice raids, gaming raids, inevitably would find weapons in the home as a kind of a routine

matter. This is kind of diminishing because the individual knows now if he is caught without that license and convicted, he will go away for a year.

Mr. CONYERS. Are you telling me that firearms possession in family units is decreasing in your State?

Mr. FITZGERALD. No; what I am telling you is that these people who are illegally possessing firearms and committing illegal actions are now aware of the fact that this strong firearms law is in effect, and it has a deterrent effect on their thoughts of whether or not they would carry firearms.

Mr. CONYERS. The sales are not going down?

Mr. FITZGERALD. The sales are not going down, but the sales are controlled.

Mr. CONYERS. You mean the purchases are in compliance with the law?

Mr. FITZGERALD. The purchases are in compliance with the law. The carrying of the weapons by those not allowed to carry seem to be diminishing.

Mr. CONYERS. What about the homicide and firearm accident rates?

Mr. FITZGERALD. Well, they are related to all kinds of people, not only the people carrying them illegally but the people who have licenses to carry firearms, and we have not put any further control unless they do not have the license.

Mr. CONYERS. Well, at this point, I would like to take, if you gentlemen would permit, a 5-minute recess. When we come back, we will hear testimony from the distinguished mayor of the city of New York. Then, we would ask this panel to rejoin us. Thank you very much.

[The prepared statements of William G. Connelie, Peter J. Maloney, Robert J. Del Tufo, and William F. Fitzgerald, Jr., follow:]

STATEMENT OF WILLIAM G. CONNELIE, SUPERINTENDENT OF THE NEW YORK STATE POLICE

By reputation, the State of New York has the strictest handgun control law in the nation. To my knowledge, New York is the only state which forbids the mere possession of a handgun, even in the home, unless the owner is licensed and the weapon is properly registered. Known as the "Sullivan Law," this basic statute has been in effect, with ever-increasing amendments designed to strengthen it, for sixty-four years. There is no known method of determining its effectiveness over these many decades; however, it is painfully obvious that today it does not prevent the distribution, possession, and criminal use of handguns. This is especially true in our large urban centers. With few exceptions, no one needs a handgun. On the other hand, our culture has engendered the desire of a large segment of our population to possess one for sundry legitimate purposes.

Because of our statutory responsibility as a centralized repository of firearms records, the Division of State Police is in a unique position to observe the general effectiveness of the "Sullivan Law" and its administration throughout New York State. Amongst honest citizens, registration and licensing has served a purpose in placing a degree of moral restraint on the activities of the person licensed to possess handguns. It is important to note that this restraint has resulted in an extremely low incident rate of criminal use of a firearm by those half-million persons licensed to possess handguns in this state. Indeed, the incident rate of criminal use of a handgun by a licensee has been so negligible that supportive statistical data has not been kept.

In 1931, the Division was mandated the responsibility of maintaining records of all pistol licenses, gunsmith and dealer licenses, all handguns bought or sold, manufactured, confiscated and destroyed by authorized agencies, and reported lost or stolen. In theory, the Division should have direct knowledge of every concealable firearm or automatic weapon which is lawfully possessed, manufac-

tured, purchased or sold by a citizen of this state. The sad fact is that our strong gun laws are fragmented and ineffectively administered, with no person, group, or agency delegated with the responsibility of supervisory authority. Although one of the most amended laws of this state, the "Sullivan Law" has remained substantially unchanged in the areas of centralized administrative control and enforcement.

The procedures involved in the licensing of individuals to possess handguns, or to conduct business as dealers, gunsmiths or manufacturers, are found in Article 400 of the New York State Penal Law. Licenses are issued by licensing officers, who are the Police Commissioner of New York City and Nassau County, and the Police Commissioner and Sheriff of Suffolk County, and in the other 55 counties of the state, judges or justices of a court of record in the county where application for such license is made. All pistol licenses issued since April 8, 1936, remain in effect until revoked with the exception of those licenses issued in the City of New York, Nassau and Suffolk Counties, which are short-term renewable licenses. The responsibility for investigating the eligibility of an applicant rests with police authorities of the locality where the application is made. Such investigation includes a determination that the Department of Mental Hygiene has no record of treatment for mental illness or admission to a state facility.

Fingerprint records are forwarded to the Federal Bureau of Investigation and the New York State Division of Criminal Justice Services to determine existence of previous criminal history. Provided that no reason exists for denial, the license would be issued and a copy of the approved application filed with the Division of State Police. Subsequent to issuance, anything that substantially changes such license requires that notification be made to the Division of State Police within ten days of such change. Licenses for dealers and gunsmiths require the report of all purchases and sales to the Division. All of this data combined reflects the records of the Pistol License Section of the Division of State Police at Albany. This file represents over five million records and is currently in the process of being computerized with completion expected by September 1, 1975. Some statistical data from the Calendar Year 1974 which may prove of interest includes:

Reported lost or stolen handguns-----	10, 570
New pistol licenses issued (not renewable)-----	17, 329
Renewal or issue of short-term pistol licenses-----	36, 665
New weapons added to licenses-----	41, 068
Reported lost or stolen handguns-----	10, 570
Handguns destroyed-----	24, 970
Pistol licenses revoked or canceled-----	5, 081
Firearms dealers in business-----	1, 343

In any given year, over ten thousand inquiries relating to weapons or persons are received from authorized police agencies. Certifications as to lack of license are regularly supplied to prosecutors in criminal possession cases.

We are aware that there are major faults in the existing system. The principal area open to criticism involves the failure of licensing officers to provide the information required by law. Existing statute requires that all such information be filed with the Division of State Police within ten days of occurrence, and in some cases several years pass before actual filing. Obviously, we cannot ever be sure that information is filed at all. Situations of this type create substantial shortcomings in our data base. In past legislative sessions, we have endeavored to provide for improved control of handguns. Our proposal includes a provision that pistol licenses would be renewed every three to four years by this Division and that all amendments to licenses would be handled through us. We believe that the original license application should still be handled by the courts, but the administrative chores associated with keeping records of the licensee and his weapons could be better handled by our Pistol Permit Section. Thus, the Division would have direct access to the information needed to maintain the integrity of its files, and the authority for determining who is entitled to obtain a license would continue to remain within the discretion of the courts of our state. Excepted from this proposal are those few jurisdictions who already issue renewable licenses. The vast majority of currently issued licenses are issued "Good Until Revoked". There is no method by which licensing authorities can determine if a change in circumstances in the mental or physical health of the licensee has occurred. Likewise there is no systematic method of updating other critical information which could affect the validity of the license. There is

no system employed to determine if a licensee has died and what might have become of the firearms he possessed. Lastly, there is no provision in existing law which allows the purging of records which are no longer required.

Another glaring fault in the "Sullivan Law" which is reflected through its absence from our files, are the large numbers of firearms owned by individual peace officers and law enforcement agencies. Statute exempts "peace officers" from the usual licensing requirement. Because of that exemption, there is no centralized record of the large number of handguns possessed by a category of persons which may exceed 100,000 in number. Law enforcement officers who are so inclined, have the unique opportunity to provide handguns to persons not authorized to possess them, usually with little chance of discovery. A statistic quoted earlier in this statement mentioned the number of firearms destroyed by law enforcement agencies during the 1974 calendar year. The figure noted, although seemingly quite large, represents the activities of only 24 police agencies. The Penal Law has declared that any weapon when lawfully possessed or used in the commission of a crime is a "public nuisance", which must be destroyed after serving its purpose as evidence. Statute further mandates that such destruction occur at least once each year. Police agencies statewide have been remiss in their responsibilities in this area. This failure has often led to confiscated weapons returning to the illegal marketplace, or being converted to the ownership of private individuals for profit. Most serious is the loss of identifying information concerning the weapons involved.

One of the general provisions in the introduction to the New York State Penal Law states that one of the several purposes of this law is "To insure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the rehabilitation of those convicted, and their confinement when required in the interests of public protection." Depending on whose statistics you view, the chance of serving time in a prison after conviction for a violation of the firearms laws amounts 4 to 15 percent. In most of these sentences, actual time served amounts to considerably less than one year. The vast majority of cases, result in noncustodial sentences such as fines, probation, unconditional and conditional discharges.

We recognize that it is not possible to have every arrest and indictment go to trial. The tremendously increased volume, and various "speedy trial" rules have forced district attorneys and the courts to implement various policies and procedures to deal with excessive case loads. Plea bargaining is the primary tool available to a prosecutor in coping with such workloads. Plea bargaining is totally at odds with the clearly stated purpose of the penal law. Lenient sentences in handgun cases can only serve to encourage the unlawful possession and criminal use of a firearm. We therefore support the proposition that in cases where a handgun is intentionally used as the instrument of force to commit a related serious crime such as burglary, rape, robbery, a minimum mandatory sentence must be served to run consecutively, with any sentence imposed for the crime itself.

A glaring fault in any system of gun control is that of diverse regulatory control from one jurisdiction to another. New York State is bordered by five other states whose handgun control laws vary from strict to nonexistent. The ease in which federal regulatory controls may be surmounted encourages criminals to obtain their handguns in jurisdictions where there is little local control and bring them back to areas where they are more difficult to obtain. Diverse regulations also impose severe restrictions on the honest citizen. A resident of Massachusetts, whose gun control laws rival our own, may be arrested as he passes through New York State while transporting his firearms, simply because New York State refuses to recognize licenses issued by other states. This occurs with considerable regularity and is needless if there were the uniformity of control required to establish nationwide reciprocity.

Finally, I wish to address myself to the problem of "Saturday Night Specials". I am not a firearms expert but I am aware that any item of manufacture cannot be classed with similar items, simply based on their size, shape and design. As that term is so loosely used, the "Saturday Night Special" has never been successfully defined. I have seen proposals from all levels of government that attempt to prevent the manufacture of a handgun because it is "cheap", of a small caliber, of a certain overall size, made of certain materials, etc. None of the proposals, of which I am aware, attack the problem on the basis that such handguns present a danger to the user and as such have little value for recreational or defense purposes.

In 1974, the New York State Legislature passed a law designed to reduce the availability of such poorly made and unsafe handguns. This law authorized the Superintendent of State Police to promulgate regulations for manufacturers of handguns in New York State. With the technical assistance and advice of the major firearms manufacturers, we have succeeded in putting together a workable regulatory package which establishes safety standards, specifications relating to materials used, requirements for inventory control, storage and shipment, and minimum standards of quality control. In our view there is little value to be gained in the suppression of manufacturers of handguns because their product uses a certain cartridge or is capable of fitting a small space, provided that there is a legitimate demand for them whether real or imagined.

Perhaps one of the great difficulties in enacting effective gun control legislation is the effort to accomplish the ultimate at the outset.

Before an all encompassing statute must come basic uniform control in all states. Before we worry about licensing long guns, we must make our accounting of handguns realistic and accurate. Before we legislate against the honest citizens' legal possession of a revolver, we can impose existing penalties against unlawful possession. A gun is a deadly weapon, but a gun alone cannot kill, it needs a person pulling the trigger. Effective gun control legislation begins and ends with laws directed at wrongful use by the wrong people.

---

STATEMENT OF PETER J. MALONEY, DEPUTY INSPECTOR, CITY OF NEW YORK POLICE DEPARTMENT

My name is Peter J. Maloney, I am a Deputy Inspector in the New York City Police Department, assigned as Commanding Officer of the License Division for the past four years. I have been asked to attend today, to discuss with you pistol license statistics.

At the outset, let me say that Section 265.00—Subdivision 10, of the Penal Law, states that the Police Commissioner is the licensing officer of firearms and other dangerous weapons for the City of New York and, Section 436-5.0 of the New York City Administrative Code provides that the Commissioner shall grant and issue licenses to have and possess handguns.

As Commanding Officer of the License Division, it is my function to supervise the issuance of pistol licenses.

There are 28,747 pistol license holders in New York City as of December 31, 1974. In addition, 1,089 pistol licenses issued by Counties outside of New York City have been validated for New York City. The number of pistol licensees has increased over the past ten years by a rate of approximately 5% annually. The principal type of license issued is a "carry" license, to carry a firearm concealed on the person.

There are approximately 23,750 carry licenses. Slightly more than half of these are issued to businessmen, who show that a special danger exists for them that would require the issuance of such a license. The remainder are issued to persons who are engaged in security work such as bank guards, armored car guards and private investigators.

In New York City we issue a limited carry license called a target license for the purpose of engaging in competitive shooting. This license permits the holder to carry his weapon unloaded, in a locked box, to and from an authorized pistol range. There are approximately 4,800 of these licensees.

Besides the carry license, there is a premises license which allows the licensee to keep a firearm at his place of business or residence. Slightly more than 200 of these licenses have been issued.

All applicants for a license are fingerprinted and investigated as required by Section 400 of the Penal Law. Convictions for felonies or serious misdemeanors, offenses or a history of mental illness are grounds for disapproval. In addition, the moral character of the applicant is investigated.

The principal reason for licensees to carry and possess a firearm is for their protection against robbery. However, possession of a concealed weapon affords limited protection.

The License Division records indicate that in 1974, 170 holders of pistol licenses were the victims of robberies. In 67% of the cases, their weapons were stolen. There were 60 licensees who used their firearms to resist robbery. In 8 of those cases, the licensee was injured while 13 criminals were shot as well as 3 bystanders.

The statistics for the first half of 1975 regarding pistol licensees as victims of robberies are incomplete. The records do show that there were four licensees and three bystanders injured during robberies. There were 12 robbers shot by licensees.

In one case, two criminals were shot by the licensee. This occurred in April, in Brooklyn, where a store owner was closing his premises. As he was locking the metal gate in the front of his store, he was approached from the rear by two men, both of whom were armed. When they announced the robbery, the licensee removed his firearm, turned and fired six rounds at the two men. They returned fire, seriously wounding the licensee in the back and right leg. The men fled the scene. They were later apprehended at a hospital where they had sought medical treatment for bullet wounds.

Our statistics do show that a far greater percentage of those licensees who resisted robbery were injured as opposed to those who did not resist. 13% of those who resisted were injured as opposed to less than 2% of those who did not resist the robbery.

Pistol license holders are law-abiding citizens. The number of such persons arrested is far below the general population average.

In 1974, there were 78 licensees arrested in connection with charges of misuse of their firearms. This is less than 3/10th of 1%. In many cases, the charges were dismissed in court. Subsequently, hearings were conducted at the License Division. In 42 cases the hearing officer found no misuse of the firearm.

In closing, the statistics show that possession of a handgun provides a limited measure of self protection. While the possession of a weapon may be some deterrent against robbery, we cannot accurately measure the degree of its effectiveness. In those situations where handguns are possessed by criminals and licensed holders and violence becomes a factor in the situation, then the degree of violence naturally escalates. The result is that there is an increase in the severity of the injury, possibly resulting in death to either the criminal or licensee.

---

#### STATEMENT BY FIRST ASSISTANT ATTORNEY GENERAL ROBERT J. DEL TUFO

I appreciate the opportunity to appear before you today and hopefully to offer some information which will be useful in your evaluation of proposed amendments to the Federal firearms laws. My purpose is to report upon the New Jersey experience under the Gun Control Law which the New Jersey legislature enacted in 1966.

On August 2, 1966, the State of New Jersey adopted a gun control law which has been hailed as the best state law regulating the sale, purchase, and possession of firearms in the nation. As characterized by the New Jersey Supreme Court in a 1968 decision which upheld the validity and constitutionality of the legislation, "New Jersey's Gun Control Law is highly purposed and conscientiously designed toward preventing criminal and other unfit elements from acquiring firearms while enabling the fit elements of society to obtain them with minimal burdens and inconvenience." To this end, the Legislature set up permit and identification prerequisites to the purchase of firearms. The main thrust of the legislation is to prevent the purchase, possession and use of weapons by persons who, on the basis of an investigation into fitness, are determined to fall within any one of several statutorily defined areas of disqualification. More specifically, the statute disqualifies any person who has ever been convicted of a crime, who is drug dependent, who is confined for a mental disorder, who is a habitual drunkard, who suffers from a physical defect or sickness which would make it unsafe for him to handle firearms, who, having once been an alcoholic or confined for a mental disorder, cannot produce satisfactory proof that he is no longer suffering from the particular disability in such a manner as to interfere with his handling of a firearm, who is under the age of 18 years, or who, in the interest of the public health, safety or welfare, simply should not have a firearm.

From a procedural standpoint, any person in New Jersey who desires to acquire a firearm must make application to the Chief of Police of a full-time police department in the municipality where he resides, or to the Superintendent of State Police in all other cases, for a permit to purchase a pistol or a revolver or for a Firearm Purchaser Identification Card which permits the purchase of rifles and shotguns. Each applicant is required to be fingerprinted on the state and federal form. The applicant fingerprint cards are forwarded to the State Police and to the Federal Bureau of Investigation for comparison against crim-

inal records. In addition to the FBI and SBI fingerprint record check, the authority, in receipt of the application, is required to conduct a thorough background investigation of each applicant including interviewing the two references listed on the application, checking municipal and county records, and confirming applicant's employment. A person not subject to any of the disabilities as set forth in the statute naturally qualifies for the Identification Card or Permit, or both. Indeed, the law specifically provides that no person of good character and repute who is not so subject shall be denied a card or permit.

A Firearms Purchaser Identification Card is valid until such time as the holder becomes subject to any of the disabilities outlined in the statutes. The card entitles the holder to purchase shotguns and rifles within the state providing a certification is completed for each and every transaction. The permit to purchase a pistol or revolver is valid for a period of 90 days and may be renewed by the issuing authority for an additional 90 days. Only one handgun may be purchased through a permit. In situations where the holder of the identification card becomes subject to one of the disabilities, he is required to surrender the card within five days to the Superintendent of State Police. Failure to do so is considered under the New Jersey laws as a misdemeanor which is punishable by a one-year prison term or \$3,000.00 fine, or both. A person prohibited from possessing firearms is subject to imprisonment of 1 to 10 years for first conviction; 3 to 15 for second conviction; 5 to 20 for third conviction, and not less than 10 years for fourth or subsequent conviction.

In addition to the foregoing, the courts of this state have adopted guidelines limiting the issuance of permits to carry handguns in the state to only those persons who are specifically employed in security work and to such other limited personnel who can establish an urgent necessity for carrying of guns, i.e., one whose life is in real danger, as evidenced by serious threats or earlier attacks. As a result of the strict policy adopted in this state only 1,700 out of a population exceeding 7 million have been issued a permit to carry firearms.

In addition to individual transaction requirements, persons desiring to engage in the business of buying and selling firearms are required to make application to the Superintendent of State Police. All applicants and their employees are thoroughly investigated by the Firearms Investigation Unit of the New Jersey State Police. The results of such investigations are transmitted to the County Judge of the county where the business is located for issuance or denial. By statute, County Judges are the issuing authority for such licenses. Dealers are required by both state and federal law to maintain an acquisition and disposition firearm ledger. Periodic inspections of the dealers' records, inventories and security systems, are made by the Firearms Investigation Unit. Regulations have been adopted by the State Police requiring dealers to install an approved security system for safeguarding firearms and ammunition at their business premises. This regulation is believed to be the first of its kind in the nation. Applicants who fail to meet this requirement are refused a license. These procedures have proven highly successful in deterring thefts of firearms and ammunition from gun dealers in the state. Currently, there are 830 retail firearm dealers and 32 manufacturers and wholesalers in this state.

As of April 30, 1975, there were 510,000 various firearm applications processed throughout the state, under the Gun Control Law of 1966. Of this number a total of 15,284 persons were denied the right to purchase or carry firearms because they proved subject to one of the disabilities set forth in the statute. Most of the denials, 42.9 percent, were a direct result of the applicant having had a criminal record. As stated above, the New Jersey law prevents any person with a criminal conviction, regardless of where the offense took place, from qualifying for a permit or a Firearms Purchaser Identification Card. Another 29 percent of the denials were based upon a judgment that possession of firearms by the persons in question would not be in the best interest of the public health, safety, and welfare of the citizens of the state. In addition, 22 percent were denied for various other reasons and included those who had received treatment or are being treated for a mental disorder. Others were denied for medical reasons (2.9%), and falsification of applications (3.2%).

We believe the New Jersey Gun Control Law has been both effective and beneficial. For one thing, the New Jersey State Police maintain a central repository on firearms registered in the state. Included in the repository are 464,319 gun registrations, the names of 221,993 firearm owners, and 524,000 firearm applications including dealer license applications. Information contained in these files has served as a useful investigative tool for law enforcement agencies and for other elements of the Criminal Justice System. Beyond this, the Uniform Crime Report-

ing statistics maintained by the Federal Bureau of Investigation offer a basis for assessing the effectiveness of the law in keeping weapons from the unfit. The latest statistics (see Exhibits annexed hereto) indicate that during 1973 in New Jersey firearms were used in 43.3% of the 544 murder cases compared to the national average of 67%. In a second category, aggravated assaults, the 1973 national average with the use of firearms was 27.7%, while in New Jersey the figure was 16.8%. The differential between the national and New Jersey percentages has remained relatively constant since 1967. The foregoing offenses are the only ones for which such statistics are maintained.

While the absence of pre-1967 statistics (attributable to the fact that Uniform Crime Reporting was not operational prior to that date) precludes what would have been a useful comparison with the experience prior to the 1966 enactment of the Gun Control Law, it nonetheless seems reasonable to conclude that the statistics reflect the operation and effect of the law. The State of New Jersey is unique in that it is the most densely populated state in the nation (930.4 people per square mile); ranks 9th among the states in total population; is 46th in size; and is geographically situated between two of the nation's largest metropolitan areas. These factors would seem to suggest that New Jersey should record a larger rate of crime with the use of firearms than the national average. Yet, as indicated, the New Jersey experience is far better than national levels and, significantly, also stands in better stead than rates in New York and Pennsylvania. Homicides and aggravated assaults with firearms during 1973 stood at 50% and 20% respectively in New York and at 61% and 24% in Pennsylvania. New York's Sullivan law exerts some regulation over handguns. Pennsylvania has no firearms control legislation.

In short, we believe that the favorable statistics for New Jersey in comparison with the experience nationally and in neighboring states clearly result from conscientious enforcement of the Gun Control Law of 1966. Beyond the realm of statistics, one must be mindful of the prophylactic role which the law must have played and thus of the occasions when its existence and effect may have saved a life or otherwise prevented improper use of a firearm.

Effective gun control legislation is essential to stem the increasing tide of crimes committed with the use of firearms and, fundamentally, to preserve the quality of life as we in this country have known it. Decisive action is required not only at the federal level but also by the various States. The experience in New Jersey since 1966 should serve to allay any possible fears concerning the effects of gun control regulation. For New Jersey has proven that a law, which includes licensing and registration aspects, can operate fairly, can produce favorable results in reducing crime involving firearms, can effectively prevent certain classes of persons who should not be involved with firearms from acquiring them and yet can accommodate legitimate interests in firearms by permitting fit persons to acquire and use them with only minimal inconvenience.

## FIREARMS INVESTIGATION UNIT

	1967	1968	1969	1970	1971	1972	1973	1974
	Number							
	Per- cent- age distri- bution							
New Jersey:								
Total murders.....	274	355	366	405	422	483	544	479
With firearms:								
Handguns.....	95	119	154	159	180	216	191	191
Rifles.....	13	9	9	5	4	9	13	13
Shotguns.....	12	23	17	22	15	22	41	25
Others (zip guns).....				3	8	1		7.7
Total.....	120	151	180	189	203	248	245	46.3
National average:								
Total murders.....	12,093	13,648	14,587	15,812	17,627	18,515	19,509	20,500
With firearms.....	7,691	8,871	9,482	10,341	11,458	12,220	13,071	13,071
Percent.....	63.6	65.0	65.0	65.4	65.0	66.0	66.0	67.0
ATROCIOUS ASSAULTS ANALYSIS (BY FIREARMS) <sup>1</sup>								
New Jersey:								
Total atrocious assaults with firearms.....	6,588	6,660	6,275	7,103	8,892	10,961	11,705	11,760
Percent.....	796	1,068	1,166	1,241	1,677	1,893	1,962	16.8
National average:								
Total atrocious assaults with firearms.....	253,321	282,404	336,420	329,937	365,995	388,650	416,271	453,800
Percent.....	52,944	64,953	73,541	80,175	91,389	98,328	106,982	25.7
	20.9	23.0	24.0	24.3	25.0	25.3	25.3	25.7

<sup>1</sup> Uniform crime reporting statistics

\* Preliminary estimate.

Certainly this is a nationwide problem and we welcome Federal assumption of responsibility in solving this serious social challenge.

I am sure that the statistics are well known to this committee, and you have already heard Commissioner Codd and Deputy Inspector Maloney testify to the dimensions of the problem here in New York City.

But I would like to put our homicide and other crime statistics, which you may have seen and heard, into their proper perspective.

New York City's overall crime rate as you undoubtedly know ranks 19th among the 25 largest cities of the country. It is our size and the fact that we have 8 million residents which make those statistics so appalling. But, percentagewise, we compare favorably with other large cities.

With new Federal gun control legislation, our control of crime in New York City will certainly improve and I believe such legislation would help law enforcement officials in every community in this country do a better job.

Every innocent death by gun is a special tragedy for the victim's family and friends, largely because it might have been avoided under appropriate gun control laws.

But, when a police officer dies by gun, it's a special tragedy for the entire community. For if a gunman kills a policeman, he will not hesitate to pull the trigger on unarmed civilians.

Earlier this year, five New York City police officers were brutally shot and killed in the short space of 5 weeks while attempting to enforce the law. That was at the rate of one police officer a week.

I will never forget the shock and sadness which I felt and shared with the other citizens of this great city, as week after week we endured the shooting death of another police officer.

When this happens to a city, the time has come to act not only against the criminals who killed those police officers, but against the whole notion of an indiscriminate and increasing use of firearms.

There is no accurate count on how many handguns there are in New York City. But many experts estimate that there are more than 1 million handguns in the homes and businesses of the citizens of our city.

We are faced with an estimated 1 million illegal handguns in this city—a terrible reality which puts illegal possession of guns on the frequency level of traffic violations.

Now the State of New York and the city of New York have gun laws and regulations which are among the toughest and most strictly enforced in the Nation.

Since taking office in January 1974, I have further tightened local controls as far as my authority allowed.

I directed the police department to require more detailed substantiation for new applications for handgun permits filed by the general public. I also issued an executive memorandum setting forth new regulations and standards for city employees who carry handguns.

For 2 years I have also submitted proposed legislation to the State legislature to increase criminal penalties for firearms violations, to make jail sentences mandatory for persons convicted of first-degree armed robbery and armed assault, to eliminate plea bargaining by persons indicted for such armed robbery and armed assault and to

require firearms permits for possession of blank cartridge pistols which are usually used as starter's guns in sporting events. As you know, starter's guns are frequently converted into lethal weapons.

Unfortunately, none of these measures was passed by the State legislature.

Despite our existing State laws, and despite the further tightening of local controls, we are experiencing an increase in the number of crimes committed with firearms.

If one-half of all homicides here and one-third of all reported robberies and one-fifth of all reported assaults are committed by persons carrying handguns, then something is clearly wrong.

Frankly, even the enactment of all the gun control measures I proposed to the State legislature might not be enough to reverse the spread of illegal handguns or the increase in crimes committed with guns.

I have said this many times before, and I believe the experts share this view, namely, only by the passage of uniform Federal gun control laws will the spread of handguns and the increase in gun-related crimes be curtailed.

For example, it does us New Yorkers little good to have tough, strictly enforced gun control laws when most of our 50 States do not have similar laws and a black market in guns can thrive here through the easy shipment of guns.

As Commissioner Codd has told you, this morning, we traced the origins of 1,800 guns seized after they were used in the commission of crimes. And, of those 1,800 guns, only one was traced to an illegal sale in New York State, while more than 1,300 were traced to illegal sales in other States.

I am convinced that, if our tough State laws and regulations were duplicated in other States, we would see a marked decrease in crimes committed with guns.

That is why Federal legislation is necessary. We need some uniform Federal laws applicable throughout the 50 States and one strong deterrent to the criminal use of handguns would be a Federal law requiring all handguns in the country to be registered.

Here in New York City, the largest urban complex in the Nation, the people have supported the State's gun control laws and regulations for decades. I have every reason to believe they will support a Federal law which will provide for meaningful registration requirements in each State. Opinion polls tend to bear this out.

A very strong deterrent to the illegal use of handguns would be a Federal law which restricts sales of handguns to licensed individuals. New York State has a licensing law and it does not interfere with the people's right to own handguns for legitimate purposes.

Similarly, Federal law which would require individuals in all 50 States to be licensed to carry or possess handguns would not interfere with anyone's right to own such guns for legitimate purposes.

I believe we also need some kind of Federal oversight on the number of handguns that are available to the people in our country and this could be accomplished through a measure that would restrict the number of handguns which the same individual can purchase and own.

Another problem which the Federal Government can help resolve is the problem of the so-called "Saturday Night Special," the cheap, easily available handgun, which has figured so prominently in so many crimes, especially among our young people.

We have tried to get State legislation against not only these Saturday Night Specials, but against all small readily concealable handguns. However, even if we did, we would face the same problem of a black market here, unless there were some Federal legislation which outlawed the manufacture or sale of such guns in all 50 States.

Finally, there is the growing problem of shipping handgun parts across State lines for assembly at their destinations.

While there is a Federal proscription against the shipment of assembled handguns between people who are not licensed gun dealers, there is no such proscription against the interstate shipment of certain handgun parts.

It just doesn't make sense for the Federal Government to require licensing for the shipment of assembled handguns and not require such licensing for the shipment of all handgun parts which can be easily assembled anywhere.

So, on the basis of New York City's experience, I recommend that any new Federal gun control legislation should include at least the following five measures:

(1) A Federal law requiring registration of all handguns in the country.

(2) A restriction on sales of handguns only to licensed individuals.

(3) A limit on the number of handguns which the same individual can purchase in a year.

(4) The outlawing of the manufacture or sale of Saturday Night Specials.

(5) A prohibition on the interstate shipment and the importation of all firearm parts, unless such shipment or importation is to a licensed dealer.

In closing, I want to emphasize the great concern which law enforcement and other public officials here have about the continuing spread of illegal handguns throughout the city of New York.

Pistols brought into this city illegally and sold illegally now have a ready market in all our neighborhoods, and we fear this situation in which handguns have become as common in many households as any kitchen appliance.

The handgun we fear is small enough to be concealed in a pocket, purse or a person's hand, but it casts a growing shadow across every American city.

If Congress does not check present trends, that shadow could darken the life of every American.

Thank you.

Thank you very much.

Mr. CONYERS. We thank you for that very cogent and thoughtful statement, Mayor Beame. I am going to ask only a couple questions. I presume from the import of your statement that in terms of developing education programs, restricting the licensing procedure and developing a national tracing center, there is one central question that is developing around the question of firearms legislation, and it is this: Should we, or are we now able to move directly to the issue of eliminating from civilian commerce the handgun? It has now soared to unprecedented use.

As you know, there are 2½ million new guns sold to the population each year. There are some 40 million already in existence. We are

literally swimming in an avalanche of increasing weaponry. There is an arms race going on inside this country.

Now, several of our colleagues from New York have taken an unusual position that I would like to bring to your attention. It is the fact that they are cosponsors of Congressman Jonathan Bingham's bill, which would in essence prohibit the manufacture, sale, purchase and possession of handguns, except for members of the Armed Forces, law enforcement officials and licensed importers, dealers, antique collectors and pistol clubs.

In this State, and Congressmen and Congresswomen representing the constituents in your city, have joined in the cosponsorship of that legislation. There are Congresswoman Bella Abzug, Congressman Herman Badillo, Congresswoman Shirley Chisholm, Congresswoman Elizabeth Holtzman, Congressman Edward Koch, Congressman Charles Rangel, Congressman Ben Rosenthal, and a number of Congressmen from neighboring States. So far 23 Members of Congress, plus the National Conference of Mayors, and additionally Police Chief di Grazia of Boston have all said to this subcommittee in no uncertain terms, I am speaking of the commissioner of the city of Boston, the police chief, all of them have said to this subcommittee in no uncertain terms, that the time has come for us to face up to the most difficult issue, and that is that the time has come for us to move toward the abolition of the handgun.

What advice would you give us on that issue, Mayor Beame?

Mr. BEAME. Mr. Chairman, first I would like to make this observation, and I think you appropriately made some point with respect to it, but as you were making it it struck me that would be a great illustration. Here we have Congress and the Federal Government very strongly committed to sit down with the—with Russia and try to work out arms limitation. Now, it seems to me it is very paradoxical that they are not ready to sit down and work out arms limitations on our own country.

I think the point you were driving at, it seems to point that up very clearly. I may say parenthetically, I think the Federal administration would be good if they tried to pay a lot of attention to the problems domestically, as strongly as they are paying attention to some of these international problems. But getting back to the point you made, I appeared at a press conference with Congressman Bingham and Senator Hart in Washington when that bill was presented to Congress, and strongly enforced it. However, I want to make this point, we are living in a real world. If we can get such a bill through, fine, I am for it, but the least we ought to try for is what is possible of realization or being accomplished, and that is the question of a national requirement for registration and licensing, and so I support the principle of getting rid of them, but if it is realizable but at least, we ought to try to move from the center direction. As I indicated to you, licensing and registration here in New York City has proved very effective. As I indicated, only 29,000 have the licenses to carry a gun, but only after very careful regulation, reexamination, and evaluation by the police department, and yet we have a million of them around. And knowing we can go buy it, unless the Federal Government steps in.

Mr. CONYERS. I appreciate your response, because I have noted since January when we undertook this inquiry that there has been a growing feeling among the population across the country, not just urban, but in outlying areas, in the Middle West, and in the Far West. We were in Atlanta last week, and there is a very noticeable feeling on the part of most people that we must begin to move on this question. And my staff member indicated to me that a recent poll by one of the networks indicated that 51 percent of the people that they interrogated in a sample national poll were incredibly enough, as I was concerned, in support of the proposition that handguns should be prohibited in terms of their manufacture and possession.

Now, it seems to me that we in public office are being told by the citizenry across this country it is enough, that this time something should be done. You are very wisely limiting us, remembering we be as pragmatic as we are dedicated in the quest of a solution. I very much appreciate that. I want you to know I agree on the basic principle, they all ought to be banned, if we cannot complete that, we ought to do what we can.

Mayor BEAME. I am pleased to hear what you said about the feeling which you get throughout the country, and I really want to congratulate this committee in the sense I think that is what it is focusing on around that problem around the country, by your going around and holding these hearings, I think people begin to understand, they don't want it, I know they don't want it, and it is just that we get these other reactions which might be better organized, public relationswise, than the people. The people, unfortunately, have no public relations operation that they can do what some of the opponents of this bill, or of this principle, can do.

Mr. CONYERS. I would like to turn the questioning at this point over to my colleague and friend, Mr. McClory, of Illinois.

Mr. McCLORY. Thank you very much, Mr. Chairman. And I certainly want to express appreciation to you, Mayor.

It is true we have had a number of field hearings, in addition to extensive hearings in Washington, with regard to the subject of proposed gun control legislation, but I would like also to add that I don't think we have had any testimony which has been more practical, which has been more realistic with regard to the possibilities of Federal legislation than the testimony and recommendations which you have made to us here this morning. As a matter of fact, and to sort of take a little self-pride in this subject, I think maybe somebody has given you an advance copy of a bill that I have drafted, because you and I seem to see pretty much eye to eye on what can be useful insofar as helping to control the proliferation of handguns, and to make those persons who are owners of handguns responsible individuals in our society, and I cannot help but feel that is a Federal law which requires registration, whether it is State or local legislation, or for whatever the level of government is, that where the registration occurs, if it is uniform throughout the country, pursuant to Federal guidelines, or a Federal pattern, it can enable us to get a handle on where these guns are, when they are used in connection with the commission of a crime.

Of the five points that you mentioned, there was one point that you included in your testimony that you did not make reference to, and that is mandatory penalties. And I am sure that would be primarily a State function.

Mr. BEAME. That is true.

Mr. McCLORY. But with regard to Federal crimes, where a gun is used, we would also want to require that there be tough penalties imposed against those who commit crimes with guns.

Also, I would like to mention that, while there appears to be some indication that a bare majority might favor restricting manufacture, ownership, and possession of handguns, the fact is that 67 percent of those polled in a recent Gallup poll favor the program that you have indicated, of a registration program, which indicates the popular, the real popular support. Perhaps this is the silent majority that we hear so much about, that you and I are aware of, nevertheless, that exists, with regard to this subject.

I cannot find any fault with your testimony. I think it has been extremely useful to us, and I don't know that I have any questions to interpose, as a matter of fact.

Mr. BEAME. Thank you very much, Congressman McClory. But I think there is a good reason why you say you have a bill introduced which almost sees eye to eye, as a practical measure how to approach this problem, and that is because your wife, who I just had the pleasure of meeting, is a New Yorker, or was a New Yorker.

Mr. McCLORY. I get a lot of that New York influence and especially, I must say, when we get a hearing in New York, it is always a good occasion for her to accompany me to New York City.

Mr. BEAME. We are very happy to have both of you here, and certainly hope you will come back more often.

Mr. CONYERS. Mr. Mayor, you did make one important point that was not made before, that is the parts problems in the United States. We have a great deal of concern about the foreign imported parts that create a loophole a mile wide, so to speak, within the 1968 Gun Control Act. You are the first to comment upon that subject, which is very important. I personally am grateful that you omitted any discussion about another controversial feature, that is a part of these hearings, and that is the movement to impose mandatory sentences upon violators. That subject which is very sensitive, one which to me implies some lack of faith in the judgment of our courts, and one which also has not really been tested with any determination that it would actually operate as the deterrent that it is touted to be.

And so unless you have any further observations, we are going to hope that you continue your preeminent role in firearm regulations, and that your views be transmitted as widely beyond the borders of the city of New York as possible.

Thank you very much for joining us.

Mr. BEAME. Thank you.

I just want to say with respect to the point you made, that in terms of mandatory sentencing, I don't believe the Federal Government need get into that. I think that is a State problem, and that is one that I am trying to deal with the State on, and try, as I indicated, to get legislation, but did not.

Mr. McCLORY. If the chairman will yield, I want to be sure that all of the members of the New York delegation get a copy of your statement here today, because I think it would be well to get them in support of the program you have outlined.

Mr. BEAME. Thank you very much.

Mr. CONYERS. Thank you, Mr. Mayor.

Mr. BEAME. I appreciate this opportunity, and certainly welcome you to New York.

[The prepared statement of Hon. Abraham D. Beame follows:]

STATEMENT BY MAYOR ABRAHAM D. BEAME

Chairman Conyers, subcommittee members, ladies and gentlemen, thank you for this opportunity to express New York City's concern over the rapid spread of handguns in our City and other cities of the country.

I would like to commend the Subcommittee on Crime for holding so many hearings in different parts of the nation on the illegal use of firearms.

Certainly this is a nationwide problem and we welcome Federal assumption of responsibility in solving this serious social challenge.

I am sure that the statistics are well known to this Committee, and you have already heard Commissioner Codd and Deputy Inspector Maloney testify to the dimensions of the problem here in New York City.

But I would like to put our homicide and other crime statistics, which you may have seen and heard, into their proper perspective.

New York City's overall crime rate ranks 19th among the 25 largest cities of the country. It is our size and the fact that we have eight million residents which make those statistics so appalling. But, percentage-wise, we compare favorably with other large cities.

With new Federal gun-control legislation, our control of crime in New York City will certainly improve and I believe such legislation would help law enforcement officials in every community in this country do a better job.

Every innocent death by gun is a special tragedy for the victim's family and friends, largely because it might have been avoided under appropriate gun-control laws.

But, when a police officer dies by gun, it's a special tragedy for the entire community. For if a gunman kills a policeman, he will not hesitate to pull the trigger at unarmed civilians.

Earlier this year, five New York City police officers were brutally shot and killed in the short space of five weeks while attempting to enforce the law. That was at the rate of one police officer a week.

I will never forget the shock and sadness which I felt and shared with the other citizens of this great city, as week after week we endured the shooting death of another police officer.

When this happens to a city, the time has come to act not only against the criminals who killed those police officers, but against the whole notion of an indiscriminate and increasing use of firearms.

There is no accurate count on how many handguns there are in New York City. But many experts estimate that there are more than one million handguns in the homes and businesses of the citizens of our city. Yet fewer than 29,000 individuals are licensed to hold such guns.

We are faced with an estimated one million illegal handguns in this City—a terrible reality which puts illegal possession of guns on the frequency level of traffic violations.

Now the State of New York and the city of New York have gun laws and regulations which are among the toughest and most strictly enforced in the nation.

Since taking office in January 1974, I have further tightened local controls as far as my authority allowed.

I directed the Police Department to require more detailed substantiation for new applications for handgun permits filed by the general public. I also issued an Executive Memorandum setting forth new regulations and standards for City employees who carry handguns.

For two years I have also submitted proposed legislation to the State Legislature to increase criminal penalties for firearms violations, to make jail sentences mandatory for persons convicted of first-degree armed robbery and armed assault, to eliminate plea bargaining by persons indicted for such armed robbery and armed assault and to require firearms permits for possession of blank cartridge pistols which are usually used as starter's guns in sporting events. As you know, starter's guns are frequently converted into lethal weapons.

Unfortunately, none of these measures was passed by the State Legislature.

Despite our existing State laws, and despite the further tightening of local controls, we are experiencing an increase in the number of crimes committed with firearms.

If one-half of all homicides here and one-third of all reported robberies and one-fifth of all reported assaults are committed by persons carrying handguns, then something is clearly wrong.

Frankly, even the enactment of all the gun-control measures I proposed to the State Legislature might not be enough to reverse the spread of illegal handguns or the increase in crimes committed with guns.

I have said this many times before, and I believe the experts share this view, namely, only by the passage of uniform Federal gun-control laws will the spread of handguns and the increase in gun-related crimes be curtailed.

For example, it does us New Yorkers little good to have tough, strictly enforced gun-control laws when most of our 50 states do not have similar laws and a black market in guns can thrive here through the easy shipment of guns from other states.

As Commissioner Codd has told you, we traced the origins of 1,800 guns seized after they were used in the commission of crimes. And, of those 1,800 guns, only one was traced to an illegal sale in New York State, while more than 1,300 were traced to illegal sales in other states.

I am convinced that, if our tough State laws and regulations were duplicated in other states, we would see a marked decrease in crimes committed with guns.

That is why Federal legislation is necessary. We need some uniform Federal laws applicable throughout the 50 states and one strong deterrent to the criminal use of handguns would be a Federal law requiring all handguns in the country to be registered.

Here in New York City, the largest urban complex in the nation, the people have supported the State's gun-control laws and regulations for decades. I have every reason to believe they will support a Federal law which will provide for meaningful registration requirements in each state. Opinion polls tend to bear this out.

A very strong deterrent to the illegal use of handguns would be a Federal law which restricts sales of handguns to licensed individuals. New York State has a licensing law and it does not interfere with the people's right to own handguns for legitimate purposes.

Similarly, Federal law which would require individuals in all 50 states to be licensed to carry or possess handguns would not interfere with anyone's right to own such guns for legitimate purposes.

I believe we also need some kind of Federal oversight on the number of handguns that are available to the people in our country and this could be accomplished through a measure that would restrict the number of handguns which the same individual can purchase and own.

Another problem which the Federal government can help resolve is the problem of the so-called "Saturday Night Special," the cheap, easily available handgun, which has figured so prominently in so many crimes, especially among our young people.

We have tried to get State legislation against not only these Saturday Night Specials, but against all small readily concealable handguns. However, even if we did, we would face the same problem of a black market here, unless there were some Federal legislation which outlawed the manufacture or sale of such guns in all 50 states.

Finally, there is the growing problem of shipping handgun parts across state lines for assembly at their destinations.

While there is a Federal proscription against the shipment of assembled handguns between people who are not licensed gun dealers, there is no such proscription against the interstate shipment of certain handgun parts.

It just doesn't make sense for the Federal government to require licensing for the shipment of assembled handguns and not require such licensing for the shipment of all handgun parts which can be easily assembled anywhere.

So, on the basis of New York City's experience, I recommend that any new Federal gun-control legislation should include at least the following measures.

- (1) A Federal law requiring registration of all handguns in the country.
- (2) A restriction on sales of handguns only to licensed individuals.
- (3) A limit on the number of handguns which the same individual can purchase in a year.
- (4) The outlawing of the manufacture or sale of Saturday Night Specials.

(5) A prohibition on the interstate shipment and the importation of all firearm parts, unless such shipment or importation is to a licensed dealer.

In closing, I want to emphasize the great concern which law enforcement and other public officials here have about the continuing spread of illegal handguns throughout The City of New York.

Pistols brought into this City illegally and sold illegally now have a ready market in all our neighborhoods, and we fear this situation in which handguns have become as common in many households as any kitchen appliance.

The handgun we fear is small enough to be concealed in a pocket, purse or a person's hand, but it casts a growing shadow across every American city.

If Congress does not check present trends, that shadow could darken the life of every American.

Mr. CONYERS. Our next panel consists of Hon. Stanley Fink, chairman, Committee on Codes, New York State Assembly; Hon. William F. Hogan, chairman, Committee on Public Safety, Massachusetts House of Representatives; Hon. Gerald E. Talbot, member, Maine House of Representatives.

Gentlemen, we welcome your appearance before the committee, and I want you to know the fact that you are following the mayor of the city of New York, does not diminish your testimony one bit.

I think that we should say before you begin, that we are going to excuse our earlier panel. We thought we might be able to bring them back, but time considerations make it utterly impossible. We will be in contact with you in person, by telephone and by other communication. We do have your prepared statements, gentlemen. And would Representative Logan, the chairman of the Committee on Public Safety, care to begin, or who Chairman Fink wants to start.

Well, since we are in New York, let's give Chairman Fink the honor of proceeding.

**TESTIMONY OF HON. STANLEY FINK, CHAIRMAN, COMMITTEE ON CODES, NEW YORK STATE ASSEMBLY, ACCOMPANIED BY HON. WILLIAM F. HOGAN, CHAIRMAN, COMMITTEE ON PUBLIC SAFETY, MASSACHUSETTS HOUSE OF REPRESENTATIVES, AND HON. GERALD E. TALBOT, MEMBER, MAINE HOUSE OF REPRESENTATIVES**

Mr. FINK. Thank you, Mr. Chairman, members of the committee. What I would like to do is try to give a perspective from a local legislation vantage, which I think I have, and might be able to offer you today, as chairman of the New York State Senate Committee involved with the criminal justice system, and, of course, laws pertaining to gun control and penalties pertaining to crimes committed, with the possession of weapons, falls under the jurisdiction of my committee.

Mr. Chairman, I would like to say I would personally enforce your question concerning a domestic armament program, or domestic SALT program, but I would like to make this observation, if I may. The mayor indicated a number of what he considered to be practical suggestions, prior to the time we deal with the question you raised, and I would like to offer this to you again, from a legislative vantage. I discovered that the longer we delay in doing some of the practical things the mayor has suggested, and Mr. McClory has suggested that he enforce, the more recognition we are getting from the point of view that perhaps you and I might be leaning to, and that is a total disarmament, and by that I mean as follows: As the years go on, I find that

my colleagues, while we delay in not doing something in terms of a more practical approach and more feasible thinking, there are those who are saying, at one time, I might have supported a total domestic disarmament, but due to constituent problems, constituent pressure to do something now, that position is being eroded.

Mr. CONYERS. That is curious. I am getting just the opposite reaction. There are more and more people telling us if we don't get off our duffs and do something, much more than the 1968 law, they are in fact moving toward a question of banning handgun possession across the country.

Mr. FINK. I might say, sir, my observations are that until we start to do something immediately, and not wait until we gather the consensus for that position, which I say again I agree with, I can only tell from my legislative body that we are losing support for that position in the frenzy to do something right now.

As to the mayor's point, dealing with the mandatory sentences and which Congresswoman McClure picked up on, I would like you to know in the State of New York, for example, which fit into the A, B and most of the C felony categories.

Mr. CONYERS. Which kinds are those?

Mr. FINK. Those are the crimes of violence. We go from A to E. A, B and C are the high level crimes, and while they cover crimes committed without the use of a weapon, burglaries, homicides, robberies, certainly they do cover those committed with a weapon. We do have mandatory sentences.

Mr. CONYERS. All right.

Mr. FINK. Yes.

Mr. CONYERS. And how are they working?

Mr. FINK. The point is that people, it seems to me, and I must be frank, I have had a bit of contention with the mayor, I was supporting the legislation he proffered to us in Albany, and I was drafting the bill, you should have copies of our New York State bill and its amendments.

In my opinion, it is an over simplification of the problem. We have crimes in New York State, many of the crimes involving the use of a weapon, if you commit a robbery, burglary, homicide or manslaughter, there are mandatory sentences in the State of New York. To say, to put mandatory sentences will not solve the problem, unless you do something to solve the problem of plea bargaining, you will not solve the problem unless you do something about providing adequate court facilities to try all of the cases which come about.

Recently I was the sponsor of a bill which passed both houses on Governor Carey's desk right now to do away with some of the limitations of plea bargaining, and the mandatory sentences of the Rockefeller Drug bill, and the reason we found out is required to do that, was because our court system was so inundated with cases to be tried from this particular category, because nobody pleads guilty with mandatory sentences and no plea bargaining. So we had to do something to repeal both sections of the bill.

Mr. CONYERS. I commend you on that point in terms of your perceptiveness. There is an element of vindictiveness and emotionality surrounding this question of mandatory sentences that disturbs me. I am now searching the record for some thoughtful analysis on the subject. Your perceptions, it seems to me, are to be commended, and I hope that some of your colleagues will give that due consideration.

In the Michigan legislature, the same subject has come up, and, of course, there is a great rush to be popular. Lock them up is the common phrase. People are—if people are not law abiding, put them away. But behind that consideration, a simple man. It is the deeper question to me, what are you locking them up with, and in, and what are they going to be like when they come out.

A mandatory sentence for 1 or 2 years sounds great, they are off the street. They sure won't commit any crimes, at least not in prison. But what kind of human being are we going to be releasing from that penal institution and how much more likely are they to be far more antisocial than when they went in. It seems to me, as you suggest, a simplistic solution to this question could lead us to some more problems. And I yield to the gentleman from Illinois.

Mr. McCLORY. I just want to say this, I am not disagreeing with anything you say, Mr. Chairman, but I think the important point that Representative Fink makes is that we need more judges, we need more judicial talent in order to take care of the increased crime. We have pending before our committee right now a measure to add 51 Federal judges to help take care of the Federal load, but we are not getting any support from the full committee chairman for a hearing on that bill. I am just suspicious that there may be a little politics involved there, because it would mean that this President would be appointing 51 additional Federal judges, which, nevertheless, is something we need, and which has been recommended by the judicial conference, and so I think we should, in our overall attack on crime, we should recognize this as you indicate, the need for further judicial talent, and act on that too.

Mr. FINK. Mr. McClory, I testified last week in front of Congressman Thornton's Committee on Science and Technology, in its application of science and technology of the criminal justice system. He asked what my opinion was of LEAA grants, money coming into New York State, and I said in my opinion, if we took the \$60 million of LEAA funds and we earmarked them for the trial of major felonies in the State of New York, we could open up about 129 trial parts. My personal belief on the whole question of criminal justice is swiftness and certainty of trial, and until we arrive at that particular point, I have a feeling many of us are spinning our wheels.

Mr. CONYERS. You could not have brought those observations to a more appropriate committee, because LEAA is within this subcommittee's jurisdiction, and Mr. McClory and I have already given it some consideration.

Mr. FINK. I am glad I repeated my comments to Congressman Thornton, because much of the money we put on hardware and software in New York State, I suggest, are going to waste. If somebody gave us the capability of rapidly trying crimes of violence in the State of New York, doing away with plea bargaining, the ability for somebody to know he will come into our criminal justice system and because of our inability to handle them, he will walk out in a few days, that is our major problem in New York. And I will sum up, because I have a feeling I am taking more time than I should.

I would like to say from my vantage point, all of the recommendations we get, both through your press releases which my office has been receiving during the year, from your statements of your subcom-

mittee, I heartily endorse, we endorse a multifaceted approach to the whole question of gun control.

While some people think mandatory sentences might work, they might. I am dubious about it, but they might, but I certainly think we need some kind of national legislation.

Our big problem in New York State, as the mayor I think outlined, is when we talk about crimes committed with the use of weapons, we know the vast majority of those weapons have come in from other States of the Union. So if we pass a bill which I have submitted to you which was proffered by the mayor, giving severe penalties for transportation of machine guns, parts, silencers, or Saturday night weapons, we know we cannot enforce them, unless our sister States at least in the northeast region, and hopefully, throughout the United States, will adopt legislation that we can enforce on a multi-State basis. And if there is anything I can say I must say no matter what we do in New York, we do have strict gun control laws. We are working to make them more realistic, more enforceable, but unless we get some national approach to our problem, I suspect we will not make a dent in the whole gun problem we ought to.

Mr. CONYERS. Thank you very much.

[The prepared statement of Hon. Stanley Fink follows:]

STATEMENT OF ASSEMBLYMAN STANLEY FINK, CHAIRMAN, NEW YORK STATE  
ASSEMBLY COMMITTEE ON CODES

Mr. Chairman, I am pleased to be given the opportunity to testify before your Subcommittee on the subject of gun control. I want to commend you for your past efforts in this area and for holding these hearings as part of the continuing effort to establish meaningful proposals for gun control legislation.

The all too familiar litany of violence reported daily by the press and media, along with the ever-increasing number of citizens who have been victims of violent criminal acts, have rendered the climate propitious for substantial changes in the existing laws. As I see it, particular attention must be paid to the following areas in respect to gun control legislation:

1. Identification and designation of guns primarily used for the commission of crimes.
2. Providing rational and adequate distinctions between possession of weapons that are highly dangerous and those that are less so.
3. The control of manufacture and distribution of firearms.
4. Deterrents available in the attempt to limit the use of dangerous weapons.

In relation to guns used primarily for the commission of crimes, we focused our attention on the so-called "Saturday Night Special." It was our intention to single out these inexpensive, readily available weapons and apply stricter sanctions in connection with them in the hope of making these firearms less available on the streets. The main problem in this area was arriving at a satisfactory definition. We found that a definition based on size, i.e., barrel length and calibre, would not suffice. Such a definition is based on the premise that all inexpensive guns are very small. While this is often true, our studies in conjunction with the State Police reveal that the price of a gun is reflective of the workmanship of the assembly and the type of metal used. Further, there are many small handguns used for various reasons that are not bona fide "specials," but well-made, expensive guns. As a result, we have come to support a qualitative definition of these guns to achieve our purposes. A handgun would not be considered a "Saturday Night Special" if all of its basic structural parts (i.e., barrel, cylinder, frame, slide, and/or breechblock) pass all of the following tests:

First, these parts must have a melting point of not less than 1,000 degrees Fahrenheit.

Second, these parts must have a tensile strength of 55,000 per square inch or greater and

Third, these parts cannot have less than 8 percentum elongation.

The melting point test was set at 1,000 degrees Fahrenheit because most of the metals used in these types of guns melt within a range of 700 to 900 degrees Fahrenheit. However, recently, a new metal has been used that melts at 950 degrees, hence the 1,000-degree minimum.

Tensile strength and elongation are interrelated. The former relates to a gun's capacity to withstand the explosion of a discharge. The average tensile strength of most "Saturday Night Specials" is 45,000 pounds per square inch. The 55,000 minimum strength is intended to encompass any new alloys being developed and to lessen chances of passing this test by heat-treating the metal.

It is possible, however, for the metals used in these guns to pass the first two tests mentioned by subjecting them to heat treatment. When this is done, it reduces the metal's elasticity, thereby causing it to become very brittle. The result of this is that after a few discharges, a gun could explode in one's hands as if it were a bomb. Consequently, the third test of elongation is designed to insure a certain minimum elasticity to prevent such an explosion.

As you can see, this type of test is consumer-protection oriented, as well as toward crime prevention. We are currently conducting further in-depth study of this test to see if it is in need of any further refinements.

We intend to use this definition in a new section of our gun law relating to the manufacture, transport, and disposal of such firearms. A violation of this section would be a class D felony (1-7 years)—a grade higher than similar violations for ordinary firearms.

Possession of a "Saturday Night Special" would be handled in a different manner as it would be unfair and even arbitrary to impose knowledge of the necessary qualitative standards to purchasers of firearms. Rather, our legislation would expand the definition of firearms to all component parts possessed under circumstances in which they may be readily assembled. This expanded definition is intended to bring guns that are made convertible for the purposes of concealment within the purview of the unlawful possession sections of our statute.

The main thrust of our proposed legislation would be to make a rational hierarchy of weapons offenses based on the nature of the weapons possessed, the record and intent of the person possessing it, and the place of possession. Rather than explain each and every category, I have attached a copy of our major gun bill, Assembly bill 3717-B, so that you may observe the full scope of our intentions and priorities. There are some provisions, however, that deserve special note.

First, all firearm possession offenses would be felonies as part of an effort to deter all illegal keeping of firearms. Related to this aim would be the deletion of the household and place of business exception to unlawful possession of a loaded firearm. This measure would hopefully reduce the bill to frequent incidences of killings which result from anger at a friend or family member rather than in defense against an intruder, burglar, robber, or mugger. Effective deterrents are necessary, however, in the interests of justice and the legal process, we must also be concerned about providing enough flexibility for the less serious or relatively innocent violations of the gun law. Our proposed legislation would establish one such desired deterrent in the form of mandatory imprisonment sentences for all class C felonies (1-15 years) under our firearms statute. These felonies involve crimes that are concerned primarily with the more heinous and extreme areas of gun offenses such as possession, sale and manufacture of machine guns, possession and disposal of a number of firearms, and possession of a firearm with a silencer. Thus, the lower grade offense sentences would still be handled as justice dictates.

License limitations, revised gun-purchasing procedures, and mandatory gun-safety courses are other subjects that are to be carefully scrutinized. It must be noted that it is doubly important in these areas to structure laws in such a manner that the incentive to comply with the law is maximized, thereby enhancing their enforceability by their acceptance. A drastic extension of these types of regulations, I believe, can pose a real danger of creating increased illicit traffic in handguns as a result of feelings of frustration, disrespect, and intolerance.

Gun control legislation is to be given high priority treatment in this ensuing legislative session. We are utilizing the present time to gather input on our ideas especially in relation to the practicalities of enforcement and prosecution of such a law. We are also conducting a further study into an area in which lies the crux of most of the problems concerning gun legislation: enforcement of the gun laws in general.

Special study is also being given to different proposals concerning the imposition of stricter sanctions upon armed felony offenders and repeat violent crime offenders. The increasing amount of violent crimes that occur in this country mandates a serious reconsideration of how we deal with these people.

In closing, I cannot emphasize enough the very important point that gun control legislation must be effectively dealt with on a regional and national basis. Legislation for one state has little meaning if an individual can cross the border to a neighboring state and frustrate the intent of preventive legislation. I attempted to coordinate one such regional approach by calling a conference for June of the chairmen of the legislative committees which deal with gun control from the Northeast and Middle Atlantic States. (A list of whom I have sent to you with this statement.) Due to the burdens of the legislative session, we were unable to bring this to fruition. However, we are in the process of planning such a conference for the coming fall.

Congress must also act decisively and effectively in the area of gun control. Typically, most illegal gun traffic operates across interstate boundaries. Your role in controlling this area is vital to enable local law enforcement agencies to be effective instead of becoming engulfed in an uncontrollable interstate handgun traffic.

I appreciate your having provided me with an opportunity to appear here today and to present my views on the subject of firearms control. At this point, I would be glad to attempt to answer any questions the Subcommittee would have.

Mr. CONYERS. I would like to turn now to the chairman of the Committee on Public Safety in the Massachusetts House of Representatives, the Honorable William Hogan.

Mr. Hogan.

Mr. HOGAN. Mr. Chairman and honorable members of the Subcommittee on Crime, may I take this opportunity to express my pleasure and gratitude in testifying before you today on the most perplexing and serious problem in the field of public safety; the recodification of our firearms laws.

Massachusetts has been beset over the last 10 years with an increasing use of handguns, especially the so-called Saturday night special, in the commission of violent crimes. We cite statistics which show that 72 percent of all street crimes are committed with the cheap, poorly constructed weapon.

The cost of this handgun runs between \$10 and \$20, and is easily accessible on the street. When the Massachusetts Legislature proposed to ban this particular weapon, outcry from the sportsmen's lobby was one of paranoia and outrage. They construed the elimination of an unsafe public menace as the inception of total firearms confiscation. At the other end of the spectrum, citizens groups and liberal legislators sought to limit possession of handguns to police and law enforcement personnel. Some even suggested the substitution of tranquilized guns for service revolvers. Citizen input and all the concentrated effort directed toward the resolution of the handgun problem in Massachusetts was evidence in itself that the cheap handgun must be removed from our society.

To clarify my position, Mr. Chairman, although many activist groups in Massachusetts propose the total confiscation of weapons, I am unalterably opposed to this position. However, there is no place for this poorly constructed handgun in our society. It holds no purpose other than its utilization in the commission of crime. Legitimate target shooters and sportsmen invest hundreds of dollars in their pistols and rifles; and none would consider owning a Saturday night special. Many of these weapons presently in the possession of the ballistics section of our State police have misfired or exploded and totally decomposed

in the hands of the perpetrator. Rapid or continuous firing of these guns melts down the barrel, or the projectile is lodged in the barrel, or a myriad of other problems are caused by constructural defects in this product.

To define a Saturday night special, we in the legislature have offered the following:

Any pistol, revolver, or other weapon of any description, loaded or unloaded, from which a shot or bullet can be discharged, of which the length of the barrel, not including the chamber, is three inches or less, of which the caliber is thirty-two one hundredths or less, and of which the basic structural components are made of any material having a liquidous melting point of nine hundred degrees Fahrenheit or less, or an ultimate tensile strength of less than fifty-five thousand pounds per square inch, or in the case of powdered metal, having a density of less than seven and one half grams per cubic centimeter.

This would not include a replica or antique, a 2-inch police snub nose, et cetera, and in order for a pistol to meet this criteria, all specifications of the law must be present. I have enclosed a copy of House bill 5753 for your perusal.

I am hopeful the Massachusetts great and General Court in its wisdom will see fit to enact this legislation into law before the conclusion of the present session.

On April 1 of this year, the Bartley-Fox law took effect in Massachusetts. Again, I have enclosed a reproduction of this law for your information. This legislation quite simply calls for a mandatory 1-year jail sentence for anyone in possession of a firearm, rifle or shotgun without being in possession of a valid Massachusetts firearms permit. Exemption to this law would be nonresidents passing through Massachusetts or engaging in competition in Massachusetts, or coming to hunt, who are validly licensed in their home State. Also color guard and veterans organizations are exempt.

In the 16 weeks since the enactment of this law, 126 persons have been arrested under the law: 99 cases are in the continuance stage, five are in jail, nine have applied to superior court, one complaint was denied, four were dismissed and eight were found not guilty. Through information received from the various law enforcement groups, we have been informed that this is the most effective enforcement tool in many years. It has been directly responsible for 1,000-percent increase in the issuing of firearms identification cards required in Massachusetts. A spot survey conducted by one local Boston newspaper indicated that police officials have noticed a decline in armed robberies and vandalism. They predict that this statute will be a definite deterrent to the many crimes involving firearms.

Gentlemen, as with so many statutes, the Bartley-Fox bill is only as effective as the courts will allow. When we address ourselves to the problems of crime in general and firearms in particular, a single, perplexing question arises. We in the State capitols throughout the country, and you in the Congress of the United States, can legislate on every aspect of crime, but until the entire judiciary is made aware of our constituents' disapproval of the leniency displayed generally in the courts throughout the country, then not one law will stand as effective as it should. Crime will not be deterred. Faith in our laws will diminish increasingly. The highest court in the land will continue to be snickered at, jeered at, and disparaged.

We who legislate, glare in dismay at the present condition of our judicial process. Recidivism rates are reaching preposterous heights. The intent of many public safety measures is being circumvented by the liberal, nondiscerning judicial mind. Many of our criminal statutes in Massachusetts stand meaningless and impatient in light of decisions and interpretations never imagined when these measures became vital parts of our society's code of living. Here, gentlemen, is where you and I can direct our efforts to insure the proper implementation of our penalty clauses.

In Massachusetts we have been wrestling with the firearms problem and its contiguous ramifications for quite some time. In addition, we must include in our deliberation exemptions for people from out of State who travel through Massachusetts carrying firearms or rifles, and certain ceremonial organizations who use firearms in color guards, et cetera. Federal law as strict as the Bartley-Fox bill and the Saturday night special bill would unify the firearms statutes and give much-needed assistance to lower the incidence of firearms-related crime. In addition, proper registration of all gunowners in the country, similar to our Massachusetts firearms identification card system, would provide a viable check and balance in this area. A recent Gallup poll indicated that 55 percent of all gunowners and 76 percent of non-owners favor registration. Our chiefs of police are the registering agents and can approve or deny these applications. Again, there must be a proper penalty clause to uphold and lend credibility to any registration effort.

In Massachusetts we are presently studying the possibility of an examination process for all gunowners which would be patterned after the motor vehicle licensing system. We again meet the outrage of those who feel another infringement on their alleged rights. However, we are directing our efforts toward the elimination of error in the use of firearms, and assuring the familiarity of laws, guns, ammunition and safety rules by all who wish to be sanctioned to carry firearms.

Massachusetts has made great strides in the area of firearm legislation. We have been extremely cautious in protecting our citizens who derive pleasure from using firearms in sporting events and those who feel the security afforded by the possession of a firearm, protecting their lives or property. However, we can move forward to eliminate many situations in which firearms and their possession pose a menace to our society. By removing unsafe handguns from the market and by registration requirements and stiffer penalties for unauthorized use, we in effect solidify the proper use, possession, and role of firearms in our society.

MR. CONYERS. What Congressman Drinan, in your State, is trying to say, people get killed by every kind of weapon, so if you get the cheap ones out of the way, you go to the medium price ones.

MR. HOGAN. People have been strangled with silk stockings.

MR. CONYERS. We are not considering silk stockings. We are considering firearms legislation. We are not considering sticks, knives, silk stockings, blackjacks, anything else. But what about the problem, the mayor is even saying that within the realm of reason, we have got to be looking at the whole problem.

Suppose we passed a Saturday night ban, and 3 years from now the crime rate is still going up, and then they will come back to me and my distinguished colleagues and say, "We thought you knew what you were talking about. Those people that said those laws were not going to work, were right."

And we say, "I see we were wrong, so now let's consider banning handguns entirely."

They said, "But if you got rid of Saturday night specials, it would reduce crime. It did not reduce crime. Now you want to go in and take away all of the guns."

Think if we limit handguns in accordance with the criteria of size and cheapness, that we better remember that if things don't change and if the problem worsens, we are not going to be looking as authoritative when we come back to the American people and the various Members of the Legislature who say, "Let's try something else. That did not work. It turned out we were just playing a guessing game."

Mr. HOGAN. I think you will find we make recommendations along the line of registration; we have some very different ideas along those lines. I think we have taken some giant steps, and I don't want to leave the impression we have the answer to the total problem. We are trying to alleviate some of the problems.

Mr. CONYERS. I commend you very much.

THE COMMONWEALTH OF MASSACHUSETTS,  
Boston, Mass.

SPEAKER'S SUMMARY OF THE GUN LAWS

Understanding the new gun law (Chapter 649 of 1974) is best done by reviewing "firearms" (handguns) separately from rifles and shotguns. The attached summary reviews firearms first and rifles and shotguns second.

The attached summary is a paraphrasing of the law (for explanatory purposes only). Reference to the cited section is necessary before any legal conclusions can be drawn.

The marginal labels are provided for quick reference.

Provisions regarding non-residents are collected here for quick reference.

Carrying by Non-Residents—Reference numbers are on the attached summary—of firearms (handguns) 2, 3, 9 (new residents), and 12, of rifles and shotguns, 2, 9, 10, 11, 12, 13 (new residents), 18, 19, and 20.

Minors Carrying (Sec Chapter 140)—

A. *Firearms*—Minors, i.e. those under 18 years of age, may not be issued a license to carry under section 131. No exceptions to the licensure requirement is present in terms of minors.

Conceivably, a minor may qualify under *other exemptions*, not specifically directed at minors. e.g. a minor may be a customer at a carnival—target shoot, see section 129C(e). But other than by qualifying for one of these narrow exemptions, no minor may carry a firearm. If he does he violates the provisions of C. 269, section 10(a).

B. *Rifles and Shotguns*—A minor 15 or over, may with parental consent procure a firearms identification card. This will enable him to carry a rifle or shotgun. See section 129B.

Anyone under 15 may carry a rifle or shotgun with respect to hunting or target use when under immediate supervision of certain licensed persons. See section 129C(K).

Finally a minor may qualify for an exemption not specifically directed at minors. See e.g. section 129C(e) relating to carnival—type target shoots.

Unless complying with these requirements, a minor may not carry a rifle or shotgun. If he does he violates the provisions of C. 269, section 10(a).

C. *The Consequences of Violating C. 269, section 10(a) for a Minor*—If the violation occurs when the minor is 17 years old, then he is treated as an adult.

If it occurs while the minor is 14, 15, or 16, then a juvenile complaint must first be brought. It may, however, be dismissed by the court in the public interest resulting in treatment of the offense as an adult offense. (One difference is present, however: the judge may before conviction adjudicate the person a delinquent if the person is still younger than 18. See G.L. 119, section 83, preserved by G.L. c. 269, section 10(L).)

Finally, if the offense is committed while the person is under 14, he is treated as a juvenile, and is not subject in any eventuality to the mandatory minimum of chapter 269, section 10(a). (the new gun law)

**D. BB Guns and Air Guns**—A minor, that is one under 18 years of age, may carry an air rifle or BB gun, regardless of the length of barrel, if either:

1. He is accompanied by an adult or,
2. He (a) is the holder of a sporting or hunting license, and (b) has on his person a permit from the chief of police of the town in which he resides granting him the right of such possession.

See Chapter 269 Section 10(a) making reference to C. 269 Section 12B.

#### WHO MAY CARRY FIREARMS (HANDOUTS) UNDER THE NEW LAW

**"LTC" means "License to Carry".**—No one may carry a firearm unless.

1. **Resident LTC.**—A person has a license to carry issued under section 131.
2. **Temporary non-resident LTC.**—A person has a temporary license to carry issued under section 131 F.
3. **Non-resident for competitions, meetings or hunting, under certain conditions: U.S. resident Out-of-State License, Hunting License.**—A person is a non-resident whose purpose is either:
  - (a) To take part in a pistol or revolver competition, or
  - (b) To attend a meeting of exhibitors or collectors, or
  - (c) To hunt.

And he fulfills all of the following:

- (a) He/she is a U.S. resident, and
- (b) He/she has a permit or license to carry from any state, district, or territory which does not issue licenses or permits to convicted felons or to drug offenders, and
- (c) If his/her purpose is hunting, he/she has a hunting or sporting license issued by either i. Massachusetts, or ii. the state of destination. (See Section 131G).
4. **Signalling devices, industrial tools.**—The firearm is a device used exclusively for signalling or distress use and required or recommended by the United States Coast Guard or the Interstate Commerce Commission, or for the firing of stud cartridges, explosive rivets or similar industrial ammunition. See section 129C(a).
5. **Manufacturers, wholesalers, and employees for certain purposes only.**—The person carrying is a federally licensed firearms manufacturer, wholesaler, or employee thereof or employee of a licensed dealer whenever carrying is necessary for the manufacture, display, storage, transport, inspection or testing. See section 129C(b).

#### NO ONE MAY CARRY A FIREARM UNLESS

6. **Persons voluntarily surrendering who give prior notice.**—He is a person voluntarily surrendering a firearm to a licensing authority, the commissioner or his designee if prior written notice has been given by said person to the licensing authority or the commissioner stating the place and approximate time of said surrender. See section 129C(c).
7. **Common carriers.**—A person is a common carrier carrying in the regular and ordinary transport of firearms. See section 129C(d).
8. **Carnival shoot customers.**—A person is a retail customer for the purpose of firing at duly licensed target concessions at amusement parks, piers and similar locations, provided that the firearms, to be so used are firmly chained or affixed to the counter and that the proprietor is in possession of a firearm identifier or license to carry firearms. See section 129C(e).
9. **New residents for 60 days and discharged resident servicemen for 60 days.**—He or she is a new resident moving into the Commonwealth, or a resident of the Commonwealth upon being released from active service with any of the armed services of the United States with respect to any firearm then in his possession, for sixty days after such release or after the time he moves into the Commonwealth. See section 129C(j).

10. *Temporary holding under licensed supervision.*—He or she is temporarily holding, handling or firing of a firearm for examination, trial or instruction in the presence of a holder or a license to carry firearms. See section 129C(m).

11. *Inheritors of firearms.*—A person is the legatee or heir of a firearm under certain circumstances. See section 129C(n).

12. *Servicemen, policemen, and peace officers, on duty.*—He is in the military or other service of any state or of the United States, or is a police officer of any jurisdiction, performing official duty. See section 129C(o).

13. *Vets organizations during ceremonies.*—The carrying is by a veteran's organization or member thereof on certain ceremonial occasions. See section 129C(r).

14. *Museums and historical societies.*—The carrying is by certain museums or historical societies. See section 129C(s).

15. *Minors carrying BB guns or air rifles.*—The firearm is an air rifle or BB gun carried by a minor who complies with General Law Chapter 269, section 121B.

#### WHO MAY CARRY A RIFLE OR SHOTGUN UNDER THE NEW LAW

No one may carry a rifle or shotgun unless :

1. *Resident LTC.\**—A person has a license to carry a firearm under Section 131.

2. *Temporary Non-Resident LTC.*—A person has a temporary license to carry issued under section 131F.

3. *Firearms Identification Card (Residents Only).*—A person has a firearms identification card issued under section 129B.

4. *Signalling Devices and Industrial Tools.*—The rifle or shotgun is a device used exclusively for signalling or distress use and required or recommended by the United States Coast Guard or the Interstate Commerce Commission, or for the firing of stud cartridges, explosives rivets or similar industrial ammunition. See section 129C(a).

5. *Manufacturers, Wholesalers and Employes for Certain Purposes Only.*—The person carrying is a federally licensed firearms manufacturer, wholesaler, or employee thereof or employee of a licensed dealer whenever carrying is necessary for the manufacture, display, storage, transportation, inspection or testing. See section 129C(b).

6. *Persons voluntarily surrendering who give prior notice.*—He or she is a person voluntarily surrendering a rifle or shotgun to a licensing authority, the commissioner or his designee if prior written notice has been given by said person to the licensing authority or the commissioner stating the place and approximate time of said surrender. See section 129C(c).

7. *Common Carriers.*—He or she is a common carrier carrying in the regular and ordinary transport or rifles or shotguns. See section 129C(d).

8. *Carnival Shoot Customers.*—A person is a retail customer for the purpose of firing at duly licensed target concessions at amusement parks, piers and similar locations, provided that the rifles or shotguns to be so used are firmly chained or affixed to the counter and that the proprietor is in possession of a firearm identification card of license to carry firearms. See section 129C(e).

#### NO ONE MAY CARRY A RIFLE OR SHOTGUN UNLESS

9. *Non-residents with non-resident hunting license.*—The carrying is of rifles or shotguns by non-resident hunters with valid non-resident hunting licenses during hunting season. See section 129C(f).

10. *Non-residents on firing range.*—The carrying is of rifles or shotguns by non-residents while on a firing or shooting range. See section 129C(g).

11. *Non-residents with rifles or shotguns unloaded and in a case.*—The carrying is of rifles or shotguns by non-residents traveling in or through the commonwealth, providing that any rifles or shotguns are unloaded and enclosed in a case. See section 129C(h).

12. *Non-residents at certain gatherings.*—The carrying is of rifles or shotguns by non-residents while at a firearm showing or display organized by a regularly existing gun collectors' club or association. See section 129C(i).

13. *New residents for 60 days, discharged resident servicemen for 60 days.*—He is a new resident moving into the commonwealth, or a resident of the commonwealth upon being released from active service with any of the armed

\*"LTC" means "License to Carry."

services of the United States with respect to any rifle or shotgun then in his possession, for sixty days after such release or after the time he moves into the commonwealth. See section 129C(j).

14. *Persons under 15 and under supervision of certain persons only.*—He is a person under the age of fifteen with respect to the use of a rifle or shotgun by such person in hunting or target shooting, provided that such use is otherwise permitted by law and is under the immediate supervision of a person holding a firearm identification card or license to carry firearms, or a duly commissioned officer, noncommissioned officer or enlisted member of the United States Army, Navy, Marine Corps, Air Force or Coast Guard, or the National Guard or military service of the commonwealth or reserve components thereof, while in the performance of his duty. See section 129C(k).

15. *Artistic Uses Under Certain Conditions.*—The carrying is of any rifle or shotgun during course of any television, movie, stage or other similar theatrical production, or by a professional photographer or writer for examination purposes in the pursuit of his profession provided such possession or utilization is under the immediate supervision of a holder of a firearm identification card or license to carry firearms. See section 129C(l).

16. *Temporary Holding Under Licensed Supervision.*—A person is temporarily holding, handling or firing of a rifle or shotgun for examination, trial or instruction in the presence of a holder of a firearm identification card, or where such holding, handling or firing is for a lawful purpose. See section 129C(m).

17. *Inheritors of Rifles or Shotguns.*—He or she is the legatee or heir of a rifle or shotgun under certain circumstances. See section 129C(n).

18. *Servicemen, Policemen, Peace Officers, on Duty.*—He is in the military or other service of any state or of the United States or is a police officer or peace officer of any jurisdiction, performing official duty. See section 129C(o).

19. *Non-residents Bearing License of State of Residence.*—A person is a non-resident bearing a current license permit or identification card to possess any firearm, rifle or shotgun in the state in which he resides. See section 129C(p).

20. *Non-residents Acquiring Under Certain Circumstances.*—A person is a non-resident over 18 acquiring a rifle or shotgun in Massachusetts under certain circumstances. (See section 129C(q)).

21. *Vets Organizations During Ceremonies.*—The carrying is by a veteran's organization or member thereof on certain ceremonial occasions. See section 129C(r).

22. *Museums and Historical Societies.*—The carrying is by certain museums or historical societies. See section 129C(s).

23. *BB Guns and air rifles carried by a minor 18 years or under.*—The rifle or shotgun is an air rifle or shotgun carried by a minor complying with General Laws, Chapter 269, Section 12B.

---

## THE COMMONWEALTH OF MASSACHUSETTS

### DEPARTMENT OF PUBLIC SAFETY

#### *Part I, Chapter 140, Sections 121 to 131 H*

#### *Part II, Chapter 269, Sections 10 to 14*

Relating to the Sale of Ammunition, and the Sale, Rental or Lease, and the Possession and Carrying of Firearms, Shotguns, Rifles and Machine Guns

#### SECTION 121—FIREARMS: DEFINITIONS, EXCEPTIONS

In sections one hundred and twenty-two to one hundred and thirty-one F, inclusive, "firearm" shall mean a pistol, revolver or other weapon of any description loaded or unloaded, from which a shot or bullet can be discharged and of which the length of barrel is less than sixteen inches or eighteen inches in the case of a shotgun, and the term "length of barrel" shall mean that portion of a firearm, rifle, shotgun or machine gun through which a shot or bullet is driven, guided or stabilized, and shall include the chamber. A "machine gun" is a weapon of any description, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged by one continuous activation of the trigger, and includes a submachine gun. The term

"ammunition" shall mean cartridges or cartridge cases, primers (igniter), bullets or propellant powder designed for use in any firearm, rifle or shotgun. The term "ammunition" shall also mean tear gas cartridges, chemical mace, or any device or instrument which contains or emits a liquid, gas, powder, or any other substance designed to incapacitate. The words "purchase" and "sale" include exchange; the word "purchaser" shall include exchanger; and the verbs "sell" and "purchase", in their different forms and tenses, shall include the verb exchange in its appropriate form and tense, and the term "gunsmith" as used in this chapter shall mean and include any person who engages in the business of repairing, altering, cleaning, polishing, engraving, blueing or performing any mechanical operation on any firearm, rifle, shotgun or machine gun. The word "conviction" shall mean a finding or verdict of guilty, or a plea of guilty whether or not final sentence is imposed. "Licensing Authority" shall mean the chief of police or the board or officer having control of the police in a city or town, or persons authorized by them.

Where the local licensing authority has the power to issue licenses or cards under this chapter, but no such authority exists, any resident or applicant may apply for such license or firearm identification card directly to the commissioner of the department of public safety and the commissioner shall for this purpose be the licensing authority.

Sections one hundred and twenty-two to one hundred and twenty-nine D, inclusive, and sections one hundred and thirty-one A, one hundred and thirty-one B and one hundred and thirty-one E shall not apply to

(A) any firearm, rifle or shotgun including any firearm, rifle or shotgun with matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before eighteen hundred and ninety-eight;

(B) any replica, or any firearm, rifle or shotgun described in clause (A) if such replica (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(C) manufacturers or wholesalers of firearms, rifles, shotguns or machine guns. (1969, 799, S. 1; 1971, 456, S. 1; 1973, 892, S. 1).

#### SECTION 121A—CERTIFICATION OF FIREARMS AS EVIDENCE

A certificate by a ballistics expert of the firearms identification section of the department of public safety of the result of an examination made by him of an item furnished him by any police officer, signed and sworn to by such expert, shall be prima facie evidence of his findings as to whether or not the item furnished is a firearm, as defined by section one hundred and twenty-one, provided that in order to qualify as an expert under this section he shall have previously qualified as an expert in a court proceeding, (1972, 268).

#### SECTION 122—DUTIES OF AUTHORITIES EMPOWERED TO ISSUE DEALER'S LICENSES

The chief of police or the board or officer having control of the police in a city or town, or persons authorized by them, may, after an investigation, grant a license to any person, except an alien, a minor or a person who has been convicted of a felony or of the unlawful use, possession or sale of narcotic or harmful drugs, to sell, rent or lease firearms, rifles, shotguns or machine guns, or to be in the business as a gunsmith. Every license shall specify the street and number, if any, of the building where the business is to be carried on, and the license shall not protect a licensee who carries on his business in any other place. The Licensing authority to whom such application is made shall cause one copy of said applicant's fingerprints to be forwarded to the commissioner of public safety, who shall within a reasonable time thereafter advise such authority in writing of any criminal record of the applicant. The taking of fingerprints shall not be required in issuing a renewal of a license, if the fingerprints of said applicant are on file with the commissioner. Any person refused a license under this section may within ten days thereafter apply to the commissioner for such license, who may direct that said licensing authorities grant said license, if, after a hearing, he is satisfied there were no reasonable grounds for the refusal to grant such license and that the applicant was not barred by the provisions of law from holding such a license. The fee for any license issued under this section shall be set by, and payable in, a manner prescribed by the authorities empowered to issue said license, but said fee shall not exceed twenty dollars per year.

A person licensed to sell, rent or lease firearms, rifles, shotguns or machine guns shall not be assessed any additional fee for a gunsmith's license. Whoever knowingly issues a license in violation of this section shall be punished by imprisonment for not less than six months nor more than two years in a jail or house of correction. (1911, 495, S3; 1922, 485, S2; 1957, 688, S5; 1959, 296, S2).

**SECTION 122A—DUTIES OF AUTHORITIES ISSUING DEALER'S AND GUNSMITH'S LICENSES**

The licensing authority under section one hundred and twenty-two shall record all licenses issued in books or forms kept for that purpose, and upon the granting of any such license or renewal thereof or renewal of an expired license shall send notice thereof to the commissioner of public safety on forms approved and furnished by the commissioner. The commissioner, upon the application of the licensee, at a price not in excess of the cost thereof, shall furnish said licensee with the necessary sales record books to be kept by him as provided in section one hundred and twenty-three. (1922, 485, S3; 1957, 688, S6; 1959, 296, S3).

**SECTION 122B—DUTIES OF AUTHORITIES EMPOWERED TO ISSUE AMMUNITION LICENSES**

No person shall sell ammunition in the commonwealth unless duly licensed. The chief of police or the board or officer having control of the police in a city or town, or persons authorized by them, may grant a license to any person, except an alien, a minor or a person who has been convicted of a felony in any state or federal jurisdiction, or of the unlawful use, possession or sale of narcotic or harmful drugs, to sell ammunition. Every license shall specify the street and number, if any, of the building where the business is to be carried on. The licensing authority to whom such application is made shall cause one copy of the application to be forwarded to the commissioner of public safety, who shall within a reasonable time thereafter advise such authority in writing of any criminal record disqualifying the applicant. The fee for such license shall be one dollar. Each license so issued shall be valid for a period not exceeding one year and shall expire on the thirtieth day of April next following. Licenses may be renewed during the month of April for the following year upon payment of a fee of one dollar.

Any lawfully incorporated sporting or shooting club shall, upon application, be licensed to sell or supply ammunition for regulated shooting on their premises, as for skeet, target or trap shooting; provided, however, that such club license shall, in behalf of said club, be issued to and exercised by an officer or duly authorized member of the club who himself possesses a firearm identification card or a license to carry a firearm and who would not be disqualified to receive a license to sell ammunition in his own right. The licensing authority may revoke or suspend a license to sell ammunition for violation of any provision of this chapter.

The commissioner of public safety may establish such rules and regulations as he may deem necessary to carry out the provisions of this section.

Any person refused a license under this section or once issued a license under this section has had said license suspended or revoked may obtain a judicial review of such refusal, suspension or revocation by filing within thirty days of such refusal, suspension or revocation a petition for review thereof in the district court having jurisdiction in the city or town in which the applicant filed for such license, and a justice of said court after a hearing, may direct that a license be issued the applicant if satisfied there was no reasonable ground for refusing such license and that the applicant was not prohibited by law from holding the same.

Whoever not being licensed, as hereinbefore provided, sells ammunition within the commonwealth shall be punished by a fine of not less than five hundred nor more than one thousand dollars or by imprisonment for not less than six months nor more than two years. (1969, 799, S. 2; 1971, 456, S. 2; 1973, 157).

**SECTION 123—CONDITIONS OF DEALERS' AND GUNSMITHS' LICENSES**

A license granted under section one hundred and twenty-two shall be expressed to be and shall be subject to the following conditions: First, That the provisions in regard to the nature of the license and the building in which the business may be carried on under it shall be strictly adhered to. Second, That every license shall, before delivery of a firearm, rifle or shotgun, make or cause to be made a true, legible entry in a sales record book to be furnished by the commis-

tioner of public safety and to be kept for that purpose, specifying the complete description of the firearm, rifle or shotgun, including the make, serial number, if any, type of firearm, rifle or shotgun, whether sold, rented or leased, the date of each sale, rental or lease, the license to carry firearms number or permit to purchase number and the identification card number in the case of a firearm or the identification card number or the license to carry firearms number in the case of a rifle or shotgun, the sex, residence and occupation of the purchaser, renter or lessee, and shall before delivery, as aforesaid, require the purchaser, renter or lessee personally to write in said sales record book his full name. Said book shall be open at all times to the inspection of the police. Third, That the license or a copy thereof, certified by the official issuing the same, shall be displayed on the premises in a position where it can easily be read. Fourth, That no firearm, rifle or shotgun, or machine gun shall be displayed in any outer window of said premises or in any other place where it can readily be seen from the outside. Fifth, That the licensee shall, once a week, send a copy of the record of sales, rentals and leases made by him for the preceding seven days to the commissioner of public safety. Sixth, That every firearm, rifle or shotgun shall be unloaded when delivered.

Seventh, That no delivery of a firearm or of ammunition therefor shall be made to any minor nor to any person not having a license to carry firearms issued under the provisions of section one hundred and thirty-one nor shall any delivery of a rifle or shotgun or ammunition therefor be made to any person not having a license to carry firearms issued under the provisions of section one hundred and thirty-one or a firearm identification card issued under the provisions of section one hundred and twenty-nine B; provided, however, that delivery of a firearm by a licensee to a person possessing a valid permit to purchase said firearm issued under the provisions of section one hundred and thirty-one A and a valid firearm identification card issued under section one hundred and twenty-nine B may be made by the licensee to the purchaser's residence or place or business. Eighth, That no firearm shall be sold, rented or leased to a minor or a person who has not a permit then in force to purchase, rent or lease the same issued under section one hundred and thirty-one A, and a firearm identification card issued under the provisions of section one hundred and twenty-nine B, or unless such person has a license to carry firearms issued under the provisions of section one hundred and thirty-one; nor shall any rifle or shotgun be sold, rented or leased to a person who has not a valid firearm identification card as provided for in section one hundred and twenty-nine B, or has a license to carry firearms as provided in section one hundred and thirty-one; and that no machine gun shall be sold, rented or leased to any person who has not a license to possess the same issued under section one hundred and thirty-one. Ninth, that upon the sale, rental or lease of a firearm, subject to a permit to purchase issued under the provisions of section one hundred and thirty-one A, the licensee under section one hundred and twenty-two shall take up such permit to purchase and shall endorse upon it the date and place of said sale, rental or lease, and shall transmit the same to the commissioner of public safety; and that upon the sale, rental or lease of a machine gun shall endorse upon the license to possess the same the date and place of said sale, rental or lease, and shall within seven days transmit a notice thereof to said commissioner.

In case of a sale under the provisions of section one hundred and thirty-one E the licensee under section one hundred and twenty-two shall write in the sales record book the number of the license to carry firearms issued the purchaser under the provisions of section one hundred and thirty-one, or the number of the firearm identification card issued the purchaser under the provisions of section one hundred and twenty-nine B, whichever is applicable under the provisions of condition Eighth of this section. Tenth, That this license shall be subject to forfeiture as provided in section one hundred and twenty-five for breach of any of its conditions, and that, if the licensee hereunder is convicted of a violation of any such conditions, this license shall thereupon become void. Eleventh, That the second, fifth, eighth and ninth conditions shall not apply to a gunsmith with regard to repair or remodeling or servicing of firearms, rifles or shotguns unless said gunsmith has manufactured a firearm, rifle or shotgun for the purchaser, but said gunsmith shall keep records of the work done by him together with the names and addresses of his customers. Such records shall be kept open for inspection by the police at all times. Twelfth, That any licensee shall keep records of each sale, rental or lease of a rifle or shotgun, specifying the descrip-

tion of said rifle or shotgun, together with the name and address of the purchaser, renter or lessee, and the date of such transaction. No licensee shall sell any rifle or shotgun, contrary to the provisions of section one hundred and thirty. (1969, 799, S. 3).

#### SECTION 124—TERMS OF LICENSES

Licenses shall expire on April thirtieth of each year; but they may be granted during April to take effect on May first next ensuing. (1911, 495, S. 5).

#### SECTION 125—SUSPENSION AND REVOCATION OF LICENSES

The officials authorized to issue a license under section one hundred and twenty-two, after due notice to the licensee and reasonable opportunity for him to be heard, may declare his license forfeited, or may suspend his license for such period of time as they may deem proper, upon satisfactory proof that he has violated or permitted a violation of any condition thereof or has violated any provision of this chapter, or has been convicted of a felony.

If the license is declared forfeited, the licensee shall be disqualified to receive a license for one year after the expiration of the term of the license so forfeited. The commissioner of public safety shall be notified in writing of any forfeiture under this section. (1911, 495, S. 6; 1922, 485, S. 5; 1957, 688, S. 8; 1969, 799, S. 4).

#### SECTION 126—SIGNS: EVIDENCE THAT FIREARMS, RIFLES, SHOTGUNS ARE KEPT FOR SALE

If there is exposed from, maintained in or permitted to remain on any vehicle or premises any placard, sign or advertisement purporting or designed to announce that firearms, rifles, shotguns or machine guns are kept in or upon such vehicle or premises or that an occupant of any vehicle or premises is a gunsmith, it shall be prima facie evidence that firearms, rifles, shotguns or machine guns are kept in or upon such vehicle or premises for sale or that the occupant is engaged in business as a gunsmith. (1911, 495, S. 7; 1957, 688, S. 9; 1958, 49).

#### SECTION 127—TRANSFER OF LICENSES

The officials authorized to issue a license under section one hundred and twenty-two may transfer licenses from one location to another within the city or town in which the licenses are in force, but such transfer shall be granted only to the original licensee and upon the same terms and conditions upon which the license was originally granted. The commissioner of public safety shall be notified in writing of any transfers made under this section. (1911, 495, S. 8; 1922, 485, S. 6; 1957, 688, S. 10).

#### SECTION 128—SELLING WITHOUT A LICENSE; PENALTY

Any licensee under a license described in section one hundred and twenty-three, and any employee or agent of such a licensee, who violates any provision of said section required to be expressed in the second, fourth, sixth, seventh, eighth or ninth condition of said license, and except as provided in section one hundred and twenty-eight A, any person who, without being licensed as hereinbefore provided, sells, rents or leases or exposes for sale, rental or lease, or has in his possession with intent to sell, rent or lease, a firearm, rifle, shotgun or machine gun, or is engaged in business as a gunsmith, shall for the first offense be punished by a fine of not less than five hundred nor more than one thousand dollars, and for any subsequent offense by imprisonment in the state prison for not more than ten years.

Evidence that a person sold or attempted to sell a machine gun without being licensed under section one hundred and twenty-three shall, in a prosecution under this section, constitute prima facie evidence that such person is engaged in the business of selling machine guns. (1911, 495, S. 9; 1925, 284, S. 2; 1926, 305, S. 2; 1957, 688, S. 11; 1968; 737, S. 4; 1969, 799, S. 5; 1971, 456, S. 3; 1973, 134).

#### SECTION 128A—SALES AND PURCHASES BY PRIVATE INDIVIDUALS (LICENSED)

The provisions of section one hundred and twenty-eight shall not apply to any resident of the commonwealth who, without being licensed, as provided in section one hundred and twenty-two, sells, exposes for sale, or has in his possession with intent to sell not more than four firearms including rifles and shotguns,

in any one calendar year; provided however, the seller has a firearm identification card or a license to carry firearms, is an exempt person under the conditions of clauses (n), (o), (r) and (s) of the fourth paragraph of section one hundred and twenty-nine C, or is permitted to transfer ownership under the conditions of section one hundred and twenty-nine D and the purchaser has, in the case of sale or transfer of firearm, a permit to purchase issued under the provisions of section one hundred and thirty-one A and a firearm identification card issued under section one hundred and twenty-nine B, or has such permit to purchase and is an exempt person under the provisions of section one hundred and twenty-nine C, or has been issued a license to carry firearms under the provisions of section one hundred and thirty-one of this chapter, or in the case of sale or transfer of a rifle or shotgun, the purchaser has a firearm identification card or a license to carry firearms or is an exempt person as hereinbefore stated; and provided, further, that such resident reports within seven days, in writing to the commissioner or public safety on forms furnished by said commissioner, the names and addresses of the seller and the purchaser of any such firearm, rifle or shotgun, together with a complete description of the firearm, rifle or shotgun, including the caliber, make and serial number of the purchaser's license to carry firearms number, permit to purchase number and firearm identification card number, permit to purchase number and identifying number of such documentation as is used to establish exempt person status in the case of a firearm or the purchaser's license to carry number or firearm identification card number or said document identity number, in the case of a rifle or shotgun. (1969, 799, S. 6).

#### SECTION 128B—PURCHASES FROM OTHER SOURCES; PENALTY

Any resident of the commonwealth who purchases or obtains a firearm, rifle or shotgun or machine gun from any source within or without the commonwealth, other than from a licensee under section one hundred and twenty-two or a person authorized to sell firearms under section one hundred and twenty-eight A, and any nonresident of the commonwealth who purchases or obtains a firearm, rifle, shotgun or machine gun from any source within or without the commonwealth, other than such a licensee or person, and receives such firearm, rifle, shotgun or machine gun, within the commonwealth shall within seven days after receiving such firearm, rifle, shotgun or machine gun, report, in writing, to the commissioner of public safety the name and address of the seller or donor and the buyer or donee, together with a complete description of the firearm, rifle, shotgun or machine gun, including the caliber, make and serial number. Whoever violates any provision of this section shall for the first offense be punished by a fine of not more than one hundred dollars, and for any subsequent offense by imprisonment for not more than two and one-half years. (1968, 737, S. 5).

#### SECTION 129—PENALTY FOR GIVING FALSE INFORMATION

Whoever in purchasing, renting or hiring a firearm, rifle, shotgun or machine gun, or in making application for any form of license or permit issued in connection therewith, or in requesting that work be done by a gunsmith, gives a false or fictitious name or address or knowingly offers or gives false information concerning the date or place of birth, his citizenship status, occupation, or criminal record, shall for the first offense be punished by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment for not more than one year, or both; and for a second or subsequent offense, shall be punished by imprisonment for not less than two and one-half years nor more than five years in the state prison. (1968, 737, S. 6; 1973, 158).

#### SECTION 129A—(REPEALED, 1945, 254)

#### SECTION 129B—FIREARMS IDENTIFICATION CARDS: CONDITIONS

Any person residing or having a place of business within the jurisdiction of the licensing authority may submit to the licensing authority application for a firearm identification card, which such person shall be entitled to, unless the applicant (a) has within the last five years been convicted of a felony in any state or federal jurisdiction, or within that period has been released from confinement where such person was serving a sentence for a felony conviction, or (b) has been confined to any hospital or institution for mental illness, except where the applicant shall submit with the application an affidavit of a registered

physician that he is familiar with the applicant's history of mental illness and that in his opinion the applicant is not disabled by such illness in a manner which should prevent his possessing a firearm, rifle or shotgun, or (c) has within the last five years been convicted of a violation of any state or federal narcotic or harmful drug law, or within that period has been released from confinement for such a conviction; or is or has been under treatment for or confinement for drug addiction or habitual drunkenness, except when he is deemed to be cured of such condition by a registered physician he may make application for said card after the expiration of five years from the date of such confinement or treatment and upon presentation of an affidavit issued by said physician to the effect that the physician knows the applicant's history of treatment and that in his opinion the applicant is deemed cured, or (d) is at the time of the application under the age of fifteen, or (e) is at the time of the application fifteen years of age or over but under the age of eighteen, except where the applicant submits with his application a certificate of his parent or guardian granting the applicant permission to apply for a card, or (f) is an alien.

The licensing authority may not prescribe any other condition for the issuance of a card and it shall within thirty days from the date of application either approve the application and issue the card or deny the application and notify the applicant of the reason for such denial in writing. Pending issuance of the card, a receipt for the fee paid shall, after five days from issuance, serve as a valid substitute, unless the applicant is disqualified. Written notice of denial of the application shall void the receipt and require its immediate surrender. A card may be revoked by the licensing authority or his delegate or suspended for such period as he may set, only upon the occurrence of any event which would have disqualified the holder from being issued the card. Any suspension or revocation of a card shall be in writing and shall state the reason therefor. Upon revocation or suspension, the licensing authority shall take possession of said card and receipt for fee paid for such card.

Any applicant or holder aggrieved by a denial, revocation or suspension of a card may within ninety days after receipt of notice appeal to the district court for review of such action.

Said card shall be in a form prescribed by the commissioner and shall contain an identification number, the name and address of the holder, his place and date of birth, his height, weight, hair and eye color, and his signature and shall be captioned "Firearm Identification Card". The application for a card shall be made in multiple on a form prescribed by the commissioner which shall require the applicant affirmatively to state that he is not disqualified for any of the foregoing reasons from possession of a card.

Said card shall be valid until revoked or suspended. The fee for an application and card shall be two dollars which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The card holder shall notify, in writing, both the issuing authority and the commissioner of public safety of any change in his address. Such notification shall be made within ten days of its occurrence.

Upon receipt of an application for a card, the licensing authority shall forward a copy of such application to the commissioner of public safety, who shall within twenty-one days advise in writing of any disqualifying criminal record, if any, of the applicant and whether there is reason to believe that the applicant is disqualified for any of the foregoing reasons from possessing a card. The licensing authority, when in doubt about the validity of the applicant's negative or positive statement relative to past hospitalization for mental disorder, may also make inquiries concerning the applicant to the department of mental health for the purpose of determining eligibility for the firearm identification card and shall receive prompt and full cooperation from such department for that purpose in any investigation of the applicant. (1969, 790, S. 7; 1971, 225; 1972, 312, S. 2-3).

#### SECTION 129C—POSSESSION, SALE, EXEMPTIONS

No person, other than a licensed dealer or one who has been issued a license to carry a pistol or revolver or an exempt person as hereinafter described, shall own or possess any firearm, rifle, shotgun or ammunition unless he has been issued a firearm identification card by the licensing authority pursuant to the provisions of section one hundred and twenty-nine B.

No person shall sell, give away, loan or otherwise transfer a rifle or shotgun or ammunition therefor other than (a) by operation of law, or (b) to an exempt person as hereinafter described, or (c) to a licensed dealer, (d) to a person

who displays his firearm identification card, or license to carry a pistol or revolver.

A seller shall within seven days, report all such transfers to the commissioner of public safety according to the provisions set forth in section one hundred and twenty-eight A, and in the case of loss, theft, or recovery of any firearm, rifle, shotgun or machine gun a similar report shall be made forthwith to both the commissioner and the licensing authority in the city or town where the owner resides.

The provisions of this section shall not apply to the following exempted persons and uses:

(a) Any device used exclusively for signaling or distress use and required or recommended by the United States Coast Guard or the Interstate Commerce Commission, or for the firing of stud cartridges, explosive rivets or similar industrial ammunition;

(b) Federally licensed firearms manufacturers or wholesale dealers, or persons employed by them or by licensed dealers, or on their behalf, when possession of firearms, rifles or shotguns is necessary for manufacture, display, storage, transport, installation, inspection or testing;

(c) To a person voluntarily surrendering a firearm, rifle or shotgun and ammunition therefor to a licensing authority, the commissioner or his designee if prior written notice has been given by said person to the licensing authority or the commissioner stating the place and approximate time of said surrender;

(d) The regular and ordinary transport of firearms, rifles or shotguns as merchandise by any common carrier;

(e) Possession by retail customers for the purpose of firing at duly licensed target concessions at amusement parks, piers and similar locations, provided that the firearms, rifles or shotguns to be so used are firmly chained or affixed to the counter and that the proprietor is in possession of a firearm identification card or license to carry firearms;

(f) Possession of rifles and shotguns and ammunition therefor by nonresident hunters with valid nonresident hunting licenses during hunting season;

(g) Possession of rifles and shotguns and ammunition therefor by nonresidents while on a firing or shooting range;

(h) Possession of rifles and shotguns and ammunition therefor by nonresidents traveling in or through the commonwealth, providing that any rifles or shotguns are unloaded and enclosed in a case;

(i) Possession of rifles and shotguns by nonresidents while at a firearm showing or display organized by a regularly existing gun collectors' club or association;

(j) Any new resident moving into the commonwealth, or any resident of the commonwealth upon being released from active service with any of the armed services of the United States with respect to any firearm, rifle or shotgun and ammunition therefor then in his possession, for sixty days after such release or after the time he moves into the commonwealth;

(k) Any person under the age of fifteen with respect to the use of a rifle or shotgun by such person in hunting or target shooting, provided that such use is otherwise permitted by law and is under the immediate supervision of a person holding a firearm identification card or a license to carry firearms, or a duly commissioned officer, noncommissioned officer or enlisted member of the United States Army, Navy, Marine Corps, Air Force or Coast Guard, or the National Guard or military service of the commonwealth or reserve components thereof, while in the performance of his duty;

(l) The possession or utilization of any rifle or shotgun during the course of any television, movie, stage or other similar theatrical production, or by a professional photographer or writer for examination purposes in the pursuit of his profession, providing such possession or utilization is under the immediate supervision of a holder of a firearm identification card or a license to carry firearms;

(m) The temporary holding, handling or firing of a firearm for examination, trial or instruction in the presence of a holder of a license to carry firearms, or the temporary holding, handling or firing of a rifle or shotgun for examination, trial or instruction in the presence of a holder of a firearm identification card, or where such holding, handling or firing is for a lawful purpose;

(n) The transfer of a firearm, rifle or shotgun upon the death of an owner to his heir or legatee shall be subject to the provisions of this section, provided that said heir or legatee shall within one hundred and eighty days of such

transfer, obtain a firearm identification card or a license to carry firearms if not otherwise an exempt person who is qualified to receive such or apply to the licensing authority for such further limited period as may be necessary for the disposition of such firearm, rifle or shotgun;

(o) Persons in the military or other service of any state or of the United States, and police officers and other peace officers of any jurisdiction, in the performance of their official duty or when duly authorized to possess them, provided, however, that private or sporting use of such firearms, rifles or shotguns shall be subject to the provisions applicable to non-exempt persons and uses;

(p) Possession of rifles and shotguns and ammunition therefor by nonresidents bearing a current license, permit or identification card to possess any firearm, rifle or shotguns the state in which they reside;

(q) Any nonresident from a contiguous state, provided he is eighteen years of age or over when acquiring a rifle or shotgun, or ammunition, provided it is removed from the commonwealth within fourteen days of such acquisition, and provided that he is in compliance with his own state law and has the proper firearms license if required, and provided, further, that in the case of a rifle or shotgun the seller notifies the chief of police where the purchaser resides of the transfer, description and serial number of the rifle or shotgun and the name, address, and license number of the purchaser and seller;

(r) Possession by a veterans organization chartered by the Congress of the United States or included in clause (12) of section five of chapter forty and possession by the members of any such organization when on official parade duty or ceremonial occasions;

(s) Possession by federal, state and local historical societies, museums, and institutional collections open to the public, provided such firearms, rifles or shotguns are unloaded, properly housed and secured from unauthorized handling.

Any person, exempted by clauses (o), (p) and (q), purchasing a rifle or shotgun or ammunition therefor shall submit to the seller such full and clear proof of identification, including shield number, serial number, military or governmental order or authorization, military or other official identification, other state firearms license, or proof of nonresidence, as may be applicable.

Nothing in this section shall permit the sale of rifles or shotguns or ammunition therefor to a minor under the age of eighteen in violation of section one hundred and thirty nor may any firearm be sold to a minor nor to any person who is not licensed to carry firearms under section one hundred and thirty-one unless he presents a valid firearm identification card and a permit to purchase issued under section one hundred and thirty one A, or presents such permit to purchase and is a properly documented exempt person as hereinbefore described.

Neither the provisions of section one hundred and twenty-nine C nor the possession of a firearm identification card issued under section one hundred and twenty-nine B shall entitle any person to carry a firearm in violation of section ten of chapter two hundred and sixty-nine.

Any person who, while not being within the limits of his own property or residence, or such person whose property or residence is under lawful search, and who is not exempt under this section, shall on demand of a police officer or other law enforcement officer, exhibit his license to carry firearms, or his firearms identification card or receipt for fee paid for such card, or, after January first, nineteen hundred and seventy, exhibit a valid hunting license issued to him which shall bear the number officially inscribed of such license to carry or card if any. Upon failure to do so such person may be required to surrender to such officer said firearm, rifle or shotgun which shall be taken into custody as under the provisions of section one hundred and twenty-nine D, except that such firearm, rifle or shotgun shall be returned forthwith upon presentation within thirty days of said license to carry firearms, firearm identification card or receipt for fee paid for such card or hunting license as hereinbefore described. Any person subject to the conditions of this paragraph may, even though no firearm, rifle or shotgun was surrendered, be required to produce within thirty days said license to carry firearms, firearm identification card or receipt for fee paid for such card, or said hunting license, failing which the conditions of section one hundred and twenty-nine D will apply. Nothing in this section shall prevent any person from being prosecuted for any violation of this chapter. (1969, 799, S. 8; 1971, 456, S. 4; 1969, 312, S. 3; 1973, 892, S. 3, 4).

**SECTION 129D—FIREARMS, RIFLES & SHOTGUNS; SURRENDER UPON REVOCATION,  
SUSPENSION OR DENIAL**

Upon revocation, suspension or denial of an application for a firearm identification card pursuant to the conditions of section one hundred and twenty-nine B, or of any firearms license if said firearms identification card is not then in force, the person whose application was so revoked, suspended or denied shall without delay deliver or surrender, to the licensing authority where he resides, all firearms, rifles and shotguns and ammunition which he then possesses unless an appeal is pending. Such person, or his legal representative, shall have the right, at any time up to one year after said delivery or surrender, to transfer such firearms, rifles and shotguns and ammunition to any licensed dealer or any other person legally permitted to purchase or take possession of such firearms, rifles and shotguns and ammunition and upon notification in writing by the purchaser or transferee and the former owner, the licensing authority shall within ten days deliver such firearms, rifles and shotguns and ammunition to the transferee or purchaser and due care shall be observed by the licensing authority in the receipt and holding of any such firearm, rifle or shotgun and ammunition.

Firearms, rifles or shotguns and ammunition not disposed of after delivery or surrender according to the provisions of this section shall be sold at public auction by the commissioner to the highest bidding person legally permitted to purchase and possess said firearms, rifles or shotguns and ammunition and the proceeds shall be remitted to the state treasurer.

The commissioner may make and promulgate such rules and regulations as are necessary to carry out the provisions of this section. (1969, 799, S. 9).

**SECTION 130—SELLING OR FURNISHING FIREARMS TO MINORS OR ALIENS**

Whoever sells or furnishes a firearm or machine gun or ammunition therefor to any alien or to a minor or whoever sells or furnishes a rifle or shotgun or ammunition therefor to an alien who does not hold a permit card issued to him under section one hundred and thirty-one H, or to a minor eighteen years of age or older, except to such minor who being eighteen years of age or older displays either a license to carry firearms or a firearms identification card, and a sporting or hunting license issued to him in the case of ammunition, or displays such license to carry, or firearm identification card together with said sporting or hunting license, and the written consent of his parent or guardian that a rifle or shotgun be sold to him or furnished to him in the case of a rifle or shotgun, or to a minor under eighteen years of age, shall have his license to sell firearms, machine guns or ammunition revoked and shall not be entitled to apply for such license for ten years from the date of revocation and shall be punished by a fine of not less than five hundred or more than one thousand dollars.

Nothing in this section or section one hundred and thirty-one E shall be construed to prohibit a parent or guardian from allowing his child or ward, who has not attained age fifteen, the supervised use of a rifle or shotgun or ammunition therefor, according to the provisions of section one hundred and twenty-nine C nor from furnishing his child or ward, who has attained age fifteen, with a rifle or shotgun or ammunition therefor, provided said child or ward, being fifteen years of age or older, has a valid firearm identification card, issued to him, nor shall it be construed as prohibiting an instructor from furnishing rifles or shotguns or ammunition therefor to pupils, provided said instructor has the consent of the parent or guardian of the minor. (1969, 799, S. 10; 1973, 161).

**SECTION 131—LICENSE TO CARRY FIREARMS CONDITIONS**

The chief of police or the board or officer having control of the police in a city or town, or the commissioner of public safety, or persons authorized by them respectively, after an investigation, may, upon the application of any person, including a minor eighteen years of age or older who has the written consent of his parent or guardian, residing or having a place of business within their respective jurisdiction, except an alien, a person who has been convicted of a felony or of the *unlawful* use, possession or sale of narcotic or harmful drugs or a minor under the age of eighteen, issue a license to such applicant to carry firearms in the commonwealth or to possess and carry therein a machine gun, if it appears that he is a suitable person to be so licensed, and that he has good reason to fear injury to his person or property, or for any other proper purpose, including the carrying of firearms for use in target practice only; pro-

vided, however, that no minor shall be issued a license to possess and carry a machine gun. A license issued to carry a firearm or to possess and carry a machine gun shall be for a period of five years, expiring on the anniversary of the applicant's date of birth occurring not less than four years but not more than five years from the date of issue. The commissioner of public safety shall send by first class mail to the holder of each license to carry a firearm a notice of the expiration of his license not less than ninety days before such expiration, and shall enclose therewith a form for renewal of said license. New sentence effective April 1, 1976.

Any license issued to an applicant born on February twenty-ninth, for the purposes of this section, shall expire on March first. All such licenses shall be revocable for cause at the will of the authority issuing the same, who shall forthwith send written notice of such revocation to the commissioner of public safety. Licenses shall be issued on forms furnished by said commissioner and shall contain blank spaces for such information as the commissioner deems necessary for proper identification of the licensee. The authority to whom such application is made shall cause one copy of said applicant's fingerprints to be forwarded to said commissioner, who shall within a reasonable time advise in writing of the criminal record, if any, of the applicant. The taking of fingerprints shall not be required in issuing the renewal of a license, if the fingerprints of the applicant are on file with the commissioner. The fee for such license shall be ten dollars, and shall be payable in a manner prescribed by the authority empowered to issue such license and shall not be prorated or refunded in case of revocation. Whoever, knowingly, issues a license in violation of this section shall be punished by a fine of not less than five hundred nor more than one thousand dollars and by imprisonment for not less than six months nor more than two years in a jail or house of correction. Notwithstanding the provisions of this section, no license shall be required for the possession or carrying of a firearm known as a detonator and commonly used on motor vehicles as a signalling and marking device, when carried or possessed for such signalling and marking purposes. Any person refused a license under this section may obtain judicial review of such refusal by filing, within ten days of such refusal, a petition for review thereof in the district court having jurisdiction in the city or town wherein the applicant filed for said license, and a justice of said court after having heard all of the facts, may direct that a license be issued the applicant, if he is satisfied that there was no reasonable ground for refusing such license and that the applicant was not prohibited by law from holding the same. For the purposes of the provisions of section ten of chapter two hundred and sixty-nine an expired license to carry a firearm shall be deemed valid for a period not to exceed ninety days beyond the date of expiration, except that this provision shall not apply to any license to carry firearms which has been revoked or relative to which revocation is pending.

The license holder shall notify, in writing, the authority who issued said license, the chief of police into whose jurisdiction the license holder moves, and the commissioner of public safety of any change in his address. Such notification shall be made within ten days of its occurrence. (1906, 172, S. 1; 1911, 548, S. 1; 1919, 207, S. 1; 1922, 405, S. 9; 1925, 284, S. 4; 1927, 326, S. 3; 1936, 302; 1951, 201; 1953, 319, S. 20; 1957, 688, S. 15; 1959, 296, S. 6; 1969, 799, S. 11; 1972, 415; 1973, 138, 892, S. 7).

#### SECTION 131A—PERMITS TO PURCHASE; AUTHORITY ISSUING SAME

A licensing authority under section one hundred and thirty-one, upon the application of a person qualified to be granted a license thereunder by such authority, may grant such a person, other than a minor, a permit to purchase, rent or lease a firearm, rifle or shotgun, if it appears that such purchase, rental or lease is for a proper purpose, and may revoke such permit at will.

The commissioner of public safety or a person authorized by him, upon the application of a person licensed under section one hundred and thirty-one F, may grant to such licensee, other than a minor, a permit to purchase, rent or lease a firearm, rifle or shotgun, or to purchase ammunition therefor, if it appears that such purchase, rental or lease is for a proper purpose, and may revoke such permit at will. Such permits shall be issued on forms furnished by the commissioner of public safety, shall be valid for not more than ten days after issue, and a copy of every such permit so issued shall within one week thereafter be sent to the said commissioner. Whoever knowingly issues a permit in violation of this section shall be punished by a fine of not less than five hundred nor more than

one thousand dollars and by imprisonment for not less than six months nor more than two years in a jail or house of correction.

The fee for such permits shall be two dollars. (1926, 305, S. 3; 1957, 688, S. 16; 1959, 293, S. 7; 1965, 95; 1973, 135, 892, S. 8).

**SECTION 131B—PENALTY FOR LOAN OF MONEY ON A FIREARM, RIFLE, SHOTGUN OR MACHINE GUN**

Whoever loans money secured by mortgage, deposit or pledge of a firearm, rifle, shotgun or machine gun shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or by both. (1926, 305, S. 3; 1927, 326, S. 4; 1957, 688, S. 17).

**SECTION 131C—FIREARMS IN AUTOMOBILES; UNATTENDED**

No person carrying a firearm or firearms under a license issued under section one hundred and thirty-one or one hundred thirty-one F shall carry the same in a vehicle unless such firearm or firearms while so carried therein is under the direct control of such person, and whoever violates the foregoing shall be punished by a fine of not more than one hundred dollars. A conviction of a violation of this section shall be reported forthwith by the court or magistrate to the authority who issued the license who shall immediately revoke the license of the person so convicted. No new license under said section shall be issued to any such person until one year after the date of revocation. (1934, 246; 1957, 688, S. 18; 1965, 44).

**SECTION 131D—(REPEALED)**

**SECTION 131E—LICENSE TO CARRY BECOMES VALID PERMIT TO PURCHASE**

Any resident of the commonwealth except a minor may purchase firearms, rifles and shotguns from any dealer licensed under section one hundred and twenty-two, or from such person as shall be qualified under section one hundred and twenty-eight A, or ammunition therefor from a licensee under section one hundred and twenty-two B, upon presentation of a valid license to carry firearms issued to him under the provisions of section one hundred and thirty-one, or a permit to purchase issued to him under section one hundred and thirty-one A together with a firearm identification card issued to him under the provisions of section one hundred and twenty-nine B, or said permit to purchase together with proof of exempt status under the provisions of section one hundred and twenty-nine C, in the case of a firearm, or in the case of a rifle or shotgun, said license to carry or said firearm identification card or said proof of exempt status, except that no rifle, shotgun or ammunition therefor shall be sold to any minor under eighteen years of age nor to any minor eighteen years of age or older unless such minor displays a license to carry firearms or a firearm identification card issued to him, a hunting or sporting license issued to him, and the written consent of his parent or guardian to purchase a particular rifle or shotgun, except, however, that said written consent shall not be required for purchase of ammunition only. Any person who uses said license to carry firearms or firearm identification card for the purpose of purchasing a firearm, rifle or shotgun for the unlawful use of another, or for resale to or giving to an unlicensed person, shall be punished by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment for not less than six months nor more than two years in a jail or house of correction, or by both such fine and imprisonment. A conviction of a violation of this section shall be reported forthwith by the court to the licensing authority which issued the license or firearm identification card, which shall immediately revoke the license or firearm identification card of such person. No new license or firearm identification card under section one hundred and twenty-nine B or section one hundred and thirty-one shall be issued to any such person within two years after the date of such revocation. (1968, 737, S. 9; 1969, 799, S. 12; 1973, 159).

**SECTION 131F—OUT-OF-STATE RESIDENTS; LICENSES TO CARRY**

A temporary license to carry firearms within the commonwealth may be issued by the commissioner of public safety, or persons authorized by him, to a non-resident or any person not falling within the jurisdiction of the local licensing authority, provided that no license shall be issued to an alien, a

person convicted of a felony, or convicted of the unlawful use, possession or sale of narcotics or harmful drugs. Such license shall be valid for a period of one month, but the commissioner may renew said license, if in his discretion such renewal is necessary. Temporary licenses issued under this section shall be marked "Temporary License to Carry Firearms", and shall not be used to purchase firearms in the commonwealth as provided for in section one hundred and thirty-one E. A license issued under the provisions of this section to a non-resident who is in the employ of a bank, public utility corporation, or a firm engaged in the business of transferring monies, or a business of similar nature, or a firm licensed as a private detective under the provisions of chapter one hundred and forty-seven, and whose application is endorsed by his employer, or who is a member of the armed services and is stationed within the territorial boundaries of the commonwealth and has the written consent of his commanding officer, may be issued for any term not to exceed two years, and said license shall expire in accordance with the provisions of section one hundred and thirty-one.

A license, otherwise in accordance with provisions of this section, may be issued to a nonresident employee, whose application is endorsed by his employer, of a federally licensed Massachusetts manufacturer of machine guns to possess within the commonwealth a machine gun for the purpose of transporting or testing relative to the manufacture of machine guns, and the license shall be marked "temporary license to possess a machine gun" and may be issued for any term not to exceed two years and shall expire in accordance with the provisions of section one hundred and thirty-one. (1957, 688, S. 20; 1959, 296, S. 8; 1969, 790, S. 12A).

#### SECTION 131G—NON-RESIDENTS; RIGHT TO CARRY RESTRICTED

Any person who is not a resident of the commonwealth may carry a pistol or revolver in or through the commonwealth for the purpose of taking part in a pistol or revolver competition or attending any meeting or exhibition of any organized group of firearm collectors or for the purpose of hunting; provided, that such person is a resident of the United States and has a permit or license to carry firearms issued under the laws of any state, district or territory thereof which has licensing requirements which prohibit the issuance of permits or licenses to persons who have been convicted of a felony or who have been convicted of the unlawful use, possession or sale of narcotic or harmful drugs; provided, further, that in the case of a person traveling in or through the commonwealth for the purpose of hunting, he has on his person a hunting or sporting license issued by the commonwealth or by the state of his destination. (1965, 86).

#### SECTION 131H—ALIEN PERMIT TO POSSESS RIFLE OR SHOTGUN; CONDITIONS, PENALTY

No alien shall own or have in his possession or under his control a firearm, rifle or shotgun, except as provided in this section. The commissioner of public safety may, after an investigation, issue a permit to an alien to own or have in his possession or under his control a rifle or shotgun; subject to such terms and conditions as said commissioner may deem proper. The fee for such permit shall be two dollars and twenty-five cents. Upon issuing such permit said commissioner shall so notify, in writing, the chief of police or the board or officer having control of the police in the city or town in which such alien resides. Each such permit card shall expire at twelve midnight on December thirty-first next succeeding the effective date of said permit, and shall be revocable for cause by said commissioner. In case of revocation, the fee for such permit shall not be prorated or refunded. Whenever any such permit is revoked, said commissioner shall give notification as hereinbefore provided. The permit issued to an alien under this section shall be subject to sections one hundred and twenty-nine B and one hundred and twenty-nine C except as otherwise provided by this section.

Violation of any provision of this section shall be punished by a fine of not less than five hundred nor more than one thousand dollars, and by imprisonment for not more than six months in a jail or house of correction. If, in any prosecution for violation of this section, the defendant alleges that he has been naturalized, or alleges that he is a citizen of the United States, the burden of proving the same shall be upon him. Any firearm, rifle or shotgun owned by an alien or in his possession or under his control in violation of this section shall be forfeited to the commonwealth. Any such firearm, rifle or shotgun may be the subject of a search warrant as provided in chapter two hundred and seventy-six.

The director of law enforcement of the department of natural resources, his assistants, natural resource officers, deputy natural resource officers, wardens as defined in section one of chapter one hundred and thirty-one, members of the state police, members of the metropolitan district commission police in areas over which they have jurisdiction, and all officers qualified to serve criminal process shall arrest, without a warrant, any person found with a firearm, rifle or shotgun in his possession if they have reason to believe that he is an alien and if he does not have in his possession a valid permit as provided in this section. (1967, 802; 1969, 799, S. 13; 1973, 136)

CHAPTER 649 OF THE ACTS OF 1974

Part II, Chapter 260, Sections 10 to 14  
(Mass. General Laws)

SECTION 10\*—PENALTY FOR UNLAWFULLY CARRYING DANGEROUS WEAPONS

(a) Whoever, except as provided by law, carries on his person, or carries on his person or under his control in a vehicle, a firearm, loaded or unloaded, as defined in section one hundred and twenty-one of chapter one hundred and forty without either:

(1) Having in effect a license to carry firearms issued under section one hundred and thirty-one of chapter one hundred and forty; or

(2) Having in effect a license to carry firearms issued under section one hundred and thirty-one F of chapter one hundred and forty; or

(3) Complying with the provisions of section one hundred and twenty-nine C and one hundred and thirty-one G of chapter one hundred and forty; or

(4) Having complied as to possession of an air rifle or BB gun with the requirements imposed by section twelve B of chapter two hundred and sixty-nine; and whoever carries on his person, or carries on his person or under his control in a vehicle a rifle or shotgun, loaded or unloaded, without either:

(i) Having in effect a license to carry firearms issued under section one hundred and thirty-one of chapter one hundred and forty; or

(ii) Having in effect a license to carry firearms issued under section one hundred and thirty-one F of chapter one hundred and forty; or

(iii) Having in effect a firearm identification card issued under section one hundred and twenty-nine B of chapter one hundred and forty; or

(iv) Having complied as to carrying, with the requirements imposed by section one hundred and twenty-nine C of chapter one hundred and forty upon ownership or possession of rifles and shotguns;

(v) Having complied as to possession of an air rifle or BB gun with the requirements imposed by section twelve B of chapter two hundred and sixty-nine.

Shall be punished by imprisonment in the state prison for not less than two and one-half nor more than five years, or for not less than one year nor more than two and one-half years in a jail or house of correction. The sentence imposed upon such person shall not be reduced to less than one year, not suspended, nor shall any person convicted under this subsection (a) be eligible for probation, parole, or furlough or receive any deduction from his sentence for good conduct until he shall have served one year of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

The provisions of section eighty-seven of chapter two hundred and seventy-six, shall not apply to any person seventeen years of age or over, charged with a violation of this subsection, or to any child between age fourteen and seventeen, so charged, if the court is of the opinion that the interests of the public require that he should be tried for such offense instead of being dealt with as a child.

(b) Whoever, except as provided by law, carries on his person, any stiletto, dagger, dirk knife, any knife having a double-edged blade, or switch knife, or any knife having an automatic spring release device by which the blade is released from the handle, having a blade of over one and one-half inches, or slung shot, blackjack, metallic knuckles or knuckies of any substance which could be put to the same use with the same or similar effect as metallic knuckles; or whoever, when arrested upon a warrant for an alleged crime, or when ar-

\*Section 10 shall be effective April 1, 1975.

rested while committing a breach or disturbance of the public peace, is armed with or has on his person, or has on his person or under his control in a vehicle, a billy or other dangerous weapon other than those herein mentioned and those mentioned in paragraph (a), shall be punished by imprisonment for not less than two and one-half years nor more than five years in the state prison, or for not less than six months nor more than two and one-half years in a jail or house of correction, except that, if the court finds that the defendant has not been previously convicted of a felony, he may be punished by a fine of not more than fifty dollars or by imprisonment for not more than two and one-half years in a jail or house of correction.

(c) Whoever, except as provided by law, possesses a shotgun with a barrel less than eighteen inches in length, or possesses a machine gun, as defined in section one hundred and twenty-one of chapter one hundred and forty, without permission under section one hundred and thirty-one of said chapter one hundred and forty, shall be punished by imprisonment in the state prison for life, or for any terms of years provided that any sentence imposed under the provisions of this clause shall be subject to the minimum requirements of clause (a) of this section.

(d) Whoever, after having been convicted of any of the offenses set forth in paragraph (a), (b) or (c) commits a like offense or any other of the said offenses, shall be punished by imprisonment in the state prison for not less than five years nor more than seven years; for a third such offense, by imprisonment in the state prison for not less than seven years nor more than ten years, and for a fourth such offense, by imprisonment in the state prison for not less than ten years nor more than fifteen years. The sentence imposed upon a person, who after a conviction of an offense under paragraph (a), (b) or (c) commits the same or a like offense, shall not be suspended, nor shall any person so sentenced be eligible for probation or receive any deduction from his sentence for good conduct.

(e) Upon conviction of a violation of this section, the firearm or other article shall, unless otherwise ordered by the court, be confiscated by the commonwealth, the firearm or article so confiscated shall, by the authority of the written order of the court be forwarded by common carrier to the commissioner of public safety, who, upon receipt of the same, shall notify said court or justice thereof. Said commissioner may sell or destroy the same, except that any firearm which may not be lawfully sold in the commonwealth shall be destroyed, and in the case of a sale, after paying the cost of forwarding the article, shall pay over net proceeds to the commonwealth.

(f) The court shall, if the firearm or other article was lost or stolen from the person lawfully in possession of it, order its return to such person.

(g) Whoever, within this commonwealth, produces for sale, delivers or causes to be delivered, orders for delivery, sells or offers for sale, or fails to keep records regarding, any rifle or shotgun without complying with the requirement of a serial number, as provided in section one hundred and twenty-nine B of chapter one hundred and forty shall for the first offense be punished by confinement in a jail or house of correction for not more than two and one-half years, or by a fine of not more than five hundred dollars.

(h) Whoever owns, possesses, or transfers possession of a firearm, rifle, shotgun or ammunition without complying with the requirements relating to the firearm identification card provided for in section one hundred and twenty-nine C of chapter one hundred and forty shall be punished by imprisonment in a jail or house of correction for not more than one year or by a fine of not more than five hundred dollars. A second violation of this paragraph shall be punished by imprisonment in a jail or house of correction for not more than two years or by a fine of not more than one thousand dollars or both.

(i) Whoever knowingly fails to deliver or surrender a revoked or suspended license to carry firearms issued under the provisions of section one hundred and thirty-one or one hundred and thirty-one F of chapter one hundred and forty, or firearm identification card, or receipt for the fee for such card, or a firearm, rifle or shotgun, as provided in section one hundred and twenty-nine D of chapter one hundred and forty, unless an appeal is pending, shall be punished in a jail or house of correction for not more than two and one-half years or by a fine of not more than one thousand dollars.

(j) Whoever, not being a law enforcement officer, and notwithstanding any license obtained by him under the provisions of chapter one hundred and forty, carries on his person a firearm as hereinafter defined, loaded or unloaded, in

any building or on the grounds of any college or university without the written authorization of the board or officer in charge of said college or university shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or both. For the purpose of this paragraph "firearm" shall mean any pistol, revolver, rifle or smoothbore arm from which a shot, bullet or pellet can be discharged by whatever means.

(k) For the purpose of this section "sawed-off shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than twenty-six inches.

(l) The provisions of this section shall be fully applicable to any person proceeded against under section seventy-five of chapter one hundred and nineteen and convicted under section eighty-three of chapter one hundred and nineteen, provided, however, that nothing contained in this section shall impair, impede, or affect the power granted any court by chapter one hundred and nineteen to adjudicate a person a delinquent child, including the power so granted under section eighty-three of said chapter one hundred and nineteen.

#### SECTION 10A—SALE AND POSSESSION OF SILENCERS FOR FIREARMS

Whoever sells or keeps for sale, or offers, or gives or disposes of by any means other than submitting to an authorized police official, or uses or possesses, any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearm to be silent or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearm shall be punished by imprisonment for not more than five years in the state prison or for not more than two and one-half years in a jail or house of correction. Upon conviction of a violation of this section, the instrument, attachment or other article shall be confiscated by the commonwealth and forwarded, by the authority of the written order of the court, to the commissioner of public safety, who shall destroy said article. (1926, 261; 1957, 688, S. 24).

#### SECTION 10B—(REPEALED 1957, 688)

#### SECTION 10C—CHEMICAL GAS DEVICES; PENALTY FOR USE

Whoever uses tear gas cartridges, chemical mace, or any device or instrument which contains a liquid, gas, powder, or any other substance designed to incapacitate for the purpose of committing a crime shall be punished by imprisonment in the state prison for not more than seven years. (1969, 342; 1973, 892, S. 9).

#### SECTION 11—POSTERS OF CERTAIN SECTIONS OF CHAPTER 140 AND CHAPTER 269

The state secretary shall, annually, cause to be printed in English and in such other language as he may deem necessary, and in large letters so as to be easily read, for use as a poster, section one hundred and thirty one of chapter one hundred and forty and sections ten, twelve B, and fourteen of this chapter. Sufficient copies of said posters shall be sent to the clerks and to the superintendents of schools in all cities and towns for their use as herein provided. The city or town clerks shall cause posters received by them to be displayed in such places as they may select, and in such numbers, according to the population of the city or town, as its clerks may deem expedient. The superintendent of schools shall cause the posters received by them to be distributed among the schools within their jurisdiction, and in such numbers as they deem necessary. The cost of preparing and printing the posters and of distributing them to the various cities and towns shall be paid by the commonwealth, and the cost of placing or affixing them in each city or town shall be paid by that city or town. (1912, 391; 1957, 68, S. 26).

#### SECTION 11A—DEFINITIONS

For the purpose of this section and section eleven B, eleven C, and eleven D, the following words shall have the following meanings:—"Firearms", a firearm as defined in section one hundred and twenty-one of chapter one hundred and forty, or a rifle or shotgun. "Serial Number", the number stamped or placed upon a firearm by the manufacturers in the original process of manufacture. "Identification number", the number stamped or placed upon a firearm by the commissioner of public safety under authority of 11D.

**SECTION 11B—COMMISSION OF A FELONY WITH FIREARM HAVING DEFACED OR OBLITERATED SERIAL NUMBER**

Whoever, while in the commission or attempted commission of a felony, has in his possession or under his control a firearm, the serial number or identification number of which has been removed, defaced, altered, obliterated or mutilated in any manner shall be punished by imprisonment in the state prison for not less than two and one half years nor more than five years, or in a jail or house of correction for not less than six months or more than two and one half years. Upon conviction of a violation of this section, said firearm or other article, by the authority of the written order of the court, shall be forwarded to the commissioner of public safety, who shall cause said weapon to be destroyed.

**SECTION 11C—REMOVING, DEFACING, ETC., SERIAL OR IDENTIFICATION NUMBER**

Whoever, by himself or another, removes, defaces, alters, obliterates or mutilates in any manner the serial number or identification number of a firearm, or in any manner participates therein, and whoever receives a firearm with knowledge that its serial number or identification number has been removed, defaced, altered, obliterated or mutilated in any manner, shall be punished by a fine or not more than two hundred dollars or by imprisonment for not less than one month nor more than two and one half years. Possession or control of a firearm the serial number or identification number of which have been removed, defaced, altered, obliterated or mutilated in any manner shall be prima facie evidence that the person having such possession or control is guilty of a violation of this section; but such prima facie evidence may be rebutted by evidence that such person had no knowledge whatever that such number had been removed, defaced, altered, obliterated or mutilated, or by evidence that he had no guilty knowledge thereof. Upon conviction of a violation of this section said firearm or other article shall be forwarded, by the authority of the written order of the court, to the commissioner of public safety, who shall cause said firearm or other article to be destroyed.

**SECTION 11D—(REPEALED)**

**SECTION 11E—FIREARMS, RIFLES AND SHOTGUNS; SERIAL NUMBERS**

All firearms, rifles and shotguns of new manufacture, manufactured or delivered to any licensed dealer within the commonwealth shall bear serial numbers permanently inscribed on a visible metal area of said firearm, rifle or shotgun, and the manufacturer of said firearm, rifle or shotgun shall keep records of said serial numbers and the dealer, distributor or person to whom the firearm, rifle or shotgun was sold or delivered.

No licensed dealer shall order for delivery, cause to be delivered, offer for sale or sell within the commonwealth any newly manufactured firearm, rifle or shotgun received directly from a manufacturer, wholesaler or distributor not so inscribed with a serial number nor shall any licensed manufacturer or distributor of firearms, rifles or shotguns deliver or cause to be delivered within the commonwealth any firearm, rifle or shotgun not complying with this section.

No licensed manufacturer within the commonwealth shall produce for sale within the United States, its territories or possessions any firearm, rifle or shotgun not complying with paragraph one of this section. Whoever violates this section shall be punished by a fine of five hundred dollars. Each such violation shall constitute a separate offense.

The provisions of section eleven E of chapter two hundred and sixty nine of the General Laws, as amended by section seventeen of this act, prohibiting a licensed dealer from ordering for delivery, causing to be delivered, offering for sale or selling within the commonwealth any newly manufactured firearm, rifle or shotgun not permanently inscribed with a serial number, as required by said section, shall not be applicable to such licensed dealer in the case of any such firearm, rifle or shotgun which was delivered to such dealer prior to the first day of January, nineteen hundred and seventy.

Section seventeen of this act shall take effect on January first, nineteen hundred and seventy. (1968, 737; 1969, 799, S. 11E, 17A, 18).

**SECTION 12—MANUFACTURE AND SALE OF SLUNG SHOTS, DIRK KNIVES, SWITCH KNIVES, ETC**

Whoever manufactures or causes to be manufactured, or sells or exposes for sale an instrument or weapon of the kind usually known as a dirk knife, a switch knife or any knife having an automatic spring release device by which the blade is released from the handle, having a blade of over one and one half inches, a slung shot, sling shot, bean blower, sword cane, pistol cane, bludgeon, black-jack, or metallic knuckles or knuckles of any other substance which could be put to the same use and with the same or similar effect as metallic knuckles, shall be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not more than six months; provided, however, that sling shots may be manufactured and sold to clubs or associations conducting sporting events where such sling shots are used.

**SECTION 12A—SALE OF A BB GUN OR AIR RIFLE TO A MINOR UNDER 18 YEARS OF AGE; REGULATED**

Whoever sells to a minor under the age of eighteen or whoever, not being the parent, guardian or adult teacher or instructor, furnishes to a minor under the age of eighteen an air rifle or so-called BB gun, shall be punished by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not more than six months.

**SECTION 12B—POSSESSION BY A MINOR UNDER 18 YEARS OF AGE OF AIR RIFLE OR BB GUN**

No minor under the age of eighteen shall have an air rifle or so-called BB gun in his possession while in any place to which the public has a right of access unless he is accompanied by an adult or unless he is the holder of a sporting or hunting license and has on his person a permit from the chief of police of the town in which he resides granting him the right of such possession. No person shall discharge a BB shot, pellet or other object from an air rifle or so-called BB gun into, from or across any street, alley, public way or railroad or railway right of way, and no minor under the age of eighteen shall discharge a BB shot, pellet or other object from an air rifle or BB gun unless he is accompanied by an adult or is the holder of a sporting or hunting license.

Whoever violates this section shall be punished by a fine of not more than one hundred dollars, and the air rifle or BB gun or other weapon shall be confiscated.

Upon a conviction of a violation of this section the air rifle or BB gun or other weapon shall, by the written authority of the court, be forwarded to the commissioner of public safety, who may dispose of said article in the same manner as prescribed in section ten. (1951, 263; 1957, 688, S. 31; 1968, 737, S. 16).

**SECTION 12C—(REPEALED)**

**NOTE.**—Possession of a dirk or switch knives is now covered by Section 10; sale now covered by Section 12.

**SECTION 12D—REGULATIONS RELATIVE TO CARRYING A LOADED SHOTGUN OR RIFLE ON A PUBLIC WAY**

No person shall carry on any public way a rifle or shotgun having shells or cartridges in either the magazine or chamber thereof, unless such person is engaged in hunting and is the holder of a valid license issued under sections six to nine, inclusive or section fifty-one of chapter one hundred and thirty-one.

Whoever violates this section shall be punished by a fine of not less than fifty nor more than five hundred dollars, and may be arrested without a warrant.

On a conviction of a violation of this section, said rifle or shotgun shall be confiscated by the commonwealth, and on the authority of the written order of the court shall be forwarded to the commissioner of public safety, who may dispose of the same in the manner prescribed in section ten. This section shall not apply to the operation of a shooting gallery, licensed and defined under the provisions of section fifty-six A of chapter one hundred and forty, nor to persons using the same. (1957, 688, S. 33).

## SECTION 12E. DISCHARGE OF FIREARM, LIMITATIONS

Whoever discharges a firearm as defined in section one hundred and twenty-one of chapter one hundred and forty, a rifle or shotgun within five hundred feet of a dwelling or other building in use, except with the consent of the owner or legal occupant thereof, shall be punished by a fine of not less than fifty nor more than one hundred dollars or by imprisonment in a jail or house of correction for not more than three months, or both. The provisions of this section shall not apply to (a) the lawful defense of life and property; (b) any law enforcement officer acting in the discharge of his duties; (c) persons using underground or indoor target or test ranges with the consent of the owner or legal occupant thereof; (d) persons using outdoor skeet, trap, target, or test ranges with the consent of the owner or legal occupant of the land on which the range is established; (e) persons using shooting galleries, licensed and defined under the provisions of section fifty-six A of chapter one hundred and forty; and (f) the discharge of blank cartridges for theatrical, athletic, ceremonial, firing squad, or other purposes in accordance with section thirty-nine of chapter one hundred and forty-eight. (1971, 223; 1972, 261).

## SECTION 14.—BOMB HOAX

(a) Whoever, knowing the same to be false, transmits or causes to be transmitted to any person by telephone or other means a communication falsely reporting the location of any explosive or other dangerous substance or contrivance thereby causing anxiety, unrest, fear, or personal discomfort to any person or group of persons, shall be punished by imprisonment in the state prison for not more than twenty years, or by imprisonment in a jail or house of correction for not more than two and one half years or by a fine of not more than ten thousand dollars or by both such fine or imprisonment in a jail or house of correction.

(b) A city or town may, upon recommendation of its chief law enforcement officer, pay a reward, not to exceed one thousand dollars to any person or persons, other than law enforcement officers, who supply information or assistance in obtaining a conviction under the provisions of this section. (1971, 784)

Mr. CONYERS. I turn now to Gerald E. Talbot, a Maine representative. I remember his generous and kind offer for me to come to Maine to give testimony before their committee which was engaged in discussion of this subject. I welcome you before our subcommittee and I hope that you add to this discussion that is going on.

Mr. TALBOT. Mr. Chairman, members of the subcommittee, I am extremely pleased to have been offered the opportunity to testify before you on a subject of great concern to myself, to my constituents, and to millions of Americans.

Each of us has our own personal reason for being concerned about the proliferation of handguns of all kinds in the United States.

But beyond our own personal concerns each of us senses that the proliferation of handguns is a symptom of a greater problem than the mere production and distribution of armaments.

Each of us senses that the needless killing which is made possible by the ready availability of small, easily concealed, low-cost handguns could be avoided if there were only a way to separate the anger and passion of the moment from the opportunity to obtain a gun and seek a swift and tragic solution to that anger.

In my hometown of Portland, Maine, this past weekend, as I sat preparing my testimony to be delivered to you today, a young man engaged in a chase with police from my community escaped and later attempted to use a weapon to free his girl friend whom the police had captured during the automobile chase.

To rescue his girl friend he carried his pistol to the door of the Portland Police Headquarters.

After disregarding the order to drop the weapon, he was shot and killed by the police. If he had not carried that weapon I suspect he would not have been shot.

While I wish he had not been shot, I find it difficult to conceive of any course of action other than that followed by the policeman.

So as I wrote my testimony, the need for gun control was once again brought home all too vividly to me.

After reading the legislation you are considering I can say that there are a number of bills which I can support wholeheartedly and an equal number which I could support with reservation.

For that reason I have decided not to testify in behalf of or in opposition to any particular bill.

Rather, I'd like to confine my remarks to support for a general principle which I have attempted to implement in Maine and which I believe will lead to a reduction in the use of weapons and a reduction in the number of violent deaths which this country has grown so accustomed to in recent years.

I would like to testify in behalf of a 72-hour waiting period for purchase of a handgun.

As presented in the bills, I have offered to the Maine Legislature, this concept would be effected by requiring a person to fill out a request to purchase a gun and allowing 72 hours for determination of the person's mental competency and previous criminal record.

Each time I have offered this bill to the Maine Legislature, it has been defeated by approximately 30 votes in the house and by a 2-to-1 margin in the State senate.

The reason for the defeat of this bill is not its lack of popular support. I believe the reason the bill has been defeated has been the strength of the gun lobby in the State of Maine, a strength which is similar to that of the gun lobby we have in Washington, D.C.

Maine is a State of sportsmen, a State where most families own some sort of weapon, usually a rifle or a shotgun.

In this kind of atmosphere it is easy for the gun lobby to push the panic button and use the tired old argument of a 72-hour waiting period being nothing more than a foot in the door.

A foot in the door which will ultimately result in the confiscation of weapons and the institution of a totalitarian or authoritarian regime which will take away our freedom.

It is not unusual for legislators to fear the gun lobby, for there are numerous examples, not the least of which is Senator Tydings, where the gun lobby has been successful in defeating a proponent of gun control legislation.

As examples of the public support, which exists in Maine, for the bill that I have sponsored, I would offer the following information.

The towns of Portland, Westbrook, South Portland, Cape Elizabeth, Lewiston, and Falmouth have instituted a 72-hour waiting period for the purchase of handguns.

Portland and Lewiston are Maine's largest and second largest communities. All these communities added together represent well over 15 percent of Maine's total population. In addition, the Portland Press Herald, the Portland Evening Express, the Maine Sunday

Telegram, the Bath-Brunswick Times Record, and the Lewiston Sun and the Lewiston Evening Journal all have endorsed my bill editorially.

I would also bring to your attention a public opinion poll conducted by the Social Science Research Institute at the University of Maine in Orono which found that 63 percent of Maine's population support handgun permits and less than 30 percent oppose them.

This analysis is based upon the scientifically selected sample of 341 residents of the State of Maine.

The poll was taken over the telephone and included the following breakdowns of opinion by age and sex and income.

Those polled in the 18-24 age group favored handgun permits by a margin of 52 percent with 76 percent in favor and 24 percent opposed.

Those 65 or older were 55 percent in favor, 28 percent opposed.

Women favored permits 66 percent to 25 percent and men favored permits 57 percent to 40 percent.

By income, those who had an annual income in excess of \$15,000 a year said they favored handgun permits 68 percent to 32 percent.

Those who made less than \$5,000 a year favored permits 59 percent to 29 percent.

Interestingly enough the results of the Social Science Research Institute poll compare quite closely with a mail poll done by Senator William D. Hathaway which showed that 65 percent of Maine's voters were in favor of the registration of firearms.

Both these polls were taken in 1974.

A more recent survey completed by WGAN-Television in Portland (channel 13) asked the following question:

"Massachusetts has a law with a mandatory 1-year jail term for owning or carrying a gun if the gun or the owner is not registered. Do you favor such a law in Maine?"

Four hundred and thirty-five persons responded in the affirmative and 229 persons responded in the negative.

This telephone call-in poll was taken on Monday, June 2, 1975.

In addition I am pleased to report that the Maine chiefs of police support this principle and that a number of Maine's highest elected officials, including both the U.S. Senators, Governor James B. Longley, and Attorney General Joseph Brennan support limited methods of handgun control.

Regardless of the action this committee does or does not take on legislation requiring a 72-hour waiting period for the purchase of handguns, I will continue to offer my legislation in Maine.

I think it is clear, however, that the best solution to this problem lies at the Federal level.

For example: The police chiefs of those communities of Maine which have a 72-hour waiting period complained that when a person in a fit of passion is denied a handgun in their community they merely may drive to a neighboring community which does not have a similar ordinance and purchase a handgun.

This same argument can apply in neighboring States so that if Maine enacts such a law but New Hampshire and Massachusetts do not, then to some extent Maine's law will be less effective than it would be if all States have to obey such a law.

In addition, I think it is more likely that the gun law can be successfully defended at the Federal level than it can be defended at the State level. Federal representatives seem to have more resources at their disposal by which they may explain their vote than do legislators elected on the State level.

These resources include an office staff, access to a media, money for mailings, and a large enough salary to permit devotion of the time and energy required to fight off an attack based upon a handgun control vote.

I also believe the problems involved in the importation of parts of weapons later assembled into Saturday night specials are best handled at the Federal level.

State action on these problems can only be piecemeal in nature.

I therefore would urge this committee to act promptly and boldly on the problems presented by the easy access our population has to handguns and to the lack of control of handguns in our society.

I have been pleased to offer my opinion to this committee and I hope I have been helpful.

I will be pleased to answer any questions.

Mr. CONYERS. Very good; in terms of your statement and some of the things you said that your State is trying to do to make the possession and use of firearms more sane.

Congressman McClory advised me that the Attorney General's recommendation includes a 14-day waiting period.

Gentlemen, you have covered a wide range of subjects. We appreciate your preparation. We want you to stay in touch with this committee as we move toward a legislative result. And I am hopeful with your continued strong leadership out in the several States, that we are going to move toward some resolution of this problem before the end of 1975.

Thank you all very much.

Our next witness before the lunch recess is the chairman of the Special Committee on Firearms Legislation, New York State Conservation Council, Franklin R. Volk, accompanied by Gerry Preiser, Federation of Greater New York Pistol and Rifle Clubs.

Good morning, gentlemen. Welcome. We have your statements, which will be made a part of the record. You are welcome to proceed in any way you choose.

**TESTIMONY OF FRANKLIN R. VOLK, CHAIRMAN, SPECIAL COMMITTEE ON FIREARMS LEGISLATION, NEW YORK STATE CONSERVATION COUNCIL; ACCOMPANIED BY GERRY PREISER, FEDERATION OF GREATER NEW YORK PISTOL AND RIFLE CLUBS**

Mr. PREISER. Thank you very much, Mr. Chairman, Congressman McClory, this is what is known as a difficult act to follow, having so much antigun testimony, and with a good deal of logic.

Mr. CONYERS. I know you are going to bring the same kind of skills to your position. We await your testimony.

Mr. McCLORY. What we endeavor to do as far as the testimony is concerned is to hear the testimony of those that deal with the gun

laws, and of course the commissioner of the police, law enforcement people deal with it, the mayors deal with it, and I think there was a judge that was going to testify, and the Alcohol, Tobacco, and Firearms Bureau, all of these people deal with the Federal firearms laws. And they have comments they want to make on it.

I don't think the number of witnesses necessarily has any implications as far as hearings are concerned. I would not know who to eliminate, as far as the witnesses.

Mr. PREISER. I understand.

I would like to make one brief comment with respect to the so-called success of the Sullivan law of New York City. The New York Times recently—I provided you a copy of it—indicated out of 10 individuals picked up with an illegal pistol in the city of New York, one received a moderate prison sentence.

Also going along with the felony cases, most are plea bargains, that is to say 90 percent are plea-bargained down to the point where they are out in 3 years, so when it is a felony, ownership of pistols, have those picked up in the city. It has not worked reasonably well at all.

Another point was made as to how many of the disenfranchised, that is to say of the minority groups, have achieved a pistol permit from the city of New York. And Deputy Inspector Maloney felt he could not give you, Mr. Chairman, a specific figure on it.

My wide experience would indicate that I could give you an educated guess. I would be surprised if in the black business community you had more than a few hundred of the 28,000 permit holders. The pistol licensing bureau has embarked for several years on an extremely sophisticated technique of harassment whereby certain privileged classes, such as legislative assistants, or entertainers, get their permits in record time, whereas, we poor folk, we have to wait anywhere from 1½ to 2 years to get a permit and to get through a final analysis to force the official to give us our due—blatantly unfair and something we resist.

I would like, at this time, to get into my statement, which I will make as brief as possible.

Mr. CONYERS. On that point, I insist very strongly upon getting some documentation about how many people are being licensed in Harlem, which is apparently one of the most unsafe areas in the city of New York. I think this is a very serious point and that it cannot be ignored.

Mr. PREISER. Sir, the State penal code, section 400, specifically states the pistol license holder shall be of public record, but thus far the bureau has resisted successfully our efforts to get into those records, because we would like to see who those privileged few are that have gotten it in record time, and we would like to be prepared to volunteer our services to see how many minority groups have gotten it.

Mr. McCLORY. It seems to me that any public record of those that are registered or those that own firearms in the first place, it makes them possible victims for theft of firearms, because the potential thief would know where the firearm was. And then if we are concerned about the authorities picking up firearms, it seems to me that what we should do with regard to any registration or licensing, is to require that it be confidential, that the information be kept private.

Mr. PREISER. These individuals could be looked at by a group that would be bound to secrecy. It is essentially figures in terms of proportions, that is to say, percentage.

Mr. CONYERS. It is a tough problem. I think we have to balance these safeguards that my colleague refers to. I don't know how we can do that. We certainly could place it on a geographical basis, without invading the rights or making it clear who has weapons.

Mr. PREISER. Yes, sir.

The problem of violent crime in America and the consequent flight from the cities is among our top priority problems of the day. It is not, however, the fear of being killed by a gun in the hands of a family member, or in an accident or suicide, which drives the law-abiding citizens out of the cities; but, rather it is the fear of the stranger-aggressor types of murder, armed robbery, mugging, and rape which instills terror in the hearts of the citizenry. On the other hand, only a tiny fraction, less than 1 percent, of the firearms in the hands of over 50 million Americans are in the hands of the criminals, and it is this tiny fraction which must be the primary focus of any proper remedial legislation.

The criminals have demonstrated with such contraband as alcohol, marijuana, and heroin, as well as guns, that whatever the price the criminals will always be able to obtain these items in the face of any sort of even the strictest legal prohibitions. No law can touch significantly or prevent the access of criminals to guns, for the criminals will always be able to obtain firearms from such means as smuggling, thefts from armories, and amateur manufacture in garage machine shops. The law must therefore be selective and direct its attention to the causes of crime, violent crime, which pays so well and which thus makes a lucrative market for guns.

The issue here is not the price or size of guns which the law might naively attempt to outlaw. For whatever the size of firearms useful in violent crime, the criminals will obtain them at any price. And at the same time, the law must be careful not to disarm selectively the law-abiding citizenry and leave the people helpless in the face of unspeakable depredations of violent criminals. Thus, selectivity is the touchstone of any rational approach to the legislative front against violent crime. Accordingly, the law should direct its attention to the ever increasing rates of stranger-aggressor types of violent crimes and their root causes.

In London, England, the murder rate is quite small. The murder rate in New York City is 15 times that of London, whereas the rape rate in New York City is 30 times that of London. Yet nobody is suggesting selective surgery of rapists in New York City. The point is that it is not the access to weapons which is related to high crime rates, but rather it is the socioeconomic factor of the type which results in the high gun-possession State of Vermont's having a murder rate which is less than one-fifth that of New York State. Some precincts in New York City have annual murder rates of only 1 per 100,000 population while other precincts suffer from murder rates of over 200 per 100,000 population. Indeed, as the population of London, England, recently became more heterogeneous, more and more bobbies began to carry firearms in response to the new breed of gun carrying criminals.

While the police are expected to protect the average citizen from violence, the fact is that the average time of arrival of a policeman to an emergency call at best averages to 5 minutes, whereas a violent crime is over within less than 2 minutes on the average. In New York City, the average response time of the police to a 911 emergency phone call is over 20 minutes. On the other hand Newton & Zimring noted that: "The known possession of firearms may well deter robbers." The converse of this principle is obviously that the known nonpossession of firearms by potential victims invites violent crime.

While it has been repeatedly stated in the mass media that a firearm is much more likely to be used with fatal results against its law-abiding owner than against an intruder; nevertheless these statistics fail to take into account the numerous cases where the law-abiding citizen has repelled the intruder without firing a single shot or by merely wounding the intruder with the aid of a firearm in the hands of the potential victim, thereby saving untold numbers of lives and limbs of the law-abiding citizen and his family. Again, Newton & Zimring report that there simply are no available statistics on the frequency of occasions where a householder with a gun has frightened away a burglar by merely displaying a firearm without firing a single shot. Thus, the statistics commonly used to discourage the law-abiding citizen from obtaining a firearm for protection in his home or place of business suffer from a fundamentally incomplete data base. As in any event, it is understandable why there are so many occasions where a householder will repel an intruder by means of the display of a handgun but will not report the incident to the police authorities, out of fear of an intensive police investigation as to the legality of the householder having drawn his gun. The title of a recent New York Times article speaks for itself: "Urban Merchants Find Guns Vital, and Most Police Units Now Agree." In the last analysis, however, the question as to whether or not the businessman, the household, the law-abiding citizen is to have the means of exercising self-preservation and defense with firearms is not to be foreclosed in advance by governmental restrictions and prohibitions in advance of the fact, at least not in a free society of which we can still so rightfully boast today.

Recent events in Washington, D.C., where it has been seriously proposed that the registration lists of firearms be used in a confiscation program, have verified the worst fears and predictions of many law-abiding gun owners that registration or licensing programs ultimately are but the preludes to confiscation programs. But confiscation programs represent but a unilateral disarmament of the law-abiding citizenry whereby the criminals are hardly affected at all. Thus, registration or licensing programs all suffer from the defect that they enable Government to confiscate the defensive weapons in the hands of the law-abiding citizenry who register their guns, whereas the criminals who do not register their guns enjoy immunity from confiscation. Thus, registration is not a suitable approach to the problem.

The exhibit on the second amendment to the U.S. Constitution which we have submitted to this committee shows that the law-abiding citizen has a clear constitutional right to have and use firearms for self-protection, pursuant not only to the 2d amendment, but also to the 5th amendment's guarantee of "life, liberty, or property," the 9th amend-

ment's preservation of common law rights to the people, and the 14th amendment's privileges and immunities and due process clauses.

There are sufficient laws on the book today to confiscate every firearm in the hands of the criminals, those who have been convicted of a felony, here in New York. But it would require a massive police action to get at these guns and take them away from the violent criminals and violent extremist groups. Likewise, a Federal law on this subject would require a massive Federal police force. And the only way such a police force could get the guns away from these outlaws would be by way of mass searches and seizures and mass arrests, something which the American people are not prepared to countenance and which in the same process would tend to endanger if not destroy all our cherished liberties. It must be realized that, in order to avoid such a result, the approach to violent crime must be more specifically related to the individual criminal and his evil doings, rather than focus on the firearms, the implements and instruments of law-abiding citizens for sporting, hunting, and self-protection.

This Nation has just enjoyed an unprecedented growth in civil rights and liberties. Now is not the time to throw away these hard-won gains on an at best speculative program in the name of the war against crime; nor is it now the time to embark on a campaign of erosion, leading to the ultimate destruction, of the constitutional rights in the Bill of Rights. Not a single one of them. For these rights and liberties form an indivisible set of liberties, and he who would advocate the destruction of even a single one of these rights by a process of narrow and niggardly interpretation, or by the false notion that these rights are no longer suitable, must beware lest the same process be used by others to destroy his own favorite set of rights, or even the entire Bill of Rights, one by one, using phony statistics and theories.

Accordingly, reason and commonsense dictate that the only safe way to deal with the problem of violent criminals and their use of firearms is by way of strict enforcement of the laws we already have, rather than a revolving-door judicial system of no deterrence to criminals and in which the violent felons are quickly back on the streets to continue their violence against the citizenry. Swift, sure punishment, and long prison terms where suitable, are the only answer. Gun control law is only a nostrum, and a dangerous one at that.

In the last analysis, those who oppose further gun control legislation believe that the bottom line of such legislation is detrimental to the rights, as well as the lives and limbs, of the law-abiding citizenry as opposed to the criminals; that gun control philosophies are at best merely a distraction of the mind from the real problems of the hordes of violent criminals in our midst; and that any and all gun control legislation, especially at the Federal level, is in violation of the Constitution. Thank you.

Mr. CONYERS. Well, you presented, as I imagined you would, a persuasive case for your position. Your exhibit, also, has apparently very well gone into the second amendment question.

Mr. PREISER. Mr. Chairman, this exhibit was prepared by Dr. David Caplan, our chief counsel, and represents 2 years of intensive research on the matter. It runs the gamut from the Federal Papers, the English Constitution, it cites cases, and I think makes a very objective

argument for proposing stringent legislation. And I would hope the committee would take its time at its leisure to read this document.

Mr. CONYERS. We will do it on work time too. We will very thoroughly examine the document, because the constitutional question is quite relevant. Whatever this subcommittee does, we want to do within the strictures of the law. We don't propose to legislate in a way that will inevitably be held unconstitutional. Your legal observations on this subject are very, very much appreciated.

Mr. PREISER. It is our hope that the Bill of Rights will not be divided or chopped up, so as to serve the needs of a really—an anti-sportsman legislative attitude, which seems to be building. We hope you will take a careful look at these constitutional issues.

Mr. CONYERS. We will. I assure you of that.

Mr. Volk, would you care to make comments on behalf of your organization?

Mr. VOLK. Yes, sir, I would. I would like to thank you for the invitation here. I appreciate it. I would like to comment just briefly on my prepared statement which you have, just pick out some of the highlights and, hopefully, answer any questions you may have.

One of the things I would like to point out, and this is the fact that it is often said that we gun owners are in the minority, and I would like to clarify this if I may. According to the estimates of the Eisenhower Commission and other investigating committees, there are approximately 50 million gun owners in the United States. The last figures available to me indicate that in 1972 there were 77 million voters who cast their ballots, and I submit, sir, we are not a minority group, we are a solid voting majority, and I would like to point out there were over 40 million votes for Mr. Nixon in the last election.

Mr. CONYERS. Were they all gun owners?

Mr. VOLK. I don't know, sir.

Mr. CONYERS. Are you leaving me to draw my own conclusion?

Mr. VOLK. I am assuming you would draw your own conclusion.

Mr. CONYERS. Thank you very much. I will.

Mr. VOLK. One brief illustration. I would like to emphasize—which gives some example of the thinking of those people, many of the people who propose further or tighter gun laws, and this is summed up in remarks by the former mayor of the city of New York, Mayor John Lindsay, when at the time, and this was reported in the New York Times, say 4 years ago, the machinegun attack on the then district attorney, Frank Hogan. And Mr. Lindsay is quoted as saying: "We need tighter gun control, and things like this would not happen." and I submit, gentlemen, no firearm is more closely Federal controlled than the machinegun.

For effective law enforcement of any law, this can come from only two approaches. The actual willingness of the vast majority of the population to abide by that law, or of a law enforcement staff so that we have one policeman for each citizen, or particularly, as has been pointed out in the city of New York, the response time, the lag of proper enforcement, almost to the point we have a policeman on every intersection.

One other thing I would like to point out, too, the number of permits bandied about this morning for the city of New York is 29,000, approx-

imately, out of a city of 8 million, about half, 5,000 of these permits are issued to people who require the handgun license for their employment. The rest of them are civilian shooters, target shooters, businessmen, this type of thing. The target shooters run about 4,000 out of a city, again, of 8 million people, and I would just like to clarify that, so that you understand. Those people who do wish to submit a request for license to have a handgun in their home, are deprived by the city of New York police department, and this is completely opposite to the State law, which I pointed out in my statement.

Some of the things that we are concerned about, and this is the fact that for many years, the gun owners have voiced the fear that after registration and licensing comes confiscation, and those fears have been reinforced by certain Members of Congress and on the floor, which has been recorded in the Congressional Record, who in their political zeal have made a statement that this is only the first step.

They favor taking, starting with the handguns and then going to shotguns. This was pointed out recently in the District of Columbia by Councilman John A. Wilson when he introduced legislation in D.C. to eliminate or confiscate the 42,000 registered guns. Mr. Wilson has since withdrawn his bill, but this merely emphasizes the fact that—

Mr. CONYERS. Do you suggest he may have reconsidered the merits? Do you know why he withdrew the legislation?

Mr. VOLK. According, sir, to the information I have, he withdrew it, and, again, it is in my statement, at the insistence, or as it was put, extreme pressure from the Americans for Democratic Action, the Democratic Central Committee, the National Women's Democratic Club, the Washington Star and the Washington Post.

Mr. CONYERS. Why did they want it withdrawn?

Mr. VOLK. These are organizations, sir, that have for quite some time advocated the licensing and registration of gun owners, and in no way do they propose confiscation. They don't want to take away the guns from the civilians, and this destroys the argument.

Mr. CONYERS. I am a member of the ADA, and I read the Washington Post regularly, and I am not sure what their position is, frankly, but they bore down upon this one councilman and effected his decision to withdraw the legislation.

Mr. VOLK. This is what I am told, sir.

Mr. CONYERS. Well, I guess we should check that more appropriately in Washington.

Mr. McCLORY. Will the Chairman yield?

The statement of Councilman Wilson is a totally irresponsible statement made by a misguided individual, and his position was soundly rejected by responsible individuals, as it would be by me, because while being a strong proponent myself of some form of registration and even a licensing of gun owners to have them assume responsibility for gun ownership, I have no intention, and have never expressed any intention of depriving any citizen who has a legitimate need for use of a handgun or rifle to have that. The two things are completely inconsistent.

Actually we had testimony in Washington just a couple of days ago from a ban-the-gun-group that were violently opposed to any registration program, regarding that as the most offensive to their program

of any, on the ground it would establish a mechanism which would perpetuate the principle of gun ownership, which I think there is a lot of validity to that. I think it would give much greater status to the law-abiding gun owner if he were a licensed individual, if his gun were registered, not only for protection of society, but for his own protection as well.

Mr. VOLK. The registration, sir, I would point out, makes confiscation possible. If I may, sir, I can appreciate your point.

Mr. McCLORY. I just wanted to make this comment at this point. Every handgun is registered today; it is registered in the hands of the manufacturer; it is registered in the name of the licensed dealer. The Federal Government knows where every handgun that is legitimately owned is today, it just takes a matter—actually it took 28 minutes to find out who owned the gun, or who had purchased the gun that was used to shoot George Wallace, so it is not a question of not being able to find out who the owner of a handgun is. The question is, do you want the police to spend 2 weeks trying to find out where the criminal is, or do you want to have them capable of doing it in a matter of minutes. I would think the law-abiding gun owner would want to have the police find out in a matter of minutes.

Mr. VOLK. I don't question that. That is already a matter of record. And to get back to the statement I wish to put out before you, I appreciate your position and I thank you for the fact that you do not propose confiscation, but there are other people in Congress who do not have your liberal view in this particular area, and I would submit that with these people sitting in place of yourself and Chairman Conyers, we might have a different situation.

The very fact that what I have heard this morning just reinforces many of the arguments we have made and carried out over the years, the fact that the laws, the registration, the licensing, the gun laws, if you will, are directed specifically at the law-abiding citizen, and not the criminal.

Mr. CONYERS. How do we know that? I am very anxious to direct laws against criminals. We enact certain statutes, which are subject to enforcement. But, I think we are perhaps begging the question here. Legislation is directed toward the entire population. It is not directed at law-abiding people versus nonlaw-abiding people. The fact of the matter is, by definition, the criminal exists by being the person that violates the law. So you cannot, in my judgment, from a legislative perspective, you cannot devise a law that is applicable to criminals as opposed to the rest of the citizenry. It is in the violation of statutes that criminality arises. So what we do, we pass a piece of legislation that applies to everybody. Those who don't abide by it, by definition, become criminals.

Mr. VOLK. This is true, sir, and also I think you would find in it uniform statistics, the FBI criminal report, they point out the fact that the usual gun crime is committed by a second or third offender. These people are released, they are not prosecuted, and this is where I think the problem lies, which has been amply pointed out, the lack of convictions, the lack of indictment, right down the line, there are all sorts of statistics available in this particular area. I would like to— one other thing I would like to point out, too, and this illustrates an example of what can happen with some of the laws. And, again, this is a portion of my report.

Last May 18, on the CBS television program, 60 Minutes, we saw the events surrounding the recently enacted gun law on the island of Jamaica.

In March of 1974 the "Gun Court Act" and the "Suppression of Crimes Act" were made law (after an outburst of crime was visited on the island of Jamaica) as, "an uncompromising measure to combat crime in the island society." The gun court compound is located in the heart of the city of Kingston. This is where all violators are held for trial and their trial is conducted within 7 days by one man who is both judge and jury.

As a result of the Suppression of Crimes Act, the island authorities have suspended all civil liberties with respect to search and seizure. They can seal off a neighborhood, move in and conduct a house-to-house search without a warrant, for unlicensed, illegal firearms and ammunition. If a firearm of any type is found or even one round of ammunition, the owners are arrested and taken to the compound to await trial. Even if found guilty on a minor count, they receive a severe penalty.

There has also been suppression and censorship of movies and television programs depicting the use of firearms, even to the newsreels and TV news. If that were this country, now, we couldn't even depict the American Revolution in this, the year of our Bicentennial.

Mr. CONYERS. I think this subcommittee ought to remove itself to Jamaica for a very thorough several weeks of investigation of what is probably a very serious violation of somebody's rights down there. How long has this been going on? Usually members of our subcommittee bring this to our attention, and we dispatch ourselves forthwith.

Mr. VOLK. Don't forget to bring your swimming suit.

It is interesting to note that during the first 3 months of Jamaican gun laws, the crime rate did in fact go down; and after 1 year, gun crimes were down 10 percent of their former levels, but according to the current statistics, it is back up to its previous level. These are the latest reports that have been reviewed from the television program.

This is a current example in the efforts to clean up illegal firearms and has had no effect in the long run to curb crime, but has produced great loss of civil liberties.

Many of the bills I have seen so far would place in the Secretary of the Treasury vast powers that could go far beyond the intent of any legislation passed by the Congress. The Secretary could add additional restrictive criteria, vesting in one man, not responsible to the voters, the power to decide what handguns citizens may or may not own, and to be able to outlaw by regulation their sale and manufacture, and ultimately their possession, even if they were once lawfully possessed. Thus, it could come to a level where one man could say, "I am going to take all your pistols, because out there someone might use a pistol in a criminal fashion." But who might he say this to? Only to those law-abiding persons who will admit they have handguns or those who live in gun registration States with their guns lawfully registered. The Secretary wouldn't have any idea where to look for guns possessed by criminals, and they would ignore the law anyway. Do we want all this power in one man?

We cannot say there is a deficiency in our law enforcement because for every example of poor law enforcement there are untold numbers

of excellent examples. But how long can even the most enthusiastic police officer go on when he constantly sees lawbreakers apprehended and later released by a lenient court. It is most discouraging. Rather than spend billions of dollars for buying up guns, an exercise in futility, it might best be used to better our law enforcement and for more judges to relieve the overcrowded courts.

We need law enforcement officers of the highest caliber, men with the personality, judgment, training, and will to show youngsters proper ways of society—parents frequently fall down on that job—and this takes money.

We need decent housing, clothing, food for the poorly educated and disadvantaged to try and do away with the social conditions which many times cause a person to take the law into his own hands. This takes money, money which should not be frittered away on schemes to purchase all the handguns in America—\$25 billion, at the best estimate—or wasted on expanding in our already oversize bureaucracy.

They would ignore the law anyway, because in most cases, they could not have won. And this is part of the statutes. Do we want all of this power in one man? I would submit, gentlemen, that if you are looking for a program to create additional political patronage, to create an additional Federal bureaucracy at untold costs, the best estimates are anywhere from \$4 to \$5 million, merely for the registration, and recording of the licensed gun owner, that you could not pick a better program than a Federal registration and licensing program.

The organization that I represent here today recommends that an effort be made toward an educational program in the schools. We feel that the education of young people today in the Nation—I am talking of rifle or shotgun, this type of shooting program would do more to curb the accidents that we hear of occasionally, the low figure that this is. We are concerned with the other 99 percent or 98 percent of the overall crime, and I respectfully submit this committee look into the other 98 percent of the crime, rather than concentrate particularly on the gun crimes.

Thank you.

Mr. CONYERS. Will you identify your assistant before we recess?

Mr. VOLK. I would be glad to. This is Mrs. Susan Caplan, the wife of the author of your constitutional statement, who has kindly agreed to come and lend us her moral support.

Mrs. CAPLAN. I am a volunteer attorney, and I have done work on gun legislation and gun cases, and I am here as a volunteer assisting these gentlemen.

Mr. CONYERS. I am glad you are here. We know you have had some input into the very extensive document that we will be examining. We appreciate your great attention to this subject.

Mr. VOLK. Mr. Chairman, that document which we feel is one hell of a job will be rereduced and sent to every U.S. Congressman and Senator, and they will have that, hopefully, within the next 4 to 5 weeks.

May I state one final word in reference to ghettos and Saturday night specials. "Ghetto" means different things to different people, the Jews of the Warsaw ghetto in 1942 decided that they had had it, and they were going to be killed, and as history shows, they managed

to secure 10 pistols. And this is documented, if you get to page 45 of the document, and they put up a resistance that caused the Nazis under Heinrich Himmler to burn down the houses one by one and delayed the holocaust on those poor people for about 3 months. Those guns are on display and can be seen in Israel. And they fall in the definition of Saturday night specials under the Birch Bayh bill.

Mr. CONYERS. How does that relate, though, to the subject of firearms regulation in the United States, I mean?

Mr. VOLK. The right of the people to own firearms.

Mr. CONYERS. They certainly did not have that right in the Warsaw ghetto.

Mr. VOLK. Exactly the point, that they did not, and it is something that we as Americans are very jealous of that right. And that is one of the reasons we are here. We feel we do have a right to oppose that type of movement. And we have seen recent events we never could have thought could have occurred in terms of Watergate and in terms of utilizing Government agencies against the people. We want the right, and we believe we are protected by the Constitution, to own firearms.

Mr. CONYERS. You are very persuasive, as are others who have come before this subcommittee. I have pledged to fairly consider and study all of the arguments, in favor and opposed, to the numerous propositions we have with regard to firearms regulations. I want to give you that assurance and thank you very much for your testimony.

I announce, further, that this subcommittee will be in recess until 2 o'clock.

[Whereupon, the subcommittee was in recess at 12:40 p.m.]

[The prepared statement of Mr. Volk follows:]

STATEMENT OF FRANKLIN R. VOLK, REPRESENTING THE NEW YORK STATE  
CONSERVATION COUNCIL, INC.

My name is Franklin R. Volk from Johnson City, New York. I am here today as Chairman of the Special Committee on Firearms Legislation of the New York State Conservation Council, Inc. to speak on behalf of our 60 county councils representing 350,000 people. Founded in 1933, the Council is a non-profit, non-partisan association of private citizens and organizations dedicated to the stewardship of the state's natural resources.

LEGAL USE OF FIREARMS

In many of the bills under consideration by this subcommittee there is included in the findings a statement that, "with few exceptions, handguns are not used for sporting or recreational purposes and that such purposes do not require keeping handguns in private homes." I submit, this is not so. Let me give you one example of sporting purpose. This past spring, during one section of the New York State Indoor Pistol Championships, sponsored by one shooting club, 110 shooters fired over 30,000 rounds of pistol ammunition in 4½ days of competition. In addition there were many practice rounds fired in preparation for the competition. This ammunition is what the Committee for Handgun Control called a dangerous substance. Yet no one was killed, no one was injured, indeed, there wasn't even an accidental down range discharge. This is a record which has held fast for the sponsoring club for a total of 76½ days of competition over a period of 17 years. There have been no funeral expenses, no medical expenses, no law enforcement expenses and no burden on the public. Further, this was only one of the many tournaments safely conducted throughout the country. Who says a handgun was meant only to kill? On the national level, can we ignore the prestige brought to the United States by the gold medal winners in international and olympic shooting competition? I think not.

With regard to the use of handguns for self defense, if there were no guns in private homes, can anyone honestly believe we would be free from the two-legged predator whose objective is to freeload by robbing society? Burglars and rapists are reluctant to enter a home where there is the possibility that the homeowner is armed. If guns are prohibited to the general public, today's hoodlums would be even less inhibited in their invasion of private homes and apartments.

It is often said we gun enthusiasts are in the minority and I must clarify this. According to estimates by the Eisenhower Commission and other investigating committees there are approximately 50 million known gun owners in the United States. The last figures available to me indicate in 1972 there were 77 million voters who cast their ballots. We are not a minority group, we are a solid voting majority.

#### ONLY THE GOOD GUYS OBEY THE LAW

There seems to be rampant in our population, the idea that to cure any problem, we need only pass a law, according to the flutter of newsletters from Washington, many politicians appear to work under the assumption that they have to "do something" to show the folks back home that they moved a mountain during the legislative session. Little thought sometimes seems to be given to either the enforceability of the law, the cost of such enforcement, or the willingness of the people to abide by that law. An illustration of the thinking of those who propose further or tighter gun laws is summed up by the former mayor of the City of New York, John Lindsay's remarks as reported in the New York Times at the time of the machine gun attack on the then, District Attorney Frank Hogan, three or four years ago—"We need tighter gun control and things like this wouldn't happen". No firearm is more closely federally controlled than the machine gun.

Effective enforcement of any law can come from only two approaches:

A. The actual willingness of the vast majority of the population to abide by that law voluntarily, or

B. Have a law enforcement staff so that we have one policeman for each citizen. We already know the armed criminal is in violation of the law because according to statistics he is probably a second offender, and could care less about a gun law and he also knows that if apprehended he will be back on the street before the ink is dry on the arresting officer's report. I think the effectiveness of any gun control law, and I'm speaking now of one which would require total registration, licensing of persons to possess, the right to search the person and property without a warrant for such unlawful weapons, can be questioned. I cannot believe such a law would be constitutional in any event. Something that no one has ever questioned about our constitution is the right of the people to be secure in their persons and property from unreasonable searches, seizures or invasion of privacy. I suggest we need to know what causes crime. Nobody can claim that guns cause crime. Persons who commit crime are, in most cases, those who know right from wrong and do not care. Punishment seems to be the only answer for such people. It is difficult to reform or rehabilitate the life style of an individual who has reached maturity with these kinds of thought processes. If we are going to attack crime, it should be approached at its root causes, and this is where the money should be spent.

#### DIVERSITY OF INTERPRETATION

In the Penal Law of the State of New York, sections 265.00 and 400.00 which deal with firearms, is what appears to be a simple, straightforward statement of procedure. However, it has been tailored to fit the whims and convenience of all too many law enforcement officials, members of the judiciary system and petty clerks in many areas of our state. Clerks conveniently cannot find the required forms for an application, when the application forms are issued and you must return to have your fingerprints taken, the officer in charge is "out on a call", ran out of fingerprint ink, purposely blurs the prints and conveniently does not have any more cards and many, many more bits of harassment too numerous to mention. The City of New York refuses to issue handgun permits for on premise possession contrary to the statutes in section 400.00 (2) of the New York State Penal Law and I quote, "A license for a pistol or revolver shall be issued to (a) have and possess in his dwelling by a householder; (b) have and possess in his place of business by a merchant or storekeeper;"—Of course, this is only after all other requirements are met. Sounds like a fairly simple statement but this

has been so distorted that the only way a resident of New York City can obtain a pistol premise license is to bring article 78 proceedings against the City. This is fact and has been documented. The same situation prevails in other parts of the state where Police Chiefs do not want private citizens to have handguns and have refused to hand out application forms and if the forms are obtained from another source, refused to process them. Very few can afford the legal expense or lost time from work to wade through the numerous obstacles laid before them by the very people whose salaries our taxes pay, so, they just give up. I am only trying to point out several of the ways our current laws have been distorted and can only anticipate the same thing would happen with a federal law. No, any of the gun laws I have seen and I have been looking closely for over fifteen years, are directed at the law abiding citizen, not the criminal. We in New York have lived with a strong gun law for sixty years and have had some experience with it and are all too familiar with the injustice and hassle it has brought about not against the criminal but the honest citizen who walks into the Police Station and asks for an application for a pistol permit. I have made an effort to obtain figures on the number of legally owned firearms in New York State that have been used by their owners in the commission of a crime and I found that there are no statistics in that area. I was told that the instance of that type of misuse is so rare that no records are kept. In my county alone there are over ten thousand pistol license holders and we have had no crimes committed by any of these people. The total for New York State is slightly over 525,000. Again I say, we have no problem with the licensed gun owner only the criminal who cannot have one anyway. As a matter of record, ATF closed up their local office in Binghamton, New York and shipped the agents to another city as there was nothing for them to do. I reiterate, any gun law, registration or licensing proposal is directed squarely at the law abiding citizen, not the criminal so let's not kid ourselves, in today's society the criminal gets the preferential treatment and the honest john is the second class citizen. Let's find a way to reverse that trend.

#### WHO DOES THE LAW PROTECT?

In January 1968, the U.S. Supreme Court ruled that a felon possessing a firearm illegally could not be prosecuted for failing to register it under the then, National Firearms Act, since to do so would be an admission of the illegal possession—and forced self-incrimination is a violation of the Fifth Amendment of the Constitution. This major decision, *Haynes vs United States*, has handed down on the day the Chicago City Council was voting on a gun registration law. The next day, the law was passed with an amendment that persons with criminal or mental records, prohibited by federal or Illinois law from possessing firearms, were exempted from the registration requirements. A law abiding citizen can be convicted of possessing an unregistered gun in Chicago, while a convicted criminal cannot be. Can this truly be called a crime prevention measure?

#### ARE THE FEARS OF THE SHOOTER/SPORTSMAN JUSTIFIED?

For many years shooter/sportsmen have voiced the fear that after registration comes confiscation and those fears have been re-inforced by certain members of Congress in both houses who in their political zeal have made the statement that, "this is only the first step". This was born out earlier this year when District of Columbia Councilman John A Wilson introduced a bill that called for the confiscation of the 52,000 privately owned registered guns and, "an untold number of unregistered guns". Mr. Wilson withdrew his bill on July 8th under extreme pressure from the Americans for Democratic Action, Democratic Central Committee and the National Women's Democratic Club. They were assisted by the Washington Post and the Washington Star. All of these groups have advocated licensing and registration of handguns and gun owners and have repeatedly said they do not want to take away the guns of America and confiscation is not their goal, but it would appear Mr. Wilson let the cat out of the bag when he introduced his bill. We say he has blown the main argument of the anti gun forces who say they do not favor confiscation.

#### THE JAMAICA GUN COURT

Last May 18th on the CBS television program "60 Minutes", we saw the events surrounding the recently enacted gun law on the island of Jamaica.

In March of 1974 the "Gun Court Act" and the "Suppression of Crimes Act" were made law (after an outburst of crime was visited on the island of Jamaica)

as, "an uncompromising measure to combat crime in the island society". The Gun Court compound is located in the heart of the City of Kingston. This is where all violators are held for trial and their trial is conducted within seven days by one man who is both judge and jury.

As a result of the "Suppression of Crimes Act", the island authorities have suspended all civil liberties with respect to search and seizure. They can seal off a neighborhood, move in and conduct a house to house search without a warrant, for unlicensed, illegal firearms and ammunition. If a firearm of any type is found or even one round of ammunition, the owners are arrested and taken to the compound to await trial. Even if found guilty on a minor count, they receive a severe penalty.

There has also been suppression and censorship of movies and television programs depicting the use of firearms, even to the newsreels and TV news. If that were this country, now, we couldn't even depict the American Revolution in this, the year of our bi-centennial.

It is interesting to note that during the first three months of Jamaican gun laws, the crime rate did in fact go down and after one year, gun crimes were down ten percent but according to the latest reports, it is back to its previous level. This is a current example of an effort to clean up illegal firearms and has had no effect in the long run to curb crime, but has produced great loss of civil liberties.

#### POWER OF ONE MAN

Many of the bills I have seen so far would place in the Secretary of the Treasury vast powers that could go far beyond the intent of any legislation passed by the Congress. The Secretary could add additional restrictive criteria, vesting in one man, not responsible to the voters, the power to decide what hand-guns citizens may or may not own, and to be able to outlaw by regulation their sale and manufacture, and ultimately their possession, even if they were once lawfully possessed. Thus, it could come to a level where one man could say, "I am going to take all your pistols, because out there someone might use a pistol in a criminal fashion." But who might he say this to? Only to those law-abiding persons who will admit they have hand-guns or those who live in gun registration states with their guns lawfully registered. The Secretary wouldn't have any idea where to look for guns possessed by criminals, and they would ignore the law anyway. Do we want all this power in one man?

#### BETTER LAW ENFORCEMENT AND JUDICIARY SYSTEMS

We cannot say there is a deficiency in our law enforcement because for every example of poor law enforcement there are untold numbers of excellent examples. But how long can even the most enthusiastic police officer go on when he constantly sees lawbreakers apprehended and later released by a lenient court. It is most discouraging. Rather than spend billions of dollars for buying up guns, an exercise in futility, it might best be used to better our law enforcement and for more judges to relieve the overcrowded courts. We need law enforcement officers of the highest caliber, men with the personality, judgment, training and will, to show youngsters proper ways of society (parents frequently fall down on that job), and this takes money. We need decent housing, clothing, food for the poorly educated and disadvantaged to try and do away with the social conditions which many times cause a person to take the law into his own hands. This takes money, money which should not be frittered away on schemes to purchase all the handguns in America (twenty-five billion dollars, at the best estimate), or wasted on expanding our already oversize bureaucracy.

#### WHAT COST GUN CONTROL?

An objective study will show that, as presently proposed, registration laws are of doubtful value, if not useless, in controlling crime. There can also be no doubt that the cost of the experiment would be fantastic. Most gun control advocates feel that the only effective program would be one similar to that in New York City which requires a thorough police investigation of each applicant as a prelude to issuing the gun permit. (I might point out at this time that New York's gun law was written by a Mr. Timothy L. Sullivan, a State Senator at the time from New York City who according to history was an emotionally disturbed politician with a psychopathic fear of being assassinated.) In 1968, Research Associates, Incorporated (D.C.) prepared a study entitled, "A Preliminary Cost Analysis of Firearms Control Programs", for the National Commission on the Causes and

Prevention of Violence. This was the study which calculated the cost of processing a New York City Handgun Permit at \$72.87, or in terms of today's dollar, better than \$100. per gun owner. Since other government studies have estimated the number of gun owners between 40 and 50 million, the direct cost of the initial investigations and police administration, as has already been indicated, would be 4 billion dollars to 5 billion dollars! To put that huge sum into perspective, the total amount spent in the United States for law enforcement during 1972 was 11.7 billion dollars. That includes expenditures by the federal government, states, counties, and cities for police protection, the courts legal services and prosecution, indigent defense, prisons, correction programs and various other criminal justice programs.

The estimated 4 billion dollars to 5 billion dollars for initial investigations of gun owners alone does not include the setup costs of the program or the annual operating cost of the needed federal computer system. That was estimated at 22.5 million dollars in 1968, based on 40 million gun owners and 75 million guns. Almost certainly, the cost was grossly understated, even in terms of 1968 dollars.

These costs do not include the indirect costs to the gun owner in the form of time away from work, or the charge for supplying fingerprints, photographs, a physician's statement, or other red tape which might be required. Of even greater significance, we should consider the cost in increased crime due to police time spent in investigating the law-abiding instead of criminals, or the very real possibility that some states would give up their wildlife restoration funds rather than underwrite the cost of such an expensive program.

Four billion dollars may not sound like much to you, but it will buy 200,000 homes at \$20,000 each for the less fortunate of this country. For all the good it will do to reduce crime, why not just give the 4 billion away for the benefit it will accomplish. By raising the standard of living of a portion of society, that portion which can benefit most, you would therefore do something constructive and creative about eliminating or reducing causes of crime. The Labor Department could use the money to further study the unemployment situation to find a remedy. This would surely do more to reduce crime than removing firearms from the public scene. When the people are working and independent of the government they have no need to turn to crime.

#### STATISTICS

No doubt this committee has heard all the statistics before, so I will just relate briefly the high spots. I hesitate to use statistics because they can be twisted all too easily. However, these are provable facts. According to the 1973 Uniform Crime Reports (the latest compilation) violent crime comprised 7.5% of all crime totals. Of that percentage, gun crime represents one third. In relationship to the totals of *all* crimes committed, approximately 8,638,400 crimes reported, gun crimes amount to approximately 2%. As you can see, elimination of gun crimes still leaves the country with 98% of our crime.

At an estimation of 4 billion dollars to investigate honest gun owners, we still retain the 2% of gun crimes and nothing accomplished except a listing of 50 million gun owners who comply with the law. My organization recommends that the Sub-Committee also seek ways to reduce the 98% figure.

#### THE SECOND AMENDMENT—A BASIC UNDERPINNING IN THE CONSTITUTIONAL SYSTEM OF CHECKS AND BALANCES

##### INTRODUCTION

The Second Amendment in the Federal Bill of Rights guarantees "the right of the people to keep and bear Arms." This little understood and hence most undervalued section in our Bill of Rights was intended by its Framers to preserve our democratic-republican form of government and to prevent it from destroying the ballot box and from slipping into tyrannical totalitarianism. Especially when combined with the Ninth Amendment's bundle of rights which was retained by the people and with the Fifth Amendment's right to life, liberty, and property, the Second Amendment also plainly guarantees the private individual right to keep and carry Arms for the added purpose of self-preservation and defense of the individual.

The facets of the Second Amendment can best be appreciated by an historical review of its origins, the opinions of approved legal authorities, as well as by the lessons of modern history. The Second Amendment reads:

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

BRITISH COMMON LAW HISTORY (COURT DECISIONS) ON KEEPING AND CARRYING ARMS

In the year 1328, the Statute of Northampton was enacted under King Edward III<sup>1</sup>, which purportedly banned all carrying of arms by private persons in public places. By the 17th century, however, the Courts of England had given this Statute a narrow reading, and required for a conviction under the Statute of Northampton that the carrying of arms must have been proven to have been for the purpose "to terrorize the King's subjects."<sup>2</sup> The British common law Courts also recognized a "general Connivance [Oxford Dictionary: encouragement by forebearance to condemn] to Gentlemen to ride armed for their Security."<sup>3</sup> On the other hand, in the 17th century, under King Charles II (later beheaded in a popular uprising), it was enacted that only the well-born or wealthy people (with lands of the yearly value of at least £100) should be allowed even "to keep a gun,"<sup>4</sup> thus keeping the poor "entirely disarmed."<sup>5</sup> This situation in England persisted until the English Bill of Rights<sup>6</sup> of 1689.

The historical setting of the English Bill of Rights of 1689, and its subsequent interpretations by the British Courts, are crucial to an understanding of several facets of the Second Amendment to the United States Constitution, particularly since legal scholars agree that the English Bill of Rights has "furnished the standard (as well as the name) for the American Bill of Rights."<sup>7</sup> Some of the grievances which led to the English Bill of Rights of 1689 were the disarming of the Protestants while Catholics were allowed to carry arms, the quartering of Catholic soldiers in people's homes, and the consequent cruel, unlawful, and inhuman treatment of the people under King James II.<sup>8</sup> Accordingly, upon the ascension of William and Mary in 1689, just after the Glorious Revolution of 1688, the English Bill of Rights of 1689 was enacted and provided, among other things, "that the subjects which are Protestants may have arms for their defense suitable to their conditions, and as allowed by law."<sup>9</sup> Because the United States Supreme Court has repeatedly looked to British Court decisions both before and after the American Revolution of 1776<sup>10</sup> as setting the standards for the American Bill of Rights, it is thus important to see how the English Bill of Rights was interpreted in England on the issue of the right to keep and bear arms. An excellent example is provided by a British trial judge in his instructions to a jury in a criminal case<sup>11</sup> which took place in Lancaster, England, where the trial judge declared the law:

"Gentlemen, he refers to the Bill of Rights. You will see what the Bill of Rights says upon that subject. It provides that, 'The subjects which are Protes-

<sup>1</sup> 1 Edw. III c. 3.

<sup>2</sup> *Re v. Knight*, 87 Eng. Rep. 75, 76; Comberbach 38, 39 (K. B., 1686) using the phrase "malu animo" and accordingly acquitting the accused. See also: *King v. Smith*, 2 Irish Rep. 190, 191 (K.B., 1914), requiring an indictment to specify the evil intent.

<sup>3</sup> *Re v. Knight*, note 2 *supra*, *ibid.* (Comberbach version).

<sup>4</sup> *Aymette v. State*, 2 Humphr. (21 Tenn.) 154, 156 (1840).

<sup>5</sup> *Ibid.* (Cf. "Saturday Night Special" legislation.)

<sup>6</sup> 1 Will. & Mary, sess. 2, c. 2.

<sup>7</sup> Prof. Bernard Schwartz, *The Bill of Rights: A Documentary History*, Vol. 1, p. 40 (McGraw Hill, 1971). See also: *People ex rel. Ferris v. Horton*, 147 Misc. 506, 509; 264 N.Y. Supp. 84, 88 (Otsego County, N.Y., 1933), stating that the common law rights in the English Bill of Rights were incorporated by the N.Y. State Constitution in 1777, including the right to keep arms. (Aff'd on other grounds, 239 App. Div. 610, 269 N.Y. Supp. 579; 3rd Dept., 1934).

<sup>8</sup> *Aymette v. State*, note 4 *supra*, 2 Humphr. at 156. *Mod. Amer. Law, Const. Low*, Part III, p. 236 (B1. Inst., 1914)

<sup>9</sup> 1 Will. & Mary, 2 sess., ch. 2, ¶7.

<sup>10</sup> *Murphy v. Waterfront Comm.* 378 U.S. 52, 57-63, 66-72, 77 (1964) (5th Amend. on self-incrimination); *Renton v. Maryland*, 395 U.S. 784, 795 (1969) (6th Amend. on double jeopardy); *United States v. Robinson*, 414 U.S. 218, 224-225, 230 (1973) (4th Amend. on searches). Cf. *The Rights of the Colonists and a List of Infringements and Violations of Rights, 1772*: "Among the natural rights of the Colonists are these: First, a Right to Life; Secondly to Liberty; thirdly to Property; together with the Right to support and defend them in the best manner they can. These are evident Branches of . . . the Duty of Self Preservation, commonly called the first Law of Nature—" (quoted in 1 *The Bill of Rights*, 220, by Prof. Bernard Schwartz, cited in note 5, *supra*; cf. 5th Amend., U.S. Const.).

<sup>11</sup> *Re (King) v. Dewhurst and others*, 1 State Trials, New Series 529 (1820).

tants may have arms for their defence suitable to their conditions, and as allowed by law.' 1 Will. and Mar. sess. 2.c.2.7.

"But are arms suitable to the condition of people in the ordinary class of life and are they allowed by law? A man has a clear right to arms to protect himself in his house. A man has a clear right to protect himself when he is going singly or in a small party upon the road where he is travelling or going for the ordinary purposes of business. But I have no difficulty in saying you have no right to carry arms to a public meeting, if the number of arms which are so carried are calculated to produce terror and alarm; . . ."<sup>12</sup>

This instruction to the jury in 1820 was an echo of the 17th century jurist, Sir Edward Coke, who wrote in his famous treatise, *The Institutes of the Laws of England*.<sup>13</sup> "(But) one is allowed to repel force with force, . . . (And) the laws permit the taking up of arms against armed persons." Thus, by the year 1820, the pre-English Bill of Rights common law's "general Connivance to Gentlemen to ride armed for their Security"<sup>14</sup> had matured into the right of every person to carry arms in a quiet and peaceful manner.

The strong and clear common law tradition in favor of the individual's right to have and carry arms for self-preservation and defense, both as a collective and as an individual right, was well articulated by Sir William Blackstone, the great 18th century British jurist, with whose famous work *Commentaries on the Laws of England* the Founding Fathers of the United States were most familiar and considered most authoritative. Blackstone listed among the "absolute rights of individuals"<sup>15</sup> the right of "having and using arms for self-preservation and defence."<sup>16</sup> And the famous 18th century treatise by William Hawkins, Serjeant at Law, "Pleas of the Crown", set forth the common law rule that "every private Person seems authorized by the Law to arm himself for the Purposes aforesaid (the killing of dangerous rioters by any private Persons, who cannot otherwise suppress them, or defend themselves from them)."<sup>17</sup>

Thus, under British law at the time of the separation of the American colonies from the Crown, there was a clear individual right to carry arms in a non-threatening manner, the only prior restraints imposed by law (preventive law) being the subsequently abandoned restrictions on the keeping of arms by non-well-born or non-wealthy people and the subsequently abandoned religious tests for having and carrying arms. For, by that time (1776), the British law recognized the "universal citizen's right to bear defensive arms, and . . . the [English Bill of Rights of 1689] established a general right on the part of all persons in England, falling within the classification of citizens, to retain arms for their protection and according to their condition, subject only to a reasonable control by law."<sup>18</sup> But the only control exercised by law under the British Crown was with respect to the threatening manner in which the arms would be carried, that is, "calculated to produce terror and alarm"<sup>19</sup> or "to terrorize the King's subjects."<sup>20</sup>

It is clear from the foregoing, however, that the procedure of disarming certain classes of people in England was an historical technique used on occasion to enable one religious or economic group to oppress another. This led to a disaster and the English Bill of Rights of 1689, with its guarantee of the right of the individual to keep and carry arms. Similarly, during the American Colonial experience, all kinds of illegal searches, mass arrests and mass break-ins were perpetrated by the British Crown against the disarmed Colonists under the pretext of the infamous General Writs of Assistance.<sup>21</sup> This too led to disaster and laid the basis for the Bill of Rights in the United States Constitution.

<sup>12</sup> *King v. Deichurst*, supra note 9, 1 St. Tr. N.S. at 601-02, emphasis added.

<sup>13</sup> 1 Inst. 162a: "*Sed vim vi repellere licet*, . . ." 2 Inst. 574: "*Armaque in armatos summe jura sinut*." See: *Black's Law Dict.*, p. 1741; p. 138 (4th ed. 1951; 4th ed. rev. 1968).

<sup>14</sup> *Reg. v. Knight*, supra note 2, Comb. at 39.

<sup>15</sup> 1 Comm. \*121.

<sup>16</sup> 1 Comm. \*144.

<sup>17</sup> 1 Hawk. Pleas of Crown, ch. 28, sect. 14 (p. 71, 5th ed., 1771) (p. 107, 6th ed., 1788); ch. 10, sect. 14 (p. 81, 8th ed., 1824).

<sup>18</sup> *People ex rel. Ferris v. Horton*, supra note 5a, 147 Misc., 508-509; 264 N.Y. Supp., 88.

<sup>19</sup> *King v. Deichurst*, supra note 10, and accompanying text.

<sup>20</sup> *Reg. v. Knight*, supra note 2, and accompanying text.

<sup>21</sup> Justice Joseph Story (U.S. Supreme Court, 1811-1845), *Commentaries on the Constitution*, Vol. 2, p. 647, fn. (c), §1901 (5th ed., 1891); cited approvingly in *United States v. Miller*, 307 U.S. 174, 182 fn. 3 (1939).

## AMERICAN COLONIAL EXPERIENCE WITH GUN CONTROL JUST BEFORE THE AMERICAN REVOLUTION OF 1776

One of the basic causes of the American Revolution of 1776 was the failure of the British Crown to extend to the American Colonists all of the common law rights of Englishmen.<sup>22</sup> As stated above, one of those rights was the right to have arms under the English Bill of Rights of 1689. In Massachusetts Bay Colony, the cradle of the Revolution, the Colonists complained of the repeated efforts of the British Governor, General Gage, to prevent the people of the Colony from forming a militia by the tactic of disarming them and confiscating their stores of arms at Lexington, Massachusetts for example.<sup>23</sup> Thereby, any attempt by the legislative Assembly of Massachusetts to form a People's militia was efficiently thwarted by the Crown's arms confiscation schemes, leaving the people defenseless against the oppression of despotism. As stated in the famous *Declaration of the Causes and Necessity of Taking Up Arms*, July 6, 1775 ("A Declaration by the Representatives of the United Colonies of North America, Now Met in Congress at Philadelphia, Setting Forth the Causes and Necessity of Their Taking Up Arms"):

"—The inhabitants of Boston being confined within that town by the general their governor, and having, in order to procure their dismissal [to leave town], entered into a treaty with him, it was stipulated that the said inhabitants having deposited their arms with their own magistrates, should have liberty to depart, taking with them their other effects. They accordingly delivered up their arms, but in open violation of honour, in defiance of the obligation of treaties, which even savage nations esteemed sacred, the governor ordered the arms deposited as aforesaid, that they might be preserved for their owners, to be seized by a body of soldiers; detained the greatest part of the inhabitants in the town, and compelled the few who were permitted to retire, to leave their most valuable effects behind.

"By this perfidy wives are separated from their husbands, children from their parents, the aged and the sick from their relations and friends, who wish to attend and comfort them, and those who have been used to live in plenty and even elegance, are reduced to deplorable distress."<sup>24</sup>

Thus, it was the unilateral disarmament by government of the individual citizens which was one of the basic means for enabling the police state despotism and tyranny to rule in America during pre-Revolutionary times.

## THE FEDERALIST PAPERS ON THE RIGHT OF THE PEOPLE TO KEEP AND BEAR ARMS

The famous *Federalist Papers*, authored primarily by Alexander Hamilton and James Madison, were first published as a series of articles in the newspapers of New York City beginning on October 27, 1787,<sup>25</sup> in order to induce the ratification of the then proposed Constitution. These *Federalist Papers* are continually utilized this day by the United States Supreme Court for constitutional interpretations.<sup>26</sup> In *Federalist Paper* No. 24, Hamilton pointed out the continuing need for a standing army to guard our "Western frontier"<sup>27</sup>; whereas

<sup>22</sup> "Resolved, N.C.D. [nemine contradicente] 5. That the respective colonies are entitled to the common law of England, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of that law." *Declaration and Resolves of the First Continental Congress, 1774*, reprinted in Prof. B. Schwartz, (note 5 *supra*) 1 *Bill of Rights* 215, 217.

<sup>23</sup> See: Feller and Gotting. *The Second Amendment, A Second Look*, 61 N.W. Univ. L. Rev. 46 at 52 n.30 (1986). See also: statement of Elbridge Gerry, House of Rep., 1st Cong., 1st Sess., quoted in Thomas Loyd, *Debates of Congress*, Vol. 2, pp. 219-220 (1 Ann. Cong. 775-779), and in Prof. B. Schwartz, (note 5 *supra*) 2 *Bill of Rights* 1107-1108.

<sup>24</sup> Quoted in: *Documents Illustrative of the Formation of the Union of the American States*, pp. 14-15 (69th Cong., 1st Sess., House Document No. 398 (1927) from Journal of [Continental] Congress, Vol. I. Also quoted in: *Sources of Our Liberties*, p. 298 (Perry ed., 1959); and in *Sources and Documents Illustrating the American Revolution 1764-1788 and the Formation of the Federal Constitution*, p. 143 (S.E. Morrison, editor; Oxford at the Clarendon Press, 1923). (Emphasis added.)

<sup>25</sup> *The Federalist Papers*, Introduction by Clinton Rossiter, p. viii (Mentor paperback, New American Library, 1961).

<sup>26</sup> For examples, see: *Schiek v. Reed*, 42 L. Ed. 2d 430, 437 fn. 6 (Dec. 23, 1974) (on president's pardon powers); *Goldstein v. California*, 412 U.S. 546, 552-553, and 559 fn. 14 (1973) (on Congress' copyright powers).

<sup>27</sup> *The Federalist*, *supra* note 22, at p. 161.

in *Federalist* No. 29, Hamilton assured the people both that there would always be a "select corps of moderate size"<sup>30</sup> and that the people at large [would be] properly armed,<sup>31</sup> in order to serve as fundamental checks and balances against the standing army, the most dreaded of institutions.<sup>32</sup> (This "select corps" is now known as the "organized militia"; whereas the "people at large" constitute the "unorganized militia".<sup>33</sup>)

The body of the proposed Constitution in 1789 (Article I, Section 8, Clause 16) conferred upon the Congress, then as now, the Power: "To provide for organizing, arming, and disciplining the Militia, and for governing *such Part of them* as may be employed in the Service of the United States, . . .", thus clearly indicating the existence of the residual *unorganized* or "reserve militia of the United States"<sup>34</sup> composed of "all citizens capable of bearing arms"<sup>35</sup> who cannot be constitutionally prohibited "from keeping and bearing arms"<sup>36</sup> even if the Second Amendment be kept "out of view".<sup>37</sup> But, even though the body of the Constitution had thus specifically provided for a people's "militia"—that is, "civilians primarily, soldiers on occasion . . . bearing arms supplied by themselves"<sup>38</sup>—there was a gnawing fear of the future "neglect to act of the government"<sup>39</sup> in forming an organized militia, thereby exposing the hard-won rights of the people to the mercy of the standing army. Thus, the Framers promised the people that, under the Constitution to be adopted, the people at large would always have arms in their own hands thereby enabling the individually armed citizenry to answer the call either of the "general [Federal] government . . . to check the usurpations of the state governments"<sup>40</sup> or of the state governments to check the usurpation of the Federal government. In the view of *Federalist Paper* No. 28, the armed people "by throwing themselves into either scale, will infallibly make it preponderate"<sup>41</sup> in case the rights of the people would be "invaded by either."<sup>42</sup>

James Madison, in *Federalist Paper* No. 46, further promised the American people that, unlike the governments of Europe which were "afraid to trust the people with arms"<sup>43</sup>, the American people<sup>44</sup> were to continue under the new Constitution to possess "the advantage of being armed,"<sup>45</sup> and thereby continually be able to form the militia when needed as "a barrier against the enterprises of [despotic] ambition"<sup>46</sup> as well as be able to "shake off their yokes"<sup>47</sup> even without the aid of the organized militia. Moreover, according to *Federalist Paper* No. 24:

"[Any] permanent corps in the pay of government amounts to a standing army in time of peace; a small one indeed, but not the less real for being small."<sup>48</sup>

<sup>30</sup> *The Federalist*, *supra*, note 22, at p. 185.

<sup>31</sup> *Ibid.*

<sup>32</sup> *The Federalist*, No. 24, *supra* note 22, at p. 157. Similar fears of a standing army were expressed by such notables as Noah Webster and Melancthon Smith of New York (a member of the Continental Congress). See *Pamphlets on the Constitution of the United States Published during Its Discussion by the People 1787-1788* (Brooklyn, N.Y., 1888; reprinted, Da Capo Press, New York, 1968), p. 51, p. 103.

<sup>33</sup> 10 U.S.C. § 311(h)(2), providing for the federal "unorganized militia". Thirty-nine (39) States today have statutory provision for the "unorganized militia" of the several States, generally composed of all able-bodied citizens between 17 and 45 years of age.

<sup>34</sup> *Presser v. Illinois*, 116 U.S. 252, 265 (1886), approved in *United States v. Miller*, 307 U.S. 174, 182 fn. 3 (1939).

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

<sup>38</sup> *United States v. Miller*, 307 U.S. 174, 179 (1939).

<sup>39</sup> Thomas M. Cooley, *General Principles of Const. Law*, p. 271 (1880), p. 282 (2nd ed., 1891). See also: *The Papers of George Mason*, Vol. III: "Congress May Attempt to Make Militia Service Intolerable", p. 1079; "Militia Duty May Become Onerous Unless the Power of Congress Is Amended", p. 1080 (Univ. North Car. Press, 1970). Accordingly, George Mason, who had taken an active part in drafting the Constitution, opposed its ratification for fear of the failure of the militia to include all the people, as well as on the ground that the slave trade to be allowed under the Constitution was disgraceful. See: *Encyclopedia Americana*, Vol. 18, 380-381 (1973).

<sup>40</sup> *The Federalist*, *supra* note 22, at p. 181 (No. 28).

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.* This dual role of the State-Federal character of the check and balance of the militia is echoed in the case of *Houston v. Moore*, 5 Wheat. (18 U.S.) 1 (1820), where the U.S. Supreme Court held that a person on his way to being inducted into the militia at the call of the President was under the concurrent (simultaneous) jurisdiction of both his home State and the Federal governments.

<sup>43</sup> *The Federalist*, *supra* note 22, at p. 299 (No. 46).

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

<sup>48</sup> *The Federalist*, *supra* note 22, at p. 161 (No. 24).

Thus, the Framers of our Constitution were fearful of the abuses which could be perpetrated against the people by any professional armed body of government; that is, the Framers feared what we now call in modern times the "police state". It is therefore not at all correct to say that the Second Amendment was adopted only with the needs of the Frontier society in mind, except of course insofar as the Frontier society in their view necessitated a standing army, which was perceived by the Framers as always dangerous to liberty, Frontier society or not. The Framers of the Bill of Rights thus also believed that arms in the hands of the people served as a potent deterrent, a "strong moral check"<sup>47</sup> in the hands of the people against the materialization of a destruction of the ballot box by those in power, leading to a dictatorship.

#### LEGISLATIVE HISTORY AND PURPOSES OF THE SECOND AMENDMENT

When the Constitution of the United States was originally ratified by eleven States in 1789, five of these States' ratifying conventions submitted amendatory proposals specifically on the subject of the right of the people to keep and bear arms, as compared with five States proposing a free press amendment and only three States proposing a free speech amendment.<sup>48</sup> The intent of these proposals for a private individual right of people to keep arms can be seen from the wording of the New Hampshire proposal: "Congress shall never disarm any Citizen unless such as are or have been in Actual Rebellion."<sup>49</sup> Moreover, the wording of the other States' proposals that "the people have a right to keep and bear arms, that a well regulated Militia composed of the body of the people trained to arms is the proper, natural and safe defence of a free State"<sup>50</sup> constituted a close parallel to these same States' proposals that "the people have a right to freedom of speech and of writing and publishing their sentiments, that freedom of the press is one of the greatest bulwarks of liberty, and ought not to be violated."<sup>51</sup>

As originally proposed, in the First Session of the First Congress (House of Representatives) of the United States by James Madison in 1789, the Bill of Rights proposal for what was to become the Second Amendment right of the people to keep and bear arms contained an added qualification that "no person religiously scrupulous shall be compelled to bear arms."<sup>52</sup> This qualification, which would have exempted the "religiously scrupulous" (conscientious objectors) from bearing arms was vigorously and ultimately successfully opposed by no less a personage than Elbridge Gerry (later Governor of Massachusetts and Vice-President of the United States). In one of the most important statements on the Second Amendment, which has since been systematically gerrymandered (by legal "scholars",<sup>53</sup> and the U.S. Department of Justice<sup>54</sup>), Elbridge Gerry stated (in full):

"This declaration of rights, I take it, is intended to secure the people against the mal-administration of the Government; if we could suppose that, in all cases, the rights of the people would be attended to, the occasion for guards of this kind would be removed. Now, I am apprehensive, sir, that this clause would give an opportunity to the people in power to destroy the Constitution itself. They can declare who are those religiously scrupulous, and prevent them from bearing arms.

"What, sir, is the use of a militia? It is to prevent the establishment of a standing army. Now, it must be evident that, under this provision, together with their other powers, Congress could take such measures, with respect to a militia, as to make a standing army necessary. Whenever Governments mean to invade the

<sup>47</sup> Joseph Story (U.S. Supreme Court Justice, 1811-1844). *Commentaries on the Constitution*, Vol. II, § 1897, (*supra* note 19) p. 646 (5th ed., 1891); a work listed among the "more important opinions and comments by writers" in *United States v. Miller*, 307 U.S. 174, 182, 182 fn. 3 (1939).

<sup>48</sup> Prof. Bernard Schwartz, *supra* note 5, 2 *Bill of Rights*, p. 1167.

<sup>49</sup> *Debates in the Federal Convention of 1787 As Reported by James Madison*, p. 658 (Hunt & Scott ed., 1920).

<sup>50</sup> *Debates*, *supra* note 45, at pp. 662, 666, 676, 683. See also: Hardy and Stompolo, "Of Arms and the Law", 51 *Chicago-Kent Law Review* 62, 73-79 (Summer, 1974).

<sup>51</sup> *Debates*, *supra* note 45, at pp. 662, 667, 676, 682-683.

<sup>52</sup> Prof. B. Schwartz, *supra* note 5, 2 *Bill of Rights* 1026, 1107; *History of Debates in Congress*, Vol. 1 (1 Ann. Cong.) 451, 778 (Gales & Seaton ed., "1834").

<sup>53</sup> Feller and Gotting: *The Second Amendment, A Second Look*, N.W. Univ. Law Rev., Vol. 61, 46 at pp. 61-62 (1966).

<sup>54</sup> U.S. Dept. of Justice Memorandum, Hearings Before SubComm. No. 5 of House Comm. on Jud., 90th Cong., 1st Sess., 242 at 248 (1967); Sen Report No. 1097 (April 29, 1968) printed in U.S. Code News, and Adm. News, Vol. 2, 2112 at 2109 (1968), which swallowed whole the errors in the U.S. Dept. of Justice memorandum.

rights and liberties of the people, they always attempt to destroy the militia, in order to raise an army upon their ruins. This was done by Great Britain at the commencement of the late revolution. They used every means in their power to prevent the establishment of an effective militia to the eastward. The Assembly of Massachusetts, seeing the rapid progress that administration were making to divest them of their privileges, endeavored to counteract them by the organization of a militia; but they were always defeated by the influence of the Crown. [Interruption.]

"No attempts that they made were successful, until they engaged in the struggle which emancipated them at once from their thralldom. Now, if we give a discretionary power to exclude those from militia duty who have religious scruples, we may as well make no provision on this head. For this reason, (he wished) the words to be altered so as to be confined to persons belonging to a religious sect scrupulous of bearing arms."<sup>55</sup>

Several points were thus made by Gerry. *First*, the Second Amendment secures the people "against the maladministration of the Government", that is, the keeping of arms by the people in their own homes and places of business was to serve, in the words of Justice Story, as a "strong moral check against the usurpation and arbitrary powers of rulers."<sup>56</sup>

*Second*, the Government was not to have the power to declare who shall or who shall not be allowed to keep and bear arms on the basis of religion or any other artifice or vague standard which might be used to disarm the people.

*Third*, the people's ability to organize the militia, by the prior keeping of arms in their own hands, was not to be thwarted as had been perpetrated by the British Crown in Massachusetts where the inhabitants of Boston had been required to deliver up their arms in a mass confiscation scheme.<sup>57</sup>

*Fourth*, the people's right to keep arms was not to depend upon the actual existence of an organized militia, for the Federal Congress could always outlaw the organized militia or allow it to become non-existent (pursuant to the powers of Congress "To provide for calling forth the Militia . . ." and "To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States . . ." as enumerated in the Constitution, Article I, Section 8, clauses 15 and 16).

In any event, it is clear that the basic purpose of the Second Amendment was to secure the people against the horrors of a tyrannical government by guaranteeing to the people the right to keep their own arms, in order to be able to form the organized militia under the aegis of the State legislatures. The people were never again to be disarmed, whether by stratagem or by force of arms, as had been perpetrated by General Gage in repeated seizures of the centralized militia stores of the Colonists at such places as Lexington, Massachusetts.<sup>58</sup> It was just an arms seizure which prompted the legendary ride of Paul Revere and William Dawes.<sup>59</sup>

The speech of Elbridge Gerry in the First Congress of the United States<sup>60</sup> on the proposal for the Second Amendment thus shows that the Framers of the Bill of Rights well recognized that the anonymous keeping of arms in the individual hands of the people was the best and only way of ensuring against arms' confiscations and seizures, which they so deeply feared, and that any centralized stores of arms were all too vulnerable to such a confiscation program. The Framers of the Second Amendment were deeply concerned about governmental confiscation of the people's arms followed by mass break-ins, mass searches and seizures, and mass arrests, not unlike the kind of situation which they had suffered under the British Crown (and which subsequently occurred in Nazi Germany almost two hundred years later).

In the *First Senate*, First Session, the proposal for what was to become the Second Amendment declared that a well regulated militia was the "best" security of a free State, but this was changed to merely "necessary" [but not sufficient] to the security of a free State.<sup>61</sup> Thus, the Framers of the Second Amendment

<sup>55</sup> Prof. Schwartz, *supra* note 5, *Bill of Rights*, Vol. 2, 1107-8; 1 Ann. Cong. 778-9; Thomas Lloyd, *Debates of Congress*, 220 (1st ed., 1789; 2nd ed., 1790).

<sup>56</sup> Joseph Story, *Commentaries on the Constitution*, *supra* note 19, 646-7.

<sup>57</sup> See note 21, *supra*, and accompanying text.

<sup>58</sup> Feller and Gotting, *supra* note 20.

<sup>59</sup> See for example: Ralph Volney Harlow, *The Growth of the United States*, 179 (2nd ed., 1932).

<sup>60</sup> *Supra* note 51 and accompanying text.

<sup>61</sup> Prof. Schwartz, *supra* note 5, 2 *Bill of Rights*, 1154; *Journal of the First Session of the Senate*, p. 77 (Gales & Seaton ed., 1820); *Senate Legislative Journal*, vol. 1, p. 167 (Johns Hopkins Univ. Press, 1972).

detached the right of the people to keep and bear arms from the militia purpose exclusively; for, in the Constitution, as explained by Chief Justice John Marshall in the famous National Bank case in 1819,<sup>62</sup> the term "necessary" in the Constitution does *not* mean "absolutely necessary" or "indispensably necessary". When the Constitution means to imply "absolutely necessary", the Constitution explicitly uses the term "absolutely necessary". (Example: U.S. Constitution, Article I, Section 10, clause 2: "No State shall, without the Consent of Congress, lay any Imposts or duties on Imports or Exports, except what may be *absolutely necessary* for executing it's [sic] Inspection Laws".)

As explained further by Chief Justice John Marshall in the National Bank case, the term "necessary" in constitutional law simply means "convenient".<sup>63</sup> Surely, a whole one of the Bill of Rights, the right to keep and bear arms, would not have been devoted solely to a matter of mere convenience, that is, merely for the Militia. For the Militia was thought to be merely "necessary" but not sufficient for the security of a free State. The Second Amendment thus expressed a further recognition by our Founding Fathers that the ordinary processes of law, during riots for example, simply may not be sufficient for the security of the people in their own homes waiting for the calling out of the organized militia. Thus the Second Amendment was intended to guarantee to the people the right to keep Arms for other lawful purposes in addition to militia service.

Most importantly, again in the First Session of the First Senate of the United States in 1789, a motion was made to insert the qualifying words "for the common defence" next to the words "bear arms"; but this motion was *defeated*.<sup>64</sup> Thereby, the Framers of the Bill of Rights were decisively opposed to delimiting the right of the people to keep and bear arms for the common defense, as through the organized militia. From the foregoing history of the Second Amendment in the U.S. Senate in 1789, it is apparent that the Senate's purposes in *defeating* the limitation of the right to keep arms, as a merely collective right for the common defense, derived from the fact that the Bill of Rights was intended to clarify and amplify the rights of the "people" in the 1st, 2nd, 4th, 9th and 10th Amendments, and the rights of the "States" in the 10th Amendment. The body of the Constitution, Article I, Section 8, Clauses 15 & 16, already had provided for the organized State militias, of which the President was Commander-In-Chief under Article II, Section 2, Clause 1 of the Constitution. Thus, the Second Amendment was not at all needed to grant the *States* the right to maintain militias, for that right of the States had already been recognized in the body of the Constitution.<sup>65</sup>

Accordingly, one of the purposes of the Second Amendment right of the "people" (not the States) to keep and bear arms was for the people to be always in the position to well-regulate the militia, that is, by the definition of the word "regulate": for the *people* to "well-rule" or to "well-control" the militia, rather than a usurping Senate in 1789, it is apparent that the Senate's purposes in *defeating* the limitation of the right to keep arms, as a merely collective right for the common defense, derived from the fact that the Bill of Rights was supposed to clarify and amplify the rights of the "people" in the First, Second, Fourth,

<sup>62</sup> *McCulloch v. Maryland*, 4 Wheat. 316 (1819).

<sup>63</sup> *Id.*, at 413.

<sup>64</sup> Prof. Bernard Schwartz, (*supra* note 5), 2 *Bill of Rights*, 1153-54; *Journ. of the First Session of the Senate* (*supra* note 57), p. 77; *Senate Legislative Journ.*, (*supra* note 57), p. 167. Accord: J. Goebel, Jr., *History of the Supreme Court of the United States*, Vol. 1 ("Antecedents and Beginnings to 1801"), p. 450 (Macmillan, 1971).

<sup>65</sup> Accord: H. J. Fenton, *Constitutional Law*, p. 255 (1914; U.S. Naval Inst., Annapolis, Md.). As stated by Senator James L. Buckley: "At the time of the adoption of the Bill of Rights, this country's statesmen were concerned with the need to protect citizens from government itself, and the passage of almost two centuries has not negated this concern. The fact that Article I, Section 8, clause 16 of the Constitution grants Congress the power to organize, arm, and discipline the militia clearly indicates a quite different intention for the Second Amendment." Testimony by Senator James L. Buckley on proposed handgun regulation before Subcommittee to Investigate Juvenile Delinquency, April 23, 1975, printed in *Cong. Rec.* (daily edition) Vol. 121, No. 66 (April 23, 1975) (94th Cong., 1st Sess.).

Significantly, during the debates on the 14th Amendment to the U.S. Constitution and the related Civil Rights Acts (now 42 U.S.C. 1981-1988), both proponents and opponents of these Reconstruction measures agreed that their intent was to impose limitations upon State powers, and specifically mentioned was the right to keep and bear arms by the individual citizen. *Cong. Globe*, 39th Cong., 1st Sess., Part 2, p. 1266, col. 3 (1866); *Cong. Globe*, 39 Cong., 1st Sess., Part 3, p. 2765, col. 3 (1866); *Cong. Globe*, 42 Cong., 1st Sess., Part 1, p. 475, col. 3 (1871). This indicates a belief in the Framers of the Civil Rights laws that the Second Amendment guaranteed an individual right against Federal encroachment, and that the Fourteenth Amendment guaranteed the individual right against State encroachments.

Ninth and Tenth Amendments, and the rights of the "States" in the Tenth Amendment. The body of the Constitution, Article I, Section 8, Clauses 15 & 16, already had provided for the organized State militias, of which the President was Commander-in-Chief under Article II, Section 2, Clause 1 of the Constitution. Thus, the Second Amendment was not at all needed to give the *States* the right to maintain militias, for that right of the States had already been recognized in the body of the Constitution.<sup>65</sup> Accordingly, one of the purposes of the Second Amendment right of the *people* to keep and bear arms was for the *people* to be always in the position to well-regulate the militia, that is, by definition of "regulate"; for the *people* to "well-rule" or "well-control" the militia, rather than a usurping President bent on the "establishment of a military dictatorship."<sup>67</sup>

Another reason for the unwillingness of the Framers of the Bill of Rights to keep and bear arms to the common defense, the organized militia or National Guard, may be found in the fact that these Framers were most familiar with the famous English jurist, Sir William Blackstone's work entitled *Commentaries on the Laws of England* where it had been written of the "absolute right of individuals"<sup>68</sup> of "having and using arms for self-preservation and defense"<sup>69</sup> as guaranteed by the English Bill of Rights of 1689, in order that the individual citizen be in the position to exercise his "natural right of resistance and self-preservation, when the sanctions of society and laws are found insufficient to restrain the violence of oppression."<sup>70</sup> For, without the individual's right to arms for self preservation and defense, Blackstone had aptly warned that:

"[T]he future process of law is by no means an adequate remedy for injuries accompanied with force; since it is impossible to say to what wanton lengths of rapine or cruelty outrages of this sort might be carried, unless it were permitted a man immediately to oppose one violence with another."<sup>71</sup>

These prophetic words were recently echoed in 1968 in a speech entitled "Reflections on the Congress for the Prevention of Genocide" delivered by V. V. Stancu, advocate of the Court of Appeals in Paris, Secretary of the International Society for the Prevention of Genocide, where it was well declared that:

". . . The most moral violence is that used in legitimate self-defence, the most sacred juridical institution.

"Before self-defence was recognized by penal codes as justifiable and not merely extenuatory, Cicero approved it with the incisive statement: 'vim vi repellere potest' [One has legal power to repel force with force.]"<sup>72</sup>

#### THE DECISION OF THE UNITED STATES SUPREME COURT

#### IN THE MILLER CASE IN 1939

In 1939, the United States Supreme Court had before it a case entitled *United States v. Miller et al.*, the only Second Amendment case decided by it in this century,<sup>73</sup> in which the defendants had been charged with illegal trans-

<sup>65</sup> Accord: H J. Fenton, *Constitutional Law*, p. 255 (1914; U.S. Naval Inst., Annapolis, Maryland). Cf.: "The fact that Article I, Section 8, clause 16 of the Constitution grants Congress the power to organize, arm, and discipline the militia clearly indicates a quite different intention for the Second Amendment." Senator James L. Buckley, Cong. Rec. Vol. 121, No. 66 (daily edition) S6889, col. 2 (94th Cong. 1st Sess., April 28, 1975).

<sup>67</sup> Comment: "The Right to Keep and Bear Arms, A Necessary Constitutional Guarantee or an Outmoded Provision". 31 Albany Law Rev. 74, 76 (January, 1967).

<sup>68</sup> 1 Comm. \*121. Cf. note 13 *supra* and accompanying text.

<sup>69</sup> 1 Comm. \*144.

<sup>70</sup> 1 Comm. \*144. See also: *People v. Brown*, 253 Mich. 537., 541; 235 N.W. 245, 246 (1931), a case which was approved in *United States v. Miller*, 307 U.S. 174, 182 fn. 3 (1939) and which reiterated the right of even an alien to "possess a revolver for the legitimate defense of his person and property . . ." (253 Mich., 541; 235 N.W., 246).

<sup>71</sup> 3 Comm. \*4.

<sup>72</sup> *Yad Vashem Studies on the European Jewish Catastrophe and Resistance*, Vol. VII, p. 187 (Jerusalem, 1968). Justice Oliver Wendell Holmes, speaking for a unanimous Court in *Patterson v. Pennsylvania*, 232 U.S. 138 (1914) upheld a State's ban on the possession of rifles and shotguns by aliens, on the grounds that the State's "prohibition does not extend to weapons as pistols that may be apposed to be needed occasionally for self-defense." (232 U.S. at 143.) More recently, the right of "resistance" against an officer who fails to identify himself properly was recognized by the U.S. Supreme Court in *United States v. Feola*, 43 L. Ed. 2d 541, 554 (March 19, 1975).

<sup>73</sup> In 1876, the Supreme Court had warned that the Second Amendment declares a right which shall not be infringed by Congress"; *United States v. Cruikshank*, 92 U.S. 542, 553; and in 1886 the Supreme Court made it clear that even the "States cannot, even laying the constitutional provision in question [Second Amendment] out of view, prohibit the people from keeping and bearing arms. . . ." ; *Presser v. Illinois*, 116 U.S. 252, 265 (*supra* note 28). Accordingly, nothing less than a Constitutional Convention may be required to abolish the right of the people to keep and bear arms.

portation of a sawed-off shotgun, pursuant to the National Firearms Act of 1934.<sup>74</sup> The lower Federal District Court in the *Miller* case had thrown out the case on a demurrer by the defendants on Second Amendment grounds, and the defendants were freed and disappeared. On appeal by the Government directly to the United States Supreme Court, that Court declared that there had been no evidence presented tending to show that a sawed-off shotgun has any "relationship to the preservation or efficiency of a well regulated militia."<sup>75</sup> Accordingly, the Supreme Court further declared that it could not say that the Second Amendment guarantees the right to keep and bear such an instrument,<sup>76</sup> for such a weapon could not be judicially assumed to be any part of the ordinary military equipment or that its use could contribute to the common defense.<sup>77</sup>

The Supreme Court then cited but one single case in support of this approach, namely *Aymette v. State*, 2 Hampshire (Tenn.) 154, 158<sup>78</sup>, which had been decided by the Tennessee State Supreme Court almost one century earlier in 1840. While the United States Supreme Court in the *Miller* case thus did clearly imply that there were indeed certain arms in the category that the Second Amendment guarantees the right to keep and bear such an instrument,<sup>79</sup> nevertheless, the whole approach of the United States Supreme Court, particularly by way of its *obiter dictum* that the Second Amendment must be "interpreted and applied with that end [well regulated militia] in view,"<sup>80</sup> suffers from several shortcomings of a rather fundamental nature in law:

*First*: The *Miller* case suffered from "No appearance by appellees"<sup>81</sup> that is, neither the defendants nor their attorneys filed a Brief or appeared for argument in the case at the Supreme Court level, so that the Supreme Court's decision was not the result of the conventional adversary system of justice, but was argued solely one-sidedly by a battery of Government attorneys who failed to point out that, rather than supporting their anti-Second Amendment militia. For example, on page 9 of the Government attorneys' Brief in the *Miller* case, several famous authorities are cited; but, the Government attorneys failed to point out that, rather supporting their anti-Second Amendment position that "it cannot be doubted that at least the carrying of weapons without lawful occasion or excuse was always a crime under the common law of England and was a part of our common law derived from that nation"<sup>82</sup>, these very authorities had held to the contrary to the Government attorneys' position. Specifically, these authorities had stated the following points to which the Government attorneys failed to alert the U.S. Supreme Court in *Miller*:

"A [person] cannot excuse wearing such armor [dangerous and unusual weapons, in such a manner as will naturally cause a terror] in public by alleging that a particular person threatened him, and that he wears it for safety against such assault; but it is clear that no one incurs the penalty of the statute [of Northampton, 2 Edw. III., Chap 3]<sup>83</sup> for assembling his neighbors and friends in his own house, to resist those who threaten to do him any violence therein, because a man's house is his castle."<sup>84</sup>

Almost identical language to this effect is found in Serjeant at Law, William Hawkins' famous *Treatise of the Pleas of the Crown*,<sup>85</sup> a work which was also cited by the Government attorneys in their *Miller* Brief at page 9. Moreover, Sir William Hawkins went on to declare:

"... That no wearing of arms is within the meaning of this statute, unless it be accompanied with such circumstances as are apt to terrify the people: from whence it seems to follow, That persons of quality are in no danger of offending against this statute [of Northampton] by wearing common weapons. . . ."<sup>86</sup>

And almost identical language to the above-quoted material from both Wharton and Hawkins is found in Sir Wm. O. Russell's *Treatise on Crimes and Misdemeanors*, page 589 (6 ed. 1896), which was another authority cited by the Gov-

<sup>74</sup> Now Title II of the Gun Control Act of 1968, 26 U.S.C. § 5801 *et seq.* (Ch. 53).

<sup>75</sup> *United States v. Miller*, 307 U.S. 174, 178 (1939).

<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid.*

<sup>78</sup> *Ibid.*

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> *Id.*, at 175.

<sup>82</sup> Brief for the United States in *United States v. Miller*, p. 9.

<sup>83</sup> See notes 1 and 2, *supra*.

<sup>84</sup> Francis Wharton, *A Treatise on Criminal Law*, Vol. III, pp. 2061-2062 (11th ed., 1912).

<sup>85</sup> 1 Hawk. P.C. 267 (6 ed., 1788) (Ch. 63, sect. 8).

<sup>86</sup> *Ibid.* (Ch. 63, sect. 9).

ernment attorneys on page 9 of their *Miller* Brief. Furthermore, Sir William Hawkins goes on to make it clear that under the laws of England no person commits a crime "who arms himself, to suppress dangerous rioters, rebels, or enemies, and endeavours to suppress or resist such disturbers of the peace. . . ." <sup>87</sup>

The Government attorneys also cited two North Carolina cases decided in the 19th century, without mentioning that these cases culminated in a 20th century North Carolina State Supreme Court case explicitly holding a pistol licensing statute an unconstitutional infringement of the North Carolina State Constitution's guarantee that the law-abiding citizens could not be forbidden to carry "their pistols openly and protect their property from unlawful violence without going before an official and obtaining a license and giving bond." <sup>88</sup> Finally, and perhaps most importantly on this point, while the Government attorneys in their *Miller* Brief, on page 19, cited an 1871 Tennessee State Supreme Court case, <sup>89</sup> the Government attorneys completely neglected to point out that this Tennessee case had rejected the Tennessee State Attorney General's view that the right to keep and bear arms was "not a civil right" <sup>90</sup> and had declared that the right to keep arms at least "is a private individual right guaranteed to the citizen not the [militia] soldier." <sup>91</sup>

Second: The *Miller* case suffers from its failure to have taken into account or cite any of the materials discussed above on the Common Law, the *Federalist Papers*, or the legislative history of the Second Amendment; which was not surprising since the only Brief in that case, the Government attorneys' Brief, failed to mention these materials or misrepresented them. <sup>92</sup>

Third: The sole previous case relied upon by the United States Supreme Court in *Miller*, for the proposition that the Second Amendment must be limited to military weapons or to weapons whose use "could contribute to the common defense", <sup>93</sup> was the case of *Aymette v. State*, 2 Humphreys (Tenn.) 154. However, that *Aymette* case was decided by the Tennessee State Supreme Court in 1840 on the sole basis of the Tennessee State Constitution's provision on the right of the people to keep and bear arms. But the Tennessee State Constitution's provision on the right of the people to keep and bear arms at that time (and even today) was explicitly limited by the qualification "for their common defence", and the Tennessee State Supreme Court took careful note of that qualification. <sup>94</sup>

Yet, as explained above, <sup>95</sup> The First Session of the First Senate of the United States had defeated a proposal to limit the *Federal* Second Amendment right to keep and bear arms "for the common defence." Moreover, today (1975) only four States contain in their constitutional provisions on the right to keep and bear arms any similar limitation of "for the common defense." <sup>96</sup> And of the thirty-five States which now have a State provision on the right to keep arms, fourteen clearly refer to the right to keep and bear arms by the individual citizen or person; <sup>97</sup> while five State constitutions protect the right to keep arms by an individual person for the defense of his home, person, and property. <sup>98</sup> Interestingly, twelve States <sup>99</sup> have found it necessary to add a State Constitutional proviso that the State Legislature may regulate or forbid the carrying of concealed (but not merely concealable) weapons, thus showing a private individual right to keep and carry arms openly even if these arms are concealable.

Fourth: In the Brief for the Government in the *Miller* case, at pp. 12-15, 18-19, the *Aymette* case, upon which the U.S. Supreme Court so heavily relied, was quoted from at length. However, the Government attorneys in that Brief failed to alert the Court to the following perhaps most important point made by the Tennessee State Supreme Court in the *Aymette* case:

<sup>87</sup> *Ibid.* (Ch. 63, sect. 10) (1 Hawk. P.C. 267-268) (Page 267 incorrectly printed as page "167").

<sup>88</sup> *State v. Kerner*, 181 N.C. 574, 578; 107 S.E. 222, 225 (1921).

<sup>89</sup> *Andrews v. State*, 3 Helsk. (50 Tenn.) 165; 8 Am. Rep. 8 (1871).

<sup>90</sup> *Id.*, 3 Helsk., 182; 8 Am. Rep., 16.

<sup>91</sup> *Ibid.*

<sup>92</sup> See notes 73-79, *supra*, and accompanying text.

<sup>93</sup> *United States v. Miller*, *supra*, 307 U.S., 178.

<sup>94</sup> *Aymette v. State*, *supra*, 2 Humphr., 156, 158, 160.

<sup>95</sup> Note 57, *supra* and accompanying text.

<sup>96</sup> Arkansas, Maine, Massachusetts, Tennessee.

<sup>97</sup> Alabama, Arizona, Colorado, Connecticut, Illinois, Maine, Mississippi, Missouri, Montana, New Mexico, Oklahoma, Texas, Washington.

<sup>98</sup> Colorado, Mississippi, Missouri, Montana, Oklahoma.

<sup>99</sup> Colorado, Florida, Georgia, Idaho, Illinois, Kentucky, Louisiana, Mississippi, Missouri, Montana, Oklahoma, Tennessee, Texas, Utah.

Fifth: The Supreme Court of the United States in *Miller* not only failed to take into account the later 1871 Tennessee State Supreme Court's clarification of its own earlier 1840 case upon which the U.S. Supreme Court so heavily relied,<sup>1</sup> but the U.S. Supreme Court also failed to take into the account a still later 1896 Tennessee State Supreme Court case<sup>2</sup> which was also decided under the Tennessee State Constitution's provision on the right to keep and bear arms "for their common defence" (with the further proviso that the Legislature has the power "to regulate the wearing of arms to prevent crime.")<sup>3</sup> In the 1896 Tennessee case, the Supreme Court of that State explicitly upheld the constitutional right of an individual in his home to use a "pistol"<sup>4</sup> to shoot at an armed intruder and declared:<sup>5</sup>

"Under our constitution, every citizen of the State has the right to keep and bear arms for his proper defense . . . Article I, Section 26; 3 Heisk., 178. (Emphasis added.)

"He has the right to protect his own home and family. . . ."

"The citizens have the unqualified right to keep the weapon, it being of the character before described (ordinary military equipment) as being intended by this provision (constitutional right to keep and bear arms). But the right to bear arms is not of that unqualified character."<sup>6</sup>

Even in the face of this shortcoming of the Government's Brief, the U.S. Supreme Court in the *Miller* case recognized that the Militia comprises all male citizens capable of bearing arms and "when called for service these men are expected to appear bearing arms supplied by themselves. . . ." But this situation clearly carries with it the previous keeping of arms by the individual citizen for potential militia service. And it is this keeping of arms which automatically enables him to join in the common defense as well as to serve as a passive check and balance against tyranny and to be able to defend himself from attacks on his home where he is keeping the militia weapons. Thus, the U.S. Supreme Court's *Miller* decision presupposes the keeping of arms by the individual citizen, both for the common defense and for individual defense.

Moreover, in the year 1866, the Tennessee State Supreme Court declared that the confiscation of guns in the hands of the citizenry by the secessionist State Government back in 1861 during the Civil War had been an unconstitutional attempt to "disarm the people by legislation."<sup>7</sup> And most importantly, in this century in the year 1928, the Tennessee State Supreme Court explicitly relied upon its earlier *Andrews*<sup>8</sup> case and held that a Chattanooga city ordinance, banning all carrying in that city of any sort of pistol in any manner, was unconstitutional.<sup>9</sup> In the words of the Tennessee State Supreme Court:

"Upon the authority of *Andrews v. State, supra*, we must accordingly hold the provision of this ordinance as to the carrying of a pistol invalid."<sup>10</sup>

In any event, contrary to widespread popular belief that the Supreme Court of the United States has definitively spoken on the issue of the constitutionality of gun-control legislation, this issue remains far from settled by the highest Court in our land even in the view of impartial authorities:

"At what point regulation or prohibition of what classes of firearms would conflict with the [Second] Amendment, whether there would be a conflict, the *Miller* case [307 U.S. 174] does little more than cast a faint degree of illumination toward answering."<sup>11</sup>

And, as a consequence of the failure of the U.S. Supreme Court's attention to have been drawn to the subsequent treatment of the right of the people to keep and bear arms in the State of Tennessee, the very State whose State Supreme Court

<sup>1</sup> *Andrews v. State, supra* note 78, which upheld the right to keep at one's home or place of business such arms as "the rifle of all descriptions, the shot-gun" (3 Heisk., 179; 8 Am. Rep., 14) as well as certain pistols and revolvers. See: *Andrews, supra*, 3 Heisk., 186-187; 8 Am. Rep. 18-19.

<sup>2</sup> *State v. Foutch*, 12 Pickle (96 Tenn.) 242; 34 S.W. 1 (1896).

<sup>3</sup> *Andrews v. State, supra* note 89, 3 Heisk., 177; 8 Am. Rep., 12.

<sup>4</sup> *State v. Foutch, supra* note 90, 12 Pickle, 244; 34 S.W., 1.

<sup>5</sup> *State v. Foutch, supra* note 90, 12 Pickle 247; 34 S.W. 2. (Emphasis added.)

<sup>6</sup> *Aymette v. State, supra* note 83, 2 Hnmphr. at 160 (emphasis in original).

<sup>7</sup> *United States v. Miller, supra* note 67, 307 U.S., 179.

<sup>8</sup> *Smith v. Ishenhour*, 3 Cold. (43 Tenn.) 214, 217 (1866).

<sup>9</sup> *Andrews v. State, supra* notes 78 and 89.

<sup>10</sup> *Glascock v. City of Chattanooga*, 157 Tenn. (4 Smith) 518, 520; 11 S.W. 2d 678; 678 (1928).

<sup>11</sup> *Ibid.*

<sup>12</sup> *The Constitution of the United States, Analysis and Interpretation*, Congressional Research Service, Library of Congress, Senate Doc. No. 92-82, 92d Cong., 2d Sess. (U.S. Government Printing Office, 1973), p. 1036.

decision in 1840 was so heavily relied upon by the U.S. Supreme Court in the *Miller* case, as well as the failure of the U.S. Supreme Court's attention to have been drawn to the legislative history of the Second Amendment wherein the Framers of the Bill of Rights rejected the attempt to limit the right to keep and bear arms "for the common defense";<sup>12</sup> it thus appears that the U.S. Supreme Court's decision in the *Miller* case should be very narrowly read assuming that it was even correctly decided. The *Miller* case, at least with respect to military weapons in the hands of the people, therefore furnishes little support, if any, for delimiting the Second Amendment right solely to a collective right. Rather, the Second Amendment, in view of its legislative history and in the view of those Courts which have considered the question in the context of an adversary situation with both sides represented, guarantees both a collective and an individual private right of the citizen.<sup>14</sup>

Accordingly, it would therefore clearly follow that the *keeping* of arms, just like any constitutional right, may not be specially taxed or licensed by the State or Federal Governments; but that the *bearing* of arms *secretly* in public places may be regulated but not prohibited, just like the licensing of distributing handbills or making of speeches in public places, but not in private where a person has an absolute right to speak or write without any license or prior restraint.<sup>15</sup> However, any such licensing must be subject to the limitation of the licensee's being available to the law-abiding citizen who is able-bodied without undue delay or burdens, just like the license to use the public streets in making speeches, conducting parades, or selling newspapers.

#### NINTH AMENDMENT PRIVACY IN KEEPING ARMS

Many of the Founding Fathers objected to an explicit Bill of Rights because they were fearful, as James Madison expressed it:

"It has been objected also against a bill of rights, that, by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration; and it might follow by implication, that those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I have ever heard urged against the admission of a bill of rights into this system; but, I can see that it may be guarded against. I have attempted it, as you gentlemen may see by turning to the . . . (Ninth Amendment)." <sup>16</sup>

Accordingly, James Madison proposed what was to become the Ninth Amendment in the Bill of Rights, which was ultimately adopted in our Constitution reading: <sup>17</sup>

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Thus, the private right to keep and bear arms for both self-defense of the person as well as the common defense in the militia is hardly to be doubted as guaranteed by the totality of the Federal Bill of Rights.<sup>18</sup>

<sup>12</sup> Notes 57 and 84 *supra*. In any event, the U.S. Supreme Court stands ready to overrule itself on the basis of a re-examination of the "underpinnings" of a previous line of cases. *United States v. Reliable Transfer Co.*, 44 L. Ed. 2d 251, 257 fn 4 (May 19, 1975).

<sup>14</sup> See, for example, *State of Ohio v. Hogan*, 63 Ohio St. 202, 218-219; 58 N.E. 572, 575 (Ohio, 1900) explicitly stating that the right to bear arms is also for the purpose of self-defense as well as collective defense. See also: *Modern Constitutional Law Constitutional Law*, Part III, *Constitutional Guarantees of Fundamental Rights*, p. 236 (numbered p. "52" at top of page) (Blackstone Institute, 1914) (*supra* note 6).

<sup>15</sup> *Murdock v. Pennsylvania*, 319 U.S. 105 (1943); *Follett v. City of McCormick*, 321 U.S. 573 (1944); *Grosjean v. American Press Co.*, 297 U.S. 233 (1936); all invalidating any taxation singling out a Constitutional right. *Lovell v. Griffin*, 303 U.S. 444 (1938); *Hague v. CIO*, 307 U.S. 496 (1939); *Schneider v. State*, 308 U.S. 147 (1939); *Largent v. Texas*, 318 U.S. 418 (1943); *Kunz v. New York*, 340 U.S. 290 (1951); *Staub v. City of Barley*, 355 U.S. 313 (1958); all invalidating licensing systems for leaflet distribution and other conduct as well as for parades. See also: *Jones v. Opelika*, 319 U.S. 103 (1943), that a person may disobey an unconstitutional permit system. The open carrying of arms by an individual in a peaceful manner, however, may not be subject to a licensing system. See: *Nunne v. State*, 1 Ga. 243 (2 Ga. Rep. Anno. 177) (1846); *Las Vegas v. Moberg*, 82 N.M. 626, 485 P. 2d 737 (1971); and *State v. Kerner*, cited in note 77, *supra*.

<sup>16</sup> Quoted in *Griswold v. Connecticut*, 381 U.S. 479, 489-490 (1965), invalidating the State's birth control law on the ground of marital privacy under the Ninth Amendment, 381 U.S., 484.

<sup>17</sup> U.S. Const. Amendment 9.

<sup>18</sup> See notes 1-16, 73-76, *supra*, and accompanying text, demonstrating the pre-existing right to arms for self-defense. Accordingly, the Due Process clause of the 5th Amendment is also applicable here: Cf. *Roe v. Wade*, 410 U.S. 113, 153 (1973) on the right to short-

In addition, the question arises as to the right of the individual to *keep* arms in privacy, that is, anonymously. On this question, two United States Supreme Court cases, at least, seem decisive. In a 1960 case, the Court held that a Los Angeles, California ordinance, requiring all handbills to contain names and addresses of those who prepared, distributed, or sponsored them, was unconstitutional on the grounds that:

"Even the Federalist Papers, written in favor of the adoption of our Constitution, were published under fictitious names. It is plain that anonymity has sometimes been assumed for the most constructive purposes. . . . We have recently had occasion to hold in two cases that there are times and circumstances when a State may not compel members of groups engaged in the dissemination of ideas to be publicly identified. *Bates v. Little Rock*, 361 U.S. 516; *NAACP v. Alabama*, 357 U.S. 449, 462. The reason for these holdings was that identification and fear of reprisal might deter perfectly peaceful discussions of public matters of importance."<sup>19</sup>

In 1965, the U.S. Supreme Court invalidated a Federal Act permitting the delivery of communist political propaganda mail from foreign countries only if the addressee requested such delivery from the Post Office on the grounds that:

"[The addressees] must think they would invite disaster if they read what the Federal Government says contain the seeds of treason. Apart from them, any addressee is likely to feel some inhibition in sending for literature which federal officials have condemned as 'communist political propaganda.'<sup>20</sup>

Under the reasoning of these U.S. Supreme Court cases, and in view of the purpose of the Second Amendment right to keep arms for the purpose of serving as a "strong moral check against the usurpation and arbitrary power of rulers,"<sup>21</sup> and in view of the Second Amendment purpose of securing arms in the hands of the people in a manner immune from confiscation by the "government it was meant to hold in check,"<sup>22</sup> particularly in these times of extra-legal governmental computer data bank storage and retrieval system,<sup>23</sup> it would appear that the citizen is entitled to acquire and keep arms anonymously without any requirement of the registration or licensing of the mere peaceful keeping of such arms on his own premises. For registration or licensing systems dilute the strong moral check which the Second Amendment is supposed to impose upon governmental usurpations of power.

Recent Watergate, etc., events have shown all too clearly how readily even the top leaders of such agencies as the F.B.I., C.I.A., B.A.T.F.,<sup>24</sup> and I.R.S. can become politicized in the hands of a political President and his conspiring cabinet level associates. Indeed, these events have caused such respected columnists as Anthony Lewis of the *New York Times* to worry aloud about "a President who went flagrantly beyond his constitutional powers, for example, using the armed forces against the courts."<sup>25</sup> Others wonder in *Army Times* as to just whose orders the average Army officer would follow "if the armed forces of the U.S. staged a coup d'etat . . . not a military coup but a 'legal' takeover since it would be ordered by the President as Commander-in-Chief."<sup>26</sup> While Anthony Lewis suggests the remedy of impeachment for a President who was guilty of using the armed forces against the courts, the problem arises that such a President would undoubtedly first (or soon thereafter) use the armed forces against the Congress, thereby forestalling any impeachment process.

<sup>19</sup> *Talley v. California*, 362 U.S. 60, 65 (1960).

<sup>20</sup> *Lamont v. Postmaster General*, 381 U.S. 301, 307 (1965).

<sup>21</sup> Story, *supra* note 43, and accompanying text.

<sup>22</sup> Cooley, *supra* note 33, *ibid*.

<sup>23</sup> *Federal Data Banks and Constitutional Rights*, Snhcom. on Const. Rights of the Senate Committee on the Judiciary, U.S. Senate, Committee Print, 93d Cong., 2d Sess. (U.S. Gov't Printing Office, 1974), p. 45 (indicating that Dept. of Treas. maintains 46 data banks of which 12 are without proper statutory authority).

<sup>24</sup> Bureau of Alcohol Tobacco, and Firearms, U.S. Treasury Department.

<sup>25</sup> *New York Times*, March 4, 1974, p. 29, col. 2.

<sup>26</sup> George Marker "Army Seizes United States In 'Esquire Plot'", *Army Times*, April 10, 1974, taking note of the novel "Seven Days in May" and of recent interviews with army officers. Pete Hamill, writing in the *New York Post*, May 12, 1974, p. 29 suggested: ". . . To begin with, Gov. Wilson [of New York State] and Mayor Beame [of New York City] can immediately begin planning a program of self-defense. . . . Wilson and Beame should order all New York police and National Guard units to draw up a plan of resistance . . . Imagine an American army of farm boys and lifers trying to beat a combined division of New York cops and street gang members . . . waiting for them with machine guns." However, Mr. Hamill seems understandably unaware of the Federal Statutes which provide that ownership of all National Guard arms is in the Federal Executive together with a complete inventory thereof and thus subject to immediate control of the President. See note 109, *infra*, and accompanying text.

And in any event, who can *enforce* an impeachment verdict against such a usurping President? Only the citizens who have arms, acting through their State militias!<sup>27</sup>

While many people believe that the organized Militia, the National Guard, is sufficient to guarantee the security of a free State; nevertheless, it should be remembered that it is the President who is Commander-in-Chief of the National Guard, pursuant to the Constitution (Article II, Section 2), and he can have it "federalized."<sup>28</sup> Moreover, pursuant to authority and duty under federal Statutes,<sup>29</sup> the Federal Government, through the Secretary of the Army, retains full ownership and control of all National Guard arms, conducts a yearly inspection and inventory of all such property "held by the Army National Guard,"<sup>30</sup> and keeps a list of all the "members of the Army National Guard."<sup>31</sup> While during the last days of President Nixon's presidency, Secretary of Defense James Schlesinger was vigilant in preventing "illegal" presidential orders "to a military unit outside the chain of command for some sort of action against Congress during the time between a House vote for impeachment and a Senate trial on the impeachment charges;"<sup>32</sup> nevertheless, the question arises as to just what would have been the situation if President Nixon's former Attorney General and lifelong friend John N. Mitchell had been the Secretary of Defense. Whether or not there was any justification for the fears of many people that former President Nixon was really bent on interfering with Congress' impeachment process or planning a dictatorship is beside the point, for these fears demonstrate some of the weaknesses of the present National Guard with respect to its fundamental role as the Militia, if indeed the National Guard is the Militia under these circumstances within the meaning of the Second Amendment.

Under these circumstances, the argument that the National Guard is the Militia, and that the Second Amendment guarantee of the right to keep arms is limited to such a militia, is tantamount to an argument that the First Amendment right of free speech and press is limited to the U.S. Government Printing Office.<sup>33</sup>

Our Founding Fathers did not intend that the National Guard, so subject as it is to Federal centralized control, be the sole repository of the Second Amendment's "security of a free State." Particularly the aforementioned ability of a usurping President to get at all the records of the National Guard destroys the effectiveness of the National Guard as a strong moral check against usurpation by a President. For the President thus has the data always at hand as to where all the National Guard arms are located, thereby facilitating their quick confiscation by his followers in the armed forces. This is just the situation that our Founding Fathers intended to prevent when they enacted the Second Amendment. For they were all too familiar with the previous British confiscations of the organized militia stores of the Colonists in Massachusetts<sup>34</sup> as well as the consequent need for the keeping of arms in the hands of the people at large *anonymously* in order to forestall the ability of government to call up these arms for the purpose of confiscation, as had happened in Boston in 1775.

<sup>27</sup> While it may give one pause to wonder about the effectiveness of such an armed march on the usurping President defended by his army; nevertheless, in such a situation the question arises whether the troops would obey such orders. Cf. George Marker, *supra* note 26 and accompanying text as to the uncertainty of such a situation also. Moreover, the threat of such terrible bloodshed, together with the looming need to hurn down certain areas of the Nation, *infra* notes 34-40 and accompanying text, all stand as a potential nightmare acting as a potent deterrent to a usurpation by a President bent on dictatorship. And the appearance with the State militias of such reputable persons as the State Governors would undoubtedly give further pause to the usurping President and his followers: "Even had he [Pres. Nixon] or some other President taken over Washington with tanks and machine guns, opposition might swiftly have rallied around powerful state governors." Tom Wicker, *In The Nation, Could It Happen Here?*, N.Y. Times, June 20, 1975, Section IV, p. 15.

<sup>28</sup> *Gilman v. Morgan*, 413 U.S. 1, 7 (1973).

<sup>29</sup> 32 U.S.C. § 105, § 708(d), § 703(b), § 710(a).

<sup>30</sup> 32 U.S.C. § 105(a)(1).

<sup>31</sup> 32 U.S.C. § 105(a)(3).

<sup>32</sup> Ed Goodpaster, *N.Y. Post*, "Last Nixon Days: Watch Kept on the Pentagon" (August 24, 1974, p. 5). See also: Bernard Gewirtzman, "Pentagon Kept Tight Rein In Last Days of Nixon Rule", *N.Y. Times*, August 25, 1974, p. 1.

<sup>33</sup> Both of these narrow readings plainly violate both the 5th and 9th Amendments in the Bill of Rights of the U.S. Constitution. Cf. Notes 96-98, *supra*, and accompanying text; together with note 8, *supra*, and accompanying text.

<sup>34</sup> See notes 20 and 21, *supra*, and accompanying text.

Indeed, the history of Europe during World War II furnishes an excellent example of the need for the private keeping of arms anonymously. The historic resistance and uprisings of the oppressed peoples of Europe under the heel of Nazi tyranny are well known. The heroic partisan guerrilla movements all over Europe, even with merely old-fashioned pistols, revolvers, rifles, shotguns and an occasional sub-machine gun, could not be put down even by the modern mechanized Nazi war machine. The first major uprising took place in the Warsaw Ghetto in January, 1943, where up until then the Nazis had no trouble in rounding up in mass arrests those Jews destined for the gas chambers. This uprising contains several of the most important Second Amendment lessons in modern history.

When the Jews in the Warsaw Ghetto in 1942 realized that "the meek submission to the slaughter did not lessen the Holocaust, but increased it,"<sup>35</sup> they then decided upon a plan of armed resistance. However, at first they had no arms, and the only arms which the Poles outside the Ghetto would supply the Jewish Resistance Fighters were pistols and revolvers.<sup>36</sup> In January of 1943, the first armed resistance by the Jewish Fighting Organization was carried out with only "ten pistols."<sup>37</sup> For three months thereafter, the Nazi German soldiers did not dare venture into the Ghetto. During that three-month period, the Nazis under Heinrich Himmler decided they would have to burn down the Ghetto, house-by-house, in order to conquer it.<sup>38</sup> And the Nazis proceeded to do so, although not without considerable difficulty in the face of the armed Jewish Resistance Fighters.<sup>39</sup>

However, had the Nazis known in January of 1943 at the first manifestation of Jewish Resistance that the Jewish Fighters at that time possessed only those ten pistols, the Nazis could have wiped out the resistance in short order without the need for burning down the Ghetto. In the words of one of the survivor-leaders of the Jewish Ghetto in Warsaw:<sup>40</sup>

"Many had thought that the 18th of January was the beginning of the final liquidation of the ghetto. However, the shock of encountering resistance evidently forced the Germans to discontinue their work in order to make more thorough preparations. They must have overestimated our strength, and thought that they were dealing with a well-organized, well-armed resistance movement. Little did they know that our insurrection was nothing but a feeble beginning out of which a really organized, well-armed fighting force would eventually develop. At the time we had only ten pistols. Had the Germans known the truth, they would probably have continued the raids, Jewish resistance would have been nipped in the bud as a minor, insignificant episode. By interrupting the extermination action on the 21st of January the Germans allowed us to better organize and arm ourselves."

This bears repeating. Had the Germans known that the Jewish Resistance Fighters at first had only ten pistols (some of them probably "Saturday Night Specials",<sup>41</sup> the Nazis would probably "have continued the raids, Jewish resistance would have been nipped in the bud as a minor, insignificant episode"<sup>42</sup> That is what is wrong with gun control legislation involving the registration or licensing of arms. For the records of arms registration tempt a would-be dictator in America into thinking that he can disarm the people swiftly before they can act to restore the Constitution through appropriate militia action, and that he could disarm the people so quickly and thoroughly that he could maintain power without the need for any house-by-house burnings of our cities or suburbs. When the dictator does not know where the arms are located, which are either potential or actual threats to his absolute power, then he knows he must resort to burning down our cities; but this would be so self-defeating that the need for such wide-

<sup>35</sup> *Jewish Resistance During the Holocaust*, Proceedings of the Conference on Manifestations of Jewish Resistance, Jerusalem, April 7-11, 1968 (Yad Vashem ed., Jerusalem, 1971) at p. 313.

<sup>36</sup> *They Fought Back. The Story of the Jewish Resistance in Nazi Europe*, Yuri Suhl ed., (Crown Pub., N.Y. 1967) at p. 116.

<sup>37</sup> *Between Tumbling Walls*, by Tuva Borzykowski, at p. 29 (Ghetto Fighters' House, Israel, 1972).

<sup>38</sup> *They Fought Back*, supra note 115, at p. 92.

<sup>39</sup> *They Fought Back*, at p. 98.

<sup>40</sup> *Between Tumbling Walls*, at p. 29.

<sup>41</sup> A display of the types of pistol used by the Ghetto Fighters may be seen at Kibbutz Tachamel HaGettooth (Ghetto Fighters' House) in Israel, as well as Yad Vashem, Jerusalem. Some of these arms are obviously "Saturday Night Specials" within the meaning of Senator Birch Bayh's Bill S. 2507 in 1972, which passed the Senate but not the House.

<sup>42</sup> *Between Tumbling Walls*, supra note 116, *ibid.*

scale burnings and destructions of itself is a most potent deterrent to a would-be dictator's seizure of power in the first place.

Today, any incipient usurper would not dare even to attempt a usurpation, well-knowing that the only way he could put down the people was by house-by-house burnings, just as the Nazis found out was required to put down the Jewish Resistance Fighters with but ten pistols in their hands in the Warsaw Ghetto. The existence today under both State and Federal law of the unorganized militias,<sup>43</sup> with arms kept in the hands of the people ready to act in such militias when needed, prevents the dream of dictatorship from forming in the mind of any potential tyrant in America or from becoming successful. The keeping of arms in the hands of the people at large thus serves to well-regulate the militia and to guarantee its effectiveness in time of need, as well as prevents dreams by those in power of any final solutions like genocide. And although it has been alleged by some scholars, Roscoe Pound for example, that the Second Amendment "is the one provision of the Bill of Rights that seems to have been able to achieve nothing for us"; "the fact remains that the Second Amendment has prevented dictatorship in America as well as any final solutions by genocide.

Not too long ago, in an interview in *Playboy* (Magazine), Bernadette Devlin, the Irish Member of Parliament, complained that:

"There are 73,000 licensed guns in Northern Island, including 700 automatic weapons, and 99 percent of them are in the hands of Protestants. Licenses are granted by the local police inspector, who's invariably Protestant. These weapons weren't touched, and the one-sided nature of the searches [of Catholic homes] convinced Catholics that the army was deliberately singling them out for punitive treatment. . . . When the police and the Paisleyite mob attacked the Catholic ghettos in Belfast with machine guns, there were virtually no guns with which to answer them. The I.R.A. [Irish Republican Army] as an armed force, didn't exist. It's terribly ironic: The official leadership had sold the I.R.A.'s entire stockpile of arms to some Welsh nationalists, to raise enough money to keep the Sinn Fein newspaper afloat. Caught without weapons in Belfast, the hard-liners were understandably bitter. They broke off and formed the Provisional I.R.A. in January 1970."<sup>44</sup>

And similarly, during the American Colonial times, all sorts of illegal searches, mass break-ins and mass arrests were perpetrated by the British Crown under the infamous General Writs of Assistance.<sup>45</sup>

It is therefore abundantly plain that the Founding Fathers recognized the dangers of the registration of arms, and that they adopted the Second Amendment to prevent the possibility of arms confiscation. Under the Second Amendment, the people at large were to "keep" these arms freely and anonymously, and thus beyond the power of mass confiscation by Government bent on tyranny. Thus, any type of Gun control legislation, especially at the Federal level, defies the Second Amendment intent of our Founding Fathers. As stated by William Rawle back in 1825, in a work on constitutional law, whose Second Amendment views were approved of by Assoc. Justice Story: "<sup>46</sup>

"The prohibition [of the Second Amendment] is general. No clause in the Constitution could by any rule of construction be conceived to give to congress a power to disarm the people. Such a flagitious [wickedly criminal] attempt could only be made under some general pretence by a state legislature. But if in any blind pursuit of inordinate power, either should attempt it, this amendment may be appealed to as a restraint on both."

The right to keep Arms, unregulated by Government, is not to say that the people have a right of revolution, or a right of secession from the irrevocable "compact" formed by the constituent act of adoption of the Constitution.<sup>47</sup> Nor,

<sup>43</sup> 10 U.S. Code § 311(b)(2) provides for "the unorganized militia"; and similar provisions for State "unorganized militias" occur in the statutes of 39 States, *supra* note 28.

<sup>44</sup> Roscoe Pound, *The Development of Constitutional Guarantees of Liberty*, p. 91 (Yale Univ. Press, 1957).

<sup>45</sup> *Playboy Interview: Bernadette Devlin: A Candid Conversation with the Fiery Young Irish Revolutionary*, in *Playboy*, September 1972, p. 67 at p. 88, cols. 1-2 (Vol. 10, No. 9) (Emphasis added.) Compare: Tanks and the Mailed Fist in *N.Y. Times*, Sunday Section IV, p. 3 (August 6, 1972).

<sup>46</sup> Justice Joseph Story, *Commentaries on the Constitution of the United States*, Vol. 2, p. 647 fn. (c), § 1901 (5th ed., 1891). Compare notes 6, 19, and 21, *supra*, and accompanying text.

<sup>47</sup> Rawle *A View of the Constitution*, p. 122 (1st ed., 1825), p. 125-126 (2nd ed., 1829); approved by Story, *Commentaries on the Const.*, Vol. 2, p. 646, fn. 1 (5th ed., 1891), cited in note 19 *supra*.

<sup>48</sup> *Federalist Paper No. 22*, *supra* note 22, at p. 152.

as Alexander Hamilton himself warned, does the right to keep and bear Arms mean that the people are supposed to "rush tumultuously to arms."<sup>49</sup> But what it does indeed mean is that the people are to be allowed by Government to retain the ability to obtain, keep, and practice with arms, in order always to be in the position to exercise self-preservation and defense as well as to act in the appropriate militia to restore the Constitution, if and when the occasion should arise. Hopefully never. The mere quite keeping of Arms in the hands of the private citizen reduces the probability of such an occasion to an absolute minimum. This is undoubtedly one of the basic reasons why our Nation has survived for well nigh two hundred years without a dictatorship. However, as so cogently pointed out by Senator Hubert H. Humphrey:<sup>50</sup>

"Certainly one of the chief guarantees of freedom under any government, no matter how popular, is the right of the citizen to keep and bear arms. This is not to say that firearms should not be carefully used, and that definite safety rules of precaution should not be taught and enforced. But the right of the citizen to bear arms is just one more guarantee against arbitrary government, one more safeguard against a tyranny which now appears remote in America, but which historically has proved to be always possible."

Therefore, the keeping of Arms by the individual citizen has well been called "the palladium of the liberties of a republic."<sup>51</sup> For the private and anonymous keeping of Arms in the hands of the individual citizen is the best guarantee against confiscation of Arms and ultimately tyranny, both in the days of the founding of this great Nation and in these modern days of the computer data banks in the hands of Government.

The famous jurist, Louis D. Brandeis, in his dissent in the *Olmstead* wire-tapping case in 1928, warned us while speaking from the U.S. Supreme Court bench:<sup>52</sup>

"Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

Along these lines, an editorial of station WPIX-TV (Channel 11) in New York City on January 3, 1974 cogently pointed out:<sup>53</sup>

"The Constitution does speak of the right to bear arms, and any change in that document should be made with the greatest care, by Amendment, and not by Congressional resolution or legislation. The suggestion that an erosion of one Amendment in the Bill of Rights threatens all other amendments is something that thoughtful people must consider before succumbing to what appears to be a quick and easy solution to a vexing problem."

Moreover, the term "people" in the First Amendment "right of the people peaceably to assemble, and to petition the Government for a redress of grievances" has been repeatedly held by the United States Supreme Court to guarantee an individual right (to engage in "demonstrations" and to join private groups or associations) and not merely a collective right.<sup>54</sup> The word "people" in the Fourth Amendment's "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures" has likewise been repeatedly held by the U.S. Supreme Court to guarantee an individual right.<sup>55</sup> And the term "people" in the Ninth Amendment's "rights . . . retained by the people" has likewise been repeatedly held to guarantee an individual right.<sup>56</sup>

Thus, every use of the phrase "right of the people" in the Bill of Rights refers to individual rights, *not* States' rights. Indeed, the Tenth Amendment makes this distinction between individual rights and States' rights even more sharp in stating: "The powers not delegated to the United States by the Constitution, nor pro-

<sup>49</sup> *Federalist Paper*, No. 28, *supra* note 22, at p. 180.

<sup>50</sup> H. H. Humphrey, Letter to *Guns Magazine*, Vol. 6, No. 2, p. 4 (February, 1960).

<sup>51</sup> Story, *supra* note 42, *ibid.* Cf. Elbridge Gerry: ". . . the Militia, that great and sole palladium of Liberty, . . . that War, the great scourge of humanity, and its prevailing cause, Tyranny, may cease through the Globe." *A Proclamation For a Day of Public Thanksgiving Praise and Prayer* (October 24, 1810).

<sup>52</sup> *Olmstead v. United States*, 277 U.S. 438, 479 (1928).

<sup>53</sup> Editorial No. 658, WPIX-TV, January 3, 1974, delivered by Richard Hughes, Senior Vice-President of WPIX.

<sup>54</sup> *Shelton v. Tucker*, 364 U.S. 479 (1960); *Schneider v. Smith*, 390 U.S. 17, 25 (1968).

<sup>55</sup> *Boyd v. United States*, 116 U.S. 616 (1886); *Mapp v. Ohio*, 367 U.S. 643 (1961).

<sup>56</sup> *United Public Workers v. Mitchell*, 330 U.S. 75, 94-95 (1947); *Griswold v. Connecticut*, 381 U.S. 479 (1965), *supra* note 96.

hibited by it to the States, are reserved to the States respectively, or to the people." (Emphasis added.) Thus, the Framers of the Bill of Rights had a clear distinction in mind: When they intended individual rights they used the phrase "right of the people", just as in the Second Amendment. Accordingly, the contemporary attempt to restrict the Second Amendment "right of the people to keep and bear Arms" to a collective right, or to a right of the States (to maintain an organized militia), is thus very dangerous to all liberty. A similar analysis could destroy every one of the rights of "the people" set forth in the other of the provisions in the Bill of Rights.

For liberty is indivisible, just like the Bill of Rights! And he who would, for the sake of expediency, interpret away one of these rights should be careful lest the same process be used to erode his own favorite subset of rights in the Bill of Rights.

#### FUNDAMENTAL DANGERS TO LIBERTY AND THE CONSTITUTION UNDER THE GUN CONTROL ACT OF 1968

The dealer-license provisions of the Federal Gun Control Act of 1968<sup>57</sup> require every dealer in Arms to be federally licensed and to keep records of all transactions. These records in the hands of these dealers contain the identity of all purchasers and the identity of all Arms purchased.<sup>58</sup> In the event of discontinuance of the seller's business, the form-records required to have been kept must be delivered to the Government.<sup>59</sup> In any event, all such records, according to the Act as interpreted by the U.S. Supreme Court, are supposed to be available for and subject to "unannounced"<sup>60</sup> inspection and copying by Government agents. Thus, the central Government can always quickly acquire, if not continually accumulate, complete information as to all Arms sold by dealers since the year 1968 (and some earlier Arms transactions under the less vigorously enforced predecessor Statute, the Federal Firearms Act of 1938 dealing with rifles, shot-guns and pistols, chiefly).

The record-keeping and inspection provisions of the Gun Control Act of 1968 constitute a registration program by the central Government with respect to all Arms sold by dealers. As time passes under this Gun Control Act of 1968, and the Arms in private hands which got there before 1968 grow old and obsolete and inoperative (with ammunition no longer available due to various caliber changes over the years), the Federal Government will thus have available a computer printout of the complete lists of the identity of all operable Arms and their purchasers in the Government's centralized mass memory data storage and retrieval systems. These Arms<sup>61</sup> are thus becoming increasingly more vulnerable to a sudden confiscation scheme or program by Government.

Thus, as time passes under the Gun Control Act of 1968, with its record-keeping and inspection provisions remaining in force, the probability of a realistic dream of dictatorship forming in the mind of a usurping President constantly grows, by reason of the ever more realistic hope of such a President that he can get at enough people's Arms by a quick confiscation scheme, aided by the mass computer data storage and retrieval capacity of the central Government, before the people would have the ability to act through their State legislatures to organize their State Militias. This now continuously increasing probability of usurpation is directly due to the record-keeping and inspection provisions of the Federal Gun Control Act of 1968, which are presently being so vigorously enforced by agents of Government. And this rising probability of Arms confiscation and usurpation of power is precisely what the Second Amendment was adopted to prevent in a Nation founded under a Constitution that, in the words of Justice Story speaking from the U.S. Supreme Court bench in 1816,<sup>62</sup> "was to endure through a long lapse of ages, the events of which were locked up in the inscrutable purposes of Providence."

<sup>57</sup> Public Law 90-618: Title I—18 U.S.C. Ch. 44; Title II—26 U.S.C. Ch. 53 (National Firearms Act).

<sup>58</sup> Forms 11 and 4473 of U.S. Treasury Dept. Bureau of Alcohol, Tobacco and Firearms.

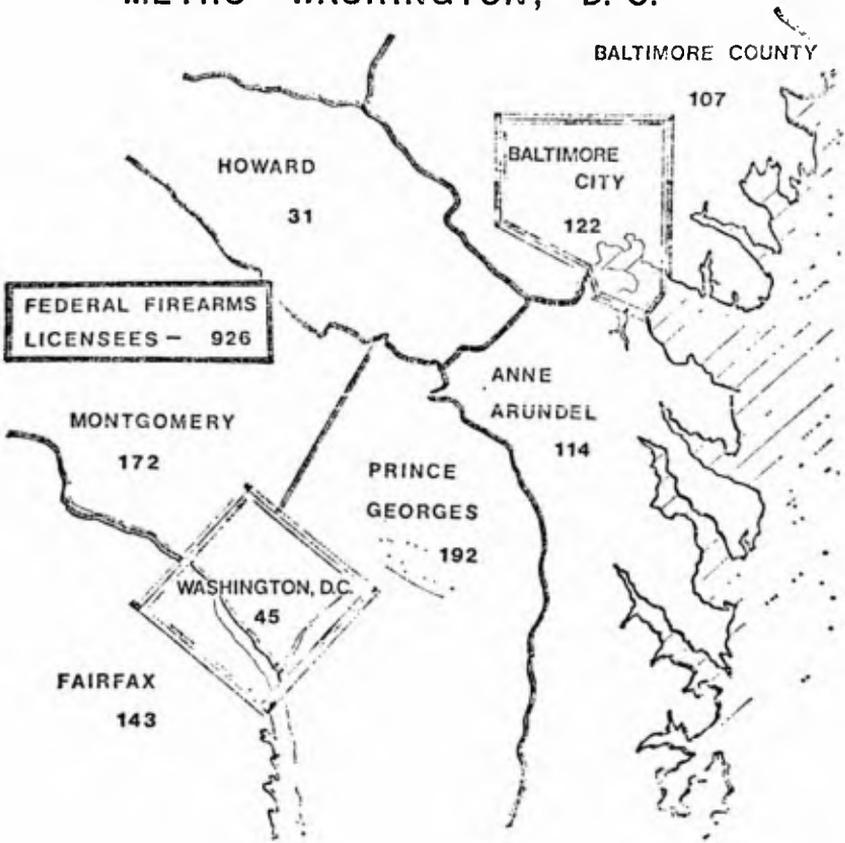
<sup>59</sup> 26 Code Fed. Reg. § 178.127.

<sup>60</sup> *United States v. Blawell*, 406 U.S. 311, 316 (1972).

<sup>61</sup> Title I of the Gun Control Act of 1968 covers rifles, shotguns and pistols; Title II of the Gun Control Act covers sub-machine guns and other more powerful Arms. See: 18 U.S.C. §§ 921-928 (Title I); 26 U.S.C. §§ 5801 *et seq.* (Title II).

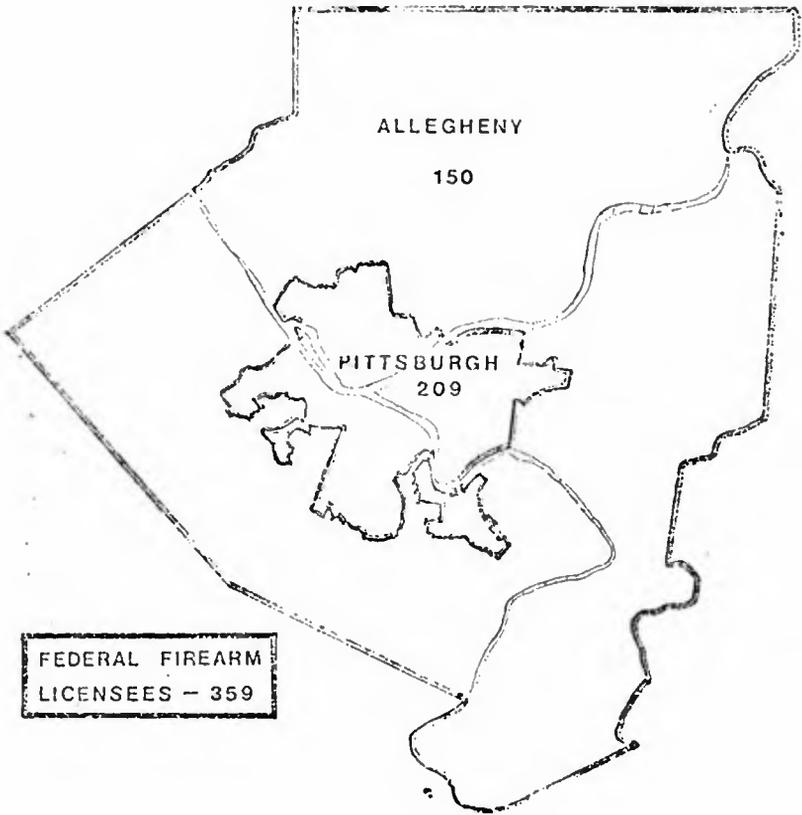
<sup>62</sup> *Martin v. Hunter's Lessee*, 1 Wheat. (14 U.S.) 304, 326 (1816).

# METRO WASHINGTON, D. C.



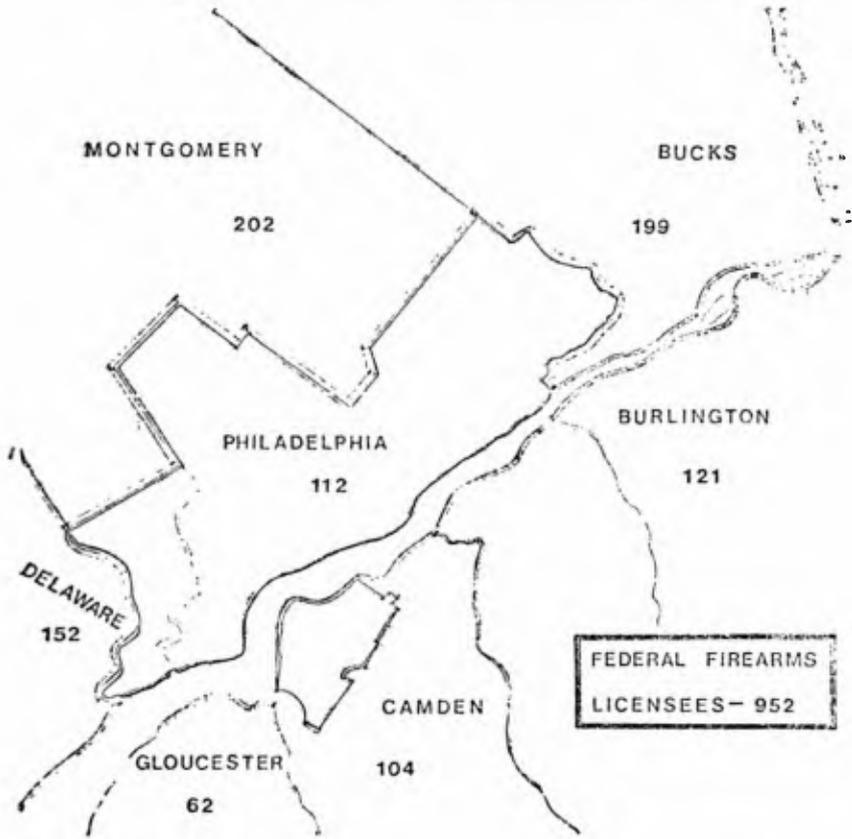
2280

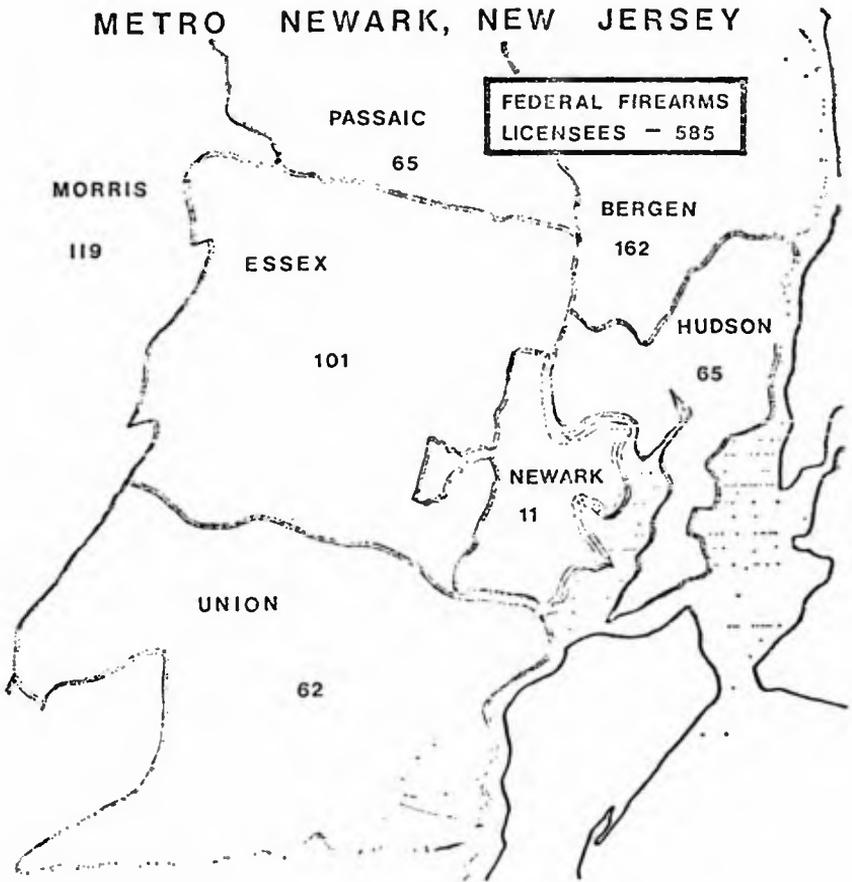
METRO PITTSBURGH, PA.



FEDERAL FIREARM  
LICENSEES - 359

METRO PHILADELPHIA, PA.





AFTER RECESS

Mr. CONYERS. The subcommittee will come to order.

We are happy to have as our next witnesses the Acting Regional Director of the North Atlantic Region, Mr. M. L. Goodwin, and Harry T. Morrissey, Assistant Regional Director, Criminal Enforcement, Mid-Atlantic Region, accompanied by Thomas George, Assistant Regional Director, Regulatory Enforcement, Bureau of Alcohol, Tobacco, and Firearms, U.S. Department of the Treasury.

We are delighted to have you here, Mr. Goodwin, and please introduce the rest of your associates, would you? We will incorporate your prepared statements into the record, and then allow you to proceed in your own way.

[The prepared statements of Mr. Goodwin and Mr. Morrissey follow:]

STATEMENT OF M. L. GOODWIN, ACTING REGIONAL DIRECTOR, NORTH ATLANTIC REGION, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, DEPARTMENT OF THE TREASURY

Mr. Chairman (John Conyers, Jr.) and Members of the committee, I am M. L. Goodwin, Jr., acting regional director for the North-Atlantic Region, Bureau

of Alcohol, Tobacco, and Firearms, Department of the Treasury. Accompanying me is Mr. Arthur Montuori, Special Agent in Charge of the Boston District Office and Mr. Michael La Perch, Jr., Special Agent in Charge of the New York District Office.

With the committee's permission, Mr. Chairman, I would like to read a brief statement which outlines the Bureau of ATF's operation within the North-Atlantic Region.

As you well know, ATF's areas of jurisdiction, as authorized by Congress, in their order of Bureau designated priority are:

1. The explosives program—as set forth in title XI of the Organized Crime Control Act of 1970 (18 U.S.C. sec. 841-848) the objective of which is to reduce the number of criminal incidents involving misuse of explosives.

2. The firearms program—as set forth in the Gun Control Act of 1968, the National Firearms Act as amended by title II of the Gun Control Act of 1968 and title VII of the Omnibus Crime Control and Safe Streets Act of 1968—whose principal objective is to eliminate the criminal use of firearms.

3. The wagering enforcement program—as defined in chapter 35, of the Internal Revenue Code of 1954—which is directed at vigorous enforcement of the wagering occupational tax statutes as well as the wagering excise tax statutes, not only to protect the revenue, but to suppress organized crime through criminal and civil fraud convictions.

4. The illicit alcohol program—which is intended to suppress the manufacture and distribution of non-tax paid distilled spirits through apprehension and criminal prosecution of violators in an effort to protect the revenue from tax loss and the public from the dangers of poisons usually contained in illegally produced alcohol.

5. The legal liquor enforcement program—which is concerned with the detection and prevention of violation of laws and regulations governing members of the legal liquor industry.

The North-Atlantic Region, which consists of the State of New York, the Commonwealth of Puerto Rico, the Virgin Islands, Guam (regulatory function only), and the six New England States, maintains two criminal enforcement district offices. One located here in New York City, with a geographic area of responsibility which covers the entire State of New York, the Commonwealth of Puerto Rico and the Virgin Islands. The other is located in Boston, Massachusetts with its geographic area of responsibility covering the six New England States. These two district offices maintain and staff twenty-six (26) enforcement groups at eighteen (18) separate posts of duty which range from Puerto Rico to Burlington, Vermont.

Our present onboard strength consists of one hundred eighty-one (181) special agents (including first line supervisors) whose principal function is to effectively implement the Bureau's enforcement programs. These 181 special agents are responsible for enforcing those Federal laws over which they have jurisdiction in a geographic area covering 114.3 thousand square miles which contains close to 32.9 million people. (Population and land area figures obtained from 1974 World Almanac based on 1970 census)

The criminal enforcement staff is augmented by 85 regulatory enforcement inspectors who, as their name implies, ensures compliance throughout the region with laws and regulations pertaining to the legal liquor industry as well as the tobacco, firearms and explosives industries. Discoveries of irregularities which hint at fraud or illicit activities on the part of industry members are referred to the criminal enforcement branch. It is through this medium that we in the North-Atlantic Region monitor the activities of 821 explosives licensees (79 manufacturers, 11 importers and 132 dealers) and permittees (599 users of explosives), 12,033 firearms licensees (10,662 dealers, 68 manufacturers of firearms, 563 manufacturers of ammunition, 89 importers of firearms, 600 collectors, 48 pawnbrokers, 3 manufacturers of destructive devices), and 4,605 legal liquor permittees which do not include the thousands of retail liquor dealers such as bars, restaurants, package stores and other retail establishments that dispense liquor to the public.

Mr. Chairman, as you know, on July 1, 1972, ATF was removed from the Internal Revenue Service and made a self-sustaining bureau within the Department of the Treasury.

After overcoming the initial problems inherent in the creation of a new bureau, we have seen a constant and continuing increase in our activity as reflected by these statistics:

Calendar year	NAR	New York district	Boston district
1973:			
Cases .....	252	145	107
Arrests .....	322	172	150
Firearms seized .....	511	299	212
1974:			
Cases .....	333	194	139
Arrests .....	414	239	175
Firearms seized .....	1,812	1,746	66
January to June 1975:			
Cases .....	187	111	76
Arrests .....	246	139	107
Firearms seized .....	251	143	108

As can readily be seen, if the current pace is maintained, our total of criminal cases and arrests made for the calendar year 1975 will continue to show substantial increases over those made in prior years. Our undercover agents, in New York alone, purchased a total of 241 handguns during 1974 through the illegal firearms market. Thus far, during the first six months of 1975, they have purchased 135 handguns for a 60% increase over a comparable period in 1974.

While these figures, in a very general sense, reflect some of the accomplishments of this bureau's North-Atlantic Region they do not reflect the actual problem which the illegally owned and/or acquired handgun presents within our geographic area of jurisdiction. To better understand this problem one needs merely to examine the statistics maintained by our various local police departments. For example, in 1974 the New York City Police Department seized 12,227 handguns, while a total of 15,620 were seized throughout New York State. Also in 1974, there were 35,547 crimes committed with handguns in New York City. Obviously, the handguns used in the commission of these crimes were not all recovered; thus the discrepancy between the number of guns seized and the number of crimes committed. During the first six months of 1975 the New York City Police Department seized 6,014 handguns and a total of 7,679 were seized throughout the State. There were a total of 14,762 crimes committed with handguns in New York City during this same period.

In the city of Boston, Massachusetts, although crimes committed with handguns are apparently decreasing, the police departments statistics are significantly impressive. For example, in 1973 a total of 51.1% of all homicides were committed by the use of a handgun. In 1974 this figure dropped to 45.5% and for the first quarter of 1975 the figure stood at 40%. Of the total robberies in Boston during 1974, 31.2% were committed with a handgun and 24.2% of all cases of aggravated assault involved the use of a handgun. During the first quarter of 1975, 31% of all robberies and 20.6% of all aggravated assault cases were committed with the use of a handgun.

In an effort to determine the origin of the multitude of handguns that were plaguing law enforcement officials at all levels of government in most parts of the country, the Bureau of ATF, in 1973, initiated a pilot study which was named "Project I" (identification).

At that time the police departments of several key cities, New York City being one of them, were asked to submit to the local ATF Office a description of all handguns used in street crimes during the period January to August 1973. This bureau would then attempt to trace the firearm from the manufacturer to the ultimate consumer. The original objectives of Project I were to determine the sources of handguns used in street crimes, the types of handguns used in these crimes and, by tracing, furnish investigative leads to the several police departments involved as well as to the Bureau's special agents if violations of existing federal firearms laws were found.

A total of 2,801 requests to trace handguns were submitted by the New York District Office to Bureau Headquarters in Washington. After eliminating those firearms which were too old to trace, were of foreign manufacture, were military weapons or were untraceable due to the unavailability of sales records we found that a total 2,546 or 91% of those originally submitted were traceable at least to the retail dealer for ultimate disposition to the public. Project I disclosed factually that which was long suspected by federal and local law enforcement officials in New York; 77% of the firearms successfully traced came from outside the State of New York. The greater majority of these came from four states:

South Carolina, Florida, Virginia and Georgia. The balance was divided among the several remaining states. The program further established that 10% of the New York handguns traced had been stolen and, 53% met the bureau's criteria defining a weapon as a "Saturday Night Special". ATF has defined a "Saturday Night Special" as a handgun which meets all three of the following criteria:

- (A) Cost—less than \$50.00.  
 (B) Caliber—.32 or less.  
 (C) Barrel length 3" or less.

It was not until January 15 of this year that a similar project was initiated in Boston. Although the period under study was from January 15 thru April 15, 1975, it is too soon for any definitive results to be reported.

Mr. Chairman, I have attempted to briefly outline for you the bureau's programs, the North-Atlantic Region's physical and geographical make-up and to point out some of our accomplishments within the framework of existing laws and regulations. My associates and I will now be happy to answer any questions you and the committee members care to ask.

#### MID-ATLANTIC REGION, CASES MADE FISCAL 1975

[By type and location]

State	Gun Control Act							Explosives control Act, Title XI	Total
	Title I	Title II	Title VII	Title I-II	Title I-VII	Title II-VII	Title I-II-VIII		
Delaware.....	4	4	0	0	0	0	0	0	8
District of Columbia.....	0	103	0	0	1	1	0	0	105
Maryland.....	9	11	19	1	22	3	0	4	69
New Jersey.....	9	10	0	5	7	5	3	5	44
Pennsylvania.....	11	31	24	2	62	5	3	2	140
Virginia.....	32	26	37	2	74	2	0	8	181
Total.....	65	185	80	10	166	16	6	19	547

#### MID-ATLANTIC REGION

##### SIGNIFICANT CRIMINAL ENFORCEMENT PROGRAM—ARMED AND DANGEROUS

- Number of Significant Criminals now under active investigation, including those who have been arrested, indicted, tried, or are awaiting sentencing:
 

Pennsylvania .....	51
New Jersey .....	25
Virginia .....	17
Washington, D.C., Delaware, and Maryland .....	52
- Number of Significant Criminals now identified but in suspense file and not presently assigned for active investigation:
 

Pennsylvania .....	9
New Jersey .....	46
Virginia .....	6
Washington, D.C., Delaware, and Maryland .....	7
- Number of Significant Criminals investigated since beginning of program on November 1, 1974:
 

Pennsylvania .....	54
New Jersey .....	38
Virginia .....	34
Washington, D.C., Delaware, and Maryland .....	74
- Number of Significant Criminals arrested and recommended for prosecution since beginning of the Program on November 1, 1974:
 

Pennsylvania .....	34
New Jersey .....	7
Virginia .....	18
Washington, D.C., Delaware, and Maryland .....	45
- Number of Significant Criminals recommended for prosecution but not arrested:
 

Pennsylvania .....	7
New Jersey .....	3
Virginia .....	4
Washington, D.C., Delaware, and Maryland .....	5

## ASSISTANCE TO STATE &amp; LOCAL LAW ENFORCEMENT AGENCIES

During FY 1975 ATF in the Mid-Atlantic Region referred 312 violations not within the Bureau's jurisdiction to other law enforcement agencies; sixty-three percent (63%) of these referrals were to state and local law enforcement agencies.

In addition, of the 547 gun and explosives cases made by ATF in Mid-Atlantic Region during FY 1975, 136 cases were perfected jointly with state and local police.

Examples of the type referrals made to state and local police are as follows:

1. On March 18, 1975, information was received from an ATF Informant that Michael Louis Corbett, Scott Edward Gilmer and Michael Andrew Truslow, all of Staunton, Va., had stolen a quantity of explosive materials from A. J. Conner, General Construction Co., Staunton, Va. on or about January 30, 1975. Further investigation revealed that the above subjects stole the explosives for the purpose of blowing up a Virginia State Police undercover agent and his Informant in retaliation for drug cases made by them. Corbett, Truslow and Gilmer, after being advised of their rights, all admitted this was the reason for stealing the explosives. On April 2, 1975, this information was related to Virginia State Police, along with copies of statements of the three men.

2. On March 9, 1975 Police Officer Theodore Staab, Baltimore, Maryland, pursued fleeing suspects from robbery scene. Officer Staab was shot by one of the robbers using a sawed-off shotgun. Staab received serious stomach and chest injuries, but was able to fire at his assailants. The assailant abandoned the sawed-off shotgun at the scene. Spectators at the scene refused to aid the wounded officer and unidentified members of the crowd stole the sawed-off firearm and the policeman's handgun.

Baltimore detectives investigating case had only sketchy descriptions of the assailants/robbers.

On March 17, 1975, ATF Special Agents, Baltimore, through confidential informants obtained names and descriptions of the assailants and details regarding the crime, and referred it to the Baltimore Police who arrested the assailants.

3. In January 1975 information was referred to the Penn Central Railroad Security Office, Baltimore, Md. relating to the theft of 80 to 100 cases of cigarettes from a freight car destined for New Jersey. Additional information was also referred relative to the number of individuals in the burglary ring and a description of the ring leader and his vehicle. Penn Central confirmed the theft and the information was additionally referred to the Maryland State Police and to the Anne Arundel County, Maryland Police. As a result of this referral the state and county arrested three individuals.

4. An ATF Special Agent received confidential information that a Trenton, New Jersey resident, Joseph F. Zebrowski, was selling drugs from his home. The subject, a convicted felon, and member of the Breed Motorcycle Gang, was also known to be in possession of a hand gun purchased prior to enactment of GCA.

The ATF Informant, working in cooperation with the Mercer County, New Jersey Organized Crime and Narcotics Strike Force, made several purchases of drugs from the subject. On December 5, 1974, New Jersey State Police and Mercer County Detectives executed a State search warrant on Zebrowski's residence. Drugs and marijuana were seized by the County. A revolver and a motorcycle with an obliterated serial number were seized by the State.

5. As a result of information and evidence furnished by a Special Agent, Baltimore Post of Duty, to West Virginia State Police, the following results have been obtained. Thirteen burglaries, one Post Office robbery, two thefts from malls and two interstate automobile thefts have been solved. The West Virginia State Police have arrested ten defendants presently charged with 26 felonies. Two of the defendants were on parole from murder convictions when arrested.

ATF Special Agents conducted formal training sessions ranging in length from two hours to one week for 4,048 state and local law enforcement officers during FY 1975.

## ATTACHMENT 6

FIREARM TRACING REQUESTS RECEIVED IN MID-ATLANTIC REGION FROM LOCAL AND STATE POLICE,  
CALENDAR YEAR 1974

State	Number of requests	Number of separate police departments requesting traces
Delaware.....	32	3
District of Columbia.....	66	1
Maryland.....	368	31
City of Baltimore Police Department.....	(49)	
County of Baltimore Sheriff's Department.....	(26)	
Maryland State Police.....	(20)	
New Jersey.....	1,213	181
Newark Police Department.....	(20)	
New Jersey State Police.....	(122)	
Pennsylvania.....	2,075	158
Philadelphia Police Department.....	1 (1,064)	
Virginia.....	1,435	91
Richmond Police Department.....	(57)	
Total.....	5,189	462

<sup>1</sup> Includes 993 from Project I.

Note: 54 percent of all firearm trace requests received by ATF Bureau Headquarters were submitted by State, County, and local law enforcement agencies.

STATEMENT OF HARRY T. "STEVE" MORRISSEY, ASSISTANT REGIONAL DIRECTOR  
(CRIMINAL ENFORCEMENT), MID-ATLANTIC REGION, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, DEPARTMENT OF TREASURY

Mr. Chairman and Members of the Committee: I am the Assistant Regional Director for Criminal Enforcement responsibilities in the Mid-Atlantic Region and under the jurisdiction of the Bureau of Alcohol, Tobacco and Firearms, Department of Treasury. My office is located in Philadelphia, Pennsylvania.

I introduce my colleague, Mr. Thomas George. He is the Chief, Field Operations for Regulatory Enforcement responsibilities in the Mid-Atlantic Region and under the jurisdiction of our Bureau. His office is also located at Philadelphia.

Before continuing, please accept the regrets of our Regional Director, Mr. Marvin Shaw. A previous commitment prevents his appearance before you at this particular time and place. Mr. Shaw is interested in the work of this Committee. He pledges that assistance and information available from our files and associates.

The Committee has previously learned much about our Bureau's organization, manpower, responsibilities, trials and accomplishments on a national level, with some local input through our Director and ATF officials from our Bureau's Headquarters and one or more of our other Regions. I now point out certain different data concerning my Region.

The Mid-Atlantic Region encompasses five states and the District of Columbia. The states are Delaware, Maryland, New Jersey, Pennsylvania and Virginia. This accounts for an overall land area of 160,687 square miles with an overall population of approximately 29 million people. Within our Region, we have three cities that rank within the top ten largest cities in the United States—Baltimore, Maryland; Philadelphia, Pennsylvania; and Washington, D.C. Attachment Number Two to this statement includes a breakdown of the population by state and the District of Columbia.

The Mid-Atlantic Region has 118 Inspectors under our Regulatory Enforcement operation. This force serves under 8 Area Supervisors located throughout the Region in such cities as Philadelphia, Newark, Union, Baltimore, Pittsburgh and Richmond.

During calendar year 1974, the Federal excise taxes collected on tobacco, liquor, beer and wine in our Region amounted to 1.4 billion dollars.

Attachment No. 2 also indicates a total of 14,788 firearms licensees and a total of 733 explosives licensees and permittees in the Mid-Atlantic Region, with a majority of the total licensees located in the state of Pennsylvania. In our Region, the Regulatory Enforcement operation, primarily through Inspectors, has completely assumed responsibility for the application and compliance inspections associated with commerce or licensing in firearms and explosives. This is in addition to their other responsibility to investigate the revenue aspects of the federal occupational and excise tax provisions for tobacco and liquor products, and the federal wagering statutes. More important, this frees our Criminal Investigators to concentrate full time to constructive criminal investigation, prosecution and related activities.

On the Criminal Enforcement side, we have 202 Special Agents throughout the Mid-Atlantic Region. This includes three Special Agents assigned full-time to the Justice Department's Strike Force Offices in the three cities of Newark (New Jersey), Philadelphia and Pittsburgh (Pennsylvania). This criminal investigative force works under four District Offices which are located at Falls Church, Virginia; Philadelphia, Pennsylvania; Richmond, Virginia; and Union, New Jersey. There is a Special Agent in Charge of each state in the Mid-Atlantic Region with the exception of Delaware and Maryland. These two states are under the Special Agent in Charge for our Washington (Falls Church) District Office. Attachment Number One includes our Post of Duty breakdown under each District Office, along with the cities or counties assigned to each post.

Let us now turn attention to some Criminal Enforcement accomplishments within my Region during Fiscal Year 1975. We arrested a total of 548 individuals for violation of one or more of the federal laws under ATF jurisdiction. In all, 803 defendants were recommended by us for federal prosecution. Most involved violation of those federal laws pertaining to firearms. Attachment Number Three to this statement gives a breakdown on the type of cases involved, by District Office.

We are also actively engaged in the Significant Criminal Enforcement Program—Armed and Dangerous. This program was started in December 1974 on a Bureau-wide basis and was implemented for the purpose of establishing a uniform nationwide program for the enforcement of the federal firearms and explosives laws.

The Bureau's SCEP has two major goals. The first is to investigate those significant violators in which there is a paramount federal prosecutive interest. The second is to assist state and local officers, as appropriate, in the enforcement of state and local firearms and explosives laws.

The principal objective of this program is to identify person or persons who are currently and actively engaged in felonious criminal violations of the federal firearms and explosives laws, and concurrently engaged in other felonious criminal violations which provide a great threat to the public safety. It is selective criminal investigation and prosecution dictated by limited resources in terms of manpower, equipment and money. Limited resources have been a problem to our Bureau these past few years.

In my opinion, our Region has been very successful to date with this type of selective criminal enforcement. Since inception of the Bureau's SCEP, we have identified and actively investigated 202 persons who were targeted as significant criminals. Of these, we have arrested 104 and an additional 19 have been recommended for prosecution (to be arrested after indictment). Attachment Number Four gives a breakdown of these accomplishments by District Office.

How is the criminal getting guns? There is no single answer to this question for the sources are many. We are involved with a Bureau program known as Project I, tracing of firearms received by a particular police department, usually over a three-month period. Through this project, we identify the source of handguns used in street crimes; and, for ATF and the local law enforcement agency involved, we develop intelligence regarding illicit firearms dealers, firearms theft rings and other suppliers of handguns to the criminal element.

During July, August and September of 1974, we completed a Project I survey in cooperation with the Philadelphia Police Department. A total of 993 firearms were reported by Philadelphia to our Bureau for tracing. Of these, 422 or 42 percent could not be traced because of age, incomplete records, or serial numbers had been removed. A detailed comprehensive report on the results of our Philadelphia Project I has been previously furnished this Committee.

One fact resulting from the Philadelphia study is that of the 571 firearms we did complete ATF tracing, a total of 131 or 23 percent were determined to be

stolen. This percentage is high when compared to the stolen firearm average category resulting from similar studies throughout the United States (10 percent). More important, theft of firearms is a prime source of firearms for street criminals.

To shut off or minimize this source of handguns, ATF has implemented a National Firearms Security Program. This public education program encourages firearms dealers and the citizenry to secure their firearms to prevent theft and to record serial numbers to facilitate tracing in the event of theft or loss.

Public Service Announcements carrying this message have been enthusiastically received and frequently broadcast by TV and radio during the past two months. A newspaper and poster public education campaign has also been instituted.

In addition, ATF inaugurated its Interstate Firearms Theft Program about 18 months ago. In this program, we have contacted all commercial carriers who transport firearms to encourage improved security measures at terminals and on board delivery vehicles. We have asked the carriers to report gun thefts to ATF as soon as possible after occurrence to enable effective investigation. This program has been moderately successful and has resulted in the recovery of 1000 stolen firearms and the prosecution of 53 defendants nationwide; 12 defendants in my Region. This results from some 1500 reports of thefts involving 10,800 firearms.

On May 12, 1975, we initiated a Project I study in cooperation with the Police Department in the District of Columbia (Washington, D.C.). The results to date are incomplete. We have received over 500 individual firearms reports from the District Police. Preliminary tracing results indicate the source of most are dealers in the District and the two states of Maryland and Virginia.

We have also initiated investigative action on a local basis to detect possible sources of firearms to "street" criminals. Two examples of such efforts within the Mid-Atlantic Region are what we refer to as Project Oklahoma and Project 17.

Project Oklahoma is a special project in the Washington, D.C. area, relating to identification of licensed firearms dealers in areas or counties in and around Washington with lenient local firearms laws or regulations. Selected dealers are being investigated to determine the volume of illegal purchases being made by prohibited persons, such as convicted felons. All Firearms Transaction Records at such dealers are being examined for the past six months to determine multiple purchases, known convicted or suspicious persons purchasing firearms, suspicious addresses and so forth.

In this project, which was begun in May 1975, we have concentrated thus far on dealers in four counties in Northern Virginia which are under the jurisdiction of our Washington District Office (Loudoun, Prince William, Fauquier and Rappahannock). We have eliminated dealers who sell only long guns (shotguns and rifles) and have concentrated on those who also sell handguns. The results so far have been very impressive. We have identified 52 such dealers to this point. Of the first 1100 forms examined involving sales of handguns, approximately 50 percent involved multiple sales, i.e., purchases of more than one handgun from the dealer by the same person. One person purchased 16 handguns from one dealer in a six-month period, and other sales were found involving 13, 12, 11, 8 or a lesser number per purchaser. As this project continues, we expect to find similar patterns at other dealers, and we anticipate a number of criminal prosecutions of the violators involved. Further investigation of purchases on a selected basis will be made to determine the disposition of the handguns, particularly large multiple purchases. Preliminary indication is that some of these multiple purchasers are reselling the firearms to anybody on the street.

Project 17 was so named because it involved violations of Titles I and VII of the Gun Control Act of 1968. It was determined through investigation that a large number of persons, residents of Philadelphia, had gone to the same dealer in Delaware County, Pennsylvania to purchase firearms of all types; i.e., shotguns, rifles and handguns. The reason for this was to circumvent the stringent Philadelphia gun law which requires a criminal record check, fingerprinting, photographing and similar action before a person can purchase any firearm, and which therefore would have barred purchases by these persons, most of whom were convicted felons, and many of whom had extensive criminal records. We selected at random 114 Firearms Transaction Records and we determined that 28 of the purchasers had extensive felony records which prohibited them from possessing any firearm under federal law. Most, if not all, currently had reputations for continuing crime on the streets. These 28 violators were arrested in December 1974 and were charged with falsification of purchase records and/or possession of firearms by prohibited persons.

All of the 28 have been indicted; most of them have pleaded guilty and have been sentenced to probation.

Like our ATF associates throughout the United States, we are meeting commitments to Congressional intent that we assist state and local law enforcement in the battle against crime and violence in the streets. The above accomplishments reflect this fact. Of the 547 gun and explosive cases made by our Special Agents during Fiscal Year 1975, 136 cases were perfected jointly with state and local police officials.

Additional support is reflected in our referral of 312 significant violations to other law enforcement agencies during Fiscal Year 1975. A few examples are outlined in Attachment Number Five to this statement.

Also in Fiscal Year 1975, our Special Agents throughout the Mid-Atlantic Region conducted formal training for a total of 4,048 state and local law enforcement officers involving some 97 different independent agencies.

Finally, during Fiscal Year 1975, we received and acted upon a total of 5,189 individual firearms tracing requests from 462 state and local police agencies throughout our five states and the District of Columbia. Most of these firearms were involved in some type street crime. A breakdown of this tracing request action by state is reflected in Attachment Number Six.

I have read and reviewed the proposed changes in the law as put before this Committee by the Department of Treasury, also the proposals by President Gerald Ford. If the proposals become law and fact, we will be in a much better position to contend with our overall responsibilities, particularly legitimate and illegal traffic in firearms.

Thank you, Mr. Chairman. Now can we answer any questions you gentlemen may have?

#### UPDATING OF OFFICE JURISDICTIONS FOR ORGANIZATION MANUAL

The following list of District Office and Post of Duty jurisdictions is submitted in accordance with your request of January 14, 1975 and the instructions in the Assistant Director's (Administration) memorandum of January 10, 1975.

The name of the District Office and Post of Duty designates the location of the headquarters of that office unless otherwise indicated.

#### NEW JERSEY DISTRICT OFFICE—LOCATED AT UNION, N.J.

<i>POD</i>	<i>Counties</i>
Atlantic City-----	Atlantic, Cape May.
Camden-----	Burlington, Camden, Cumberland, Gloucester, Salem.
Trenton-----	Mercer, Monmouth, Ocean.
Union I-----	Bergen, Essex, Hudson, Passaic, Union.
Union II-----	Middlesex, Morris, Somerset, Sussex, Warren, Hunterdon.

#### PHILADELPHIA DISTRICT OFFICE

Doylestown-----	Bradford, Bucks, Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Pike, Sullivan, Susquehanna, Wayne, Wyoming.
Erie-----	Cameron, Crawford, Elk, Erie, Forest, McKean, Mercer, Potter, Venango, Warren.
Harrisburg-----	Adams, Bedford, Blair, Centre, Clinton, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Mifflin, Perry, Snyder, Union, York.
Philadelphia I-----	Chester, Philadelphia (South).
Philadelphia II-----	Delaware, Philadelphia (North).
Pittsburgh-----	Allentown, Armstrong, Beaver, Butler, Cambria, Clarion, Clearfield, Fayette, Greene, Indiana, Jefferson, Lawrence, Somerset, Washington, Westmoreland.
Reading-----	Berks, Columbia, Lancaster, Lebanon, Lycoming, Montour, Northumberland, Schuylkill, Toga.

POD	Counties	Cities <sup>1</sup>
<b>RICHMOND DISTRICT OFFICE</b>		
Bristol.....	Buchanan, Dickenson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise.	Bristol, Norton.
Charlottesville.....	Albamarle, Buckingham, Culpepper, Cumberland, Fluvanna, Greene, Madison, Orange.	Charlottesville.
Danville.....	Charlotte, Franklin, Halifax, Henry, Patrick, Pittsylvania.	Danville, Martinsville, South Boston.
Lynchburg.....	Amherst, Appomatox, Augusta, Bath, Campbell, Highland, Nelson, Rockbridge, Rockingham.	Buena Vista, Harrisonburg, Lexington, Lynchburg, Staunton, Waynasboro.
Norfolk.....	Accomac, Gloucester, Isla of Wight, James City, Matthews, Middlesex, Northampton, Southampton, York.	Chesapeake, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg.
Richmond.....	Amelia, Brunswick, Chesterfield, Dinwiddle, Charles City, Greensville, Hanover, King William, Louisa, Lunenburg, Macklenberg, New Kent, Nottoway, Powhatan, Prince Edward, Prince George, Spotsylvania, Stafford, Surry, Sussex, Southampton.	Colonial Heights, Emporia, Fredericksburg, Hopewell, Petersburg, Richmond.
Roanoke.....	Badford, Bland, Allaghany, Botatourt, Carroll, Craig, Floyd, Gilas, Grayson, Montgomery, Pulaski, Roanoka, Wythe.	Clifton Forge, Covington, Gziax' Radford, Roanoke, Salem.
<b>WASHINGTON, OISTRCT OFFICE (LOCATED AT FALLS CHURCH, VA.)</b>		
Baltimore, Md.....	Anna Arundal, Baltimore, Carroll, Frederick, Harford, Howard.	Baltimore.
Washington, D.C. (located at Falls Church, Va.)	Calvert (Md.), Charles (Md.), Montgomery (Md.), Prince Georges (Md.), St. Mary's (Md.).	Washington, O.C.
Wilmington, Del.....	Stata of Delaware, Cecil (Md.), Caroline (Md.), Oorchaster (Md.), Kent (Md.), Queen Anna (Md.), Somerset (Md.), Talbot (Md.), Wicomico (Md.), Worcester (Md.).	Nona.
Winchester, Va.....	Allagany (Md.), Garrat (Md.), Washington (Md.), Clarke (Va.), Frederick (Va.), Page (Va.), Shenandoah (Va.), Warrant (Va.), Berkeley (W. Va.), Grant (W. Va.), Hampshira (W. Va.), Hardy (W. Va.), Jefferson (W. Va.), Mineral (W. Va.), Morgan (W. Va.), Pandleton (W. Va.).	Oo.
Falls Church, Va.....	Arlington, Fairfax, Fauquier, Loudoun, Prince William, Rapahannock.	Alexandria.

<sup>1</sup> Independent political subdivisions.

**ATTACHMENT 2  
MIO-ATLANTIC REGIDN FIREARMS, EXPLOSIVES, PDPULATIDN STATISTICS**

1. Number of licensees and permittees by State	Firearms licensees	Explosives licenseas and permittaes	Percent of total firaarms	Percent of total explosives
Pennsylvania.....	6, 599	(385)	44. 6	(52. 5)
Virginia.....	4, 351	(123)	29. 4	(16. 8)
New Jersey.....	1, 726	(123)	11. 7	(16. 8)
Maryland.....	1, 731	(83)	11. 7	(11. 3)
Delaware.....	336	(7)	2. 3	(1. 0)
District of Columbia.....	45	(12)	. 3	(1. 6)
<b>Total.....</b>	<b>14, 788</b>	<b>(733)</b>	<b>100. 0</b>	<b>(100. 0)</b>

- 2. Number of firearms licensees in Newark, N.J. .... 11
- 3. Number of firearms licansaes in Metropolitan Newark, N.J. (Essex, Hudson and Union Counties)..... 239
- 4. Number of firaarms licensees in Pittsburgh, Pa..... 209
- 5. Number of firaarms licensees in Philadelpia, Pa..... 112
- 6. Population of States (1970 census):

	Number	Percent of ragon
Pennsylvania.....	11, 793, 909	40. 9
New Jersey.....	7, 168, 164	24. 9
Virginia.....	4, 648, 494	16. 1
Maryland.....	3, 922, 399	13. 6
District of Columbia.....	756, 510	2. 6
Delaware.....	548, 104	1. 9
<b>Total.....</b>	<b>28, 837, 580</b>	<b>(1)</b>

<sup>1</sup> 14.2 percent of national population.

	Number
<b>7. Population of metropolitan areas:</b>	
City of Newark, N.J. ....	381, 930
Newark metropolitan area (Essex, Hudson, Union Counties) .....	2, 084, 681
City of Philadelphia .....	1, 950, 098
City of Camden, N.J. ....	102, 551
Philadelphia metropolitan area (Pennsylvania counties—Philadelphia, Bucks, Montgomery, Chester, Delaware; New Jersey counties—Camden, Gloucester, Burlington, Mercer; Delaware—New Castle County) .....	5, 510, 739
City of Pittsburgh .....	520, 117
Pittsburgh metropolitan area (Allegheny, Westmoreland and Washington Counties) .....	2, 192, 944
District of Columbia .....	756, 510
(Virginia counties—Fairfax, Prince William, Stafford, Loudoun, Fauquier; Maryland counties—Montgomery, Prince Georges, Howard, Anne Arundel, Charles, Baltimore) .....	1 5, 123, 900

<sup>1</sup> Washington, D.C., totals are a combination of the Washington and Baltimore metropolitan areas, as reported in the attached almanac copy.

## 212 U. S. Counties and Metropolitan Areas

### HALF OF U. S. COUNTIES SHOW DECLINES

About half of the nation's counties lost population in 1950-1970. Because of a net migration out of rural areas, another one-fourth of the counties showed a slow growth rate. About two-thirds of the counties showing population drops in the 20's also had lost population between 1940 and 1950.

The 1970 Census showed Los Angeles County held its position at the head of the nation's more than 3,000 counties. The county had a total of 7,526,837. It displaced Cook County, Ill., which includes much of Chicago, in the 1960 census. Cook County, now no. 2, has a population of 5,493,530.

Way County, Mich., which embraces much of Detroit, was 3d with 2,662,654. Kings County, which is Brooklyn Borough, N. Y., was 4th with 2,420,000. Queens County, which also is part of N. Y. City, was 5th with 1,874,174.

Cook County was out of Philadelphia County, the 6th largest in the city, for the 6th position. Philadelphia County is one of the 4 counties in the list of 10 largest to lose population in the last 10 years. The others are Kings County, N. Y., and Allegheny County, Pa., and Manhattan borough comprising New York County.

A newcomer to the list of the 10 largest counties is Harris County, Tex., which includes Houston. No. 7 on the list now, it was No. 12 in 1960.

#### 25 LARGEST COUNTIES

	1970	1950
Los Angeles, Calif. ....	7,526,837	6,018,791
Cook (Chicago), Ill. ....	5,493,530	5,139,225
Wayne (Detroit), Mich. . .	2,662,654	2,426,137
Kings (Brooklyn), N. Y. .	2,420,000	2,426,139
Queens, N. Y. ....	1,874,174	1,859,413
Philadelphia, Pa. ....	1,870,078	2,002,512
Harris (Houston), Tex. . .	1,747,812	1,200,157
Cuyahoga (Cleveland), O. .	1,731,770	1,647,145
Allegheny (Pittsburgh), Pa.	1,610,103	1,420,127
New York (Manhattan) . .	1,570,173	1,670,110
Ernie, N. Y. ....	1,440,100	1,440,100
Harris, N. Y. ....	1,430,229	1,272,171
Orange (Anaheim), Calif. .	1,420,248	763,825
Albion (Cambridge), Mass. . .	1,370,355	1,230,742
San Diego, Calif. ....	1,357,334	1,030,011
Dallas, Tex. ....	1,327,301	921,127
Orange (Miami), Fla. ....	1,267,762	916,127
King (Seattle), Wash. . .	1,172,618	925,114
Suffolk, N. Y. ....	1,170,100	421,124
Essex (Buffalo), N. Y. . .	1,100,100	1,000,100
Alameda (Oakland), Calif. .	1,070,100	1,000,100
Santa Clara (San Jose), Cal.	1,000,100	600,100
San Diego, N. Y. ....	1,000,100	1,000,100
Maricopa (Phoenix), Ariz. .	950,100	600,100
St. Louis, Mo. ....	950,100	703,032

#### RICHEST COUNTY IN U. S., 1970

In 1970 the richest county in the U. S. with \$2,000 of more population was Montgomery County, Md., with a median income of \$14,716. Fairfax County, Va., ranked 2d with \$12,747 and Loudoun County, N. Y., 3d with \$14,600.

In the Philadelphia area, Montgomery County, Pa., ranked 3d with a median income of \$12,747; Delaware County, Pa., with a median income of \$11,822, ranked 5th. Rankings below the first 20 included Bucks County, Pa., \$11,630; Chester County, Pa., \$11,665; Burlington County, N. J., \$11,333; Camden County, N. J., \$10,900; Gloucester County, N. J., \$10,620; Phila. County, \$9,265.

Lower Merion in Montgomery County had the highest median income in the County, \$19,000, followed by Chesham, \$17,000, and Upper Merion, \$16,000.

In Delaware County, Swarthmore led the municipalities with a median income of \$17,500 followed by Birmingham Twp., \$17,000.

### NEW YORK LEADS METROPOLITAN AREAS

The New York Metropolitan area retained 1st position in 1972 with a population of 14,517,099 (provisional) despite the removal of Nassau & Suffolk counties from the New York Standard Metropolitan Area. The 1970 New York Standard Metropolitan Statistical Area was 11,571,099. The 2 Long Island counties became the nation's 7th ranking SMSA with a population of 2,497,360.

The Chicago SMSA moved past Los Angeles-Long Beach into 2d place with a provisional population of 7,684,760. Los Angeles SMSA was 3d with 6,992,460. Philadelphia & Detroit SMSAs retained 4th & 5th places.

The 1972 population estimates of the 269 U. S. SMSAs showed a slowing down in growth, particularly those areas of 2 million or more persons. The largest SMSAs, N. Y. & Los Angeles, were estimated to have lost population between 1970 and 1972. Among the top 5 SMSAs, Chicago, Philadelphia and Detroit gained population.

The Office of Management & Budget defines a Standard Metropolitan Statistical Area as a central city of at least 25,000 population surrounded by a suburban area which brings the population to at least 50,000. The Phila. SMSA includes Phila., Bucks, Chester, Delaware & Montgomery counties in Pa. and Burlington, Camden & Gloucester counties in N. J.

#### 25 LARGEST METROPOLITAN AREAS

	1972	1970
1* New York, N.Y.-N.J. ....	9,922,577	11,571,099
Chicago, Ill. ....	7,684,760	6,977,611
Los Angeles-Long Beach . .	6,992,460	7,041,980
Phila., Pa.-N.J. ....	5,972,500	5,243,015
Detroit, Mich. ....	5,417,000	5,376,378
Boston, Mass. ....	3,417,000	3,363,378
San Francisco-Oakland . .	3,311,000	3,270,792
Los Angeles-Long Beach SMSA	2,997,400	2,497,360
Philadelphia, Pa.-N.Y. . .	2,997,400	2,497,360
11 Dallas-Fort Worth, Tex. . .	2,800,000	2,539,333
San Diego, Cal.-Ill. ....	2,410,000	2,410,000
San Antonio, Tex. ....	2,200,000	2,200,000
San Jose, Cal. ....	2,100,000	2,100,000
San Francisco, Cal. ....	2,000,000	1,977,316
San Jose, N.Y. ....	2,000,000	2,027,438
San Jose, N.Y. ....	2,000,000	2,000,000
2* Minneapolis-St. Paul, Minn.-Wis. ....	1,995,800	1,965,391
Atlanta, Ga. ....	1,860,000	1,595,517
Anderson-Greene Ana-conda, Pa.-N.Y. ....	1,697,333	1,421,233
San Diego, Cal. ....	1,410,100	1,257,254
San Francisco, Wis. ....	1,400,000	1,400,000
Seattle-Everett, Wash. . .	1,370,000	1,424,305
Cincinnati, Ohio-Ky.-Ind. .	1,370,000	1,355,103
Buffalo, N.Y. ....	1,353,100	1,349,211
Miami, Fla. ....	1,331,000	1,267,792

#### Other SMSAs in Pa., Del. & N. J.

11 Berks, Pa. ....	431,550	671,032
Jersey City, N.J. ....	610,000	607,839
12 Lehigh-Bethlehem, Pa.-N.J. ....	407,900	594,332
13 New Brunswick-Perth Amherst, Pa.-N.J. . .	595,000	583,010
Williamson, Del.-N.J.-Md.	512,400	459,493
14 Montgomery-French-Casbury, Pa.-N.J. ....	470,000	451,849
15 Peterborough-Clifton-Passaic, N.J. ....	464,000	420,782
Harrisburg, Pa. ....	472,100	410,323
York, Pa. ....	338,500	329,540
Lancaster, Pa. ....	359,900	370,079
Trenton, N. J. ....	313,000	324,116
Shirlington, N.Y.-Pa. . .	305,700	297,264
Reading, Pa. ....	261,400	263,397
Erie, Pa. ....	271,000	243,800
Johnstown, Pa. ....	267,000	222,672

\*Change in area. \*Title change. \*\*New SMSA, merger of 2 SMSAs. \*Not complete.

## Largest U. S. Cities by Rank, 1970

213

		(Final Figures of Places with 100,000 Population and Over)							
1970	1960	City	1970	1960	City				
1	1	New York, N.Y.	7,895,563	7,761,984	73	96	Madison, Wis.	171,769	124,726
2	2	Chicago, Ill.	3,239,357	3,559,704	79	43	Spokane, Wash.	170,516	161,568
3	3	Los Angeles, Cal.	2,637,813	2,478,015	61	58	Kansas City, Kans.	168,213	121,901
4	4	Philadelphia, Pa.	1,959,098	2,639,512	81	123	Anaheim, Calif.	166,438	161,174
5	5	Detroit, Mich.	1,513,601	1,670,144	82	90	Fresno, Calif.	165,972	133,529
6	7	Houston, Tex.	1,227,852	935,217	83	83	Baton Rouge, La.	165,921	152,479
7	6	Baltimore, Md.	935,767	929,024	64	72	Springfield, Mass.	163,956	174,463
8	14	Dallas, Tex.	844,401	679,684	85	77	Hartford, Conn.	158,517	162,178
9	9	Washington, D. C.	756,510	763,956	86	79	Bridgeport, Conn.	156,542	156,742
10	8	Cleveland, Ohio	730,877	876,050	87	120	Sanita Ana, Calif.	155,767	100,559
11	26	Indianapolis, Ind.	746,302	476,258	88	104	Columbus, Ga.	155,028	116,779
12	11	Milwaukee, Wis.	717,372	741,324	89	83	Tacoma, Wash.	154,407	147,979
13	12	San Francisco, Cal.	715,674	740,316	90	84	Jackson, Miss.	153,968	154,422
14	18	San Diego, Calif.	697,027	573,224	91	95	Lincoln, Neb.	149,518	128,521
15	17	San Antonio, Tex.	654,153	567,718	92	94	Lubbock, Tex.	149,101	129,691
16	13	Boston, Mass.	641,071	697,197	93	96	Rockford, Ill.	147,070	126,736
17	22	Memphis, Tenn.	613,559	497,524	94	85	Paterson, N. J.	144,624	145,613
18	10	St. Louis, Mo.	622,236	755,076	95	99	Greensboro, N. C.	144,076	119,574
19	15	New Orleans, La.	593,471	627,525	96	75	Youngstown, O.	140,759	166,639
20	29	Phoenix, Ariz.	581,562	439,173	97		Riverside, Calif.	140,569	64,232
21	23	Columbus, Ohio	550,025	471,316	98		Fl. Lauderdale	139,560	85,548
22	19	Seattle, Wash.	530,831	557,607	99		Hot Springs, Ark.	139,372	72,385
23	71	Jacksonville, Fla.	528,665	201,020	100	86	Evansville, Ind.	137,754	141,543
24	16	Pittsburgh, Pa.	526,117	664,352	101	108	Newport News, Va.	137,177	113,662
25	23	Denver, Colo.	514,678	443,497	102	81	New Haven, Conn.	137,077	152,348
26	27	Kansas City, Mo.	527,230	475,137	103		Colorado Springs	135,060	70,164
27	24	Atlanta, Ga.	497,261	497,445	104	123	Torrance, Calif.	134,768	109,991
28	20	Buffalo, N. Y.	467,748	592,759	105	115	Winston-Salem, N.C.	133,675	111,135
29	21	Cincinnati, Ohio	451,455	592,550	106	87	Albany, Ga.	133,326	135,373
30	73	Nashville-Davidson	447,857	175,674	107	101	Glendale, Calif.	132,654	119,442
31	57	San Jose, Calif.	446,537	204,176	108	117	Little Rock, Ark.	131,433	107,813
32	25	Minneapolis, Minn.	434,436	462,872	109	118	Lansing, Mich.	130,403	107,867
33	34	Fl. Worth, Tex.	392,476	356,758	110	87	Erie, Pa.	129,231	139,440
34	39	Toledo, Ohio	363,105	313,633	111	83	Amarillo, Tex.	127,070	137,969
35	53	Newark, N. J.	351,930	405,270	112	124	Peoria, Ill.	126,763	103,162
36	32	Portland, Ore.	377,667	372,676	113		Las Vegas, Nev.	125,967	64,205
37	37	Oklahoma City	368,277	254,452	114	91	South Bend, Ind.	125,530	132,445
38	31	Louisville, Ky.	361,725	426,639	115	100	Topeka, Kans.	125,011	115,484
39	33	Oakland, Calif.	361,561	367,544	116		Richlin, N. C.	123,773	95,921
40	35	Long Beach, Cal.	358,179	344,162	117		Madison, Ga.	122,423	69,764
41	42	Omaha, Neb.	348,239	301,578	118		Garden Grove, Cal.	121,357	64,233
42	44	Miami, Fla.	334,829	291,183	119		Hampton, Va.	120,779	67,258
43	50	Tulsa, Okla.	330,250	261,585	120		Springfield, Mo.	120,076	95,565
44	43	Honolulu, Hawaii	326,871	294,194	121	92	Chattanooga, Tenn.	119,923	130,009
45	46	El Paso, Tex.	322,261	276,367	122	82	Savannah, Ga.	118,347	169,265
46	40	St. Paul, Minn.	309,714	313,411	123	102	Beaumont, Tex.	117,573	112,175
47	41	Norfolk, Va.	307,951	301,829	124	114	Berkeley, Calif.	115,716	111,278
48	36	Birmingham, Ala.	300,910	343,637	125		Huntington Beach	115,430	111,492
49	51	Rochester, N.Y.	296,253	314,611	126	93	Albany, N. Y.	115,261	127,776
50	48	Tampa, Fla.	277,753	274,974	127		Columbia, S. C.	113,542	84,435
51	51	Wichita, Kans.	276,534	281,698	128	155	Pasadena, Calif.	112,951	116,437
52	45	Akron, Ohio	271,445	290,321	129	150	Elizabeth, N. J.	112,654	107,658
53	54	Tucson, Ariz.	262,433	212,092	130		Independence, Mo.	111,630	62,528
54	47	Jersey City, N. J.	260,759	274,101	131	108	Portsmouth, Va.	110,933	114,572
55	63	Sacramento, Calif.	257,105	191,627	132		Alexandria, Va.	110,927	61,523
56	67	Austin, Tex.	251,568	136,545	133		Cedar Rapids, Ia.	110,642	92,335
57	52	Richmond, Va.	249,731	219,913	134		Livonia, Mich.	110,169	65,792
58	69	Albuquerque, N.M.	245,731	231,129	135	107	Canton, Ohio	110,053	112,631
59	49	Dayton, Ohio	242,917	265,032	136		Stockton, Calif.	109,933	85,321
60	55	Charlottesville, Va.	241,178	201,564	137	116	Albany, Pa.	107,871	126,477
61	61	St. Petersburg, Fla.	216,123	181,298	138		Greensboro, Conn.	106,738	67,713
62	74	Corpus Christi, Tex.	204,226	112,545	139		Louisville, Ky.	105,137	127,310
63	64	Yonkers, N. Y.	204,057	160,124	140		Waterbury, Conn.	103,033	107,150
64	65	Des Moines, Ia.	191,404	163,742	141	112	Hammond, Ind.	102,781	111,698
65	71	Grand Rapids	197,649	177,313	142		Hollywood, Fla.	102,673	25,227
66	53	Syracuse, N. Y.	192,937	216,013	143		San Bernardino	106,609	91,972
67	62	Flint, Mich.	193,317	176,940	144	107	Trenton, N. J.	101,763	114,167
68	53	Mobile, Ala.	190,026	202,779	145	110	Dearborn, Mich.	101,157	112,007
69	76	Shreveport, La.	182,584	164,372	146	113	Scranton, Pa.	103,554	111,443
70		Warren, Mich.	177,250	86,216	147		Camden, N. J.	102,551	117,539
71	54	Providence, R. I.	176,116	207,496	148		Miami, Fla.	102,432	68,272
72	78	Fl. Wayne, Ind.	178,021	141,776	149	125	New Bedford, Mass.	101,777	37,477
73	66	Worcester, Mass.	173,572	165,507	150		Fremont, Calif.	100,569	43,750
74	65	Salt Lake City	175,825	139,454	151	22	Duluth, Minn.	100,576	105,894
75	70	Gary, Indiana	175,415	178,020	152	119	Cambridge, Mass.	100,261	107,716
76	111	Knoxville, Tenn.	174,537	111,627	153		Parma, Ohio	100,216	62,845
77		Virginia Beach	172,166	8,691					

**TESTIMONY OF M. L. GOODWIN, ACTING REGIONAL DIRECTOR,  
NORTH ATLANTIC REGION, AND HARRY T. MORRISSEY, ASSISTANT  
REGIONAL DIRECTOR, CRIMINAL ENFORCEMENT, MID-  
ATLANTIC REGION, ACCOMPANIED BY THOMAS GEORGE,  
ASSISTANT REGIONAL DIRECTOR, REGULATORY ENFORCEMENT,  
BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, U.S. DEPARTMENT  
OF THE TREASURY**

Mr. Goodwin. Thank you, Mr. Chairman.

On my immediate right is Mr. Harry T. Morrissey, Assistant Regional Director, Criminal Enforcement, for the Mid-Atlantic Region. His office is in Philadelphia.

On his right is Mr. Thomas George, Assistant Regional Director, Regulatory Enforcement, for the Mid-Atlantic Region.

On my immediate left is Mike La Perch, the special agent in charge of the New York District Office for the North Atlantic Region.

On his left is Mr. Arthur Montuori, special agent in charge of our Boston District Office, North Atlantic Region; and Mr. Dan Black, Chief of Operations, Regulatory Enforcement, North Atlantic Region.

Mr. Chairman, with your permission, I would like to highlight briefly the statement I have submitted to the subcommittee. I will just touch on the high points, and not burden the subcommittee with reading the entire statement.

The North Atlantic Region consists of the State of New York, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the six New England States.

Within these areas, we maintain two offices, one located in New York City, with a geographic area of responsibility which covers the entire State of New York, the Commonwealth of Puerto Rico, and the Virgin Islands.

Our other enforcement district office is located in Boston, Mass., with its geographic area of responsibility covering the six New England States.

Within these district offices, we maintain 18 separate posts of duty which range from Puerto Rico to Burlington, Vt.

Our present onboard strength consists of 181 special agents, including firstline supervisors, whose principle function is to effectively implement the Bureau's important programs.

These 181 special agents are responsible for enforcing those Federal laws over which they have jurisdiction, and geographic area covering 114,300 square miles which contains close to 32.9 million people. Population and land area figures were obtained from the 1974 World Almanac based on the 1970 census.

Their function is to assure compliance throughout the region with the laws pertaining to the legal liquor industry, as well as tobacco and firearms and explosives industries.

It is true that the personnel we have in this region monitor the activities of 821 explosives licensees, 11 importers, and 132 dealers, and permittees, being 599 users of explosives, 12,033 firearms licensees, 10,662 dealers, 68 manufacturers of firearms, 563 manufacturers of ammunition, 89 importers of firearms, 600 collectors, 48 pawnbrokers, 3 manufacturers of destructive devices, and 4,605 legal liquor permit-

tees which do not include the thousands of retail liquor dealers, such as bars, restaurants, package stores, and other retail establishments that dispense liquor to the public.

Mr. Chairman, I have included in my prepared statement statistics that cover some of the accomplishments that this Bureau has had over the past 3 years, and although these statistics address themselves to the project I that Mayor Beame and Commissioner Codd addressed themselves to in their presentation, with your permission, I will not go through the statistics, since they are basically the same as already presented.

I believe, Mr. Chairman, that is all I have at this time. I believe Mr. Morrissey would like to briefly outline his statement, and my associates and I would be happy to answer whatever questions we can for you and the subcommittee.

Mr. CONYERS. I want to hear something about the problems that you are encountering in enforcing the firearms regulations of this country, especially the Gun Control Act of 1968.

Mr. GOODWIN. Yes, sir. We do have some problems.

Mr. CONYERS. You bet, and they are understandable. But what we want to do is to examine the particulars in terms of how the problem of personnel effects your implementing the regulations, and overseeing the regulations that are promulgated within your Bureau, and how we can be of more help. However, I would like you to feel free to define your problems, because you are among friends. We want to know what is going on, and how we can best help you.

Mr. GOODWIN. Yes. Well, I will address my remarks first to the New York City area. Within the metropolitan New York area, we have approximately 71 special agents on the street doing the work that we are charged with, the responsibility of the force.

In upstate New York, we have three posts located, one in Albany, another in Syracuse, and the other in Buffalo.

Our primary emphasis is in New York City where we have the bulk of our people. Through our undercover operations in New York City, through cooperation with our associates in States outside of New York, and outside of this region, we develop most of the criminal cases we perfect in this manner, through undercover operations, through the use of confidential sources, information, things of that sort.

Mr. CONYERS. Do you have contact with the Federal Bureau of Investigation?

Mr. GOODWIN. Yes, sir, we maintain liaison with the FBI.

Mr. CONYERS. What about the Central Intelligence Agency?

Mr. GOODWIN. No, sir, in my experience, I never had any contact with the CIA.

Mr. La Perch has some material in regard to referrals that we have made to other agencies, and referrals that we have received from other agencies in regard to cases that we have developed over the past few years.

Mr. CONYERS. All right.

Mr. LA PERCH. I have a breakdown of the last 6 months of this year.

Generally dealing on what the types of cases that we are making, and the source lead to the cases, and bear with me 1 second—

Mr. GEKAS. I wonder if I might ask, Mr. Chairman, as we go along, informally perhaps.

The New York District Office covers what geographical area, the city of New York?

Mr. LA PERCH. The entire State of New York.

Mr. GEKAS. And that includes the three posts in upstate New York?

Mr. LA PERCH. Yes.

Mr. GEKAS. Are agents assigned to those three posts of duty?

Mr. LA PERCH. Yes.

Mr. GEKAS. How many.

Mr. LA PERCH. Eight in Buffalo, three in Albany, and four in Syracuse.

Mr. GEKAS. Some of the 71 in the New York District Office, it is 71 minus 14, concentrated in the New York City area.

Mr. LA PERCH. Seventy-one are located within the bulk of New York City.

Mr. GEKAS. Now, as to the character of their duties, the Bureau of course has regulatory and criminal enforcement responsibilities, alcohol and tobacco, firearms and wagering. Is it not a fact that there is a substantial commerce in tobacco, illicit cigarettes, up the east coast?

Mr. LA PERCH. That is involved, but we are not involved in the enforcement of that law. These are State laws.

Mr. GOODWIN. I may elaborate just a little bit, the tobacco industry is primarily self-regulating. We have very little problem in this area. Mr. Black on the end is responsible for this function, and he might elaborate further.

Mr. GEKAS. I do not think we need to go into that.

The point of the questioning is to try to find out what takes up the time and duties of the 71 agents in the New York City area.

I assume that there is no serious alcohol problem.

Mr. LA PERCH. Virtually nonexistent in this area.

Mr. GEKAS. So that adds up that the 71 special agents are primarily involved in the enforcement of the Gun Control Act of 1968.

Mr. LA PERCH. And the Gun Control Act; yes.

Mr. GEKAS. And that is taking more and more of their time.

Mr. LA PERCH. We have not diverted much resources to wagering enforcement at this time.

Mr. CONYERS. I thought New Yorkers were big betters.

Mr. LA PERCH. It is my understanding that they are probably the largest betters.

Mr. CONYERS. What do you mean, you disagree with me that there is a lot of wagering going on, but you are not doing much about it?

Mr. LA PERCH. We do not have the resources and manpower to divert them to wagering.

Mr. CONYERS. That is the point of counsel's questions.

Where are you having problems?

If you do not tell the Congress, I do not know who you are going to tell. We are the ones that determine what your resources are.

Mr. LA PERCH. Our prime problems are in the illicit gun traffic and accordingly we put most of our resources in that problem.

Mr. GEKAS. So in New York City, it is fair to say that 71 special agents and how many inspectors are there, who would be in New York?

Mr. BLACK. Twenty inspectors.

Mr. GEKAS. In New York City there are only 20 inspectors?

Mr. BLACK. Yes, sir.

Mr. GEKAS. So that is a total of 91 manpower.

Let us divide up and first talk about special agents.

How do you have your special agents assigned, what are you targeting, what general areas do your agents target for enforcement?

Mr. LA PERCH. Our special area is assigned into squads covering the bars, the outlying suburban areas, and of course the city.

The concentration at this time is on the interstate traffic in handguns in the city. That occupies the bulk of their time, and they counsel most of the cases.

Mr. GEKAS. Of the 71, are their undercover agents, does that include your undercover activity?

Mr. LA PERCH. Most of them are at one time or another in an undercover capacity.

Mr. GEKAS. So when you say fighting illicit interstate commerce, I guess No. 1 is trying to make buys of guns coming up from South Carolina and Georgia, and, No. 2, trying to make cases of guns that are confiscated say by the New York police, after use in the commission of a crime.

Mr. LA PERCH. I would say that most of them are coming in from other States.

There are more than two States involved.

Mr. GEKAS. Of course.

Is it the buys, they try to make buys?

Mr. LA PERCH. Yes; our biggest success in the traffic is in making buys, and apprehending the people involved in this traffic.

Mr. GEKAS. One of the important questions is how successful an undercover effort can be, first of all, and then how successful a limited one can be, with only 71 agents, I am sure you will agree that is a limited number.

Do your agents make recoveries of large numbers of guns?

Mr. LA PERCH. I would say not large numbers of guns. We have somewhat of a problem in our undercover operations, in that the aim at the onset is to attempt to identify all the parties involved, and accordingly we make buys and work our way up, so to speak, but there comes a point where we ascertain that those are distributing, and at that point unfortunately, we have to precipitously move.

Mr. GEKAS. You mean arresting them?

Mr. LA PERCH. Making an arrest which might be premature.

Mr. GEKAS. The Project I final report for New York estimated that although there were 500 guns that came from South Carolina successfully traced back, that that was a part of some 40,000 that came up the east coast from the Southeast, between the period of 1969 and 1972.

That is a lot of guns, and that is not 40,000 recovered, that is just 40,000 estimated out there.

Now, the point of all this is to give us the idea of what is the magnitude of the problem, and it is fair to say the problem is enormous, is it not?

Mr. LA PERCH. I would say that, yes.

In fact, most of the cases, when we do trace them back, indicate, perhaps not in such large numbers as 40,000, but we will recover a portion of the guns, the others continue to show up in some cases for several years.

Mr. BARBOZA. Of the guns that you traced that were concentrated in New York City, how many were originally sold by wholesale distributors in New York City, or in New York State, to southern dealers?

Mr. LA PERCH. How many were sold?

Mr. BARBOZA. Originally sold, or originally sold to wholesale distributors in the State of New York, and then sold to retail dealers in the Southern States.

Mr. LA PERCH. I do not have that statistic, but we could probably get that.

Mr. BARBOZA. For your information, the chairman directed a letter to 34 handgun manufacturers. Thirteen responded with lists of wholesale distributors, as an indication of a total of what we believe to be at least 30 identifiable wholesale distributors in New York State, 13 of whom are located in New York City. So I am wondering whether or not a dilemma exists, that is manufacturers in the northern area selling handguns to New York wholesale distributors, who then sell them to retail dealers in the South, and then those guns are purchased, and find their way back to New York State.

Mr. LA PERCH. That may well be the situation.

Our problem, when they hit a wholesaler in New York, at that point it does not become a problem. Our problem is from other States coming in.

Mr. CONYERS. But he is suggesting there is a circular pattern which, ironically, originates in the State of New York.

Is there any indication that may be part of the problem of this southern connection.

Mr. LA PERCH. That may well be, but there is no way for my operation in the enforcement of the laws to deal with that.

Mr. BARBOZA. It is not illegal, of course, unless there is a sale between nonlicensed persons. The problem of the sale between States, guns going back and forth from a Northern State to a Southern State, which may be 1,000 miles away, and then back again, creates not only the problem of the guns reappearing in the States, but also the problem of security in transit, and a number of other things that arise. And that kind of progression from manufacturer to distributor raises the question of whether or not with your resources, you are able to identify who the wholesale distributors are, distinguishing them from the retail dealers in the State, and in the city of New York, and then, of course, vigorously performing your compliance work with these dealers to insure that they indeed are complying fully with the letter of the law, so that as the chairman points out, there is no illegality about their transactions. You could begin to weed out dealers if they are violating the law in this respect, and of course, by increasing licensing fees, and by strictly enforcing strong qualifications, you would know exactly where to target your resources.

Could you respond to that?

Mr. LA PERCH. That would be a regulatory function.

Mr. BLACK. I think the best way to explain it as far as regulatory enforcement, we are spread very thin in personnel, with all of these statutes that we have to enforce.

The legal liquor industry, for example, we have the Federal Alcohol Regulation Act, which is trade practices, and anybody who attempts to

go into the business has to be investigated for a permit. With only 20 inspectors, for example, in New York City, there would be no way to go into this vigorous firearms—

Mr. BARBOZA. But the subcommittee has been able to identify at least 30 wholesale dealers, individuals selling on a large scale, so that with your limited resources, you could at least direct those resources to where large quantities of guns are bought and sold. I do not suggest this as a problem, but as a means to assure that those individuals who do have very large businesses are investigated, and inspections are made to determine whether they are keeping proper records, and to make sure they comply with the law.

Mr. BLACK. Let me state if we did do it that way, then there would be another Federal statute that we would be failing to perform our responsibility with.

Mr. BARBOZA. What I am suggesting is that you do have a duty to administer the gun control laws, and even with your limited resources, I am asking whether you are able to target those resources to where the most significant problems might lie.

Mr. BLACK. We attempt to do that, but at this time, I might say, we have not made this extensive effort in the area.

Mr. BARBOZA. Could you provide us with information on the number of potential wholesale distributors in the State of New York, and whether or not any of those arms were traced to southern sources, or originated from wholesale distributors in the State of New York. I will clarify this request. A dealer may sell either at wholesale or retail; there is no separate license, of course, but there are dealers who purchase large quantities of firearms directly from the manufacturers, and they only sell to retail dealers. They do not sell to private individuals who are not licensees, but I would appreciate it if you could provide us with that information.

Mr. GOODWIN. We will attempt to get that information for you.

I might point out in many instances these wholesalers may act as brokers, and they do not gain possession of those weapons, but they go directly from the manufacturer to the licensee in the Southern States. This may be possible.

Mr. BARBOZA. Yes.

Mr. GOODWIN. But we will attempt to get this information for you.

Mr. GEKAS. To continue, I think we might want to bring Mr. Morrissey into this, I think to characterize the thrust of what we are concerned about, that is, to try to tie this together, with 71 agents involved in undercover work primarily, and down at this end, you are at the end of the stream of the commerce of the gun, which goes through New York, down to South Carolina and back, and you are trying to fight the problem from the end of it, and I would think it is fair to characterize the effort here in New York, in this region, as a very, very similar thing to what is going on in your region, which encompasses for the record, Baltimore, Philadelphia, and Washington, three cities in which there is a high incidence of firearms misuse.

Mr. MORRISSEY. Thank you, counsel.

Even when the President made his announcement the other day, out of the 11 targeted cities, 3 of them lie in the Mid-Atlantic, but like my associate in the North Atlantic region, limited manpower, plus the other responsibilities that we have to pay attention to, prevent us from just going in on any violation.

We are involved in the criminal enforcement, in what we call selective enforcement, within the regulatory enforcement area, they have to give serious attention to the liquor and wine industry, and tobacco industry in our region.

If they did not, we would not be able to collect \$1.4 billion as we did last year.

In that vein, we have 188 inspectors in the Mid-Atlantic region, and 202 special agents on the street.

Mr. CONYERS. How many?

Mr. MORRISSEY. 188 inspectors and 202 special agents.

Mr. GEKAS. How does that break down for the three major cities?

Mr. MORRISSEY. The territory we are responsible for are the five States of Delaware, Maryland, New York, Virginia, and the District of Columbia.

Mr. GEKAS. How many are in Philadelphia?

Mr. MORRISSEY. In Baltimore, at this moment I have 11 special agents with 1 supervisor, in the District of Columbia, and the immediate area, I have 2 first line supervisors, 1 has 10 special agents under his supervision, the other has 12.

Within Philadelphia, I have two groups, each group headed with a first line supervisor.

One group has, I believe it is 10 agents, and the other group has 12.

Mr. GEKAS. From some of the contacts I have with the Bureau, to be fair, I think we must say that the efforts of the special agents are not solely directed from the end point in the commerce. It is my understanding with the beginning of project identification, that involved tracing weapons used in crime to the sources in the Southeastern States, that the Bureau has attempted to tire those dealers who are selling large numbers of guns used in crime, and to see if cases can be made against them.

One of the witnesses earlier this morning described the infamous gunshop in Hampton, Va., that is one of them, is that a large part of the effort of the Bureau?

Mr. MORRISSEY. A large part, no.

At the present time, speaking for the Mid-Atlantic region, we have going individual projects. We have, for lack of a better choice, nicknamed it Project Oklahoma. We attempt in a specific given area to identify dealers who are in fact making more than one sale at any particular time to one individual.

At the present time, we have identified some 52 dealers that fit that category.

We then went a little bit further, and we tried to determine how many of the dealers were suspected, or known, subject to who should be buying firearms, and then of course the third phase that we are now in, is what are they doing with those firearms.

We had one individual who bought 16 guns, in a period of 6 weeks or so. We hope to prosecute these dealers.

More important to us, we know that roughly based on the limited information we have received from our investigative efforts, at least 50 percent of these are going back to the street, and being sold to anybody.

Mr. GEKAS. You mean 50 percent of the guns?

Mr. MORRISSEY. That these people are buying, these multiple sales, and when you have a gentleman that comes in and buys a gun at one,

and he is a convicted felon, and particularly if he is from the District of Columbia, you can pretty well assure yourself he is going back to the street, and he is selling them to other subjects who cannot get them and he is charging them a little bit extra so he can make a profit.

Mr. GEKAS. That is one of the questions I would like to get to, with your experience, perhaps you can describe how many guns are purchased, and are being sold on the streets.

One of the figures is they cost \$20 in the Southeast, and they are sold on the streets of the large cities for \$150. I do not know if that is out of line or not.

What we are talking about, what is the profit margin?

Mr. LA PERCH. In the city of New York, we are paying anywhere from \$45 for cheap handguns, in the cheap category from \$45 up to \$150, and starting from \$100 up to \$250 to \$300 for a heavier firearm.

Mr. GEKAS. And these are guns, a lot of them, the cheap guns are guns which originate in the other States for \$20.

Mr. LA PERCH. That is correct.

Mr. GEKAS. I saw an advertisement, if you bought a single gun, it was \$16.95, but if you bought them in lots of 50, it was \$12.50.

Mr. LA PERCH. This is the same in the streets, if you buy a large quantity, you get a discount.

Mr. GEKAS. Let me ask if in both of your regions, you can make buys of large numbers of guns, single buys of large numbers of guns.

Mr. GOODWIN. Yes, sir; we can make multiple buys, but we are limited also in this respect, because we have a limited amount of money that is appropriated for this purchase each year, and the North Atlantic region, in this past fiscal year, we had \$96,000, and we spent it all, so we have to use very close discretion in making multiple buys.

We are not out there to buy all of the guns on the streets. We cannot afford to do that.

Mr. GEKAS. Of course, but that might be the thing to put the money into.

Let me ask this, the statistics of Project I indicate that in the Northeastern cities, including Boston, New York, Philadelphia, and to some extent, I would suspect, Washington, D.C., when those results are available, the traffic up north is organized, handgun traffic is organized.

Now, an important question is whether or not it is organized in the sense of four or five guys getting the bright idea to go down South and buy a gun, or whether there is a larger organization, of course, we are speaking now of the mob, I suppose, that is somehow for business reasons, getting themselves involved in the traffic in guns.

What is the character of the traffic that you people see into the big cities.

Mr. LA PERCH. In the city of New York, it does not appear that organized crime is involved as a money making scheme to engage in this traffic, although it could happen.

It appears that they range from organizations that you have just described, four or five individuals, sometimes as few as two, in the current ongoing investigation we have now, it seems to be relatively organized, large number of people involved.

I believe somewhere up to 30 people. As I said, it is an ongoing investigation. I would rather not go into the details, but we are talking

about large sums of money, periodic deposits by some of the participants of \$17,000, \$18,000 weekly.

Mr. MORRISSEY. We have experienced similarly as New York has.

I cannot say that organized crime is involved, in the sense that most people when they talk today about organized crime, they are just using that for the term of the so-called Mafia.

Now, however, in the terms of two or more criminals getting together, where they found a particular market for a commodity, where they could make a profit, they have planned an operation.

Now, they have been organized in that term.

This we find quite often. We find it in Philadelphia, we certainly find it in the District.

I believe in my opinion, that had the Baltimore project continued, they were paying \$50 a piece for any gun, we would have found some serious organization that time, because I do not think I am telling the committee anything they do not already know.

I am thoroughly convinced that while Baltimore had that project going, we had some people driving down to the District area to buy a cheap handgun, one that they could pay \$25 for, and drive back to Baltimore and get \$50 from the law enforcement agency.

Mr. CONYERS. How cheap could they buy it for?

Mr. MORRISSEY. If you find a fellow that needs a bottle of wine, and you tell him you will give him a bottle of wine, if he gets you a gun, it will be \$1.25 at that point.

On the other hand, if you walk up and down the street, you can rap with these people, and say I will give you \$20, \$25 for a gun, and he does not care where he gets it, in that sense nobody was asking any questions.

We are involved with the Baltimore Police tracing firearms pretty carefully, but in that particular project, I do not believe we traced all those guns.

Mr. GEKAS. That was Operation PASS.

Just to clarify the record, it was a program developed by the police department under the police commissioner, in which they bought guns, handguns, as a matter of fact, all guns for \$50, no questions asked, and there were long lines of people outside the police station.

Mr. MORRISSEY. I might point out, they even bought machine guns and sawed off weapons.

The program as far as the money lasted was pretty effective.

Mr. GEKAS. They bought about 12,000 weapons all together?

Mr. MORRISSEY. That is correct.

Mr. CONYERS. How much did it cost?

Mr. MORRISSEY. I believe they ran out of money, they passed out \$1 million.

Mr. GEKAS. They closed in pretty close to 1 million, and it was a 4- or 5-month program.

Mr. CONYERS. Fair market price?

Mr. MORRISSEY. It was a straight \$50 for any kind of weapon. If it was a shotgun, they got \$50 for it.

Mr. CONYERS. In your judgment, was it cost effective, the program?

Mr. MORRISSEY. I really do not know that much about the inner details of it. My gut reaction is, no.

Mr. GEKAS. So try to gather this altogether, the problem of guns that you gentlemen are fighting here with limited funds, and limited

people starts somewhere else, and rather than one large group involved in making a lot of buys here, or in South Carolina, and then making them up north, there are a lot of small groups making a lot of, not small, but medium buys, multiple buys, making the problem from an enforcement stand point at the end of the line, that much more difficult, because you can latch onto one group, and break them up, and in the meantime, another four could have sprung up; correct?

Mr. GOODWIN. That is correct.

Mr. GEKAS. So let's see if I can put this into a question form.

Is that the most effective method of storing this traffic in firearms to impose controls at the time that the weapon leaves the illegitimate stream of commerce, and begins its trips up I-95 to New York and Philadelphia, that is, is not the place to start cracking at the retail level?

Mr. GOODWIN. I would say that is true. I think in my opinion, would be at the retail dealer level, for more stringent controls, a capability for us to monitor the licensees, to have a strict and severe compliance program, which we have not had.

Mr. GEKAS. Then at the same time to have a very strict criminal enforcement, so that the guns that do lick through—

Mr. GOODWIN. If we have legitimate bona fide licensees, licensed dealers in the business as a livelihood to make a profit, our problems would be much less.

Mr. GEKAS. All right.

Now, let us try to relate this to, do you gentlemen agree?

Mr. MORRISSEY. Yes.

Mr. LA PERCH. Yes.

Mr. GEKAS. Let us relate this to some legislative proposals.

As you gentlemen know, the President has proposed, I think the term of strengthening of qualifications for retail licenses.

This is something this subcommittee has been talking about for 6 months. That is one way to ease the burden on the Bureau to strengthen the qualifications to get a retail dealer's license would lure the number of licensees that you have to regulate, so that the inspectors can get down and actually really be pretty tough in compliance inspections.

That is one way to go about it; is not that right?

Mr. GOODWIN. Certainly.

Mr. GEKAS. Now, the question is what else, if anything can be done about that.

It seems to me even with the strict compliance investigation, you are going to change the method, merely change the method by which the criminals are getting their guns, and even if there are a few dealers, and even if there are fewer to inspect, you will still be finding out about the illegal sales after it occurs; is that correct?

Mr. GOODWIN. That is right.

Mr. MORRISSEY. Pretty much so.

Mr. GEKAS. Under the current law, because when you go and make a compliance inspection, you are inspecting records of sales that have already been made.

Mr. LA PERCH. That is right.

Mr. GEKAS. So, if we really want to stop the problem, we have to establish a system whereby the sale does not go through if it is illegitimate, that the gun never changes hands.

Mr. MORRISSEY. We need a waiting period.

Mr. GEKAS. That is getting too specific.

In theory what we need is some effective means of preventing the handgun transfer from the retail dealer to the private person; right?

Mr. GOODWIN. Right.

Mr. GEKAS. We agree with that.

Now, the question becomes what is the way to do it.

One of the proposals is a waiting period, and in general a waiting period imposes an obligation not to transfer the weapon in order that an investigation might take place through the local law enforcement, and if they find that the purchaser is prohibited by law, then they contact the dealer, then they say they'll do it, that is generally what a waiting period.

It is different than in a situation like New York, where you have to have a permit or license to purchase. There are different situations.

In a permit situation, you have to go through the police, and say may I buy this group, and they fingerprint you, and then there is a name check, and until they approve you, there is no sale.

The waiting period, all you would have to do is to wait some time unless the police stop it, the gun will go through, right.

Mr. MORRISSEY. That is right.

Mr. GEKAS. Now, some of the waiting period things that I have seen proposed involved a 14-day waiting period while a name check is run on the purchaser, a name check through the FBI.

Can a name check identify someone as a criminal?

Mr. MORRISSEY. In some instances, yes.

Mr. GEKAS. Let us say someone named John Jones goes into a dealer anywhere, and gives his name, which is sent to the FBI, how many positive ID's do you think the FBI files would come up with.

Mr. MORRISSEY. They would not accept it for just the name alone. The system is not geared to accept on name alone. You must have additional information.

Mr. GEKAS. What kind of additional information do you need?

Mr. MORRISSEY. The big thing, if he has a prior fingerprint identification, that is the question.

Mr. GEKAS. You are jumping right to it.

The only way to make a positive identification with anyone is with the criminal records that are with the FBI Fingerprinting Division.

Mr. MORRISSEY. Their system, yes, and in most local and State systems, the real true key of identifying this Jim Jones from that Jim Jones is a fingerprint identification.

Mr. GEKAS. So at least a waiting period without a fingerprint check, you may stop a few sales, but the only one to make a positive identification is by fingerprints, right?

Mr. MORRISSEY. If you want true 100 percent reaction, yes.

Mr. GEKAS. I think in the case of a waiting period, it is designed to stop illegal purchases, so you want a true identification, you want a positive ID on someone.

Now, let us say, let us go away from that problem, and let us talk about whether or not 14 days is long enough to make an ID check to the FBI, and I ask you whether or not it is?

Mr. GOODWIN. I doubt it seriously. I think 30 days, if not 60.

Mr. GEKAS. I agree. Let us break it down.

Let us assume, that the FBI, well, the fingerprint files, or the name files are located in Washington, let us assume the purchaser is in Virginia, so that the transportation, the inbetween distance is small.

Even assuming that the name to go from a Virginia dealer to a Virginia policeman, to the FBI, back to the policeman, with a positive ID of a criminal record to the dealer, that has got to take longer than 14 days anyway, even if you can make an identification without fingerprints.

Mr. MORRISSEY. Not necessarily. Some States are computerized, and they are hooked right in with the computerization in Washington, that is the FBI.

Mr. GEKAS. The FBI does not have a name file. It is a manual system based on fingerprints, and their fingerprint parts are indexed by name.

Mr. MORRISSEY. Yes, but you can put into the computer the fingerprint classification number, and then they go through the files and manually research it.

Mr. GEKAS. But the systems I am talking about, they do not provide for fingerprints.

Let us take a waiting period system without a fingerprint identification, we are just talking about the name check system, if you send the name to a local enforcement office of the FBI, it takes 5 days alone at the FBI.

Mr. MORRISSEY. On an original application, the man has to fill out the form, or we fill out a request for a record check.

We have a regular form, that is mailed into the FBI. It takes us 21 to 30 days.

Mr. GEKAS. So in other words 14 days are not long enough.

Mr. MORRISSEY. No.

Mr. GEKAS. Plus the waiting period suffers from the design defects, that unless they hear from the police, that they will go through.

Mr. MORRISSEY. I might indicate on our system, there is no fingerprint number.

You have the additional load of many more people. I do not know if the FBI system could function under that.

Mr. GEKAS. I understand they process 28,000 fingerprint checks a day, business day, and in the fingerprint division of the FBI, that is where that is done.

If we assume then under a waiting period system, we would have, we would be checking the sales, the purchasers of 2½ million guns, handguns a year, which is a figure large here, that breaks down to about 2 million purchasers, because some of the handgun purchasers will buy more than one handgun a day one time, and that figure has too many purchasers break down to 8,000 per business day, so with a waiting period requiring an FBI check, we are talking about adding on to current rate of 28,000 checks a day, another 8,000, which is an enormous increase and, of course, this is all relevant to the point of whether or not the waiting period system is a good one.

Now, let us talk about a system that would be a good one, and that would be so much similar to the systems we have heard of right here today in New York and Massachusetts, which is basically a licensing registration, those are the names used, but they are simply prechecking of purchasers, and let me ask, since you are the experts, is that the

only way to really make sure that the purchaser is not prohibited by law is to prevent the sale until it is OK, and until he is checked out, is not the only really effective way to do it?

Mr. LA PERCH. You are dealing with an individual buying a gun that might be precluded, you are not dealing with trafficking now.

Mr. GEKAS. I am talking about the situation of a criminal that wants to go down and buy a gun.

Mr. LA PERCH. Obviously, where he so states, I am not precluded, certainly does not pose any problem.

Mr. GEKAS. That will not stop anyone.

Mr. LA PERCH. Right.

Mr. GEKAS. So the only way to stop that, is to make sure to check the guy, find out who he is positively, and to say no sale, until you find out that the guy is OK, is that correct?

Mr. LA PERCH. That is correct.

Mr. GEKAS. Well, then, let me ask you this, that is a limitation only on the first retail purchaser, and let me pose a hypothetical, and see if you agree with my conclusion about it.

Let us assume that such a limitation was imposed on the first retail sale, in other words, that the purchaser has to be checked before he can get the gun.

What I expect would happen, is that the people who are renting guns would find someone in a Southeastern State, or I should not malign the Southeast, or in a State with no gun controls, strict laws, he would find someone in such a State who could legally make the purchase, who would be checked through the system, he would buy the 1 or 10 guns, and then when the guy got outside the shop, they would get in the car, go around the corner, and the transfer would be made.

Mr. LA PERCH. It is very common.

Mr. GEKAS. And even if you had a system of check and retail purchases, that is the way you would evade it.

Maybe we are giving a course here on how to evade the law.

Mr. MORRISSEY. You do not need to give a course to the criminal.

Mr. MONTUORI. There are three States in New England that have very loose laws, whereas in Massachusetts and Rhode Island, which has a waiting period, by the way, on purchasing a handgun, and in Connecticut there are certain restrictions that make it a little more difficult for a person to make these buys, but if you went up to say Maine, New Hampshire, and Vermont especially, your laws are very loose, and, therefore, a resident could go in, buy the firearm, make the transfer.

Now, of course, we are also assuming if he buys the firearm, makes the transfer after he leaves the store, and he sells it to a nonresident, he is violating the Gun Control Act of 1968, but this poses no problem to him.

This is a common thing that is happening.

Mr. GEKAS. At least in theory, can we agree in addition to a system of controls on the first retail sales, to really stop criminals from buying and obtaining guns, we have to impose controls on secondary transfers as well.

Mr. MONTUORI. Absolutely.

Mr. LA PERCH. There are other methods, that they acquire guns also.

Mr. GEKAS. Of course, when I say stop, I mean reduce.

We agree that criminals will always be able to get guns, but now instead of having to sell them from shipments, they can just go to Virginia and buy them.

Mr. LA PERCH. That is correct.

Mr. GEKAS. Well, we have gone a long road. Thank you.

Mr. BARBOZA. Mr. Goodwin, just briefly, but thoroughly, could you state all of your duties under the 1968 Gun Control Act, your responsibilities.

Mr. GOODWIN. Well, of course we have the various titles under this act, title I, title II, and title VII aspects of the Gun Control Act.

The title I addresses itself to commerce in firearms, the regulations that are imposed on people that are engaged in this business by various criminal statutes in regard to that title.

Title II aspects concern themselves with the gangster type weapons, sawed-off shotguns, destructive devices, things of that nature, and title VII of course is the prohibitive person category of that act.

Mr. BARBOZA. You also provide assistance to State agencies?

Mr. GOODWIN. That is the preamble to the act itself. State's assistance.

Mr. BARBOZA. Do you review applications for new licenses.

Mr. GOODWIN. Yes, sir.

Mr. BARBOZA. Do you have responsibility for criminal enforcement in addition to the regulatory?

Mr. GOODWIN. Yes; all of these titles, we have the criminal responsibility of enforcement.

Mr. BARBOZA. You have already given us the number of agents and inspectors in your region.

Perhaps you will analyze the present staffing of your Bureau in the two regions, and how many additional agents you need to thoroughly perform all of the functions.

Mr. GOODWIN. We are, I guess, continually analyzing our problems.

As you know, New York and Boston are two of the target cities in the recent crime message, and under that program we in the North Atlantic region are scheduled to get approximately 70 additional special agents in the New York City area and Boston.

I am of the opinion, that even with this addition, we would be severely understaffed to do a full program, both in criminal enforcement, and at this point, we do not know how many inspectors we may get out of this, but we just do not have enough people to do the work that we are targeted to do now.

If there is additional legislation enacted, then our burden will be greater.

In addition to the severe understaffing, that is, in the personnel area, we are severely curtailed by the lack of equipment, for instance.

We have not received any automobiles in the North Atlantic region since the spring of 1973, so, therefore, we have got three or four agents riding in one car, riding the bus or subway.

Mr. BARBOZA. It is difficult to make compliance inspections in different places in that way.

Mr. GOODWIN. We are not fully utilizing our manpower by virtue of this fact.

It is a fact of life.

Mr. BARBOZA. Must you use Cadillacs and that type of vehicle in this type of undercover work?

Mr. GOODWIN. Yes, occasionally we must. Do not misunderstand us, we are not advocating that we be given Cadillacs. We are advocating that we be given modern up-to-date street vehicles, so that we can at least make an attempt to fulfill our responsibility.

Mr. BARBOZA. This subcommittee has several pieces of legislation to amend the Gun Control Act, to place tighter restrictions on the manufacture and sale of firearms, to tighten up dealer qualifications, and other license qualifications, but it also has the responsibility of finding answers so the Congress could contribute to increasing the effectiveness of the 1968 act, and it takes into consideration the legislation but also the existing law.

How can the existing law be improved without any further legislation, in terms of manpower resources, for the Bureau?

Would you be able to do a thorough job under the 1968 act, if you were merely given added resources, without any additional legislation, and how much in terms of money, and how much in terms of personnel would you need to do the job in your region.

Mr. GOODWIN. As far as the North Atlantic region goes, I do not think we are in a position at this given time to say exactly how many additional people we would need to deal with the current legislation, but we do admit that we have not fully fulfilled our responsibility with the current legislation.

Mr. BARBOZA. You say that 70 in New York City would not be enough.

Would you need half as many more?

Mr. GOODWIN. I say we could double that figure in New York City, and so probably come up short as far as the current legislation goes. Would you agree with that?

Mr. LA PERCH. That is correct.

Mr. GOODWIN. The same would be true in the Boston area.

We have approximately 40 special agents stationed in the Boston metropolitan area, and we are as critically understaffed there as in New York City.

Mr. BARBOZA. So, are you implying that the additional manpower would be used exclusively for enforcing the gun control laws, and not any of the other functions.

Mr. LA PERCH. If the current President's program goes through, this is the mandate, that they be applied to the weapons program.

Mr. BARBOZA. Referring to the additional 70 agents that you say would probably still not be enough, would they be applied also to firearms.

Mr. LA PERCH. That is our primary problem in this region, firearms and the Explosives Control Act, firearms the primary problem.

Mr. MORRISSEY. If I might point out, Mr. Barboza, our Bureau officials have made a study in a reasonable approach to this.

There are other factors involved, as an example, I just could not assume a doubling of my staff overnight, because I have got a training program that must be taken care of.

Mr. BARBOZA. Yes.

Mr. MORRISSEY. You do not train competent special agents overnight. In our normal process, it takes us 3 years to develop a good special agent.

Now, I am assuming he is coming fresh out of some university, I am also assuming he majored in criminal justice.

I am not saying that those that majored in other subjects are not equally as good. We have very pleasant experiences with taking on potential special agents who majored in other topics, but certainly one who majors in police administration, or criminal justice programs is better equipped to take on the training that we have set up.

Our first year training program is a very indepth on the job training situation, where he hardly gets, hardly ever gets the opportunity to exercise his own thought in the sense of our prohibiting him from making arrests on his own.

We prohibit him from going out and getting search warrants, and arrests warrants on his own. He is not ready for it.

We put him with an experienced agent, and we switch him around among other experienced agents.

Even after this first year, then we go into their second phase, which is a 2-year program, it is a bit more relaxed, and we start testing him out, how he is applying what he has been learning, gaining, through the formal education part, and also the on-the-job training, so it is a doubling of the staff, I could say that, but realistically, it would cost me additional problems, and we have not even begun to hit at this equipment and support.

Mr. GEKAS. That is all very interesting. Where I have seen that is the case in the North Atlantic region.

Is that also the case in the Mid-Atlantic region.

Mr. MORRISSEY. Not entirely, counsel.

We have received some new automobiles since 1973, but certainly not enough to keep our fleet up to date.

Right now I would estimate my fleet is about 70 percent if not higher over the hurdle as far as the guidelines that GSA sets, the safety standards, and so forth.

I have got many vehicles that are hitting the 80,000, 90,000, 100,000 miles, and they are now costing the Government in terms of repairs.

Mr. GEKAS. There are standards promulgated by the Government, is it the General Services Administration?

Mr. MORRISSEY. General Services Administration has a standard, you should consider surplus, like in the enforcement area, you should start considering 3 years old, or 50,000, 60,000 miles.

Of course, if we do not get another vehicle—

Mr. GEKAS. You may do with what you have, so that you are not only understaffed, but you do not have an automobile for your men.

Is that fair?

I do not want to characterize what you are saying.

Mr. GOODWIN. It is true what you are saying. There are other areas that we could go into, such as office space, for instance, in New York City, we are in a deplorable office space situation.

We are in space you would not believe.

We have agents sharing desks with others, two people to a desk.

Mr. GEKAS. You have agents sharing desks?

Mr. GOODWIN. Yes.

Mr. GEKAS. Certainly not at the same time.

Mr. GOODWIN. They use the same desk.

Mr. GEKAS. One is out in the field, and the other one is at the desk?

Mr. GOODWIN. That is about it.

Mr. GEKAS. What about typewriters?

Mr. GOODWIN. We have some problem in that area, but it is not as severe. We do have clerical support. It is not adequate, but we are not critically hurting in that area.

Mr. BARBOZA. How many secretaries and support staff do you have?

Mr. GOODWIN. In New York City, we have a group clerk for each designated group, which consists of 8 to 12 people, 1 clerk.

Mr. GEKAS. Does GSA have standards on that?

Mr. MORRISSEY. Not necessarily.

Mr. GOODWIN. She is not able to give full support to the entire group. She does what she can. Probably in a group of 12 people, we could fully utilize 2 clerks for places like New York City.

Mr. MORRISSEY. They spend a lot of time answering routine questions on the telephone for taxpayers.

Mr. GEKAS. We understood that 500 new agents nationwide would also require 250 support.

Mr. MORRISSEY. That is correct.

Mr. GEKAS. So the rule of support is 2 to 10.

Mr. MORRISSEY. I think so.

Mr. GOODWIN. Six to one.

Mr. GEKAS. Six to one. That is very important.

Mr. MORRISSEY. I might point out that in the Mid-Atlantic region, there is no clerical support.

Mr. GEKAS. Office space and automobiles, is this another area, or are there more areas in which you could justify for us that we have a problem.

Mr. MORRISSEY. I think Mr. Goodwin has pointed out one, that we could use additional funding in our purchase of evidence fund.

Mr. LA PERCH. I might add our budget is so tight, in 1974, the last 2 weeks of the fiscal year, we were out of gas money.

Mr. MORRISSEY. Now, I am not quite sure I heard that correct. Say that again.

Mr. LA PERCH. I had indicated that our budget is so tight, the last year, the last 2 weeks of the year, we ran out of dollars to put gas in our vehicles.

Mr. GEKAS. That is sound fiscal management, because you do not have any cars to put gas in. [Laughter.]

Mr. CONYERS. Wait a minute. The 1973's were real gas guzzlers, so that may have compounded the problem.

Mr. GEKAS. Sometimes the cold record does not indicate facetiousness, so I think we should make it quite clear that what I did say was facetiously said.

Mr. MORRISSEY. If I may, the chairman made a comment earlier today, when you talked about any problem, you have to think of the whole pie so to speak, and that is the way with our Bureau.

For us to say this is a problem, that is not true. We have several problems, and when you try to address yourself to one problem, you must consider the others also.

Mr. GOODWIN. I might say also, we have talked primarily about New York City, as far as the North Atlantic region is concerned.

Of course, we have the same problem in New England, primarily, the Boston metropolitan area, and Mr. Montuori has some statistics with regard to a project identification, that we are involved in up there, that has just terminated.

We do not have the full result of the survey yet.

Mr. GEKAS. What city is that?

Mr. GOODWIN. In Boston.

Mr. GEKAS. We have the Project I Phase IV Report on Boston. Is that the same?

Mr. MORRISSEY. Yes. It must be.

Mr. GEKAS. That was released to the subcommittee. We are quite interested in this, because as a general rule, I think it is fair to say that bureaucrats, and I was once a bureaucrat myself—

Mr. CONYERS. You still may be considered by many people.

Mr. GEKAS. But Federal Government employees do generally want to say they do not have enough money, and in many cases, they are incorrect about that, but I think it is fair to say that the Bureau of Alcohol, Tobacco, and Firearms is like an orphan. It has received very, very little support since it has gone independent from IRS, your budget increases have been quite small.

Mr. GOODWIN. I certainly agree with that statement.

Mr. GEKAS. And if we compared you to the agency like the FBI, how many FBI agents are there in New York City?

Mr. GOODWIN. Approximately 1,200.

Mr. GEKAS. That is more than 10 times.

Mr. MORRISSEY. That is almost as much as our whole street staff nationally.

Mr. GOODWIN. We only have 1,521 on board nationally.

Mr. BARBOZA. Do you act with the FBI at all?

Mr. LA PERCH. Yes, we work closely with the FBI.

Mr. CONYERS. DEA?

Mr. GOODWIN. With all Federal agencies.

Mr. CONYERS. I think the Counsel Gekas has touched on something very important.

We will not try to solve it this afternoon, and clearly it has been moving in that direction since 1972. We are beginning to realize that the ATF needs to be a separate agency and brought into its own prominence.

That was done at one point, but I think it really has to grow if we are serious about it, about the kinds of responsibilities that you gentlemen have been given, your oversight responsibilities, your enforcement problems, and when you are collecting that much money, it probably begins to put other things in second or third place categories. It means billions of dollars of revenue.

Mr. MORRISSEY. We are second only to individual income tax, Mr. Chairman.

Mr. CONYERS. So that I am sure nobody would want to see you interfere with collecting the bread, as they say. Now, that being the case, that pushes gun problems to a point where there is no money. As a

matter of fact, there is usually a lot of taxpayers expense connected with investigations, apprehensions, prosecutions and incarcerations. It is all bad news from a money point of view.

The good news is what you can bring into the Treasury. The Federal Government not unlike most other Government entities needs the money. But somehow or other, we have to put the emphasis where it is needed. You have helped draw a clear picture, which I must say is consistent with your colleagues who have testified before us across the country, perfectly consistent. That is that we need to elevate all of your responsibilities, and begin to take this into consideration at the national level. In a way, that is one purpose of these regional hearings.

We are able to get at this in a lot more detail than we can just taking it off from the Washington level, although Mr. Davis, and the other officials at the top level have been very helpful, and are cooperating with us fully. Getting down to the men here at the local areas is still extremely important, and to me your testimony has very, very helpful in that regard.

Are there any other matters that you would like to bring to our attention, before we let you go?

Mr. MORRISSEY. I would like to call to your attention, that our Bureau previously furnished you the results of project I in Philadelphia.

There is one error in there, and that is in reference to the stolen firearms. I believe your report shows that there were 79 out of those traceable. That figure should be corrected to 131, which makes it 23 percent of the 500 figure. That is very significant.

Mr. CONYERS. We will make that correction.

Thank you all very much, especially you, Mr. Goodwin, Mr. Morrissey, we thank the rest of you. It has been a very important part of our hearings.

Mr. GOODWIN. Thank you.

Mr. CONYERS. Next is a panel of citizens' groups; Sheriff John J. Buckley, Lillian K. Potter, John D. Carver, Howard Gressey, and Mr. Ian Lennox.

Mr. Lennox is with the Citizens' Commission on Crime, Philadelphia, Pa.; Mr. Gressey is from Disarm, Inc., New York City; Mr. Carver is with the Massachusetts Council on Crime, Mrs. Potter from Handgun Alert, and Sheriff Buckley of Middlesex County, Mass.

We are honored to have all of you here. Each of you have prepared on behalf of your organizations individual statements, is that correct?

Those of you who have, they will be incorporated in the record at this point.

I know that you have heard much of the testimony today. I am going to ask Mrs. Potter, being the only lady on this panel, to initiate our discussion, and I would ask you to feel free to relate to the question that I consider central to these hearings in New York, and this is how effective a bill, in your judgment, can be created by the 94th Congress?

Has the time come, in your judgment, when we can take out of the closet, so to speak, the whole question of eliminating handgun use in this country? So, Mrs. Potter, will you please initiate the discussion?

**TESTIMONY OF LILLIAN K. POTTER, EXECUTIVE DIRECTOR,  
HANDGUN ALERT, INC., PROVIDENCE, R.I.**

Mrs. POTTER. I thank you, Mr. Chairman, members of the subcommittee.

I come before you this afternoon in a dual role—first, as president of Handgun Alert, Inc., a group of over 800 Rhode Island citizens organized for more responsible handgun ownership. Our main objective differs from other groups. We would like to have every new handgun purchaser (and all handgun owners) be required to get a license to purchase after being certified by a recognized firearms safety instructor. We accept this kind of safety training as a requirement for a drivers license. Who would want to return to the days before drivers training and drivers licenses were required.

Yet, very few owners of handguns take the trouble to learn about the proper use, storage, and maintenance of their weapon. That is one reason we so often hear the fatal refrain "I didn't know the gun was loaded!"

We are seeking to protect the consumer from a potentially dangerous article—the handgun—small, accurate, deadly and easy enough for a child to use. We are concerned with prevention of gun accidents and needless gun deaths in our homes and on our streets.

As the only woman witness and the only gun widow here today, my role is to speak on behalf of the victim of gun violence, and therefore, bring you a different message.

I know all the statistics you have heard. Statistics are cold and dead, as cold and dead as the corpses they count. To victims of gun violence there is only one statistic—100 percent. One hundred percent of the murdered husband, the wounded child, the crippled brother. Let us focus our attention for a few moments on the victim, who has been called correctly "the forgotten member of our society".

His name may or may not appear in the news; his death is just another notice in the obituary column. Is his death the end? Yes, for him, but not for countless others. When a stone is tossed on the water, it sinks quickly out of sight, but rings of ripples extend far beyond. To his wife, his children, his brothers and sisters, his parents and all to whom he was close and dear, the fatal bullet which killed him strikes and wounds them, too.

They know the true meaning of statistics. They are the surviving victims. Many of them are so devastated, so broken in spirit, that they often withdraw from society to suffer in silence. I have met many of them. To mention just a few: The elderly mother of a 21-year-old shot and killed in the heat of argument by his neighbor; the widow of a TV shop owner; the brother of a telephone repairman, killed here in Manhattan, as he was working near the top of a pole, killed by an anonymous murderer who used him as a human target. Then there is the young widow of a psychiatrist whose brains were shot out by an armed patient.

Just 3 days ago I spoke at length with the widow of an itinerant fish peddler shot and killed last year in Providence as she stood beside his truck. She asked me to speak for her today—to tell you about how hard it is for her and her five young children, aged 8, 9, 10, 11, and 13. How they miss their loving and devoted father.

She has already discovered that nobody cares about the surviving victims of gun violence. I know full well what she is going through. I went through that nightmare 4 years ago, when my husband, Dr. Charles Potter, left the house at 8:30 in the morning and never returned. His life was destroyed by a single bullet from a stolen .38. I know how far that bullet traveled—how many lives it touched.

I have talked with other victims, victims who are still alive, one is a 14-year-old boy who was shot, son of a doctor, incidentally, playfully by a friend. Another is an 18-year-old now confined to a wheelchair. My file cabinet is overflowing with letters and clippings. I need not point that out.

Does anyone care about the victim? I think you, gentlemen, do care. And what can you do for these victims? No amount of money can compensate for the psychological horror and the deep pain and anguish. But, as in the case of the five orphans of the fish peddler, compensation for victims of violence on a national level would help to make their life more bearable.

Gun violence is no respecter of age, color, social, or economic status. It permeates every corner of our society. No one is immune. It strikes even those of us who have been striving to stem it.

Two years before my husband was murdered, I was working for gun controls as cochairman of the Rhode Island Emergency Committee for Gun Control, a group then organized after the King and Kennedy assassinations in 1968. At that time, public concern rose rapidly, as it does after a national tragedy, but then, it subsides just as quickly. The current push for tighter gun legislation may be longer lasting, since it is not mushrooming in the aftermath of a national tragedy.

The ripples of gun violence extend far out. Beyond those directly bereaved, it reaches into the lives and pockets of every American. The psychological toll we all bear—in our fear of walking the streets, of shopping at night, of coming home from the theater or concert. We are aware that the likelihood of becoming a victim grows greater every single day. This is especially true in our large urban centers, this is where there is a crying need to restrict access to handguns.

How does gun violence take money from our pockets—amounting to billions every year. Studies were done in one large Rhode Island hospital over a 6-month period last year on the cost of gun injury admissions. Some gunshot cases cost as much as \$50,000 with the average cost of each gun injury admission being over \$2,000.

This was only for hospital costs—not counting welfare for the family or lost wages which would be a staggering figure. All of us are paying this staggering bill. Most of these costs result from gun accidents. Would not the cost of prevention of such accidents through mandatory prepurchase safety training be far less expensive?

Isn't it time that our Federal Government required that all those who buy and use guns be required to be at least as responsible with them as they are with their automobiles?

The cost of prevention through stricter gun control legislation would be far less than allowing this continuing unlimited easy access to guns. We have heard so many slogans. Guns don't die; people do. Guns don't bleed; victims do. Criminals don't pay the bills; we do.

Gentlemen of the committee—so far we have suggested three approaches to the growing gun problem: Prepurchase safety training; compensation for victims; tighter gun controls in large urban centers.

These proposals pose no threat to the legitimate gun owner or sportsman. Passage of such measures would demonstrate that society does care about the victim—and the potential victim, by trying to prevent gun tragedies.

Why are such mild and rational measures opposed with such vehemence and force—and by whom? I have learned the hard way about these forces and how they work. Since 1968 I have received many letters in the hundreds from people all over the country. Those who support my efforts always sign their name. The ones who disagree are often insulting and abusive and never sign their names.

The most recent letter is from someone who was a nurse at the hospital at the time of my husband's murder. She writes: "I knew him and thought a great deal of him." \* \* \* She goes on to say: "He was shot with a sawed-off shotgun, not a handgun." She has not talked to the police as I have. "Had it been a handgun, he probably would have lived. Your continuance to spread lies about something which is actually threatening the survival of the U.S.A. is atrocious."

She questions my patriotism. She counsels me to read the American Rifleman rather than work for gun control. She carefully cuts out the name from the letterhead so I have no way of answering. She signs herself "a sportswoman and American."

If she is indeed the "sportswoman and American" as she signs herself, why won't she come out into the open?

Gentlemen, the arms industry is large, profitable, and powerful. Its lifeblood is guns and bullets. Its advertising sustains dozens of publications. Their editorials glorify the gun as a hobby, as a collectors' item, and as a self-defense weapon. Readers of these magazines, and many are read by young children, have drilled into them the unfounded fears of subversion and confiscation as well as the incorrect interpretation of the second amendment. The editorials, and I read them, are filled with half-truths, outright lies, and unsubstantiated innuendoes.

Our politicians, too, have responded to the moneyed interests of the gun lobby rather than to the will of the majority of the people. The cries of the victims and the voice of the people have been drowned out by powerful blasts from the gun lobby. You know what they can do; you get their mail.

Last week, when President Ford was considering tightening licensing of gun dealers and extending waiting periods before purchase, who was called to the White House? Representatives of firearms manufacturers. Last year, in Rhode Island, a mild legislative proposal for stricter handgun control was tabled after a noisy, crowded hearing attended by several hundred gun owners. Speaker after speaker repeated the slogans and cliches which have become substitutes for rational thinking about the growing gun plague.

Legislators in Rhode Island, previously committed to support the bill, backed down and resorted to the usual delaying tactic. They appointed a special legislative commission to study the safe use and control of firearms. As one of the members of that commission, I have been witness to the powerful single voice and single purpose of those opposed to any gun legislation.

Members of the committee, society cries out for innovative approaches in the areas of handgun manufacture, safety, distribution, and use. We must inject the voice of reason, we must give the people a chance to be heard over the loud voices of the gun dealers and manufacturers. Perhaps we should consider more radical approaches to caring for the innocent victim of handgun violence, such as requiring that all guns be insured and that a pool of insurance so funded be used to compensate victims. Rhode Island passed a compensation law but so far no funds have been made available. In these days of austerity, what chance has the poor victim to get a compensation?

The United Nations building, in which we are meeting, has witnessed efforts for détente, its walls have echoed appeals for slowing the international arms race. However, there is no parallel movement for domestic détente—for slowing the arms buildup in the homes of America, which will extend the gun waiting period considerably, and discourage all of those not willing to be responsible in the use of their guns.

Compensation of victims, which is cold comfort, and tighter controls in large urban centers, and insurance of the weapons.

Gentlemen, these proposals pose no threat to the legitimate gun owner or sportsman. Most of them have demonstrated that they are responsible gun owners and users. We must raise the minimum standards for gun ownership. It is imperative that every gun owner be licensed after proper safety training and be held legally and strictly accountable for every gun they own. Only through such measures can you, who represent us, demonstrate that you do care about the victim—and the potential victim. Only through such measures can you begin to prevent needless preventable murder. Thank you.

Mr. CONYERS. Well, we thank you very much. Sheriff Buckley, you may proceed.

#### **TESTIMONY OF SHERIFF JOHN J. BUCKLEY, MIDDLESEX COUNTY, MASS., PEOPLE VERSUS HANDGUNS**

Sheriff BUCKLEY. First of all, Mr. Chairman, I want to say I enjoyed the opportunity to pinch hit for you before the U.S. Conference of Mayors in Los Angeles last month.

I can assure you that my speech and your speech would have been pretty close. I am not sure that they would have been the same, but I certainly enjoyed the opportunity to speak for you.

Mr. CONYERS. I understand it was provocative, so I am sure that would have characterized both of our remarks.

Of course, as you know, a pinch hitter is supposed to be more valuable than the person he replaces, although I think you were a very appropriate substitute.

Sheriff BUCKLEY. I am not sure of that. I am not a designated hitter, I was just a pinch hitter, but I do want to say, I think Mrs. Potter representing a private group in Rhode Island, I am here representing the largest county in New England, 1½ million people, and also was the president and founder of a citizen group having over 2,000 members, called People versus Handguns in Massachusetts.

This is an emotional issue. All of the statistics are culled, and they leave me cold.

I am coming on my eighth year on the year. I am tired of reading all of the statistics, listening to them, in your very delicate position as chairman, and I think we ought to look at the emotional issues, or else we will never move this argument, and two of the emotional issues are one, race and, two, machismo.

I think the fact that the majority of the murder victims and the majority of the murderers are black in the United States, should be addressed.

The fact that a city like Detroit can have more people murdered in 1 year than were killed in 5½ years of Northern Ireland warfare is reason for us to stop and take a look at this plague, but we do not do that.

The United Nations and all of the world is concerned about the troubles in Belfast, but the troubles in Detroit, and the other big cities are not addressed, for the simple reason that the majority of those who have been killed are the faceless black young men, that are not considered citizens by our legislators, or by those who live in the suburbs, and I think we ought to address the fact that the proliferation of the handgun in the black society, and the concomitant increase in black deaths is one of the hidden arguments that have arisen. that is not discussed openly and should be.

I think also the fact that the long history of the American culture is that one of the ways that you show that you are a big machismo, you are a big man, is that you carry a gun on the hip.

The word, the great equalizer, the first psychological advantage makes the little man the same as the big man, and then machismo is part of the cultures all over the world.

Some cultures, if you conquer many women, you are a big machismo.

Others have 15 children, and they are a big machismo and in China of 100 years ago, if you were big and as fat as Buddha, you were a big machismo, and in our society, the gun has been the symbol of this.

This is the reason why you get inundated with letters at a drop of a hat, because we can never equal the Mrs. Potters of this world, they can never equal the emotional attachment that many gun owners have to the great equalizer, the John Wayne syndrome is very much a part of the American culture, and when John Wayne came to Cambridge last year to receive an award by the Lampoon at Harvard—

Mr. CONYERS. Are you serious?

Sheriff BUCKLEY. Yes. He came there to receive the award, and I was asked to accompany him on his journey through Harvard Square, and a young lady ran in front of him, all during his visit, with a large sign, the sign said, "that John Wayne had a little wee-wee," and that is putting it very graphically, that we cannot equal this emotional attachment to the manhood, but on the rational basis I have yet to hear from a criminologist, and there are thousands of criminologists in this country I have yet to hear from, a criminologist to equate a gun to crime.

The gun laws, for all of the letters, they cannot produce a criminologist to speak out on this issue. It is one of the few things in the field of crime, that the criminologists of the world agree on, that you take the handgun out of society, and I am pleased to say from the political point of view, it has turned the corner.

My own reelection last year was fought on this bloody issue.

Warren Spanis, the attorney general of Minnesota, led the entire ticket running against guns.

Mayor Daley of Chicago, certainly not one of the leading hot liberals of this world, but one of the strongest men in the country for gun control, that the issue has turned around, and the gun lobby is in a sense a paper lobby.

It is a lot of letters, but when we put the question on the ballot last year in five communities in Massachusetts and asked the voters to vote on it, the vote was 79 percent to 21 percent.

I think its time has come. Now, from a national point of view, you may say Massachusetts is too far down the road, that we are too far ahead of the rest of the country, and I could not agree with you more, but somewhere we've got to have the vision, and to look down the road.

I spent yesterday in Plymouth, Mass., making over 500 speeches this year on the issue of gun control law, and in Plymouth, as you know, that is where the colonists came and started so the question is, what was the key to their success, it was not the help of the Indians, it was not the great assistance of their technology, because they did not have any, it was their tremendous confidence, the feeling that the people who landed at Plymouth, that they would see come whatever, whatever winter, however short the food would be, and I want to say, speaking for the people of Massachusetts, and for the People versus Handguns, we have that confidence.

Mr. CONYERS. Thank you very much. I am really glad I did not show up in Los Angeles.

I would like now to call the director of the Massachusetts Council on Crime and Corrections, Inc., its executive director, Mr. John D. Carver.

#### **TESTIMONY OF JOHN D. CARVER, EXECUTIVE DIRECTOR, MASSACHUSETTS COUNCIL ON CRIME AND CORRECTIONS, INC.**

Mr. CARVER. Thank you.

As we approach what is to be the last hour of the last day of testimony in six cities around the country, I think I can feel a little bit for you, that you have heard just about all the arguments and all the stories and statistics and slogans that you can stand.

I have heard them all, having said that, I hope not to give out too many statistics and slogans to you.

I would like to agree with the people that have come before this committee, whether they be sportsmen, lawyers, doctors, police chiefs, mayors, I think they all agree we have a very serious gun problem in this country.

I think they disagree how to get at the problem. We have talked about mandatory prison sentences, of Federal licenses registration, banning the Saturday night special, enforcing existing laws, banning the handgun altogether.

I think these are all viable, but in some cases they are halfway steps that should be considered, and some should be considered more than others.

I think that what is important is not only to look for the cure, but to look for the cause, and in the last 6 weeks of hearings, how many weeks it has been, it has not been impressed, on you, No. 1, the hand-

gun, its proliferation, and the widespread availability is not the No. 1 problem in America, if that has not been done, I think something should be done to impress upon you.

I think you can address too, No. 1, the handgun is your target, and, No. 2, they are increasing in numbers every day, and we have got to find a way to get at the front end of the handgun problem, then we will be a long way down the road to attacking this problem at its most vulnerable point.

I envision it as a problem in which we are surrounded by about 50 million handguns.

We will never get at the problem unless we do something about turning off the faucet, and I am talking about that faucet that turns out 2½ million a year, if we do not shut that off, we will continue to tread water and blood, and bloodshed will go on and on.

The subcommittee can use that, there are too many around, too many in existence, we have to find ways to close off that valve, and we are far down the road.

I am a little bothered by some of the double standards, I am bothered by the fact that the U.S. Consumer Products Safety Commission urges the U.S. Congress, they have succeeded in stepping up their pace to take certain products off the market, there are 750 toys currently banned from domestic consumption because they have small parts, electrical deficiencies, 23 States have banned fireworks, a national ban is expected soon.

You have seen the emergence of poison prevention packaging, particularly aspirin bottle caps, all of this done in the name of public safety, all at the same time nothing has been done to take handguns from the market.

Handguns are untouchable it seems. At the same time, the Food and Drug Administration has gone after different drugs, tranquilizers, and others because they deform infants.

In New England, we have the case of the Red Tide where it can cause paralysis, where the fish contain mercury levels so high that it causes brain damage, and recently you saw an aerosol can that was taken off the market because it caused cancer of the liver, but my point is that we have the handguns, and this can also cause brain damage, paralysis, and certainly death.

These are double standards that I do not think the general public can live with.

It is high time to put the handguns certainly in the category of a menacing disease, if nothing else.

Another case in point would be that of killing the disease cystic fibrosis. We have a problem with CF that is not in the magnitude of guns, but it has killed about 2,000 children a year, and the Federal Government about \$25 million a year in research to the causes and the cure of CF.

Last year, 5,000 American children between the ages of 1 and 19 were shot to death with handguns. The Federal Government did not commit \$25 million to find out how it happened. We know how it happened.

We do not need another many millions of dollars on how to stop it. You know how to stop it.

There is one question I asked our State legislature that I have appeared before, but it is the one that has bothered us the most, that is what statistics is Congress waiting for, what will it be?

It is an accumulation of a million or so deaths that will finally turn the tide?

What is the straw we can lay on the back of Congress that will finally get them to recognize the magnitude of the problem?

Several years ago when my board of directors was discussing the gun control issue, I asked them five or six questions to provoke, if I could, among them to get a good solid debate on the issue.

I would like to ask those questions to you in closing.

No. 1: What is the purpose of the handgun, what is it made to do, why it is around us?

No. 2: Does the handgun in any way have a negative or positive impact on our society?

No. 3: Is it a coincidence that America is the most heavily armed nation in the world, at the same time we kill more people by gunfire in this country than in all of the other nations of the world combined?

Is it perhaps that there might have been a few guns extra in this country that we did not need?

I ask, what harm would come to this country if we tried gun control?

Is it worth a try?

Is the risk involved in banning handguns so great that we should never try it?

I asked them if they could literally live without handguns, or are we so hooked, we could never kick the habit.

Finally, I asked them if they could create a perfect world if they had it in their power to give us a fresh start and a new beginning, what would they do about handguns?

I urge you to honestly look yourself and your constituents in the eye and answer those questions.

Our board of directors did, and they agree conclusively that the handgun has no place, and certainly no future in a civilized society and in the interests of public safety, it should be banned to all private citizens, except the police and military.

Thank you.

Mr. CONYERS. Well, I hope you are asking us questions rhetorically, Mr. Carver, because I think they represent a very sound basis for examining our responsibilities.

In your State, Michael Harrington, and Father Robert Drinan have distinguished themselves with that concern in the Congress. It is that question which brings us here today.

Mr. CARVER. The House majority leader has signed an initial petition, and I think perhaps 10 or 12 members of the congressional delegation is solidly behind what we want to do.

Mr. CONYERS. We will turn to Mr. Howard Gressey, general counsel, Disarm, Inc., New York City.

**TESTIMONY OF HOWARD D. GRESSEY, GENERAL COUNSEL,  
DISARM, INC.**

Mr. GRESSEY. Mr. Chairman, members of this subcommittee, with all the violence and murders and killings that we have had in the United States, I think you will agree we must keep firearms from people who have no business with guns or rifles, these words are not my words, these are the words of Robert Kennedy 8 days before he was assassinated in Los Angeles.

These words were uttered in the State of Oregon during the Democratic primary, and that year we saw the death of Dr. King, and some twenty thousand plus American citizens, and here we are 7 years later, and each year there have been more and more deaths from firearms, and yet nothing has been done.

Mrs. Potter had indicated earlier there was a furor after the assassinations of 1968, and then everything died down.

Now, we very, very sincerely feel that something is going to happen positively, and we think it is going to happen, because the people in the United States finally are realizing that the handgun menace is perhaps the greatest menace to our safety, and the greatest menace to even the perpetuation of our culture.

We are here this year starting a celebration of our Bicentennial, and it seems a bit, well, about 26,000 of us, if these statistics go the way they are, 26,000 people will be killed either through homicide, accidental deaths, or suicides because of the gun, and yet we see in all corners of our Nation groups arising, celebrating 200 years of progress in this area or that area, and yet these groups do not seem to focus in on the handgun menace, but we are very, very gratified that the groups here today, and other groups around the country are, and to answer your question, Mr. Conyers, about whether we feel that the time is ripe for something to really, something significant to happen regarding handguns, we really feel it is.

The polls show it, and Disarm has found that the ground swell of public opinion is getting greater and greater.

Now, the handgun, as Mrs. Potter has indicated, has really only one purpose, that is to fire a bullet out of its barrel that will kill another human being.

It has a legitimate use in terms of sporting, in terms of target shooting, but aside from its limited use, the only other reason to buy a gun is either to kill somebody, or in the mistaken idea that the person will be protected by having it.

To quote one statistic, although I do not want to get too heavy on statistics, and you have heard them all today, I believe the Eisenhower Commission on Crime and Violence found that someone that owns a gun for protection in the home has four times as much chance of seeing that gun used in some way on a family member than in stopping an intruder from coming into his house, so there is really again no rational reason to own a gun, possess a gun, unless one wishes to possess a gun to commit a homicide, and as I indicated, a total ban is what is needed and we are backing the bill that was introduced by the congressman from New York, which is cosponsored by 48 other Congressmen, H.R. 40.

We feel if this bill were enacted to law, that something significant would happen with reference to the handgun. I have been on television, on radio, I have debated members of the NRA and the big thing they raised is, well, you pass a law, or are you going to take all the guns away from people overnight, and what are you going to do, break into the homes, but the answer to that, Congresswoman Bingham acknowledged this, obviously 40 million handguns are not going to disappear overnight, but they will disappear because these statistics can only go one way or another, we can either keep manufacturing handguns at the rate of 2½ million, or 3 million a year, keep adding to the supply, and making America the armed camp that it is, or we can start the deescalating of the supply of handguns, and H.R. 40, if passed into law, would go the other way.

In other words, the correct way, in terms of deescalating the supply, I would like to say a word about halfway measures, and we have heard through the session today, persons advocating, perhaps not what they consider so severe a law being passed as banning the private possession of handguns.

Now, in terms of the Saturday Night Special, this is a very active term and discredited, but we feel that any bill that would be enacted into law, other than a total ban, really would do more damage to the cause of gun control, and to the cause of limiting violence, than no law at all. So that we are going to go out on a limb, and say if we cannot see a ban on all handguns, on the private possession of all handguns, we would be against seeing a Saturday Night Special, or whatever you want to call it, special ban.

You cannot define it in terms of size because if we limit the size to 5 inches, 4 inches, 6 inches, then the manufacturers will retool, in the name of profit, will make a 7-inch gun, and that will be the big gun.

In terms of cost, banning such a weapon would ban the cheap gun, and make the expensive gun the gun to get.

What this would serve to do would be to prejudice actually the person who could not afford a cheap gun, and I think what we have seen in this country unfortunately, there has been enough discrediting of the administration of justice, and in its unequal application to all of the people, and this would go one step further.

This would hypocritically say that persons within the inner cities, are not good enough perhaps to own a gun, but the people who can afford the expensive guns, whether they be criminals or sportsmen, whoever they are, and this will be very, very detrimental position to take, because all guns kill, and whether a gun is a little more accurate than another gun, it still fires a bullet, and once that trigger is pulled, that is it, and whether a ban on this cheaper handgun or smaller handgun would do, would really accrue to the large gun manufacturers in the northeast who have already benefited very greatly from the 1968, which banned the importation of the guns from overseas, so they have been having a great boom.

Now, the NRA and other groups are on that end of the issue and have tried to make the handguns more legitimate, so in terms of trying to legitimize that gun, they have said that, what about going hunting with it, and this is an argument I came up against in the television debate, and it seems to be ludicrous.

What they are doing is taking the handgun, and trying to put it in the realm of shotgun which is bad in a sense, but it is trying to really change the classification of the handgun from what it really is, so that as far as the target shooter goes, it just can be considered legitimate sport. H.R. 40 would not stop target shooting, but it would limit the target shooters to having their handguns kept at the ranges, so that it really would not do a disservice to their support, but perhaps it would deal as was indicated before, by Sheriff Buckley, taking the machismo aspect, and this we do not really care about, because the people should have no license to kill in the United States.

Mr. CONYERS. I guess we could just have larger families and we should conquer more women, that would be a tradeoff.

Sheriff BUCKLEY. Maybe we could do what the English do, in our pubs and barrooms, we would put darts, and we would have to shoot, they could shoot darts, rather than have a pistol handy.

Mr. GRESSEY. I would like to touch on a few more items.

Mr. CONYERS. I think I would prefer some of the other alternatives.

Mr. GRESSEY. I would like to relate to what we consider some half-way measures. One is licensing and registration of handguns.

There is one very significant statistic I did not hear, and maybe I missed it, maybe I did not, but I believe the FBI statistics of 1972, indicated that some 73 percent of those persons committing homicide were previously law-abiding citizens and the victim, by way of being a parent, husband or wife, child or acquaintance.

The registration or licensing of the handgun owner, or of the handgun, really would not do anything in terms of deescalating what amounts to three-quarters of our homicides, because it is their very accessibility in the easy accessibility of the handgun that makes for the homicide, so whether somebody has a license for the gun, whether somebody is considered a responsible citizen, or not a responsible citizen, or whether the gun is traceable or not traceable does not matter if he comes home and he is angry at his wife, or his son is angry at him, and one of them picks up the gun, so really licensing or registration would not have very much impact.

In addition, I believe over half of the handguns in this country are acquired secondhand, so all this would do, it is true it would provide for a traceable aspect, you could trace the handgun, but that is an after-the-fact thing, so after the handgun is used in the commission of a crime, you could trace it, but it would not do much for the person that is the victim.

Now, in terms of mandatory sentences, which has happened today, perhaps the most serious thing put forth by those who misguidedly think it will work, because we see in the history of our country, that if criminal statutes do not really deter crime, unfortunately, then that is for another subject in terms of criminal justice systems. But we have seen that capital punishment does not deter homicide, we have seen incarcerated people actually make them come out worse criminals than before they went in, so how will a mandatory sentence act as a deterrent?

What it would do, it would put somebody perhaps away for a stated time, and he would come out even more vicious than when he went in, and because of the way the criminal justice system is administered in the United States, unfortunately, this would probably focus in on

the poor, on the minority groups, on the disenfranchised, and it would lead the person who could afford the more expensive attorneys to get off the hook, and the poor again would suffer.

They would suffer by having to pay in a sense more for their gun, if Saturday night specials were banned, they would suffer by being put away in jails, where the so-called nice people could afford the more expensive guns, and could get in a sense the sentencing which would be reduced. so really, we feel very, very sincerely that the time has come for the banning of the handgun, banning of manufacturing, banning of the sale, banning of private possession, of private ownership, and we really see no reason on Earth, that there is no rational reason why the handgun should not be taken out of the private sector.

Thank you.

Mr. CONYERS. Thank you very much.

We will now hear from Mr. Ian Lennox, executive director of the Citizens Commission on Crime, Philadelphia, Pa.

**TESTIMONY OF IAN LENNOX, EXECUTIVE DIRECTOR, CITIZENS' COMMISSION ON CRIME, PHILADELPHIA, PA.**

Mr. LENNOX. Mr. Chairman, members of the committee, my name is Ian H. Lennox and I am executive vice president of the Citizens Crime Commission of Philadelphia.

I should first like to thank the committee for the opportunity to be heard on the matter of amending the Federal Gun Control Act of 1968. At the same time, I express the profound hope that these hearings will not only increase public awareness of the gravity of the fire problem in this country, but will also prompt lawmakers at all levels of government to seek actively a solution to this critical situation.

The Citizens Crime Commission of Philadelphia is a voluntary, citizen controlled, independently financed organization concerned with and actively involved in improving the effectiveness of the criminal justice system.

It functions with an active board of directors of 46 and with operating committees composed of almost all of its 500 elected members. Its membership includes top management of business and industry and prestigious members of the sciences, education, and the professions—a body of talent which has been utilized over the years to deal with serious problems of law enforcement.

The commission studies the performance of all criminal justice agencies and services. Where weaknesses exist, because of either poor performance or inadequate funding, it calls the attention of the agencies involved to the need for improvement.

Where improvement does not result, the commission carries its case to the responsible officials of government. If unsuccessful the crime commission goes public and embarks on an intensive effort to stimulate broad public understanding of and concern for changes that may be required.

Over the years, the commission's efforts have resulted in many improvements in criminal justice.

The commission initiated support for a revision of Pennsylvania's criminal code, the first such change in 110 years. The new crimes code became effective in June 1973.

The commission, in cooperation with the Philadelphia Police Department, planned and implemented the Neighborhood Anti-Burglary Project (NAB). A community self-help program.

NAB was successful in mobilizing the citizenry to the positive measures to reduce burglary.

Currently, the commission is coordinating a citizen court observation project using trained volunteers to monitor Philadelphia's judicial system and make recommendations to improve the quality of justice being handed down.

One of the commission's most significant accomplishments was its success in 1965 in generating widespread public support for enactment of Philadelphia's firearms control ordinance, the first of its kind in the Nation.

Today, the Citizen's Crime Commission's testimony reflects its continuing concern with this urgent public issue, representing as it does, a consensus of business and professional people in the Philadelphia community.

Historically, firearms have had a long and varied role in the development of the United States. During colonial times, only the farmer's plough equaled in importance the gun as a tool for establishing the European settlers upon this continent. Throughout the American revolution, a citizens' militia served as the backbone for resistance against the British. Ours was a young country, one which had had little time to develop a highly trained professional army. Consequently, without the ready availability of a sizeable number of men self-trained in the use of firearms, the United States might never have had the opportunity to stage a successful revolution against England.

The authors of our Constitution fully appreciated this element of the recently ended struggle so they included a provision for a standing militia in the second amendment to the Bill of Rights.

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

While this proviso came to be regarded by gun advocates as a right to private ownership of firearms, the Supreme Court in 1939 interpreted this amendment as giving States the right to establish and maintain National Guards. Thus, as American historian Richard Hofstadter has noted, the "right to bear arms" is "\* \* \* collective not an individual right \* \* \* closely linked to the civic need."

In view of the Supreme Court's ruling why then are so many Americans adamant about their right to private possession of firearms?

These people generally fall into one of two categories: Either they are sportsmen engaged in target shooting or hunting, or they are seeking protection. Their views have been succinctly stated by Michael J. Harrington. Gun advocates believe:

People have the right to bear arms for pleasure and self protection without interference from big government; criminals will get guns despite gun control laws; all gun control proposals—whether they advocate registration, licensing, record keeping, or anything else—are undesirable because they will lead inevitably to other more restrictive measures.

It is the position of the Citizens Crime Commission that factors cited in favor of virtually unlimited availability of firearms are overwhelmingly outweighed by those against it.

A minority of gun owners maintain their firearms for use on the target range. These people are generally very careful about how their weapons are used and thus provide little threat to those about them.

The absence of laws which provide easy access to guns for people who fully respect them and use them for recreational purposes only, however, also allow guns to fall into the wrong hands. The Citizens Crime Commission believes if we are to overcome the current epidemic of deaths caused by guns, the desires of legitimate owners to use and possess firearms shall have to be subordinated to the greater needs of society.

If only one serious crime is averted because of stringent firearms control, the inconvenience caused gun owners by regulatory controls becomes unimportant.

Of crimes involving firearms, figures taken from the most recent UCR indicate that in 1973 guns were responsible for 67 percent of the homicides. Approximately 63 percent of the nearly 253,000 armed robbery offenses occurring in 1973 were committed by firearms. From 1968 to 1973, the number of homicides by firearms increased from 8,872 to 13,071, or 48 percent. For the same period, the number of robberies involving firearms jumped from 98,933 to 159,117—a 61-percent increase. According to estimates based on the findings of the President's Commission on the Causes and Prevention of Violence there are today approximately 210 million firearms held by U.S. citizens.

It would appear that at the same time people are turning to guns for protection, more and more guns are involved in criminal acts.

The question that must be answered is whether the availability of guns is actually helping law abiding citizens defend themselves or whether it is giving criminals a greater incentive to arm themselves.

All in all, it is the criminals who have come out on top in the arms buildup. Arms held in the home seem to be of little value against most crime committed there, i.e., robbery and burglary.

The burglar, for example, is rarely ever seen by his victim, so careful is this sort of criminal to avoid detection.

A robber on the other hand does not use stealth to achieve his ends, but rather relies upon the element of surprise. Even if the victim possesses a firearm somewhere in the house, there is little opportunity to use it since the robber already has a gun trained on him.

It is unfortunately a little known fact that the average homeowner possessing a firearm runs greater risk of killing himself or someone in his family accidentally than of killing or being killed by a burglar or robber. A staff report to the Eisenhower Commission indicated in Detroit, the odds were 5 to 1 that a homeowner's gun will hurt some member of the family as opposed to being used on a criminal.

In the hands of the average citizen, then, firearms do not seem to provide much protection. They do, however, provide the opportunity for an individual to commit a quick and efficient act of violence upon someone else.

According to UCR statistics, a great many homicides in this country—approximately one-third in 1973—occur within the family. Disagreements or disputes between individuals who may or may not have been acquainted accounted for 40 percent of the homicides in 1973. If a gun were not available, the assailant's next best weapon would be a knife.

Guns are five times as deadly as knives, so we can conclude that many crimes of passion would have a different outcome for the victims if guns were unobtainable.

In view of these and other factors—the Citizens Crime Commission supports the enactment of Federal laws which would severely limit the availability of guns.

We stress the need for Federal legislation to standardize enforcement of firearms controls. In perhaps no other area has our system of federalism resulted in such a plethora of State and local laws—laws that collectively have proven to be grossly inadequate in limiting guns.

The need for Federal initiative in this area is underscored by findings reported in a study conducted in New York City which has one of the strongest local gun ordinances in the Nation. In tracing the origin of firearms used in connection with crimes in the city during 1972, it was found that, with very few exceptions, all murders, assaults, and robberies were committed by individuals who had obtained their firearms outside the city.

Philadelphia's experience with its gun control law has been much the same. Owing to its role as a pioneering piece of social legislation and due to the political compromises necessary to insure its passage in 1965, it has provided only limited control of firearms in Philadelphia.

Despite limitations of the ordinance, however, the Philadelphia Police Department, through June 30, 1974 reviewed 57,801 permit applications, of which 2,086 were denied. Applications rejected included 738 persons previously convicted of such offenses as homicide, rape, robbery, burglary, larceny and assault. Permits were also denied 262 persons previously convicted of violations of the Uniform Firearms Act.

Up until now, local gun control laws such as those passed in New York and Philadelphia simply have not been as effective as we would like.

The most important piece of Federal legislation, the Gun Control Act of 1968, banning the importation and mail order sale of firearms and seeking to prevent the mentally unstable from purchasing guns, has not been sufficiently restrictive.

While the Citizens Crime Commission is disturbed by the lack of provision for stricter control of rifles and shotguns in the bills now pending, we believe severely curtailing handguns would go far in reducing crime and accidental gun deaths in this country.

Toward this end, our Board of Directors in February, 1973 unanimously adopted the following resolution:

Private importation, distribution, and possession of handguns and parts or ammunition for them should become major criminal offenses under both federal and state laws. The sole owners of such weapons should be the national and state governments, which could then issue them on a temporary and returnable basis to members of the security forces and other authorized persons under carefully drawn regulations. Manufacture should be halted until existing inventories are exhausted, after which further domestic production and export-import trade would be placed under strict licensing controls. There also should be appropriate regulations covering the purchase of other firearms such as is contained in the Philadelphia firearms ordinance.

While the Citizens Crime Commission does not support specific bills pending in the House and Senate, we believe any measure, to be effective, should ban the manufacture and importation of all handguns, as a first step.

Discussions I participated in at the recent National Forum on Handgun Control sponsored by the U.S. Conference of Mayors underscored the desperate need for taking action now to ban the handgun from our society.

With the right kind of legislation, there is absolutely no reason why this country could not duplicate the record of Japan, where stiff firearms regulations are considered one of the most important factors in controlling crime. Last year the then-president of the Citizens Crime Commission, Arthur C. Kaufman and I studied first hand the criminal justice system of that country. The following quote describing the present gun situation in Japan is taken from the report of our findings which has been published in a book entitled "Tokyo, One City Where Crime Doesn't Pay":

Gun control in Japan is a relatively minor problem, and the strict laws banning sale and possession \* \* \* have a direct relation to the low crime rate. In all of Tokyo, there are only 71,000 gun permits, none of which are for pistols or revolvers—824 are for swords.

To quote the Crime Prevention Division of the Tokyo Police Department: "The police on their part are conducting severe control over illegal possession of firearms, swords, and gunpowder for the sake of safe and peaceful civilian life."

In Tokyo in 1973, there were no offenses involving pistols, only four involving rifles or shotguns and five in which gunpowder was used. There were 22 gun accidents. Seized were 142 pistols, 145 hunting guns, and 1,251 illegal swords. In Japan as a whole, there were only 28 murders involving handguns; in the United States, with about twice the population, there were 10,017. The known gangs do not use guns and police use is extremely rare.

These facts describe a situation about which we should all be ashamed in this country. No one suggests that the gun supply can be made to dry up overnight, but the first step must be taken before the final goal can be achieved. That first step toward effective gun control is long overdue. The Citizens Crime Commission of Philadelphia stands ready to devote its full efforts to insure passage of the important legislation now pending or being considered.

Mr. CONYERS. Thank you very much.

Well, I appreciate all of your testimony. Let me ask you. Would not an important consideration of your committee's responsibility be that of examining the necessity for a full employment program within the United States, if it is true, that before the end of 1975, 70 million Americans will either be laid off or unemployed at some point during the year, or there will be a member of the family in which some person within that family will be so affected.

Mr. LENNOX. I would have to agree.

Mr. CONYERS. Is not that the cause of many of the crimes that occur on the streets and in homes, the economic crimes of desperation?

Mr. LENNOX. I have to agree with you, Mr. Chairman, that any attempt to deal with this problem of crime, must deal with it in its totality, and I think our society must approach it from all standpoints.

Our organization is concerned with strengthening the criminal justice system, but certainly our Government agencies have to provide full employment as much as possible; they have to recognize the need for education and job training. Of those in the ghetto areas, in the city of Philadelphia, it is estimated there is close to 48 or 50 percent unem-

played, as we have heard, that one whole generation will have passed through without ever, as young people into adulthood, without ever having a job.

**Mr. CONYERS.** I am glad you pointed that out, because I am completing for Freedom Ways magazine an article that is entitled, "Politics of Unemployment, Lost Another Generation of Black Youth," and I think your comments are very, very appropriate.

Now, the other end of the criminal justice system is this nightmare of the penal system, in which the recidivism rate speaks for itself; where the effectiveness, in my judgment, of a mandatory sentence has a reverse effect on the crime patterns in this country.

If it is true, as most people including penologists agree, that the best way to teach someone caught in the coils of the criminal justice system how to become a more professional criminal is incarcerate them in almost any penal institution in this country. When you are employing a mandatory sentence on gun possession, that merely insures the fact that they will go to graduate school and thereby come out really able to vent their antisocial hostilities in a far more vindictive manner. We must begin a whole new approach toward the penal system, and the incredible amount of harm it is doing in terms of the whole criminal justice process.

**Sheriff BUCKLEY.** There is no lobby for crime prevention, and if you want good health, the answer is not open heart surgery, or better operations on lung cancer, it is the prevention of this.

The abolition of cigarette smoking would do more for health in this country than any type of operation.

Going to the hospital is like going to prison. It is very expensive, and your chance of a success is very small.

We have got to put the emphasis on the prevention of crime, and taking the handgun out of the society is one of the best ways of preventing crime I know.

We just had a study done by the Kennedy School at Harvard, in which they estimated Massachusetts would prevent 250 to 1,500 armed robberies a year, with a ban on handguns.

That is a prevention of crime, but instead, we are putting our emphasis on building more prisons and more court houses.

**Mr. LENNOX.** Mr. Chairman, if I may comment on that, one of the arguments that has been raised against handgun control, firearms control, is that, that is only one small piece of it, and I think it has to be recognized, that it is only one small piece, but there are other groups working at the whole system, and I would agree with the sheriff on that.

The point is that you have to, at some point, deal with the small pieces one at a time, and that is where all we have said here about prevention of crime, the problem of prisons, all of this, we are working at, and we could have a whole series of hearings, and they have been held on these problems, but that still does not get away from the fact that the firearm itself is a contributing factor, and, therefore, it has to be dealt with, recognizing that we can deal with these other things as well.

**Mr. CONYERS.** Thank you.

I would like to recognize counsel, Mr. Barboza.

Mr. BARBOZA. Gentlemen, I would like to ask you a general question and perhaps the witnesses who follow you will be able to respond to it as well.

The chairman has raised the one possible cause of crime, the unemployment problem.

What about recreational facilities in your communities, particularly for poor people, do you think they are adequate?

Sheriff BUCKLEY. I do not think they are adequate, but I do not think it is one of the major causes.

I would put one of the major causes, it is the abuse of children.

Mr. BARBOZA. I am not talking of major causes. I am speaking of this specific potential cause, the lack of recreation of people.

It seems to me if kids are involved in doing things, playing sports, baseball, basketball, football, those kinds of games, it removes some tension from their daily lives, and relaxes their minds.

Mr. CARVER. In Massachusetts, we have plenty of recreation for our kids, plenty of organized activities.

You go into Boston, you will find a situation almost in reverse.

If they had the money to build playgrounds, they could not find the land to do it on, and it is all used up, with three- and four-story tenements taking the place.

We have nothing for inner city kids, and in that respect, I think that is why we find the pattern of kids born in the ghetto, that they generally wind up in correctional institutions, going from medium to maximum security.

Mr. BARBOZA. What kind of activities do you gentlemen engage in?

Sheriff BUCKLEY. I do running, tennis, basketball, I play baseball with my own children, but there is no evidence, there is no hard evidence in criminology to bring out that lack of recreation is the cause.

Mr. BARBOZA. What kind of satisfaction do you get from recreation?

Sheriff BUCKLEY. I know in the prison that I run, recreation is a very vital part.

We just opened up a new ballfield in the prison; it has relaxed the tensions inside the wall.

Mr. BARBOZA. Relaxed the tensions?

Sheriff BUCKLEY. Yes, relaxed the tensions.

Mr. CARVER. We agree on that.

Mr. BARBOZA. We have testimony from persons engaged in target shooting as a source of recreation, and before we began this series of hearings, I for the first time engaged in this sport and I found it was very relaxing. It also was very challenging; it requires a great deal of concentration, and when you are engaged in that activity, it is very difficult to think of anything else, particularly the kinds of things that may have raised tensions during the day.

You engage in basketball and tennis, and other things.

What about the person who engages in target shooting as a means of relaxation after a hard day?

Sheriff BUCKLEY. If by engaging in tennis, and if the racquet was a cause of death, I would have to give up my tennis to save lives.

Mr. BARBOZA. We have not heard that target shooting was the cause of death.

I think one witness engaged in 17 years of competition, over a 76-day period, and during those periods not a single accident occurred.

Sheriff BUCKLEY. I think the ATF people testified that the number of stolen guns taken, the arsenal, when you make an exemption on the ban, and say here, people who shoot for target practice, for sport, can have their weapon, and when they are sitting here, someone may be taking their gun, and that gun is the supply.

Mr. BARBOZA. But that is not an insurmountable problem, we could have better security for those guns, if that is a problem.

Let us get back to the point you raised. Tension.

If we were living in a nonviolent society, where everyone loved everyone else, and there were no tensions, then we would not be discussing firearms legislation, would we?

Sheriff BUCKLEY. We might, because there is not any society in the world that never had tension. There has always been tension.

What is new is the possession of firearms.

Mr. BARBOZA. What causes the tensions?

Sheriff BUCKLEY. Many things. Life has always been tense, not yesterday. It has always been tense.

If you go to Glasgow, Scotland, where they drink pretty heavily on Friday night like now, and you go to Glasgow general hospital tonight, and you watch them bring in the people at 1 o'clock in the morning, 2 o'clock, they have had their fights, and they are stitched up, and they go home. And if you want to go down to Harlem and go to the hospital and stay there, you will see people going right to the morgue, and the difference is in Glasgow they do not pass around handguns like they do in the United States.

That is the difference. There has always been tension, and there always will be tension, but there does not have to be the deadliness of this.

No other culture does it the way we do.

Mr. BARBOZA. So what you are saying is that we have a violent society, and one of the ways of reducing the result of that violence specifically, homicides and other kinds of crime, is to remove the handgun from society.

Sheriff BUCKLEY. That is one of the ways of saving lives. That really is the emphasis.

Mr. BARBOZA. That really is not the answer, though, to making this a better place to live, is it?

Sheriff BUCKLEY. It is one of the answers. It is one of the many, many answers, but it is one that all civilized societies have already taken.

We are alone in not having done it, and I would like to repeat what Mr. Carver asks, when he asks what statistics is the Congress waiting for, before we go get some meaningful legislation on handguns, what is it that they need.

Mr. GRESSEY. The problem is that tensions remain constant, I guess from the time of the caveman, and no matter what type of society we live in, there will always be something that will antagonize people and frustrate people. But our mechanized society, our highly industrialized society is made for the making of better implements of death, and it is the handgun that becomes the instrument of that death.

If I come home at night, and I have had a pretty rough day, and I start yelling at my wife, and maybe I had a few drinks before I came home, and here is that gun on the table, I think anybody who may be sitting here, has been angry enough at one time in his life to have done something, if there was a handgun there, that is, to pick it up and use it.

I think we can all admit to that, and I think it is the presence of that, and it does not matter whether we are from the middle class, the lower socioeconomic class, the rich class or anything else, it is the fact that the gun is there, and if a gun is not there, you cannot use it.

Mr. BARBOZA. You are still going to lose your temper though.

Mr. GRESSEY. Yes; but you will not kill anybody.

Mr. BARBOZA. Not to examine specific cases or instances where arguments are turned into homicides, but I think the greatest problem is the tension which causes that outburst, which forces a person to pick up the gun.

Mr. GRESSEY. But there are ways, I might say, of eliminating that tension. People will always, as soon as you have more than one person, and even one person along, with tension, I think it is just inherent in the human being, and the fact is that tension can either be relieved, either through recreation, or through some other enjoyable means, or just through running around the block. Perhaps it will be directed inward, someone will develop an ulcer, but you will not be pulling a trigger or killing anybody.

Mr. BARBOZA. Those of you who support the proposition that a ban ought to be imposed on the manufacture, sale, and possession of handguns, do you have many problems with permitting exemptions for people who wish to possess those weapons, responsible people who wish to possess them for sporting purposes?

Sheriff BUCKLEY. If you make the exception, how do you stop everybody from joining that group?

No. 2, you do raise constitutional problems when you specialize, you take one category and you give them special privileges over all others.

If you have a total ban, you do not have that problem, and I maintain that the only way this would work is with a total ban.

If you say only the pistol club members can have their weapons, you will find that a million people will join the pistol club, and it will be a very, very profitable business.

Mr. BARBOZA. Why would they join the business?

Sheriff BUCKLEY. Because it is the only way you can keep your weapon, join the pistol club, and then you're allowed to keep a weapon.

Mr. GRESSEY. That would mandate the pistol clubs being listed, and it would be listed by the Secretary of the Department in Albany. So somebody joins a club, they have to legitimately want to go there and to use that range, and the gun would be under lock and key.

Mr. BARBOZA. The reason why they would join the club is obvious, and that is so they could keep their gun, but the reason they joined, the reason that the pistol club is established, and the reason that it exists, is to provide a place of recreation, and certainly if a person joins, and he does not engage in that form of recreation, his name merely remains on the list for a period of time. There are things that can be done, legislation that could be drafted with the proper exemptions.

Mr. CARVER. That is even further discriminatory. You would take it away if he did not show up at the range.

Mr. GRESSEY. He does not own the gun. The pistol club owns the weapons.

Mr. LENNOX. Putting aside the problems raised by Sheriff Buckley, I still feel there is enough justification in the recreational aspect of target shooting, handguns as far as the Crime Commission is concerned, we would support Representative Bingham's bill, which requires under a strict control the use in the gun club.

Mr. BARBOZA. Mr. Gresse, you indicated, I believe, in your remarks that you have no problem with rifles and shotguns.

Mr. GRESSEY. I said that was a problem, but not as serious as the handgun.

Mr. BARBOZA. What will happen when the handguns are banned? The shotgun is a very lethal weapon, and it is easily converted to a concealable weapon by sawing off barrels and stocks.

Mr. GRESSEY. There would be an overall firearms policy, and also in terms of long guns, we are advocating a Federal across-the-board licensing and registration statute because we ran into another problem here, that is legitimate hunting.

I never go hunting, or kill an animal, but people, it is inherent in parts of our culture, and it would be quite difficult to ban overall rifles and shotguns, so there we feel that at least there should be a Federal licensing and registration statute so that those that owned rifles and shotguns could only own them for the sport of hunting.

Mr. LENNOX. I came across a very interesting law review article the other day dealing with the second amendment, and there was some concern raised about the authority that the Federal Government weapons that ostensibly could be used in arming a militia, such as the long rifle or the shotgun, it would be a constitutional question.

I did not feel this applied to the handgun because the handgun is not a major weapon of warfare.

There is a feeling that the army rifle would be, and there would be a constitutional question raised about the total banning of shotguns and rifles.

Mr. BARBOZA. Mr. Lennox, one last question, you read some statistics on a number of firearm homicides in Japan. I believe you said there were 30.

Mr. LENNOX. Twenty-eight in the total.

Mr. BARBOZA. From handguns or from just firearms?

Mr. LENNOX. Let me give the exact quote. There were 28 murders involving handguns.

Mr. BARBOZA. How many murders occurred by the use of other weapons in Japan?

Mr. LENNOX. I would have to take a moment to look in my statistics for that. It will take me just a second to find it in the book. The murder rate per 100,000 population in Tokyo was 1.7 per 100,000, compared with New York's 19.1. That is the total.

Mr. BARBOZA. Do you have any statistics on the number of homicides by use of other means?

Mr. LENNOX. I believe I do have it in here, but I cannot put my finger on it right away.

Mr. BARBOZA. How would you compare Japan as a society, when you were over there, did you find that the same kinds of tensions that exist in this society exist there?

Mr. LENNOX. No; we have a chapter dealing with the culture of Japan. There is no question about it, the culture focuses on family life, the education, 99 point something illiteracy rate, the fact that there was less than 2-percent unemployment, all of these factors taken in, plus it is a very homogeneous population, in a city of 11½ million people you have really one minority, Koreans, about 186,000, so all of these factors have to be taken into consideration in the low crime rate.

For example, we talked to the police about this question of riots, a great number of student riots, and the fact we see on American television a great deal of violence, and yet very few people seem to be killed, and this police superintendent said, remember now, we are all Japanese, and this is an overriding factor, so there is a cultural loyalty there, that we do not find in our heterogeneous population.

Mr. BARBOZA. When was the current firearms law enacted in Japan?

Mr. LENNOX. It was enacted under the American occupation.

All guns were confiscated, to the best of my knowledge, all guns were confiscated at the end of the war. Following that time firearm laws were put into practice.

Mr. BARBOZA. So was there any period of time that the effect of these laws could have been compared with previous homicide rates before the laws were enacted?

Mr. LENNOX. No; I have not seen any figures.

Mr. BARBOZA. So these laws were merely enacted by American occupation forces?

Mr. LENNOX. That is right.

Mr. BARBOZA. And it was not in response to a homicide problem?

Mr. LENNOX. No. It was our immediate occupation response of disarming a foreign country.

In fact, the Japanese police said if it had not been for that fact, that you had a wholesale cleaning up of all the weapons, it would have been very hard to just start in with this kind of imposition of the law because you have to get this drying up of the tremendous number of weapons, and they feel it was of great benefit, the fact that so many weapons were confiscated.

Mr. GEKAS. I would like to carry through on that.

Certainly if the Japanese police authorities felt that there would be very great difficulty if it was not for the fact that Japan was conquered after the Second World War, I think, can we agree that there would be even greater difficulty for the U.S. Government to receive, I hate to use the word, confiscate the 40 million handguns that are out in society now?

Mr. LENNOX. Definitely, there would be serious constitutional questions of how you get these handguns.

Mr. GEKAS. Let us assume the Bingham bill was enacted, and I think the three of you gentlemen certainly agree in your support of that bill.

What percentage of the 40 million, and there are probably more than 40 million, but 40 million is a figure we all agree on, what percentage do you think would be turned in?

Sheriff BUCKLEY. One, we have a very mandatory jail law in Massachusetts, that is one thing we are doing. No. 2, we are offering fair market value, determined by the Commissioner of Public Safety, so in a sense there is a carrot and stick.

We are putting the question on the ballot, which we expect to do in November 1976, the public in Massachusetts will ban the handgun is what we are looking to.

Then there comes the question of the collection. Now, this is only one State, but it is a State along with Connecticut which is the statute of gunmaking for the entire world, more guns are made in Massachusetts and Connecticut than anyplace else in the world, so in a sense, we start the process by saying, here, you turn your handguns in, you receive a fair market value for it, and if you fail to turn it in and you are caught, you are going to be subject to a really tough 1-year-in-jail law. So, I think most people will obey that type of law.

Mr. CARVER. There is also another law. I think in terms of the Bingham bill, one of the goals of that bill is to help dry up the existing pool of guns.

In one instance, it is the banning of the sale of a particular type of gun that the manufacturer will not make because there is no one to buy it, so instead of 2½ million new guns coming out of the faucet, you will have less.

On the other hand, you have police confiscating guns from criminals, they have picked up those guns in the commission of crimes, either in the trunk of a car, these guns are melted down for scrap or dumped in the Hudson River, they are never used again.

A gun generally will last 50 or 60 years. We hope that by choking off the supply on weapons, and the police confiscating as they do, perhaps a million guns a year, they will not always be picking up a million because there will not be that many around, but if you can get a gun population down by 20 million by the turn of the century, and then perhaps 15 million well into the next century, get this down to those numbers, that would be great.

England only began in 1934 to address themselves to their problem. It has taken them nearly 40 years to get at it.

Mr. GEKAS. It is the implementation that disturbs me. The carrot is required by the Constitution. The fifth amendment requires fair market value.

Also, you will be taking those citizens who only act in violation of criminal law, their only act will be the possession of a gun. That will be it.

Now, for some reason of constitutional rights, or machismo, or whatever, they may believe that they are entitled to the gun, no matter what the Congress of the United States says, and they have no history of having used the gun.

There are people who do engage in handgun hunting, a small percentage perhaps, they will be by the Hart-Bingham bill, the criminals, if they do not turn it in.

Now, the question I have, and of course, is disturbing, it is a disturbing implication, because it is a value judgment, about the object that causes the law to be enacted, that declares people who do not misuse the object to be in a criminal class.

That is the disturbing thing philosophically, and we can debate on that, but Mr. GRESSEY talked about the inequitable implication of Saturday night special laws and other laws.

Certainly can't we agree that the Hart-Bingham bill will also be inequitably enforced?

Who is going to be the victim of the criminal enforcement by the police of the Hart-Bingham bill?

It will be those citizens who live in those areas of high crime, who for reasons of self-protection desire to maintain them. so don't you agree that banning possession will subject, it does not eliminate those inequitable problems you talked about, it probably exacerbates them.

Mr. GRESSEY. The Hart-Bingham bill has a carrot, and it does not have a stick in a sense.

It will take a massive public education program on the part of the Government, or public interest groups, but the Hart-Bingham bill does not subject a person who turns in his gun, either before the 6-month period, where he can get fair market value, or past the 6-month period a criminal penalty.

Say, 2 years have elapsed, and he finally says I do not need that gun for protection, I will turn it in.

Under the Hart-Bingham bill, he could turn that in without the fear of being prosecuted.

Mr. GEXAS. I know, but we are dealing with the situation of the man who does not turn it in, and the question is how will that law be enforced, and I contend, sir, that your points about inequitable enforcement of laws in the minority community, as to registration, and Saturday night specials, apply with greater force to the problem of banning possession, because when possession is banned, and when 50 percent are turned in, the other 50 percent are not all going to be subjected to equal criminal enforcement.

The police will begin with the minority communities, not in the suburbs, and the people are subject to searches for possession of a handgun which becomes illegal will be the members of the minority community, and it is disturbing, a civil liberties point of view, the number of people, including some Congressmen who have introduced bills to ban manufacturing and sale, but not possession, because they know what it means. it means inequitable enforcement.

Sheriff BUCKLEY. Dr. Potter is not here now. You are equating some way of relaxation with the deed. Now, I see the deed and it is not

very pleasant to see their families, and certainly, there has to be a tradeoff, but let us not trade off life for death.

Mr. GEKAS. But I am talking only about the practical application of the laws, that this subcommittee is considering.

Sheriff BUCKLEY. Well, it could be.

Mr. GEKAS. It may be, but if you agree, I guess you would, the social costs of allowing the police to go into homes, or to establish probable cause if they merely believe that someone has a gun, if that is tolerable to you, then your position is consistent.

I say we have to consider very much more carefully, however, whether or not that is an acceptable social cause. It will be indeed our first time since prohibition, it will be the second time in our history, I think that we will have such a situation.

Sheriff BUCKLEY. We are not contemplating what they did in Jamaica, or what happened in Bermuda after the shooting of the Governor of Bermuda.

We are saying there is a law, we are not going to go out and search. We have never done that.

Mr. GEKAS. Under current standards of probable cause, if the Hart-Bingham bill passes, and if you have a gun in the house, and if your son tells the police, that is probable cause, whatever it takes to build the probable cause.

If the illegal act is mere possession of the gun, then the police will be able to come into the home.

Mr. CARVER. Wherein lies the damage, if they come into the home and take the gun.

If they have the warrant to come into the house, if it is illegal to have something, for the benefit of all the people, not just the sportsmen of the world, but all of us, 200-plus million people, and we pass a law, and this law says that none of them can have a gun, and if the police come in, instead you have one, then I would say that I would be glad to give them the gun, and I hope they will not send me to prison, but I question what is wrong with giving up a gun.

Mr. GEKAS. The essence of civil liberty is freedom from police searches, freedom from intrusion by the police.

That is the essence of the fourth amendment. If you do not think there is a problem theoretically, then I will suggest it will not be applied equally, it will not be the people in the suburbs who will be subject to the search and seizure.

Mr. CARVER. I agree, but that is true of our whole criminal justice system.

Mr. GEKAS. And the magnitude of the situation, in the case of gun possession, because there are so many guns out there, I would think would cause the supporters of that approach to consider very carefully just what you are doing, you are changing the nature of the relationship of the police to the society.

It is quite different than probable cause.

Mr. CARVER. Is the alternative to stand pat?

We must do something.

Mr. GRESSEY. If I have heroin in my house, the police with a warrant will come into my house and get it.

Mr. CONYERS. And sometimes without a warrant, as many, many investigations have revealed already.

Mr. GRESSEY. That is in the administration of—

Mr. GEKAS. The difference is in the matter of degree.

In the incidence of heroin in homes, it is not as great as the possession of firearms. I would suggest that to you.

As I mentioned before, the passage of the bill and the Hart-Bingham bill, would have to be coupled with public education programs from both public and private sectors to show people the frailty of owning a gun.

Mr. GEKAS. And the illegality.

Mr. GRESSEY. And the frailty, that all we're trying to do now is to show that the handgun will not protect them because it is more dangerous to have it, but it will be illegal to have it, and if the law would be administered fairly, in other words, in terms of, the specter here has been raised by many of the groups, like the NRA, we have heard them say that the police will go busting in, and this is in the gun magazines, they will break into every house, this is what they try to indicate, they try to scare the gunowners, as soon as a bill like this will pass, all of a sudden you will have scads of armed police and FBI breaking down doors.

They break down doors now, even without the passage of the Hart-Bingham bill.

Mr. GEKAS. We know it will not happen out in the suburbs, it will happen in the minority communities.

Mr. GRESSEY. That is a very great problem in terms of again the administration of justice, which leaves a huge amount of work to have to administer that fairly, but I do think the passage of the Hart-Bingham bill, it is a two-fold problem, the bill itself will not make for the police breaking into homes, because the police are judicious, then they will not break into the homes.

Mr. GEKAS. What it will do is add a new act, which will justify search and seizure in the homes, and the act will be the possession of a gun, not its misuse, just having it in the top drawer, and if there is no ammunition in the house for it, I would assume under the Hart-Bingham bill this would be a violation.

It does not change the character of search and seizure powers. It add to the kinds of this type of situation, in which that power can be applied, and I caution you on the nature of what you are talking about.

It seems to me it has terrible implications.

Mr. GRESSEY. If under that bill, let us say the person that brings the gun to the police precinct, if he then would be subject to a criminal penalty for having brought that gun in, that is one thing, but under the Hart-Bingham bill, he would not.

It would be almost like an amnesty.

Mr. GEKAS. We are talking about those hard-headed citizens who disagree with Mr. Hart and Mr. Bingham, and you three gentlemen, and who may disagree with the Congress, and who will say I have a moral right to retain this gun.

We assume away all of those problems of turning it in, and then you are not subject if you turn it in.

What about the people who do not turn it in?

How will the law be applied then, that is the type of question that the subcommittee will have to ask.

Sheriff BUCKLEY. In New York City we have mandatory laws, but in actual practice of the law, that mandatory law is not working because the criminal justice system, if someone has a gun in his drawer, and the police have a search warrant, they find a gun, they bring the person in, and the man has no criminal record, that man will not go to prison, even if you have a mandatory law, because there is a difference between the theory, which you have brought out so clearly, and the actual practice of the criminal justice system which I am involved in every day, and there is quite a gap between the two.

Mr. GEKAS. I do not mean to malign the police. It is not the purpose of what I am doing.

The point is that the police resources are put in those communities, where the crime, the incidence of crime is the highest, that unfortunately in our society is the same community in which minorities live.

The minority communities are where the highest areas are.

There is a difference between theory and practice, and that is the thing that concerns me.

Sheriff BUCKLEY. It is not any more difficult than the busing scene is today. Of course, it will be difficult. It should not be easy. It should be difficult, but we have to break this habit, and the only way we can do it is to face up to the problem squarely, and say, all right, here is a problem, there are certain difficulties, it will be hard, but we are making this decision, and if you put this on the ballot in Massachusetts, the public will overwhelmingly vote for it, and I think you will find that this will be true in later years in other parts of the country, and if the majority want it, then the majority rules.

Mr. GEKAS. You see, our Constitution, the whole theory of our society is to protect minorities from excesses of the majority. That is the way the Constitution was drawn.

Sheriff BUCKLEY. I think the thing is publicity.

If the Government can no longer protect its citizens, then the reasons for the existence of the Government seems to me to have failed, and one of our problems is that we can no longer protect our citizens, and we are saying, as all the criminologists are, that one of the reasons we cannot do it is the proliferation of handguns.

We are addressing that particular problem. Certainly it cuts across other lines, and I am as much a civil libertarian as anybody in this program, but I feel very strongly that the most precious right is the right to live, and this is an argument for life.

Mr. GEKAS. I understand that, but I would suggest there are very disturbing questions as to the applications of such a law, and you may consider the approach I think taken by such Congressmen as Mikva, of Illinois, where he bans the inflow every year, but not possession. because he knows what it means, he knows what it means in terms of enforcement.

Mr. GRESSEY. There is one other excess, and that is the police being a little too fast on the trigger in the minority communities.

I think the most prevailing cause for that is, well, it is fear on the part of the policeman that goes into an alley, or down a dark street perhaps, and I think somebody is going to shoot him, before he can shoot that person, or in chasing somebody, it exerts so much pressure on the trigger, then out goes the bullet.

Now, if the Hart-Bingham bill would start deescalating the supply of handguns, and we start to deescalate the supply of guns, this would mandate a more judicious firearms policy on the part of law enforcement officials, whereby the individual policeman, if he did not think the person lurking around the corner had a gun, he would not be so fast on the trigger himself.

Mr. GERAS. I think as a principle of collective behavior by the police, I would certainly agree with you, but as the sheriff pointed out, there is a difference between theory and principles and practice, and I think we could go on and disagree about this.

I have some other questions, but, Mr. Chairman, it is time to proceed to the next witness.

Mr. CONYERS. I think that this has been a very important discussion, and I commend counsel for raising these questions and pushing them to their limit, because those are the kind of arguments that are going to raise on the floor of the Congress in terms of prohibition of manufacture and possession. This has been an extremely important discussion.

I hope that all of you will follow our progress. I have increasing confidence that this hearing has been very beneficial.

This is an issue that has been examined more closely now than ever before. More people are beginning to look at this question, and more legislators are coming to the irresistible conclusion that we're going to have to act, and act positively. Warnings against moving toward legislation that will be only something minor sometimes operates detrimentally in the cause in which we espouse. I feel these are very sound and clear warnings, based on some of the unfortunate legislative history in the past on this subject, and we are going to very carefully consider all of the facts.

We appreciate the effort you have made, and I hope this shall not be our last contact on the subject. I am confident that it will not be.

Thank you all very much.

[The prepared statements of the foregoing panel follow :]

STATEMENT BY JOHN D. CARVER, EXECUTIVE DIRECTOR OF THE  
MASSACHUSETTS COUNCIL ON CRIME & CORRECTION

This Committee is nearing the end of a long, trying journey to six American cities gathering testimony in support of, or in opposition to, a number of bills pertaining to firearms regulations. I think, therefore, that I can assume with some certainty that you have heard just about all the arguments, stories, and statistics that you can stand. Our police, sportsmen, lawyers, mayors, and criminologists have spoken. And they all seem to agree . . . at least on one thing . . . and that is that we have a big, serious gun problem in America.

Where opinions differ, however, is in the proposed methods of solving our problem. Mandatory prison sentences, federal licensing and registration, banning a certain calibre of weapon, stricter enforcement of the existing laws. These have all been prescribed as the remedy for this national sickness from which we have been suffering for so long. Before you reach too quickly for the medicine, however, I hope that you will try to agree on the exact cause of the malady as well as the curc.

If the availability, distribution, and proliferation of *handguns*—not rifles or shotguns—but *handguns*—has not been identified as one of the foremost causes of the American gun problem, then surely something has been lost on this Committee.

However, if you can begin your search for a solution by agreeing first, that the *handgun* is the one on which to focus your attention, and second that there

are too many handguns in existence now, and definitely too many new ones available for sale each year, then this Committee will be well on the road to finding a way to attack the gun problem in America at its most vulnerable flank.

In trying to put the handgun problem in its proper perspective, in relation to other socially menacing situations, I cannot fail to be struck by the blatant double standards that surround us. On one hand we find the U.S. Consumer Products Safety Division, at the urging of Congress, taking quick, positive action on a number of things that have been proven dangerous to our society. For instance, a children's product called "The Imperial Little Lady Oven" was recently taken off the market due to a shoddy wiring system. Children's pajamas may no longer contain flammable fabrics if they wish to be sold domestically. Poison prevention packaging such as aspirin bottle caps have been ordered into effect, while currently there are over 750 toys banned from the market because of sharp edges, small parts, or electrical deficiencies. We also see that 23 states have outlawed the sale of fireworks completely, and that a nation-wide ban is expected soon.

While all this has been going on in the name of public safety, not a shred of legislation has been enacted by Congress that will do *anything* to discourage or decrease handgun availability in this country. Our kids may be safe from toys and toasters which seldom kill, but the handgun menace stays with us.

Meanwhile, the U.S. Food and Drug Administration has seen fit to ban the importation of a drug called thalidomide, a tranquilizer taken during pregnancy, that has been known to cause deformities in babies. In New England we have a situation referred to as the Red Tide, during which high toxin levels in shellfish cause instant paralysis to those who unwittingly eat them. During these times, shellfish are, of course, forbidden to be harvested, sold, or eaten. Until recently, Atlantic Swordfish contained a higher level of mercury than the F.D.A. thought advisable for consumption, for mercury can cause brain damage. And recently it was vinyl chloride in aerosol cans that caught FDA's attention, for it has been known to cause cancer of the liver.

Conversely, the handgun has been blazing a wide path across America for years, also leaving deformities, paralysis, brain damage and death in their wake, while Congress has seen fit to look the other way.

Why is it that Congress annually fails to come to grips with this instrument of death that is ripping us apart? Can it be that cystic fibrosis kills nearly 2,000 American youngsters a year and the federal government commits millions of dollars toward research to find its causes and cures, while over 5,000 Americans between the ages of 1-19 are killed by handguns every year, yet we know its cause and those deaths could have been prevented.

Is death by gunfire so instant and final that we are unmoved when it happens? Is death by gunfire a social evil that we have come to accept without any kind of public outcry? Is death by gunfire so typically "American" that it goes unnoticed when compared with leukemia, multiple sclerosis, and cystic fibrosis? Aren't there "enough" handgun deaths to warrant congressional action yet? How many more years of bloodshed must we pass on to other generations? I ask, finally, what statistic is Congress waiting for?

And now as the curtain draws on these hearings and you return to Washington to ponder your decision, I ask that you look yourself and your constituency in the eye and give a good honest answer to the following six questions:

Is it simply a pure coincidence that the American people are the most heavily armed nation in the world, and that every year more people die by gunfire in our country than in all the other nations of the world combined? Is that a coincidence?

Is a handgun's primary function to kill a fellow human being?

Do handguns have any socially-redeemable qualities to the extent that they have a positive, rather than a negative impact on society?

What great harm would come to our nation if we banned handguns for domestic consumption?

Do we need handguns in our society, or can we literally "live" without them?

And finally, if you as members of Congress had it within your power to give our society a fresh start, a new beginning, what would you do about handguns?

Ladies and gentlemen of the Committee, I urge you to honestly answer those questions and then vote your conscience. Some years ago, the Board of Directors of the Massachusetts Council on Crime & Correction asked themselves those very same questions and agreed conclusively that the handgun has no place and certainly no future, in a civilized society, and that in the best interest of public safety the handgun should be banned to all citizens except to our peace officers and to our military.

## STATEMENT BY HOWARD D. GRESSEY, GENERAL COUNSEL, DISARM, INC.

Mr. Chairman, America is in the grip of an epidemic. An epidemic not caused by a germ or virus, but by the forty million handguns in the possession of private citizens.

This year, as we prepare to celebrate two hundred years of progress as a nation, firearms will cause 13,000 Americans to be murdered; 10,000 to commit suicide; and 3,000 to die in gun related accidents. Twenty-six thousand needless deaths, because guns have become so integral a part of our way of life.

Those who advocate strong gun controls are often accused of seeking to coddle hardened criminals. Yet over 70% of those committing homicides will be individuals who never committed a serious crime before; but because a gun was within easy reach, they will end up killing a friend, an acquaintance or a member of his or her own family in the course of an argument or to give vent to momentary rage, anger or hostility.

Even in the wake of these escalating tragedies, every past attempt on the part of the Congress to enact really significant legislation to control the rampant and prolific use of firearms in America has met with failure. It is completely beyond the realm of all reason and comprehension, that time and time again, as more and more of our citizens fall victim to the gun, the "gun lobby" is able to exert an influence on the Congress far disproportionate to their numerical support.

When we discuss the role of the gun in our highly civilized society, it must be emphasized that of all the weapons in the domestic American arsenal, the handgun is the most deadly. It has but one purpose; that being, to fire a bullet that will kill another human being. Fifty-four percent of all the murders in the United States are committed with the handgun. Yet even while we ponder the terrible consequences wrought by these forty million privately held weapons, three million new and shiny models come off the assembly line of American factories each year to be added to the existing supply.

We urge the Subcommittee on Crime of the House Committee on the Judiciary to take the lead in advocating strong, affirmative Congressional action to eradicate the handgun menace. We also urge favorable consideration for H.R. 40 introduced by Rep. Jonathan Bingham, which would effectively ban the manufacture, sale, and private possession of all handguns and handgun ammunition, except under certain limited circumstances.

It has long been apparent that State and City laws are ineffective in coping with the easy accessibility of handguns. New York laws are among the most stringent in the nation and there is still a flood of illegal handguns now totaling approximately two million in New York City alone. Only Federal legislation, which applies equally to every state of the union, can begin to convert our nation from the armed camp it has become. And only a total removal of the handgun from the private sector will significantly reduce the senseless death toll arising from the use of firearms in our society.

---

 STATEMENT BY SHERIFF JOHN J. BUCKLEY

When I first spoke out in favor of handgun control over seven years ago, I quoted statistics, with which you are undoubtedly familiar. I told people that seven out of every ten murders are committed by friends and acquaintances. I said the handgun was *not* good protection and individuals who had handguns were five times more likely to kill a member of their family or a friend than any would-be robber.

But all the statistics and all the logic have themselves fallen victim to the emotionalism of the debate. The heat of emotionalism has melted away the logic and the hard facts. I have wondered for how many more years the emotionalism would be the reality and the statistics the illusion. And now I think it's time to examine the emotional realities for what they truly are because there are hidden handgun arguments which must be addressed lest the debate be lost in a maze of figures.

Why do generally law-abiding citizens feel the need to purchase deadly handguns? Protection is the most often heard reason. Yet, this, I think, only hides more deep-seated reasons for owning a handgun. The concept of protection is a cover for other anxieties which determine a person's actions.

For some individuals the handgun is possessed out of anger and frustration. In a world which is competitive it is an easy way to feel that "you've got the drop on somebody." It is "the great equalizer."

For others the handgun is carried with the perverse hope that somebody will just try to jump him. Waiting with the sadistic hope that someone will try to take advantage of him.

The rescue fantasy, according to psychiatrists, also plays a role. The possibility of rescuing somebody in distress and gaining recognition may be the reason some individuals carry handguns.

I have observed at legislative hearings, both in Massachusetts and other parts of the country, that many of those opposed to handgun control are men. The vast majority in favor of handgun control are women. Why? I have wondered what the National Rifle Association meant when it said in a pamphlet, "let them follow their counsels of cowardice if they prefer to surrender the privileges and the rights of manhood." Art Buchwald put it more succinctly and with better humor in a recent article when he said, "If American males have to give up their handguns they'll lose their manhood. If we don't have handguns we'll all become a nation of eunuchs."

What is this big machismo? What is this need to prove not only that you are a man, but a big man: this John Wayne syndrome? What is it that makes men strut when they put on the great "equalizer" which makes little men the equal of big men? Sigmund Freud said long ago that the handgun is the perfect phallic symbol. In other countries, the symbol of machismo is different. In some, a man is big if he conquers many women. In others, he is big if he has many children. In America, the symbol has become the deadly handgun. It has become more than just a symbol. It is power in interpersonal relationships.

Fortunately, there is a strong movement today which was only in its infancy when I first spoke on handguns seven years ago: one which reduces the need for men to prove bigness. It is no accident of history that the women's movement and the movement to outlaw the deadly handgun meet in the seventies. The women's movement contains within it not only greater freedom for women, but also greater freedom for men. It is no longer necessary for women to stay at home and rock the baby to prove they are women. So too, men don't have to pack a handgun to prove they are men. With the increasing recognition of men and women as equals, there is a growing acceptance of one another's sexuality in its fullness and beauty, and a decreasing need to prove sexuality at all.

The handgun control debate is also emotional because it involves race. The sharp increase in murder rates began in America with the riots in the major cities. After the Watts riot in 1965, Los Angeles County averaged 10,000 pistol sales per day. Following the Detroit riots, people were buying 4,000 handguns per day in Wayne County, Michigan. Whites armed themselves against blacks. Now blacks have outarmed the whites. Over sixty percent of the victims and over sixty percent of the offenders in murder cases are black. Ghetto-dwelling blacks kill or are killed at a rate ten times higher than their white counterparts in the cities.

Detroit, for example, happens to have the same population as the whole of northern Ireland. Yet, in 1974 alone, Detroit police reported 801 deaths from criminal homicide. This figure is seventy-four more than the total number of civilians killed in all of northern Ireland during the five and one half years of "trouble" which started in 1969. The whole world is concerned about the "trouble" in northern Ireland, and I don't intend to demean the seriousness of Ulster's problem. However, we also have our "troubles." Because they involve young, black, males who are faceless, invisible, non-citizens to the suburbs and the legislatures, nothing is done except to lock them up. Race is a concealed handgun argument and a very emotional one.

Polls show that eighty percent of the people favor strict handgun control. In the 1974 election in Massachusetts, the question of handgun control was on the ballot in Winthrop, Wellesley, three precincts in East Boston, Newton, and Brookline, and the vote was seventy-nine percent in favor of strict handgun control, twenty-one percent opposed. Despite overwhelming support for control, the legislature will not act because of the strong emotions involved. A private, non-profit group called People vs. Handguns, at 100 Franklin Street, Boston, has quietly been organizing individuals and organizations to put the question on the ballot in November of 1976.

It is my hope that Massachusetts will lead the way in outlawing the deadly handgun in 1976.

But to be truly effective handgun control should come on the national level. Members of your committee should keep in mind that handgun control is preventative. By doing something about the number of handguns in circulation and who

is allowed to possess them you can save lives. A recent study done by the Kennedy School of Government at Harvard on handguns in Massachusetts estimated that strict handgun control in our state could result in a savings of 55 to 120 lives per year. The report also indicated that 445 to 1,190 handgun inquiries and 250 to 1,500 armed robberies could be prevented each year.

As a member of the Board of the National Council to Control Handguns and President of People vs. Handguns, I urge you to allow only the police to possess handguns. It is not enough to outlaw the so-called "Saturday Night Specials." To a victim of a handgun fatality the length of the barrel or the price of the handgun makes no difference.

Mr. CONYERS. During this discussion Judge John Fox has been rising uncomfortably from his seat in the audience.

Our next witness is Judge John Fox, former criminal judge in the Boston courts.

He also has been a probate judge. We will not put you under oath, Judge.

Judge Fox. Thank you.

Mr. CONYERS. Please join us.

Judge Fox has helped in preparation of the very important provisions of the gun laws in Massachusetts, the mandatory 1-year sentence for failure to procure a firearm owners license, and we know he is going to tell us how that has been working, although it has only been in effect since April of this year.

Judge Fox is very active in this area, and we welcome his participation in this committee proceeding.

#### **TESTIMONY OF HON. JOHN FOX, FORMER JUDGE FOR THE STATE OF MASSACHUSETTS**

Judge Fox. Thank you very much. Before I address myself to the central theme of my reasons for being here, a discussion of a so-called gun control law, passed by the Massachusetts Legislature, and, in effect, since April 1 of 1975, permit me to express my gratitude for this opportunity, and the gratitude of the most recent retired speakers of our legislature, the Honorable David Michael Bartley, who permitted me to cosponsor the legislation with him, and also the gratitude of the present speaker, the Honorable Thomas McGee, and very quickly, communicate to you their regrets, of their failure to be here. The Honorable David Michael Bartley has left the legislative halls for academia.

He has assumed a position as president of our Massachusetts College, and he was scheduled to meet with his entire faculty, those not on vacation today.

The Honorable Thomas McGee, very recently elected speaker, is in session today.

Our legislature has almost year-round attendance. They will be in session most of this year, and they are sitting today.

Also, let me express to you all of our commendations and thanks to you, the members of this hardworking committee, for bringing this most important issue to all of the public, not only by the media, who attend, and who reveal and report to us your congressional hearings in Washington, but we feel that your regional meetings have been a boon to those of us who are fighting crime.

Mr. CONYERS. Thank you, Judge.

Judge Fox. The genesis of the new Massachusetts law is a simple but vitally important question.

The question we asked is why should any individual unlicensed to carry a weapon be away from home, or place of business with a weapon, and today here, I must interpolate, without criticism, there has been misrepresentation of that piece of legislation.

Let me break down that question and show you very quickly, we do not into the home.

The question broken down reveals the following: An individual, male or female, unlicensed, you have heard from others about our licensing provisions.

As a matter of right, any resident of the Commonwealth of Massachusetts who does not have a criminal record, and is not mentally incompetent, not an alien, as a matter of right, and with a payment of \$2, obtains a license for so-called firearms' identification card, which enables him to possess at home a rifle, a shotgun, and a handgun, and to remove from his home the rifle and shotgun, and for \$5, I think it is, and this is not a licensing discussion; we did not pass this bill for licensing purposes, we passed this bill to fight crime, actually we are flying here under false colors, or maybe more colors than some are led to believe, or to anticipate.

This, gentlemen, is crime control, not only gun control, but within crime control, there is of course involved gun control.

We have the other license, as I said, which permits the possessor to carry a handgun, anywhere, unrestricted, if he obtains it for the unrestricted purpose, and that is protection of life and property.

We also have some restricted handgun licenses, target shooting, and other such reasons, and then the possessor must restrict himself to those purposes.

In Massachusetts, we never differentiated, between the concealed and the unconcealed weapon, and as long as you are so tolerant with me, I might give you just one short piece of history, which in Massachusetts passed the first handgun law in the Colonies in 1692. The Massachusetts Bay Colony adopted a British law, and we made it a crime to carry an obscene weapon in public places.

The British did not want their people carrying guns in the first place. They listed this as a law, and if we go back to an old law, it is entitled the "Law of Nottingham," and after we were incorporated, or after we became a State, shortly after the Revolution—

Mr. CONYERS. Judge, would you describe an obscene weapon?

Judge Fox. The best I can make out, Mr. Chairmau, that it is a weapon that the powers of England wanted to carry and did not want the peasants to carry, they wanted the right to carry weapons, but they did not want their peasants to carry weapons.

Mr. CONYERS. But an obscene weapon?

Judge Fox. The best we can make of it. I will do a little research if you want me.

Mr. CONYERS. You are raising a very mysterious issue, and now you are going to go back and research and tell us the answer.

The answer may be too shocking to print in a public record, and you may be incriminating persons in the Government, or citizens or witnesses.

This could be unreasonable implications.

Judge Fox. It was a nonorganic weapon, something carried away from the body.

So you know a little bit about our licensing procedure from previous witnesses, this is not a licensing law.

We are fighting crime, and we are still fighting crime, so this legislation has nothing to do with the licensed person, and that includes a whole body of sportsmen.

They have always been properly licensed. They have gotten their permits, and they have gotten their licenses.

Away from home, or in a place of business, that is no place for a gun. We can enumerate for you the many reasons advanced, as to why people should not have guns in the home.

The psychologists and psychiatrists in recent writings have ruled out the suicide.

There is no correlation, but we know the possibility of theft, and the gun being used later, we know the emotional outbreak, and I will explain that, and I will do that some other time.

We know of the safety patrons, and we know the other reasons why there should be no guns at home. We also know some of the reasons advanced for possession of weapons at home.

There is a long tradition of weapons in this country, unlike Japan, where they have had the various codes, and they had hari-kari, they had many philosophies and programs that we did not enjoy or suffer with.

You heard some references here this afternoon to the Puritans using weapons to ward off hostile Indians, to ward off dangerous game, and to obtain the food.

The long gun opened the West, the Winchester conquered the Far West, and the Colt became the great equalizer of the day.

There are people who just like guns, besides the machismo issue, if that is the way the word is pronounced, I will use the abbreviation, "macho," besides that, there is a sexual aberration to guns, and many have written about this thing over the years, but beyond that, there are people who like guns, they have large investments in weapons.

They like the comfort, they have comfort in having a weapon in the home, so it is in a table drawer somewhere, but the gun is there, and then there are those who want guns for protection of life and property, and there is the constitutional law diehards, and I agree with no one who says that article II applies to an individual's right to carry weapons, and I can cite you the Supreme Court decisions on the subject, and the book and page thereon, but there are such people, and I wish to submit very quickly, that any threat of confiscation, of an ideal, remember the *Chicago Seven case*, and all the other problems we have had in this Nation, or specially personal property brings about the violent reaction, and later on we will refer to the Walstead amendment, but that was one glaring example, so there are many reasons why people want guns at home, and I do not dare admit, with a friend of mine sitting here, a large body of sportsmen, hundreds of those men and women, for whom the weapon is the avocation, the sporting endeavor, the end of all life away from the boring daily sting, so we know things, that there are many others that do desire possession of their guns at home, and there is the nonpossession of the gun.

Our law does not reach into the home. The place of business, again, we can give you reasons why men and women should not possess weapons in places of business. There are very few who do, and who

know how to protect themselves, very few who do and will use the gun initially, and they wait to be attacked, and they would be in more serious trouble than if the weapon was not there, but I can understand the variety-store keeper, the gas station owner, the dweller in low-income areas, I may not approve, but I can understand this.

I can understand the officials in this building, who knew of prowlers, of course, this building is very well guarded, but the ordinary office building in any city or town or county who might want a weapon around because of thefts, prowlers, what have you.

I am not passing on the necessity or validity of purpose, but our new legislation does not go into the home or place of business, but the automobile is away from home or away from the place of business.

The question repeated, why should any individual, unlicensed, carry a weapon away from home or place of business, that weapon in his or her possession?

When we leave here, I hope you will leave before dark, and my apologies to you and to the others, and I presume the others will apologize also for keeping you here on Friday in summer, but we do have the right to feel that those streets out there are safe, and we know the streets are not safe.

We know that no street in this Nation is safe today.

I say shamefully, and you must agree shamefully, no home is inviolate.

Anyone of us is next on the hit list. Why must this question be asked?

I started to tell you, we have created a climate of permissiveness in this great Nation of ours, such as this world has never envisioned, and from this permissiveness flows lawlessness and violence—in one word, “crime.”

Our people are carrying weapons with complete disdain for the law. Older people are carrying weapons the way your parents carry the lunch pail to work, or the briefcase to the office.

Younger people are carrying weapons the way you carried baseball mitts, hockey sticks, or schoolbooks in your day.

How has this come about?

What has happened, and before I answer that, from this lawlessness and violence, transplanted into the word “crime,” the prime ingredient is the weapon.

That we must never forget. It is the weapon that gives those people who are committing crimes the bravado, the forced courage, the nastiness, the meanness to commit the hundreds of thousands of reported crimes, and a very, very large number of unreported crimes.

This climate of permissiveness started back with the automobile, which makes discipline impossible to develop, the Volstead amendment, was an effort which was made to prohibit the sale, manufacturer, and possession of liquor, created criminality, bred criminals, the two separate and entirely distinct happenings brought about by criticism of law, visible criticism by adults, witnessed by youngsters, after everybody proceeded to criticise the establishment.

Flowing from that, in the past decade and a half, our Supreme Court, Miranda, Escondido, Gideon, was law that was only for the defendant and none for the rest of us.

The parent unable and unwilling to generate the discipline that we saw in our homes contributed to the overworked school teacher, and

again this school teacher has become incapable or unwilling to spend the time needed with the youngsters, the church is now without authority, and in our criminal court system, that has broken down, and all of this has contributed to this climate of permissiveness.

No one by today's standards, by present-day yardsticks goes to jail, albeit, our jails are filled, and great sympathy is needed for all of those who have been incarcerated, because our jails are in scandalously bad condition.

The jails, the jailors, the superintendents, all of them, or all of us, have contributed to that.

We have added to this climate of permissiveness by our apathy. We are prepossessed by our programs and problems, and we are obsessed by our own daily needs.

Everyone has given up.

What is the solution?

We've tried everything else, we have complained about unequal housing opportunity, educational opportunity, job opportunity.

We have beaten our breasts and pleaded *mea culpa*. We have tried court systems including rehabilitation, halfway houses, diversion systems, we have tried everything, and now, by the way, I have determined, I am determined to omit a great deal here, the hour is late, and I prefer to leave most of my time to questions, but I think I can do better by way of revealing what we have done in Massachusetts, and why we are here to answer the questions you put to me.

Mr. CONYERS. I think the longer you proceed, Judge Fox, the fewer questions are going to be left to be put to you.

Judge Fox. I was hoping you would be as hard on me as you have on the others.

On some questions, I might be loaded.

We now have the condition that is endemic, and when a nation suffers from an endemic condition, then harsh social measures are reasonable.

Doctors may not wish to operate, to do such things as amputations, but they are part of their technique, and when they discover that the cancer is there, they do what they can.

We have talked for over 6 years to people in all walks of life. Psychiatrists, penologists, judges, law enforcement people, appointed officials, elected officials, we have talked to them all, and we came up as a result of much effort with the following law, any individual unlicensed to carry a weapon, and I omitted telling you before that, the weapon in Massachusetts includes the rifle, the shotgun, the handgun, any individual unlicensed to carry such a weapon, convicted of carrying such a weapon away from his home or place of business, will receive a mandatory inescapable jail sentence, minimum of 1 year, maximum 5 years in straight prison, which makes it a felony.

I have received some guidance here about the mandatory which will not be enforced.

This mandatory I suggest to you, members of the committee, will be enforced.

Now, let me give you some negatives. This is not a confiscation law.

This is not a no-knock law. This is not a search and seizure law. All constitutional provisions accorded and afforded to the accused, and later the arrested person, are strictly adhered to.

The accosted individual need not talk, and if he is arrested, he gets bail, and he gets a trial.

Here are the first no-nos.

That individual accused of carrying a weapon away from his home, from his place of business, he is not entitled to plea bargaining. It is in the law.

Nor can there be a long continuance, and when I suggest later that one of the many reasons for this law is to change all peoples' thinking about crime, I will venture to suggest that we will have speedy trials, because that is part of our deterrent, so the first no-no, no long continuations, no long continuances, no plea bargaining.

Now, a trial, that is as always. If in Massachusetts, the first trial was in a lower court system, there is a right to a jury trial, and then an appeal if convicted to our Supreme Court under law.

Now, some more no-nos. If convicted, and in a final court, or if the defendant pleads guilty, here are the next no-nos.

A judge cannot favor that defendant by placing the case on file, by probation, or by a suspended sentence.

Gentlemen, I sat in the criminal court for 10 years. The busiest criminal court in Massachusetts is where I sat. I used those techniques and many others. I used the continuance without a finding. I did not try a case, because of having a firsthand view of the poor souls who committed crimes, many minor crimes, who wanted their records clear, so they might get civil service appointments, promotions, or military appointments, I did not give the defendants before me any record.

I invented something called the continuance without finding. I will elaborate on that. I took good precautions, I talked to the police, the probation officer, I talked to the defendant, I watched them for a year, and they had no record of any kind.

I am a liberal from way back. Now, those are the no-nos.

There is an inescapable sentence.

Now, the next no-nos, the defendant is incarcerated, no furlough, and no parole.

Why are we so harsh?

This we submit to you is preventive legislation. We wish to instill fear into the minds of the 5,700,000 people in Massachusetts, of this legislation.

The criminology of the gun carrier in Massachusetts, and what I know of New York and New Jersey, and I do not dare, on what I heard here today about laws here working, the great amount of burglaries in New York City, the deaths, eight deaths 1 day this year, and I heard people talk about laws working, great pride in the fact that only 27,000 licenses have been issued.

What has this got to do with the crime question?

I said I would not comment, excuse me.

Here is the criminology of the weapon carrier, the first offense is a slap on the wrist, the second offense is probation, the third offense is probation, the fourth offense is a suspended sentence, the fifth offense, the judge looks at the defendant, whether he is an adult or juvenile, or young, and then the same mental processes.

Where do I send him?

Our reformatory is a school of criminals. Our State prison, 73 murdered in the past couple of years, because we have commissions of corrections, who are liberals, and because of that we have had problems.

Mr. CONYERS. Seventy-three murders within the prison?

Judge Fox. In the last several years. That is the criminology of the gun carrier.

By that time the weapon carrier has carried a weapon for a goodly number of years. It is our conviction that any individual who carries a weapon that long, and knows he will not be sent to jail, will eventually use that weapon for all the reasons which people have committed crimes since Adam and Eve got together, plus passion, money, drugs, alcohol, all of the reasons you know of.

This, I submit, we submit, is the scenario for disaster.

You just cannot let this climate of permissiveness continue. We cannot allow weapons carriers to walk around.

We have already shown them that crime pays. They are not going to jail. One hundred and eighty-four defendants were convicted of crimes in Washington, D.C., the first 6 months of last year, 7 were sent to jail.

That is the Washington Post report that I have with me. Seven out of one hundred and eighty-four. Crime pays. They have their weapons, or they can get other weapons, and they will continue to carry them.

This is the reason for the mandatory. We can no longer trust individuals on the bench, all of whom are well meaning, I'm sure, to handle the problems of those who are causing the rest of us the trouble, because we are the victims.

Mr. CONYERS. Why can't we trust these gentlemen?

Many if not most of whom are in fact elected, and from a constituency, which must surely understand the facts that you have raised here so articulately.

Judge Fox. I say kindly, generously, we did what I did before this situation worsened geometrically 1,000 percent, and we could do it then.

I happened to have been in the criminal section since 1960. I probably say I sent no one to jail, I now say that we must do something for the rest of us, because all of us are the victims, not merely the instant victim.

I want to suggest to you that there are many reasons for this law. This law is the first signal for the rest of us, the lay people, the homeowners, the members of the business community, that the legislature in Massachusetts, the judiciary, from April 1 on will think about us, as well as the defendant before the court.

This is a signal to the hardcore criminal, over the years, this signal will be most important, and it will tell him that he has to be careful.

In the last week of the training sessions at the police training, the question asked, captain, how about this, a man breaks into an old lady's house after dark, proving he knows what a felony is, he rapes the old lady, the second felony, he puts all of her jewelry in his pocket, the third felony, and here comes a police officer, he turns the weapon toward the police officer, and the police officer miraculously escapes injury, and he makes his arrest, and there we have four or five felonies, enough there to send that fellow to jail for 189 years.

The captain, some weeks later, and they are in court, the judge gives that defendant two or three suspended sentences and a long period of probation, what about it, captain?

And the captain's answer has always been, young man, that is a good question. Let me give you the answer.

No. 1, it is your duty to arrest, No. 2, it is an attorney's to prosecute. No. 3, it is a judge's duty to sentence.

Now, he says, stand 2 feet taller as I give my answer, and I state, chapter 649 of 1974 and no judge can walk that defendant out.

Mr. Chairman, you asked about judges, one out of eight who commit homicides in New York State goes to jail; one out of eight. Now all of this is known to the victims' families, friends, to the police officers' family and friends, to the witnesses' families and friends, what has this done to our morals and to our morale, so this law is a signal to the police also that the legislature and the judiciary are thinking about them, as well as the defendant before the court.

This law is a signal to the Brownies, my own category. I am including in that category several hundreds of thousands of citizens of Massachusetts, many of them young, who are now carrying weapons because members of their peer groups are carrying weapons or they wish to exhibit to the crowd, they wish to show leadership, they wish to show daring or because they wish to make money and because they know that they will not be sentenced to jail, they know the records of their friends.

I want to take away the temptation of this legislation from such people to carry the weapon. The first temptation to carry it and the second temptation to use it. We have heard much today about the deterrent, the deterrent after a great deal of study is a triple-headed deterrent; first, the knowledge of the bill. We faced this bill last August and we pleaded with the legislature to deter operations until April 15 of this year and we had 6 months of educational program. We are all volunteers. Normally, when a legislature passes the bill that is the end of the participation in it. In this instance, all of the members of the legislature and their friends—I am a cosponsor—and my friends, we are volunteers carrying the word throughout Massachusetts to not carry a weapon, it is a time bomb, it will explode in your face.

There were some here you saw this morning, some used in newspaper advertisements, used in subway cars, all without costs, all done by volunteers, the advertising, so the first part of the triple-headed deterrent is the education process. We must get the word to all of our citizenry, they must not carry the weapon, 1 year in jail minimum inescapable.

No. 2 the swiftness of trial and No. 3, the certainty of punishment. Everything we have read, gentlemen, everything we have learned points to that as the most important deterrent that can be used in a criminal justice system despite the hysteria out there and despite the bravado, no one wants to go to jail, especially to overcrowded jails.

This law of ours is different than any other law because we are convinced that this is preventive legislation, we aim at the individual, not at the weapon.

You have heard and you know that there are 40 to 190 million weapons floating around this country. The mayor of this city said there

are 1 million weapons illegally possessed in the city of New York. We have newspaper reports quoting the Department of Justice and the FBI with their local agents, there are 2 million guns illegally possessed.

I heard counsel ask at length the technique for obtaining those weapons. I wish to include a historical note, after the Nazi's experiences in Czechoslovakia, Poland, parts of Russia, Austria, and Hungary, they could not find the weapons of the Norwegian resistance fighters or the French underground.

The people we are talking about will not give up weapons. The people who commit crimes do not give up weapons. We just had an experience in New York City; the Baltimore experience. I know a little bit more perhaps than those who spoke here; we know they are buying guns in Baltimore for \$29.95 in a store in downtown Baltimore and being sold for \$50. Crime increased during that period, an unfair statement, by the way that is not a season statistic, we cannot abolish weapons.

Now, let me wind up, I have taken more than my time with this. By the way, women are committing crime, children are committing crime. I would not dare start a discussion about juvenile problems but I am ashamed to reveal that which you know, that not only are youngsters carrying weapons to school but the authorities by name have given up trying to cope with the problem.

What is the future of this Nation when youngsters carry weapons to the respective high schools and the teachers expect to be assaulted? What is our future? What can we hope for?

I have one statement to make about the abolition of weapons and I am for all programs. I am critical of none. Any step is a step in the right direction providing it cuts into crime. We believe we have something to offer you on the Federal level, a viable, passable, executable national program which should be and can be adopted in your Congress.

I would like to see all nuclear figures banished; I would like to see all tobacco banished. What good does tobacco do anyway except for the grocers maybe. I would like to see alcohol banished.

I drank last night and I hope somebody buys me a drink tonight and if this group stays long enough, I will pick up a check for dinner and I am saying that on the record.

I told the Secretary, I have known New York fairly well, gentlemen, nuclear fission, tobacco, alcohol cannot be banished and will not vanish.

When you think of the possibility of nuclear blackmail not from the nations that have it but from the individual after a couple of kids at MIT gets some plutonium and make a bomb and that bomb is stolen by hoodlums, just think of the possibility of nuclear blackmail, these will not be banished nor will they vanish from the face of the Earth.

We did try an experiment with liquor. We bred crime as we said. We bred criminality. They left a legacy for the rest of us from which we will not recover for years and I wind up by telling you that a great man, Martin Luther King, said, "Be my friend, do not carry a deadly weapon."

Thank you very, very much.

Mr. CONYERS. Judge Fox, I get the impression that by bringing you on late we have abbreviated, very seriously, the number of matters you would have brought to our attention. For that, I apologize.

Judge Fox. We are grateful; we have a viable, passable program for your attention which we think can be passed and must be passed

in this session. We cannot carry on this way any longer. We are all living in fear and when we hear about the low-income areas, the minority areas, they are living worse than the rest of us behind triple barricaded doors with dogs for attendants in inadequate space, living in fear, where no businessman can allow his personnel, female especially to leave after dark.

Business, we had a businessman here today from Philadelphia: I have the official statistics, crime cost the business world \$21 billion last year, \$23 billion next year.

We must move now strongly in the war against crime. Max Lerner referred to it as a state of siege. Bob Considine called it a sick civil war. They write an occasional article. They do well but all of us must get together and it must flow from your Congress in a quickly started, fullout effort, not that we have not started, you have done a great deal but we must carry on a full-blown effort in the war against crime.

Mr. CONYERS. I would invite you to Washington to testify before the full committee because I feel that you probably have more things to say, but I know that your busy schedule probably precludes that possibility.

Judge Fox. I will be there and the speaker, we will be there or any other place you wish, any time you want us.

Mr. CONYERS. Thank you very much. It seems also that I detect a Puritan streak in your remarks that leads me to observe that the Puritan ethic of your ancestors is alive and well in your own attitude about the present-day conditions.

Judge Fox. My ancestors could not spell the word Puritan, though they understood it.

Mr. CONYERS. They may have practiced the ethic though.

Judge Fox. We did not steal, we did not rob, we did not murder but we did not live in fear either in this country. They lived in fear in Russia and they left. My folks were immigrants and they left and it is not fair to any of us that are followers should live in fear.

I invite to your attention again this horrendous situation among our juveniles, weapons in schoolrooms. What chance has the next generation got when this is now the accepted mode. Now, this made the press, this has been there. We know about it. I did not hear much by way of outcry from any of my personal friends. They are all with me, all of the judges I know are for this program, including the two black judges in our largest black neighborhood but no one is working at it. You must supply the impetus from Washington. We have the bill in Massachusetts.

Mr. CONYERS. Of course, you are now advocating some measures which in all candor you did not practice when you were a sitting member of the bench yourself.

Judge Fox. The situation degenerated a thousandfold. In 1960 was the last time I sat in criminal session. I know how to handle the problems of husbands and wives and men and women; I know how to do that, but the situation in criminal session has degenerated a thousandfold geometrically since 1960.

We did not have guns in schools then. We did not have the indiscriminate carrying of weapons. We did not have the daring daylight robberies that we have now.

I am certain, Mr. Chairman, that there is no fear, no fear by these desperadoes of going to jail. This law of ours is the deterrent, the certainty of punishment, the deterrent plus the speedy trial plus the knowledge of the bill. This sure knowledge by all of the people of the Commonwealth that there is a war against crime, that all citizens participating put on civilian watches in every city and town, that the police knowing that their efforts will be rewarded, especially when they risk their lives, knowing that their arrests will be prosecuted, whom they arrest will be prosecuted.

We need to change the thinking of all of us, and by the way, I quit three times and let me quit the last time. The bottom line of this bill is to change the entire climate of lawlessness and violence in this Nation to one of respected discipline.

None of the gun bills do that, none of the abolition of guns do that. The bottom line of this bill to change people's thinking, we must, we must go back—

Mr. BARBOZA. Excuse me, Judge. You are speaking about changing attitudes, but at the same time I can pick up a gun magazine or two or three or four of them with bold advertisements, defend yourself; buy this or buy that.

The avalanche of firearms are coming out of Massachusetts plants which manufacture firearms. Is that going to continue?

Judge Fox. 2,200 a day.

Mr. BARBOZA. You are prosecuting people, sending them to jail—

Judge Fox. 2,200 a day built in the Smith & Wesson plant; yes, sir.

Mr. BARBOZA. How do you change attitudes if that continues?

Judge Fox. We change the attitude of the individual. We let the individuals know if they carry that weapon, they are going to jail. We must instill fear in those who are now carrying weapons and those who may, and slowly, we will change the attitude of the other people or manufacturer.

You heard a witness say here today would it not be great if we only had 10 million guns at the start of the second century from now? How will that stop one mugging in New York?

How will that make the streets safer for me today, tomorrow, or next year?

Mr. BARBOZA. Is not that like telling your child you cannot eat candy but keep bringing it into the house and leaving it around?

Judge Fox. That analogy does not hold.

Mr. BARBOZA. But it does, Judge.

Judge Fox. No, Mr. Barboza; no, please. I am not putting a gun into the hands of any unemployed poor individual even if I knew him well.

Let me tell you something, Mr. Barboza, I would not lay a \$10 bill down at the track for most people I know and I can live with.

I think that is an unfair question. You gave me an analogy. Forgive me, that is not fair.

Now, if you say to me if that mother takes that child to other people's homes and does not warn the other people, Aunt Fannie or Grandma, that is different; if that mother does not want that child to eat that candy, then that mother should make certain that the homes where they visit, the hostesses and the family do not give that child candy.

I do not want to go into that analogy.

Mr. CONYERS. Let me raise a fair question, Judge.

How is it that you are a cosponsor of a bill in Massachusetts Legislature without being a member of that body?

Judge Fox. I hope it is lawful.

Mr. CONYERS. Is that an extrajudicial feature?

Judge Fox. I created this program after seeing West Side Story 15 years ago.

Mr. CONYERS. West Side Story?

Judge Fox. Fifteen years ago. I came out of that show on opening night, horrified at the venom I saw and heard spewed at what we now call the establishment. I was despondent and I am a liberal and I was not alone that night, I had a great afternoon and a great evening; I was going somewhere else.

Mr. CONYERS. This the genesis of how the piece of legislation was created?

Judge Fox. When I saw that much venom spewed on the police officer, the probation officer, the judge, I knew we were in trouble and thought about it over the years. Six years ago I went into the program actively.

I was turned down by the legislature; I was turned down by the candidate for Governor.

Mr. CONYERS. Turned down how?

Judge Fox. They refused to fill the bill. I wanted to make sure I knew I was correct. I had talked to several hundred people, including people I mentioned.

I wanted somebody there. I needed testing. I needed testing, but once I knew I was on firm ground, I went to a candidate for Governor, a very dear friend of mine, president of the Senate at that time; I went to the last, most recent Governor who has since stated he wished he had taken the idea; I went to a number of people, and when the Speaker reacted favorably, he permitted me to cosponsor the bill with him.

Mr. CONYERS. Have you written other bills?

Judge Fox. I have participated in a goodly number of programs, Mr. Congressman, which friends of yours down South will tell you. I worked for 20 years for the creation of a medical school; I worked for 6 years for the creation of a university of medicine branch; I worked for 3 years for creation of a chronic disease hospital.

I worked on a goodly number of problems over the years. I am a trustee of a museum.

Mr. CONYERS. I am referring to legislative programs.

Judge Fox. I have worked on a goodly number of legislative programs.

Mr. CONYERS. Very good.

Judge Fox. Goodly number. I have never before cosponsored a bill; that which I have done has been from place on the periphery, and this one, I changed my lifestyle and came out front.

Mr. CONYERS. West Side Story disturbed you so much?

Judge Fox. Yes; the venom spewed.

Mr. CONYERS. That it led you to write a bill about mandatory sentencing for possession of firearms; for violating firearms' possession

laws, not related specifically to the commission of felonies, but for fire-arms possession.

Was there something in that movie that some of us perhaps did not catch?

Judge Fox. The contempt and the disdain in which authority is held, the thinking of people, of youngsters growing up, Mr. Chairman; I learned things from older people, one the toughest of the tough, they never went near police officers. We killed 137 in 1973. That was not done when we were growing up.

Mr. CONYERS. Of course, a lot of police officers never go near the tough people in the community. I happened to notice that curious phenomena in Detroit one evening. There was a big gang of motorcycle people, very late at night, all standing on the street side. As I passed the police car, heading down the street toward where they were, I noticed the police car suddenly turned off about one or two blocks just before they got to the gang.

There seems to be a healthy respect that the police have for the people who will cause trouble, yet I see innocent motorists lined up in the streets, their hands up, sometimes being searched, frequently illegally at that. But, where there is a real need for protection in our urban communities, there is an embarrassing lack of police support sometimes.

Judge Fox. With this type of bill, Mr. Chairman, where the police know that it is, it will no longer be revolving door justice, you may see the police going into those areas.

I have memory at having seen the statement of a Congressman in the congressional reports, friends send me newspaper clippings of one kind or another and there was a reference to a request made by an individual in Detroit for the police, for the judge to send, for the judge to send defendants convicted of carrying weapons to jail for 3 days and the Detroit judges refused to do it.

Did you see that piece?

Mr. CONYERS. When did it appear?

Judge Fox. Within the past 18 months, within the past year. The local judges in Detroit would not send these gunwielders to jail for 3 days. The individual who made the request wanted to set up a test pattern and they would not do it. The police risked their lives and frequently the defendant is out on the street before the officer has made out his report.

Mr. CONYERS. Please bring that article to my attention. I will make a look for it.

Judge Fox. Now, another injunction that I learned as I was growing up, do not go near Federal property, that is the man with the fuse. Today, armories, even military camps are invaded just as lay people's premises are invaded.

Mr. CONYERS. Certainly Federal buildings—

Judge Fox. Third, I remember learning, not at the feet of older people, I was an athlete and I knew some older people that went to games, I learned that the toughest of the tough never went into churches or assaulted members of the clergy, especially guns.

We now have nuns raped, priests murdered, no church is safe. There is a robbery a week at St. Patrick's Cathedral down the street. Nothing is safe; nothing is sacred.

These are reasons added to my original concern when I saw and heard venom spewed on the establishment.

Mr. CONYERS. Counsel Gekas?

Mr. GEKAS. Just a couple of short questions. Perhaps this question was better addressed to Representative Hogan. He mentioned some statistics under the Hartley-Fox law, since the enactment in 16 weeks, 126 people have been arrested under the law; 99 cases are under continuation, 5 percent are in jail, 9 have appealed to superior court, 1 complaint was denied, 4 dismissed, and 8 found guilty.

Can we have, is it possible to have a breakdown of those figures? It would be very interesting to know, for example, the prior criminal histories of the persons arrested, it would be interesting to know racial composition of the persons arrested and convicted.

My suspicion is, as you no doubt heard me questioning the panel that included Sheriff Buckley, of the 126 persons, perhaps a large proportion of them would be in the minority communities.

If you do not have those statistics available, I will give you my address and you can mail them to me.

Judge Fox. We do not have them. Let me tell you what we have done.

The speaker, the secretary of the public safety, we have a new cabinet system in Massachusetts to do a study. I am of the belief, I wish we were off the record, that that study has not started. I saw Prof. James Vorenbor, head of the department of criminal justice and he was a little unhappy with me, he has started an evaluation of the program and he sent to me two of his people and they were to send to me the student who was to work on it full time and I have not seen the student. Peter Velde, director of the LEAA, has told Senator Trusky in presence that he had started an evaluation.

I have information from other people, I have not gone back to see him; I have information that a \$300,000 study is about to be started.

Mr. GEKAS. Great.

Judge Fox. You will have the evaluation.

Mr. GEKAS. So the program will be evaluated?

Judge Fox. My reason for being here, the reason for this appeal, the reason for my lengthy stay is that we cannot wait for a couple of years to get the seasoned figures. We are convinced that Massachusetts will be the pilot program for the country. That is the reason I mentioned 1692; we were the first then, we are first again. Something must be done about crime. Ours is a new program.

Mr. GEKAS. OK. I heard them ask you questions and I am asking one.

Why should any individual unlicensed to carry a weapon be away from home or place of business with a weapon? We use a license only as a jumping off place. This is not a licensing law but because we know that the people committing the crimes are never licensed.

The sportsmen do not commit the crime. You have heard that testified to. The license is a jumping off place. We think this program is viable and passable, executable. We think you can get people from the so-called gun control groups to be with it.

Why should the individual be there? I want to walk that street. I love New York. I cannot walk the side streets, nothing to do with low-income areas. No place is safe.

Have you seen the most recent figures on crime as of last month, crime rising in rural areas faster than in suburban areas?

Let's talk about generally the operation of a mandatory sentencing law. As I understand the mandatory sentencing law and I ask perhaps, that, if possible, your answer be brief since the hour is late, as you stated, in fact, here the purpose is to remove the discretion of the trial, the sentencing?

Judge Fox. The sentencing, exactly. And to instill into the minds of all those who have or who may carry weapons.

Mr. GEKAS. But you remove the discretion from the sentencing judge?

Judge Fox. Exactly.

Mr. GEKAS. By removing discretion from the judges the question becomes whether Federal or State mandatory sentencing statute, who does the discretion rest on, who does it come to rest on the mandatory sentencing law, by removing the discretion of the judge puts more responsibility on the police officer making the arrest and the prosecuting attorney who decides not to prosecute?

Judge Fox. He cannot decide not to prosecute. In going backward, we have always placed, not discretion, we have always given a police officer a code and he must live by that code.

That police officer will arrest. I get that question elsewhere only in snide fashion. You are making a czar of the police officer. The police officer has always been a czar if you wish to use that in quotes.

A crime is committed. The police officer arrests. When the day comes we cannot depend on the integrity of our law enforcement officers, we might as well quit.

Mr. GEKAS. I am trying to make—we do not mean to impugn them.

Judge Fox. You have impugned them. I have said not guilty. But as far as no discretion, if the police officer sees a crime, he must arrest, that is to every crime.

Mr. GEKAS. But police officers have an unsupervised discretion not to arrest and prosecutors have somewhat less broader discretion to decide whether or not to prosecute and the thing that concerns me about mandatory sentencing laws is that the judge who has traditionally been the protector of citizenry from the excesses of the police and the prosecutors in the exercise of their discretion, loses his ability to flexibility through a situation.

Now, obviously Massachusetts has made the judgment that judges should have no discretion at all, no say in the matter but I just wanted to make the point that the result of that is to provide much more power of authority in both police and prosecutors, not to say it is good or bad, just to say it does.

Judge Fox. It is a matter of semantics. The police officer must live in courts with his code, in accordance with his code. The judge must live in accordance with his code. He can no longer have discretion because the grisly daily statistics reveal that something must be tried.

We must instill fear in the minds of those people who have and will carry weapons. This means sending people to jail; if it means that, let's send those few for the protection of the rest of us.

Mr. GEKAS. As you know and I think you stated here yourself when you were on the bench and the defendant came before you, the question that is asked, what can I do with this defendant, I certainly do not want to send him to a prison because a prison is a school for crime.

Now, police officers as we all know, are desirous of making arrests and will make arrests on the belief, the strong belief, that a person should be sent to the penitentiary and if we find the situation of a young kid who carries the gun at school for machismo or whatever, the judge is prevented from saving that kid the experience in a prison, is he not?

Judge FOX. No; we are saving that youngster from a murder rap later. Any youngster who uses a weapon on the chronology of the gun carrying that I revealed before is headed for disaster himself and it is a scenario for disaster for the rest of us. That is the recent day record.

Mr. GEKAS. So you will send him to a prison for his own good?

Judge FOX. No; if this were anywhere near a perfect world, this very hearing today with the publicity you get from it, Mr. Gekas, if this were anywhere near a perfect world, every, every hearing with all of the rest of the attention being given to the gun control law will make this preventive.

Our only hope for that youngster and his friends is to have him and them know that if he carries that weapon, he is going to jail and no one can help him beat the rap, as they say out there. They have been laughing at the police long enough. We must instill the fear of the certainty of punishment plus the speedy trial.

This is our only hope. We have tried the other; we have tried the other. Now, that does not mean that we cannot perfect a better correction system. We must. That is one reason for this bill.

Attention must be given to the problem of juveniles in this country or we are lost. We are passing on to succeeding generations nothing but turmoil, maiming, and murder. We must do something now.

I know it is late. We must do something. Just a few articles I am able to read in the course of a day or night just the little bit I have with me here will make you ill if you read the pieces this evening.

Mr. GEKAS. Well, I certainly agree there is a terrible problem.

Judge FOX. We have tried everything else and no one has given me better solution. I have tried this out, spoken to 13 mayors last week-end all of whom asked for material and a new approach.

We must do something about the individual. Nothing said here and nothing said at your hearings, all I can tell you is what I have read in the Congressional Record and newspaper accounts, nothing really hits out at crime.

It is crime we are involved with, not guns—2,200 guns of Smith & Wesson or 10 million guns 100 years from now, would not that be great, nothing wrong with that, instead of saying 20 million, my God, 1 gun and the length of the gun, I could wax flip about that and all so snide.

We have had bills in the Massachusetts Legislature about the mechanical components of the weapon.

Mr. GEKAS. This statute of yours does send someone to the pokey for just having the gun without a license?

Judge Fox. That is right. Even a first offense away from home or a place of business.

Mr. GEKAS. It does not depend on any of his socioeconomic status, his age, his education, his section, his race?

Judge Fox. Let me modify that.

Mr. GEKAS. And those are the factors that a judge uses to determine whether the guy should be on probation or whether he should go to jail?

Judge Fox. They have—but let me modify that. In our court system, the youngsters under 17 are sent to the juvenile court in our bill. I wish I were off the record.

It does not reach the juvenile court. The juvenile court judge adjudges the defendant a delinquent. That is all he says. The juvenile court judge, if he wishes, binds over such a juvenile, even though under 17, to the adult sections and if found guilty there, it is State prison.

We know the problem. We have it. There is nothing else we can do about it. Witness crime in the rural areas; the breakins, the burglaries, the rapes, the muggings.

Mr. GEKAS. I must say, as we met once before in Washington and discussed this, you are a very energetic advocate of your proposal.

Judge Fox. You asked me that day in Washington. Now I know who you are. He asked me, Mr. Chairman, and Mr. Barboza, he asked me. I know who he is now. I traveled to Washington, he asked me one question and walked away, Mr. Gekas you asked me.

Mr. CONYERS. Did he give you a chance to give an answer?

Judge Fox. No.

Mr. GEKAS. I did indeed.

Judge Fox. On the record he asked, but you are still invited to dinner. He asked me one question, what about the little old lady walking down the street with a gun in her bag; he left out the tennis shoes and then he walked away from me.

What is that little old lady doing with a gun in her bag, but as I walked away angry, I said to myself—

Mr. GEKAS. I will attest to the fact, Mr. Chairman, that Judge Fox was angry.

Judge Fox. I saw yesterday's Boston Press, I said to myself that we do not have a single athletic field in Boston Mass., where our high school teams can play baseball where the playing surface has been torn up by youngsters, by vandals, the fieldhouses have been destroyed and if you played high school ball, you know what a great joy it was, you went to the fieldhouse with the kids, you got dressed, you were really something, one of the great times of your life.

Every single one of our athletic fields were torn up by vandalism, it costs the city of Boston \$10,000 a week. That was my reaction. I did not tell him, I said if you sent that little old lady to jail, maybe her kids will stop tearing up the ball parks, my friend, Mr. Gekas, this law in Massachusetts was passed to protect 6 million people, most of whom are living in fear.

The problem, the plight of our elderly is beyond belief. These kids are not robbing them. They beat the hell out of them. We had two women murdered the week before that, that is what I did not tell you, the week before that, in two of our affluent areas, Brighton and West

Roxbury, kids in each instance, elderly women, both died of beatings. We have this every day.

There is not a place in Massachusetts where elderly people can walk. As far as New York City, they break into their homes and all of the rest. I do not know that it is that bad where we are, all I can tell you that recent polls in Massachusetts showed, I have the poll with me, street violence to be the No. 2 issue.

The No. 1 issue I labeled, not the economy, inflation, unemployment, the No. 1 issue in this country and I cannot get my candidates to use it, is daily survival, that is our great problem, daily survival. I work for those people.

Mr. GEKAS. The No. 2 issue is street violence?

Judge FOX. The No. 2 issue is street violence. It was not the little old lady. You are talking about 6 million people.

Mr. GEKAS. I think it should be clear, as counsel for the committee, it is my job to try to test those things that come before us.

I must say the State of Massachusetts and you and the Speaker, of course, are to be commended for your intentions in successfully advocating this law and I commend you for it.

Judge FOX. Can we get it nationally? I have some ideas on how to do it nationally.

Mr. BARBOZA. Mr. Chairman, Judge, do you have a speedy trial law in Massachusetts?

Judge FOX. No. By the way, LEAA just gave the district attorney \$500,000 for speedy trial in cases involving serious felonies.

Mr. BARBOZA. Do you have a backlog of cases?

Judge FOX. Of course.

Mr. BARBOZA. I just would like to get that answer.

Judge FOX. We have a backlog in our superior court system; we have a dual court system. We have a district court system, single justices, in our various districts in the State. There is no particular backlog.

Mr. BARBOZA. Who would try the cases that would come under the gun law?

Judge FOX. It depends where the case started. It can be started in district court by complaint or the district attorney indicts in a superior court. It can be one trial or two trials, depending on where the case is initiated. The superior court there has a backlog.

Mr. BARBOZA. So would you expect that any of these cases would be tried by indictment?

Judge FOX. Yes.

Mr. BARBOZA. What about your prison system? Did you consult the prison authorities on this legislation?

Judge FOX. I talked to prison authorities all over the country and most I talked with were delighted with this law.

Mr. BARBOZA. Did they feel they would be able to handle the avalanche of new prisoners?

Judge FOX. If there is an avalanche, they will be seeking more help and more aid and more programs but we do not have to wait for them to ask us, we know the conditions of most of our prisons, we know we need evaluation centers, we know we need education programs, we know we need psychiatric and psychological help, we know we need for counseling.

We are hoping that this law changes people's thinking so that we will develop the correction system you are asking about. We have not got it now.

Mr. BARBOZA. I notice here in Representative Hogan's statement that he indicates in the 16 weeks since enactment of the law, 126 people have been arrested, 5 in jail, 9 appealed to the superior court, 1 complaint denied, 4 dismissed, 8 found not guilty, 99 cases are in the continuance stage.

Judge Fox. That was several weeks ago. By this time, we hope that they have been tried in the district courts.

Mr. BARBOZA. What are some of the reasons they are continued?

Judge Fox. I do not know and it should not be.

Mr. BARBOZA. Does it have to do with resources in the court system?

Judge Fox. They will tell you they are busy and the summer sessions are upon us. They will tell you they are busy in the criminal sessions but they are not busy enough and maybe this law will change their thinking.

This is a multipurpose law. We have got to change judges to think about crime.

Mr. BARBOZA. What do the judges think about this bill?

Judge Fox. Those I talked to, 20-odd judges, in Massachusetts and all but two were enthused and those who liked the bill sit in our busiest court.

Two were concerned, both were chief justices and both were concerned about the attitude of the judges in their system and in each instance, they were concerned about the mandatory.

Mr. BARBOZA. What about the law enforcement officers?

I am sure that Boston does not have an overabundance of police and some of your other cities do not have an overabundance of police to become involved in chasing down Mr. Gekas' little old ladies in tennis shoes with handguns in their pocketbooks.

Mr. CONYERS. She did not have tennis shoes.

Judge Fox. You are asking me about the law enforcement officials, delighted, enthused.

Mr. BARBOZA. Does this have anything to do with the point the chairman made, that law enforcement officers would rather avoid some of the more dangerous potential situations?

Judge Fox. I think they will perform better now that they know that the judges must dispense justice for all people, not just the defendant before the judge.

Mr. BARBOZA. What happens with some of the other cases, outside cases, and others that are affected, if you are putting away, I do not know, maybe, let's say take a figure of 100 or 200 people a year and they will be taking up space in the prison system. Where will you put the people convicted of homicide? Does this mean that possibly persons convicted of serious crimes will not be put in prison?

Judge Fox. I will suggest to you and please believe me, this is not—I will suggest to you, we will either build more prisons or we will have to build more cemeteries or more hospitals, more locks for doors, more mental hospitals for those who are neurotic in recent day living, more security systems for the business world and more of all of those things costing us money.

Mr. BARBOZA. Are you suggesting that because of this gun law, we have to enact a law directly at possession, the carrying of firearms to get those things done?

Judge FOX. I say if we make arrests, you asked me what will happen if we make arrests? I say better more prisons better more courtrooms, better criminal justice system than cemeteries.

Of course, the crime statistics are growing worse every day. That you will agree with, won't you? More and more every day?

Mr. BARBOZA. Yes.

Judge FOX. So either more cemeteries and more hospitals and more barricades and more neuroses and more business expense or more prisons.

Mr. BARBOZA. It would seem to me in order to get the courts moving and perhaps the prison system functioning and judges more willing to put people in prison for the commission of crimes, that we impose a speedy trial system in the State or make some efforts to improve the prison system before enactment.

Judge FOX. You mean a speedy trial system for all of the other type cases?

Mr. BARBOZA. Yes.

Judge FOX. The judges have not been sending them to jail. That is one of our problems, plea bargaining, long postponements, and suspended sentences.

Mr. BARBOZA. But by passing a speedy trial bill, you would be able to do that. The bill passed by the subcommittee included provisions for long-term phasing of the time limitation which would give the courts an opportunity to plan and to make the necessary decisions that would permit them after a period of 5 years to adhere to a very strict time limitation but I am wondering how you can inundate the courts and prison system with indictments and prisoners without some fundamental improvement.

Judge FOX. You have asked me two questions. No. 1, this is a preventive legislation, you help us get the word out to the people of this country and those who have been carrying weapons and those who might carry weapons, because of the certainty of punishment, the speedy trial and the publicity, they will stop carrying weapons.

Those who are arrested, if we need more prisons, we must build them.

The Supreme Court, in the *Nixon-Tate* case said, the twofold purpose of criminal justice is that the guilty not escape nor the innocent suffer. Innocence has been suffering in this country because the guilty are escaping. We cannot go on this way.

Mr. BARBOZA. Thank you.

Judge FOX. I am grateful, of course.

Mr. CONYERS. Thank you very much, Judge. I admire your ability to persist, you are apparently indefatigable in your efforts and you have literally exhausted the staff of this subcommittee. The only one not exhausted, our substitute who we save in case we knock all of the rest out of the box, the only one that has been unaffected and I am sure he did not indicate any particular enthusiasm to get into this matter, is Tim Holt.

We are very grateful for you being with us and we know you will be working toward your goal.

Judge Fox. We will meet with anybody, we will join with you if you will permit us. We think, as I have said several times, that we have a program which will be adopted nationally.

We feel that something must be done now in this war against crime. The Director of the LEAA knows about the program evaluation that has been started and we would like to help, if we could.

Thank you.

Mr. CONYERS. Thank you very much.

Our next witness is Victor M. Anop the director of Gun Owners' Action League, of Southboro, Mass., and also Tanya K. Metaksa, representing the Connecticut Sportsmen's Alliance of Niantic, Conn.

I would like to express my gratitude for staying with us so long, and I hasten to add that the fact that you are our final witnesses today does not in any way diminish the force of your views, or your presentation before us.

Victor Anop, you are from Southboro, Mass., and you are representing the Gun Owners' Action League, and Miss Metaksa is here for the Connecticut Sportsmen's Alliance, and we welcome you both. We have incorporated your statements into the record. That will allow you to comment on any part of the proceedings thus far, and also allow you to give emphasis to the remarks that you have already prepared.

**TESTIMONY OF VICTOR M. ANOP, DIRECTOR, GUN OWNERS' ACTION LEAGUE, SOUTHBORO, MASS., AND TANYA R. METAKSA, REPRESENTING THE CONNECTICUT SPORTSMEN'S ALLIANCE OF NIANTIC, CONN.**

Mr. ANOP. First of all, I would like to thank the subcommittee for the chance to be here. We have been here since early this morning, we have heard all of the testimony.

Mr. CONYERS. Might I inquire candidly, sir, have your views been affected at all by the great variety of testimony that has been put before this subcommittee?

Mr. ANOP. I can say this, I have been to a number of hearings on the gun control question, I have been on television with Sheriff Buckley, I have been on radio, just about any media source, where you can get people to talk about gun control, I have been there, and one thing I noticed today, is that we did not have any really emotional testimony from either side, the facts were presented, everybody presented their testimony.

The only one aspect of the hearing process that were not really compatible with my thinking was the question about relating to what do we do to eliminate guns, because I can tell you right now in Massachusetts, we had a more or less slanted effort to the left, I might say, we had Police Commissioner di Grazia, we had Sheriff Buckley, the people who were the administrators, we had the political aspects, and I am representing the Gun Owners' Action League in Massachusetts, and I would like to tell you many I represent.

The sportsmen's counsel I represent, does not only represent gun owners, but I have been their legislative agent as well.

I am a sort of one-man gun lobby in Massachusetts.

I am on Beacon Hill, I have talked with legislators every day, and

when I talk about eliminating guns, I want you to know in the Massachusetts Legislature, you are talking about a very unpopular thing.

During this session, the house of representatives, in that body that was defeated 196 to 24, despite what you read in the Globe, despite what Sheriff Buckley or Mr. Carver says, we have been through the debate many times, and the argument did not hold any water then, and it does not hold any now, because even if the person does not care for the gun as an instrumentality, he does respect it as a personal property item, and since the majority of those in the Massachusetts Legislature have legal backgrounds, they also respect constitutional questions, and we are talking about the 4th amendment question, the 5th amendment, the 14th amendment, the 9th, the 10th, we are alking about the whole gambit of legal ramifications.

Now, Sheriff Buckley made a few comments, he has been pushing this item, and it has gotten him a lot of press back home.

It might have helped his reelection, Police Commissioner di Grazia got a lot of press from it, but I would like to give you a lot of facts about what is happening, what we have done to cooperate, in trying to do something about crime in our State.

First of all, since you did have these police officials here it would appear they have the backing of the police organization in Massachusetts, and that is the farthest thing from the truth.

In fact, the gun owners' organization actually have the support of all of the major gun owners' organizations in the State, including the Police Chief Association, the Western Massachusetts Police Association, the southwestern, eastern, you name the police organization, and they have all supported the position of the gun owners, they have all gone for the approach to the Fox law.

When that was first suggested in the Massachusetts law, we had 10 specific objections to that bill, and I presented my 10 objections, and those 10 objections were accepted, and those portions of the bill which were objectionable to the gun owners of the State were knocked out of the bill.

Mr. CONYERS. Which portions were they?

Mr. ANOP. There were some portions, I think they were unrealistic, if you wanted to carry your gun in the car, you would have to call the police department.

As a practical matter, you know something like that will not work out. People will not call the police department.

I represent these people. I know how they are, and I know how they react to certain situations.

When we brought some of the suggestions back, these were the first ones that they jumped on. They said, listen, we are properly licensed people to own these weapons. We have a low incidence of accidents. We have a nonexistent crime problem with people like us. We are not the problem, when you are talking about crime.

What happens, I have been even in the Roxbury section, which is our black section. When you go in there, if you talk about guns, although the black caucus has taken an official position supporting confiscation, but when it came down to voting time, it is a different story.

It is like I heard about you, you used to have a gun which was reported stolen, that was quoted in the Wall Street Journal, on the front page.

Someone came up to you, according to the article, and you said you are not going to take my heater away, and that was a quote in the Wall Street article.

Mr. CONYERS. The Wall Street Journal has been inaccurate before.

Mr. ANOR. I can't imagine that.

The point is even though it may seem as to be a popular thing, including a subject taken by many legislators, but all did not vote for the gun confiscation thing when it came to votes.

The minority of the black caucus voted for gun confiscation.

It is a personal thing, it is a personal property item, and some of them feel they have the right to that property, and the second amendment is a basic right outside constitutional law, you cannot take this gun away from them, especially if he is a law-abiding citizen.

We have talked about the law, of the second amendment, and even if I were to say that those cases have said clearly a person does not have a right to bear arms, I do not believe that I look at how those cases were decided, what were the facts.

Was a person picked up somewhere with a gun, there was no question at all of wrongdoing, a person had either a license, or some reason to carry a gun, including self-protection, and that person was picked up, his gun was taken away, he was thrown in jail for a certain amount of time, and I have never seen a case like that, but if Sheriff Buckley and his people get that type of referendum law, and I doubt they will, if that is to come, then we will start facing those questions which the counsel brought up, and they were excellent questions.

I could not have done a better job in interrogating witnesses than they did, because they were practical questions that they will face, and I can tell you now, I represent these 60,000 people. We are not radical, but when you start talking about reaching into my pocket, and reaching into my home to take a gun away, you are treading on property grounds.

That is as if you wanted to take away my comb or my other personal property. Maybe that is a poor analogy, but that is my point, it is personal property, and these people get adamant about these things.

However, we are not nonthinking about crime. I am going to have some specific recommendations that I have, and I have done a lot of extensive research.

We have supported the Hartley-Fox law, and that went through both Houses unanimously, no debate, no debate at all, and why was that, because the so-called gun lobby, the gun owners in that State supported it.

We talked about the Saturday Night Special bill that Representative Hogan was talking about, he has been drilling me about that for 3 years.

Where is that bill now, it is in the senate in Massachusetts, but will it pass?

It is doubtful. It was referred to the committee on a 28 to 29 vote.

Mr. GERAS. Are you aware that the—

Well, first, I should say, I assume the objections of the gunowners in Massachusetts to a Saturday night handgun bill is that, simply, it is very difficult to define a Saturday night special.

Mr. ANOP. That is not the only thing.

In Massachusetts law, no matter what type of gun you sell, there is a process that you have to report that sale within 7 days to the Department of Safety, and you sign a form attesting to the make and model of that gun, and who you sold it to.

I have a handgun identification in my pocket, it has the fingerprints on it, and a photo of myself, and one of those photos are kept at the Department of Public Safety, and so what I am doing, it makes no difference what type of gun it is.

If I buy this gun legitimately, if I sign a little paper, what I am doing, is that it is a case of possibly self-incrimination, and can that be used against me as evidence, that is another question.

Mr. GEKAS. I want to ask you about that too, I see that you do cite handgun decisions in your written statement.

Mr. ANOP. Yes.

Mr. GEKAS. But you omitted the situation of the Freed decision which upheld the same statute, and legitimized Federal legislation of a weapon, but did you know on the Saturday night special question, that the major manufacturers in the United States are supporting a definition that is contained, or to be contained in the administration bill.

Mr. ANOP. I think that the manufacturer might have something to gain by doing so.

At the same time, they are eliminating possibly the right of a black, a Spanish American, from defending himself, because of the price of so-called cheap handguns.

I do not know where you can buy a cheap handgun in Massachusetts to speak of, legally. I do not know of too many people that sell a cheap handgun.

Mr. GEKAS. The point is whether or not a Saturday night special is definable.

Of course, that term could be thrown out of the debate, and the chairman has consistently refused to use it.

Mr. ANOP. It is a romanticized version of a press idea that has been around.

Mr. GEKAS. But you can draw a legal definition of small, easily concealable handguns of certain configuration.

Mr. ANOP. We got down to a melting point idea, and when I spoke with a metallurgist, there is an easy way to alter a weapon, but I am talking about practical things.

You have been around the country; I think you have heard it all, seen it all.

Mr. GEKAS. The question is whether or not you agree there can be a definition of small handguns of certain configurations.

Mr. ANOP. I think that you could describe one; but however, describing and implementing is something else.

Implementing a statute of that variety to eliminate a certain type of gun, the question to me is a nonquestion.

Mr. GEKAS. You do agree though that we can draw such a definition.

Mr. ANOP. I do not think it would be acceptable to a large number of people, though, especially from the sporting world.

Mr. GEKAS. But as a matter of science, the arts, of gun manufacturing, you can draw a definition.

Mr. ANOP. What definition are you speaking of?

Mr. GEKAS. Well, the particulars, the question is the ability to describe in the law of guns of that configuration.

Mr. ANOP. I think I tend to agree with Representative Conyers, I think we ought to get away from the term, and try to stick with the issue of the gun, what it does, and what do we do with the person after we catch up with him, after the commission of a felony.

In my State, Boston has just taken over as the crime capital of the United States, according to the recent FBI crime reports.

There is a crime reported per 35 people in Boston, which is far in excess of the amount even here in New York City.

Right now there is one crime per 65 according to the recent FBI crime report.

During all this time, our Police Commissioner has been going through an awful lot of problems with reorganizing his own department.

Our lost law enforcement officials have an awful lot of troubles. Sheriff Buckley and Police Commissioner di Grazia have done a lot to jump on this Fox-Bartley law. This is as close to the absolute sentence as you can get.

There is a difference between mandatory, to me, and absolute.

Mandatory is when the judge has still some sort of discretion, perhaps a fine, or imprisonment, or both; however, this more or less rules out, I cannot think of the exception to the Bartley facts definition as far as putting somebody in jail after he has been convicted lawfully, and since we had a licensing situation already set up, that is why the gunowners went along with that piece of material.

Mr. GEKAS. Let me ask one more question.

On page 3 of your statement, you cite the Supreme Court decision of *Haynes v. United States*, as holding that evidence of failure to register a firearm in accordance with the National Firearms Act could be used to convict the accused because such evidence would violate his fifth amendment right against self-incrimination. You asked, what penalty, therefore, could be imposed against a private citizen who has no prior criminal record, and whose only crime is failure to register.

Are you aware that the Congress amended that registration statute, and the amended statute was subsequently upheld by the Supreme Court?

Mr. ANOP. Well, the fact is, my presentation was in terms of being a legal brief; however, the point was on this case, making the point that what would happen if the same case were to come up, where an individual failed to register his weapon, yet that was his only crime, what would happen in a case like that?

When we talk about registration and confiscation we are talking about the same type of issue.

Mr. GEKAS. As a matter of law, I think he could be prosecuted.

Mr. ANOP. I would say that these types of legislation only present one thing, and that is distrust among the people affected by the law, No. 1; and No. 2, of one who will usually obey the other laws.

Mr. GEKAS. On the police, I certainly recognize your position, but as a matter of law, there is no violation of the fifth amendment in such a prosecution. Thank you.

Mr. CONYERS. Would you care to continue?

Mr. ANOP. We talked about legislation that was before the Massachusetts Legislature.

Mr. BARBOZA. Mr. Chairman, if I may ask one quick question, do you have any objection to carrying or acquiring a license?

Mr. ANOP. Objection to carrying a license?

Mr. BARBOZA. Yes.

Mr. ANOP. I personally believe that it is an issue of States rights. What does the State feel it has to do?

Now, you have a 1968 Gun Control Act. I think we can work from that base, to tighten up maybe a few areas in there.

Mr. BARBOZA. We had a discussion with a lawyer who happened to be the president of the Illinois Rifle Association. On entering the room, he whipped out his State identification card, and he did not seem to have any objection to carrying that card.

Do you feel the same way?

Mr. ANOP. When you are in Massachusetts, when you are talking about mostly gun confiscation, where are they coming?

You gentlemen have been to all of the big cities. I can tell you if you came to Springfield, you would not have a room big enough for the people interested in that issue.

Why, because when we get past route 128, the dividing part of Metropolitan Boston and the rest of the State, you are talking of a whole different ball game when it comes to licensing or anything else.

The people in Massachusetts, they call it Worcester West; they say, why should we have a license?

Mr. BARBOZA. Do you have any objection, you personally?

Mr. ANOP. I am trying to relate what the people are thinking, and I represent a lot of people who have this type of thinking.

Mr. BARBOZA. These people probably have not sat through the hearings, and all of the television and radio shows you have sat through. You know what the problems are.

Mr. ANOP. I feel this way about licensing, up in Vermont, for instance, and I will relate what this committee could possibly do, if you go to Vermont, they have such a low incidence of crime, they have probably more guns for the number of people than any State in the Union, Vermont and New Hampshire.

Mr. CONYERS. How many big cities do they have?

Mr. ANOP. They do not have many big cities and, of course, we are talking about crime.

We might talk as we did before, about gun crimes in our cities.

A licensing law in a place like Concord, N.H., does not have the same type of impact as it would in a place like Boston.

Mr. GEEKAS. On that line, you know, that in the southeastern United States, in the South generally, the incidents of gun ownership is among the highest in the entire country.

The gun control laws are not in existence, or they are very loose, and the rate of firearms misuse fatalities per 100,000 is very high, is exceptionally high.

I raised that, because it is the second time I have heard this, the first from the New York State Conservation Council, and again from you, we have heard that the State of Vermont is a State with loose controls, and high gun ownership, and low crime problem.

Mr. ANOP. We are also talking about the difference between cities and towns, counsel, because, as you know, in Bolton, Mass., we have high gunownership, a very low crime rate, no homicides, it is a town of about the size of 2,500 or 3,000 people.

We can see a lot of the problems in the cities separate from this type of community.

When we are talking about a practical solution, and some of this other stuff that was mentioned here, as a lobbyist, as a man who makes his living on knowing legislation, knowing legislators, he made a statement about confiscation, 10 out of 12 Massachusetts Congressmen go for confiscation, I see a 6/6 split on confiscation.

Mr. CONYERS. The question was not on confiscation, but was on banning the manufacture and possession.

That is a different subject.

Mr. ANOP. When we are talking about people versus handguns, we are talking about a proposal to be put on the ballot, banning the personal possession and ownership of handguns.

Mr. CONYERS. That is not confiscation.

Mr. ANOP. We are talking about the accompanying confiscation.

Mr. CONYERS. You may be talking about that, but they are not.

I mean, in other words, banning, confiscation, and possession, they are separate questions. They are separate items in discussing firearms questions.

Mr. ANOP. We are talking about the sale and the private ownership.

Mr. CONYERS. The sale and private ownership are different from the question of confiscation, also.

Mr. ANOP. If you ban the sale and private ownership, how are you going to carry out a program of that variety, without confiscation?

Mr. CONYERS. Easily. There is no conflict between confiscation and banning sales, manufacture, and possession.

I mean, how does it figure that there is an inescapable connection between those subjects?

Mr. ANOP. You are going to provide a penalty.

Mr. CONYERS. That still does not imply confiscation, even if there is a penalty.

Mr. ANOP. I think it does imply confiscation.

Mr. CONYERS. I am pointing out to you, that we want to get our subject matter straight, because they did not mention confiscation. You did, so that is what leads me to believe that the witness to whom you are referring may have been talking about something different, or that you perceived what they were talking about differently than they meant.

Mr. ANOP. Perhaps that is because of my large amount of experience with Sheriff Buckley and Mr. Carver.

Mr. CONYERS. Of course, they have a large amount of experience on the subject matter.

I meant, I do not quarrel with your receiving it differently, but I still think the record ought to reflect that they did not use the term confiscation.

Mr. ANOP. This is a question put on the ballot in five cities and towns in Massachusetts.

I could tell you exactly where they were. A few precincts in Boston, Wellsley, Newton, and these are places where the confiscation votes of the legislature has come from.

Mr. GEKAS. Do you support placing it on a statewide referendum?

Mr. ANOP. I do not support the proposal now.

Mr. GEKAS. I do not talk about the substance of the proposal.

Do you support the proposition I understand to be, that which Sheriff Buckley is advocating, which is to put the question of whether or not handguns should be banned, on the ballot statewide.

Mr. ANOP. Very simply no, because of the fact that we have a large amount of antigun sentiment from the largest newspaper in and around Boston, and what it will do, as a practical matter from my viewpoint, I will have to work harder, quite honestly.

Mr. CONYERS. You might have to follow the bureaucratic procedures of Washington, and add to your staff.

Mr. ANOP. I do not want to do that. We cannot afford that.

Mr. GEKAS. As a matter of principle, it is a very interesting answer.

As a matter of principle, do you have any objection of putting the question on the ballot.

Mr. ANOP. This is a political principle that came before the Massachusetts Legislature.

Whenever you want to dump off an issue, you put it on a referendum question, that is why they would do that.

Mr. GEKAS. Should the voters speak for Massachusetts on this?

Mr. ANOP. Should they speak?

I think they speak every time they elect their officials, they elect them to be articulate and knowledgeable on the issues.

Mr. GEKAS. I want a simple answer.

Mr. ANOP. Right after this.

The thing I want to say, this brings me to that sensuous question of polls.

Now, polls always are reflectable of questions which are normally included in batches of 25 or 30. I know how the Gallup Poll and these other polls find out the answers on these questions.

Whenever I have heard the question, after each one of these questions, they ask about legislators, do you know the recent law of your State relating to the subject.

The same thing has happened with the question of a referendum, this is why I say it will make my work more, because outside of Boston, this question is not popular.

Mr. CONYERS. You do not have any objection to the purity of a referendum, do you?

That is what this country is built on.

Mr. ANOP. On the Bartley-Fox law?

Mr. GEKAS. I do not want to get lost here.

Mr. ANOP. The Bartley-Fox law that we are all talking about, which has not been as successful in our State as it seems to have been, because of the public knowledge of the law, previously in 1968, when we first put that FIB law on the books, we had to go down to the police department and get the FIB cards, we had a 1- to 5-year sentence for people who failed to comply with the law, however, it is mandatory, and the judges had all of the discretion they wanted.

As soon as the Bartley law came along, they said mandatory, a lot of sportsmen who only got their hunting licenses, they did not have the proper licensing, they jumped out and went and got their licenses, and there are still a number of people in my State, nonsportsmen and sportsmen who have not gone out to get a license, because they keep their guns in their home, so, therefore, our licensing statute still shows a deflated firearm ownership, because a lot of people still do not possess licenses, because they do not take the guns outside of their homes.

Mr. GEKAS. Back to that question—do you, and does the organization which you represent, support placing the question on the ballot of whether or not handguns should be banned?

Mr. ANOP. I do not personally, and I do not believe my organization does either.

Mr. GEKAS. You were talking about polls, it seems to me there is no better poll than that conducted in an election.

Mr. ANOP. That is one of the poorest polls, and I think you gentlemen realize that.

We can get some public opinion, but based on the intelligence scrutiny of the issues, unless that is done, you will never get it, and not because of any lack of knowledge, but I say lack of interest, and the No. 2 thing the judge mentioned, was survival; I have been involved in a number of political campaigns myself; I know the techniques, we have all utilized these types of things, and it is not really a true representation.

Mr. CONYERS. Have you been a candidate for public office?

Mr. ANOP. No. I do not plan to be. I like being on this side.

You have a tougher job, because there are people on your back on both sides of the issues, whether it be guns, or whatever.

Mr. CONYERS. Of course, you are helping people on your side of the aisle, I presume, in arriving unemotionally, and thoughtfully to the judgments that we must arrive at in our legislative capacity, I would trust.

Mr. ANOP. Right, I do add input to all of the issues, not just guns.

I am very concerned about a number of things, and crime is one of them.

Mr. CONYERS. You do not make their job any more difficult by bringing the findings of your organization to the attention of the legislators in your State, do you?

Mr. ANOP. Do I make it more difficult?

Mr. CONYERS. They do not regard you as troublesome; you are helpful in sorting out the issues.

Mr. ANOP. That is what happens. Exactly, just as if you were looking for an answer, and I would say on guns today, you have the representative from the sportsmen's group, gun owners, and you have people versus handguns, and you have had the Massachusetts Council on Crime and Correction.

You have cross-examined me to the extent that you wanted to elicit questions that you feel are most pointed, you did the same with Sheriff Buckley, and Police Commissioner di Grazia, and all the other witnesses, and that is the American system as far as lobbying activities are all about. You are hearing both sides of the issue.

When you are talking about the antigun side of it, as I recall it, you were talking about a group that has fewer members.

We are basically a people's lobby, and I think you know that, probably from your own district, people come up to you, and they do not want an organized club, but have had some interest in maybe the gun issue, the type of thing that we have discussed over the years. and as you get out of Boston, the so-called gun lobby is influential, because it is the people.

In Massachusetts, I think 20-percent gun ownership is in Massachusetts, a little better than 20-percent gun ownership, and Massachusetts is considered to be a very little State.

You quoted a statistic about the U.S. Congress, 27 percent of the Representatives, that they had handguns, and probably, if you asked how many had firearms and believed in the right to bear arms, you would have a much higher percentage, so what I say, over the years, we have provided the service in that on all of the issues, these people have some sort of feelings as far as the gun issue has become more activated, but the best thing—

Mr. CONYERS. To get back to that poll, it seems to me the gun lobby has claimed on several occasions, it is very, very influential, very powerful. I think you have indicated that the polls are not always very accurate, and that they are conducted by newspapers and other media. If I were in your position, I would be eager to participate in the referendum, because I would think that would be the time to unequivocally and clearly have on the public record the beliefs of the people of the State of Massachusetts. I would think that your position would be that those people would overwhelmingly oppose further gun control laws.

Would that not be worth all of the work?

Mr. ANOP. We do not have the dollars and cents to finance what the opposing interests wish in our State. We do not want to go into that.

Mr. BARROZA. You already have the vote.

Mr. ANOP. I think right now we have about a 55-percent majority, about a mere 55-percent majority, however, when we talk about a referendum of this variety, we also talk about the Boston Globe oiling up its mechanism.

What will happen, we have this 1.8 million voters participating in the last election, out of 3,500,000 registered voters, so it is a testy sort of thing.

If it is a lousy day, maybe my people will not come out, it is like Representative Conyers running against another person. It is not the type of thing that should be put on the ballot. I think it takes out of the hands of the people that might be responsible, like Representative Conyers, whether he has a feeling for guns or against guns, we go through this committee system, I think it is the excellent form of the way to go on all issues.

Mr. CONYERS. Of course you can impact on the legislature a lot easier than on all of the people, I mean, as a lobbyist.

Now, as a practicing politician, we know that. We know that you as a lobbyist can impact on the poor fellows up in Massachusetts.

Mr. ANOP. We have a captive audience.

Mr. CONYERS. Right.

Mr. ANOP. We have to enlist a very expensive media campaign for a referendum, and I do not think that is the way to go.

If we have to do it, we will do it.

Mr. GERAS. If Sheriff Buckley has his way, you will have to.

Mr. ANOP. The Sheriff is a very energetic man, and you have to admire hard work as a quality.

Mr. CONYERS. I am sure he would say the same thing about you, too, and so is Judge Fox very energetic.

Mr. ANOP. The issue has elicited a lot of good people.

Mr. CONYERS. Miss Metaksa, you may proceed.

Miss METAKSA. I do have a few comments that I would like to give.

Mr. ANOP. I would like to give a few more words also.

Mr. CONYERS. We welcome you back, but we want to get her into this matter before we terminate.

Miss METAKSA. I have a prepared statement, and after sitting here for the better part of the day and listening to what you have elicited in the way of responses from some of the citizens, I have one copy of this, which I will leave with you, but I would like to present this, this is a study done by one of the directors of the Connecticut Sportsmen's Alliance, which many of its member clubs are not gun-type clubs, we have other outdoor interest groups.

Mr. CONYERS. What kind?

Miss METAKSA. Snowmobiles, fishermen, archers, horseback riders, cross-country skiers, we work very closely with the Department of Environmental Protection on outdoor recreational activities, and you have some thoughts on that, because we need a lot more of the recreational areas, especially in intercities, such as in Hartford, Bridgeport, and some of the other bigger cities of our State.

I will leave this with you, and it will be published in the Hartford Times a week from Sunday, this is on homicide, and if we are talking about gun control, we are talking about the ultimate really, and that is crime, and the ultimate crime against another human being is the taking of his life, and that is classified as homicide, whether it is murder one or just accidental, it is still the taking of another life, and this director had done some studies based on the FBI crime report, which he makes the comment on our crime reporting system in this country, including the FBI statistics, as being very poor.

The FBI statistics were started in the 1930's and never have really been changed or upgraded to reflect our modern day problems.

The biggest category under murder, always comes out as "Other," whereas they have a category that they call lover's triangle, which is usually down below 1 percent in the murder range.

However, what this paper comes to the conclusion is that crime, and especially homicide, should be entitled "Color Me Green," because it is a socioeconomic problem that is based not only on the availability of guns, but a breakdown in society, a breakdown in economic structure, and a breakdown in the sociological structure.

I will not go through the whole paper, because it is lengthy, and it is getting late, but there are interesting correlations, and they have very little to do with gun laws, and the number of homicides that have been perpetrated, per 100,000 population, or per anything.

One of them is that the States that have, and he has got the 10 highest States back here, and the 12 States are sharing the 10th highest homicide rates, and the lot of them, as you have noted, are in the South, and the 13 States sharing the 10 lowest homicide rates, and they are all over the lot, Connecticut happens to be among them, No. 7, I believe. The 12 States sharing the 10 highest homicide rates, population

densities has nothing to do with it, population has nothing to do with it, but there is a strong correlation between the divorce rate, and when you go to the 13 States sharing the 10 lowest homicide rates, the divorce rate also correlates, it is much lower, and the 10 lowest homicide rates, the mean average divorce rate is 388 per 100,000, whereas in the 10 highest homicide rates, the mean highest divorce rate is 631 per 100,000, which is twice as high.

Now, as a graphic example of our socioeconomic conditions, as it is found in the detailed study of Gaston County, N.C., it is almost totally subject to the economics of the textile industry.

It also happens to pretty much be predominantly white, it is really not a race issue either, except for the socioeconomic problems that happen to congregate in the major cities where you have the bulk of the minority groups.

In Gaston County, there was a big textile equipment manufacturer, and they were humming along very nicely, with an unemployment rate of less than 1 percent in 1974.

In 1974, this country started going into what everybody labeled the 1975 recession.

The textile industry suffered a depression.

By the end of 1974, the unemployment rate had gone to 18 percent, from less than 1 percent up to 18 percent.

The separation rate began to rise dramatically in 1974, those obtaining a divorce, and then you had the separation for a minimum of 1 year.

In 1973, the homicide rate in Gaston County was 7.4 per 100,000. In 1974, it had risen to 20.2 per 100,000, almost a three time trebling amount.

A first order of approximation based on homicides through May 1975, projects that this year the homicide rate will be roughly 26 per 100,000.

Now, you see, what I am trying to put on is that violence, one might also presume that violence would tend to erupt between ethnic or racial groups, black against white, Puerto Rican against white, and so forth.

Such is not the case, the frustrations and despair, the hopelessness vented against their own genre.

White kill white and black kill black.

In the study of the murder circumstances, by age, race, marital status, occupation and education, the relative distribution of perpetration and victims are remarkably close to constant.

Mr. GEKAS. You do not argue there is a relationship between guns, homicide, and divorce?

You say, you assume that the paper says that divorce and gun homicides reflect, that they are both caused by something deeper?

Miss METAKSA. Right. What I am saying here is it is systematic of the socioeconomic straits that the people get themselves into, and this is going back to what Mr. Barboza was talking about earlier today, as to tension in the society, frustrations in the society, being vented against the society or other people in general.

Mr. GEKAS. Let me ask you, a suggestion that handguns do not cause crime, that socioeconomic factors do, certainly you must agree

that there is a relationship between the presence of a weapon and the incidence of gun death.

Miss METAKSA. Of course, if you did not have a weapon, such as a gun, there would not be a gun death.

There would be a knife death, there would be a baseball bat beating.

Mr. GEKAS. Thank you. That is really the first time we have had an agreement.

Miss METAKSA. You cannot tell me, when you phrase a question that way, and you say the homicides, if you have a weapon, it has got to be related to gun deaths.

Of course, you will not have a gun death if there is no gun. I think everybody would agree to that.

The corollary to this is what you want to drive me to state, is that if we get rid of all the guns, there would be no deaths, and I do not agree with that.

Mr. GEKAS. Can we also agree that if we take the next most lethal weapon, that it would be a knife.

Miss METAKSA. According to the FBI statistics, yes, the knife is the most lethal weapon after the handgun.

Mr. GEKAS. Can we agree, we have agreed that the knife is the least lethal weapon of the two, and therefore, if the person did not have a gun, and he went to something else including the knife, baseball bat, whatever, automobile—

Miss METAKSA. By automobile, my friend; that has a much higher incidence of deaths than firearms.

Mr. GEKAS. But they are accidental, that is the big difference.

Miss METAKSA. I would question that.

Mr. GEKAS. In the situation of the homicide where one is intended, if people had knives instead of guns, there would be less deaths. There would be more cuttings, but there would be less deaths. Can we agree on that?

Miss METAKSA. No. I am talking about homicides, by knives and by handguns.

I do not know how many cuttings there would be that would result in death, so I cannot really answer your question the way you phrased it.

Mr. GEKAS. Go ahead. I am sorry.

Miss METAKSA. All right. My table here is based on the study done in the city of Detroit back in 1972, and it is a very interesting thing here.

I think what we have to concern ourselves with, when we talk about gun control, we have to concern ourselves with who has the guns, and who has them in a legal fashion, and illegal fashion, and who is most likely to use them.

The homicides in Detroit in 1972, broken down by rates, are really astounding.

The perpetrators, 83.3 percent were black, which is really terrible, is that 78.9 percent of the victims were also black.

What you are talking about, and what I am trying to bring out to you, because you mentioned that this earlier, is where you are having the worst crime areas is in the city, and you are having the black community, and let us face it, gentlemen, the majority of the communities in the ghetto areas, and the underprivileged areas, and the minority

group areas, they are victimized by crime, and this is where I think our attention has to be directed, because these people are the ones who are getting it in the neck.

Mr. CONYERS. So should we, and to connect with the point you are making; should we reduce the amount of weapons that come into those communities, increase the amount of weapons that come into those communities, or allow it to stay where it is? What would you do?

Miss METAKSA. What you have now is a fear-ridden community, and what you have now as you so aptly pointed out, the police turn the block when they see the gang hoods, and they do it in a Hispanic community, a black community, and a white community, because they do not want to be charged with police brutality, or they do not want to get involved where there are 2 police with 30 guys facing them, so they ignore the problems, so then we have the result of the victim, of crime, and then we have the frustrated persons that are turned on.

It is their own kind that need the protection of the police, and what I am trying to propose, we should not be so concerned with the number of guns, what we should be concerned is the way the criminal justice system is going to resolve the problem of the criminal, who is victimizing all of these victims, because that is what we want to know.

Mr. CONYERS. I quite agree with that, and I want you to continue on this thesis, but with reference to the problem of firearms, in the black community, is it not important that their number be diminished?

Miss METAKSA. No; because I have another statistic from Detroit, and let me just give it to you, and this is a statistic that has to do with the homicide called justifiable or excusable.

Excusable homicide is defense of life and property.

Justifiable, this is a terminal action against a perpetrator of an armed felony. You shoot the armed bandit down.

The private citizens of the city of Detroit represented 20½ percent of the total of all murders, including first and second degree murder.

One of five murders in the city of Detroit done by a private citizen, was excusable, or justifiable homicide.

However, the average of the justified homicide by the police through this same period, which is from 1968 to 1972, represented 4.16 percent of the total; in other words, 1 out of every 20.

What this means, the private citizen found himself in the position of having to use deadly force approximately five times more frequently than the law enforcement officer.

Mr. GEKAS. Something is wrong with your analysis.

Mr. CONYERS. We are going to have to go over these statistics, and the correlations that you are suggesting.

Miss METAKSA. What I am saying is, that when you take 100 murders, 20 of them were committed on an excusable basis, either found not guilty or excused by the prosecutors and the courts, by private citizens in defense of life and property, or when the felony was being committed.

When the police had to use a weapon, and it was judged justifiable homicide by the police, they only took 1 in 20.

Mr. GEKAS. I think the problem is you have to compare the homicides by private persons, that justifiable private person homicides to the total private person homicides, and the justifiable police homicides to the total police homicides.

Miss METAKSA. We are doing that.

Mr. CONYERS. At 21, you are in good shape. There are no strong laws.

Does the average criminal who is out to commit a murder and mayhem, is he going to utilize these forms? You heard the gentleman from Philadelphia say when they processed all these applications, there was an awful lot that tried to get permits.

Mr. CONYERS. That is the point we go over quite a bit. We are not charged as legislators with the responsibility of enforcing the law; we are also not charged with the responsibility of devising a criminal law that criminals will not break.

Once you define a citizen by his behavior as being a criminal, you have suggested he is one who has or will break the law.

Now, it is impossible for legislators to resolve what is essentially a Catch-22 process.

If I could devise a criminal law that criminals would not break, then I would have exceeded Solomon in his wisdom.

What defines a citizen who is a law-obeying citizen, and a citizen who is a criminal, whether or not he or she breaks the criminal law? Please do not add that burden to my already long list of responsibilities. I cannot devise, and neither can any other lawmaker at the Federal or State level devise, criminal statutes which criminals will obey. This is definitely impossible.

Miss METAKSA. Can't we devise statutes that criminals will fear, that is, such as Judge Fox has advocated?

Mr. CONYERS. That may be equally impossible, but we could give it a try.

Miss METAKSA. Then it seems to me, this whole question of firearms control, when you look at the testimony, the testimony I put in my written report on the State of Connecticut, which has a pistol-carrying permit law, which anybody who carries a handgun must have a pistol-carrying permit, with the incidence of any kind of infraction of the law leads to the revocation, and this has been law the last 10 years, it is less than one-half of 1 percent of the pistol-permit owners, there are 50,000 pistol permit owners in a State of 3 million, why do we worry so much about the handgun owner who is legitimate?

Mr. GEEKAS. Wait a minute. I want to make sure we clearly understand the position of you and your organization.

Let me ask a series of questions about that.

Do you advocate the repeal of the 1968 gun control act?

Miss METAKSA. No, sir, I do not.

Mr. ANOP. I favor an amendment to the 1968 control act.

I would like to add the criminal provisions, maybe they can be made to have stiff fines for gun dealers, for doing something wrong. I think we need a sanction, and I agree that we have to go back to the sanction aspect.

One thing we can do, as far as crime is concerned, one of the most vital things I remember from school teaching, what perplexed me the most of that education, was that in Minnesota, they had a pre-criminal program that they found very effective in picking out juvenile delinquents, criminals of the future, and did you know there was no more controversial program than that, because they said we are infringing on somebody's rights, but the statistics they had went to

the 90 percentile, as far as developing juvenile delinquents, picking out juvenile delinquents before it happened to the teenager, as well as pointing out future criminal activity.

However, we do not do things like that.

Mr. CONYERS. I have trouble with people from Massachusetts, keeping them focused on the question.

Mr. ANOP. Just one more thing: As far as Massachusetts, it has always had these tough laws, and I agree with some of them, but when it came time for Massachusetts to hook into the national crime network, allowing our felons to be included in the FBI computer, we said no way, it is in violation of privacy.

Mr. CONYERS. Certainly you agree with controls on machineguns and bazookas and other military weapons, the Federal law is regulating by registration?

Mr. ANOP. If you wish to own one, it is registered, yes.

Mr. CONYERS. Do you agree with that regulation of those weapons?

Mr. ANOP. Yes, because they are really essentially items of war.

The question I had, happened when they talk about registration, we were able to trace the weapon all the way back, but then we came to the penalty, and then we dropped the charges.

Mr. CONYERS. What is your idea of the registration?

Mr. ANOP. That was one of the Supreme Court decisions. I think I can agree, you cannot have machineguns, unless you pay \$200 excise tax.

Mr. GEKAS. What about the sawed-off shotgun?

Mr. ANOP. I would go along with that also.

Mr. GEKAS. Let me ask about either State, Federal, or local law, I have the feeling Miss Metaksa, that the statistics you cite in Detroit about justifiable homicides, in your statement about permits to carry, do you contend that citizens have the right to carry guns, anywhere in the city and State of Connecticut.

Miss METAKSA. We have a State law that states in order to carry a handgun, you must get a local and State permit to carry it.

Mr. GEKAS. Do you agree with permits to carry guns?

Miss METAKSA. Yes.

Mr. GEKAS. Handguns?

Miss METAKSA. Yes.

We can carry guns in any way, shape or fashion, once you have a permit, it can be concealed, it can be unconcealed.

Mr. GEKAS. But you agree with the regulation of the type in which a handgun can be carried?

Miss METAKSA. No, that law does not state time and place.

That law states once you get a permit, you can carry it at any time, to any place within the State.

Mr. GEKAS. That is the time and place law.

You can carry it outside of your home if you have a permit.

Mr. ANOP. When I went to get a gun permit, I felt like a criminal.

Now, I just so wondered what good a person like myself adhering to all those procedures, and that my State refuses to tie in to the Federal crime network, what that is done for.

Mr. GEKAS. Did you think citizens have a right to carry handguns without obtaining permission from the State government?

Miss METAKSA. I do not think of the right it is to go through this fingerprinting routine, which I do have to go through also, and when you see the crime rate these people have that have legal licenses, it is way down in the minuscule figure, and the people who do not bother to go through all of these regulations and dollars—

Mr. ANOP. Remember we have to have that license before we could buy a handgun or ammunition, but yet there are still homicides committed, despite prohibition.

Mr. GEKAS. I still do not have an answer.

Do you think—

Mr. ANOP. Except we have a slight hope with the Fox law, now, if I am a criminal, and I am on the street, I get off on that drug rap, I made a real mistake, because now I am going to jail for a year, I think that is beneficial, but the handgun licensing per se, no way.

Mr. GEKAS. Do you support the repeal of the State handgun licensing?

Mr. ANOP. If we did not have the mandatory sentencing, yes, I would, because it has not done any good, the type of thing we are talking about.

Once you tell someone that they're carrying their weapon without a license, and remember, felons can't get licenses to carry a handgun, when you tell them that, then you put on a 1-year tag, we are talking of a different story.

Mr. GEKAS. Let us get rid of the Fox law just for a second.

Why is it that you still think that citizens of Massachusetts have a right to carry a pistol without any regulation by government, any citizen, law-abiding or nonlaw-abiding.

Mr. ANOP. We had it in the 1968 Gun Control Act. I answered the same exact answer as I made out my application for the Massachusetts permit.

If I signed my name, and then I answer all those questions, and then I go out and commit a crime, a lot would be a felon before this, I would have committed a Federal crime.

Mr. GEKAS. The question is a simple one. You told me that without the mandatory sentencing part, you would support the repeal of the licensing provision in Massachusetts.

Do you believe that the citizens of Massachusetts have a right to carry handguns throughout the street?

Mr. ANOP. Because you have the 1968 Gun Control Act, and it is the same thing, if we commit a crime, if we go in there, and we say no to all of those things, including the felony, mental defectors, we have all of those things on the form, and I do not know if you are familiar, you fill out those 4473 forms in triplicate.

You have your recordkeeping available for the FBI.

In our State, we have a form that you fill out, it takes a gun dealer in Massachusetts a half hour to transfer one weapon, so what I am saying, without that mandatory provision, we have already a mechanism under the 1968 Gun Control Act which controls my selling a gun out of State to another individual, and so what is the penalty for?

Mr. GEKAS. All I want to know is if you believe—

Mr. ANOP. If I said yes, I would repeal that law in Massachusetts, because I think a person has the right to carry that gun, especially who have signed up in Massachusetts under that law, and we still have a

Federal law, and that is all we are talking about, that 1968 Gun Control Act.

We have that law, the 1968 Gun Control Act, which you can amend.

Mr. GEKAS. Just one more.

I take it from your refusal to answer my question, you do not believe, and I will state it a little bit provocatively, if I may, you do believe the citizens of Massachusetts have a right to pack a gun concealed?

Mr. ANOP. They have a right to have a gun, yes.

Mr. GEKAS. To pack a gun on the street?

I am talking of let us go back to the Wild West, that is what you believe?

Mr. ANOP. If you look at the crime statistics, in Detroit we have gone back, in Boston we have gone back, without guns—

Mr. GEKAS. In Boston, you believe a citizen has a right to carry a gun, so if somebody comes up, they will have a shootout?

Mr. ANOP. I have some proof, the crimewave, some are violent serious crimes and some are not unrelated, some of them are larceny and robbery, and I am talking about crime in general but I think that is an issue here.

Mr. BARBOZA. I do have a question.

Mr. CONYERS. Counsel may interrogate witnesses.

Mr. BARBOZA. The licensing provision which is required under the Massachusetts law, it seems that it does have some effect on the person who comes after you, who may be a felon, and who walked in, and presents false identification to the gun dealer so in that respect is it an effective tool?

Mr. ANOP. As the police chief of Massachusetts stated I have not had a criminal apply for an FIB, and they still carry guns.

Mr. GEKAS. That is not the case in her part of the country.

Mr. ANOP. Suppose we increase the penalties, under the 1968 Gun Control Act, we put a crime amendment to it, and we say something, like if a person goes to that store, and he commits a crime, and then there is some type of penalty, notwithstanding the constitutional argument, but self-incrimination, what about that? Are you fellows willing to go in that direction, based on the fact that if we did get a prohibition, including the sportsmen clubs throughout the country which can go into this thing, you could have a successful program, and I will tell you why, the 1968 Gun Control Act is not known among the general public.

Mr. GEKAS. The 1968 Gun Control Act does not give you the right to carry a gun on the street.

Mr. ANOP. Say I go into Rhode Island, and I sold a gun.

Mr. GEKAS. It is the State law, by merely the fact of purchasing the gun, it does not mean the Federal Government has condoned your carrying a gun.

Well, I have no further questions.

Mr. ANOP. This is one of my constitutional arguments, that I have in Massachusetts, and I would like to summarize it quickly, under the right to bear arms, section of our Constitution, which has never been questioned, we have never had a case on it, and I think we might, since the Federal Government has left a loophole that as far as enforcement of the Federal Gun Control Act.

I have six specific proposals, and probably five of them go into that, and I would like to read them.

Miss METAKSA. Could I ask you gentlemen if there is anything else you would like?

I have to go. I have a train to get.

Mr. CONYERS. Could I recognize counsel Tim Hart for a question.

Mr. HART. Miss Metaksa, just two very quick questions.

First of all, with respect to the study you mentioned earlier, of course, we have not had a chance to see it come, I wanted to ask you one question, has there been any study undertaken as to respect with homicides, and this has to be adequately recognized, and professionally comes to my mind, that is, the question is this, did the author of that study, in studying the divorce rate take account of extraneous facts that might affect the rates of divorce, such as domicile, residency of requirements, waiting, and so on.

Miss METAKSA. No; because Nevada is included, and you know it has a different type of law.

Mr. HART. Second, what study was it you were quoting from, in the Detroit area?

Miss METAKSA. It is annotated here, in the bibliography; I think it is here.

It is the comprehensive analysis of conflict motivated homicide, Detroit, 1972, copyrighted in 1974.

Mr. HART. We heard from the gentleman who did the study in Detroit, and we have the latest study, which was completed in 1973, with citing the 1972 statistics.

Miss METAKSA. Yes.

Mr. HART. I have table 1 from the study. It is the same title, same date.

Miss METAKSA. I do not have it.

Mr. HART. You mentioned the 20 percent of all homicides committed in Detroit were terminal action by citizens.

Miss METAKSA. This was, I failed to tell you, this was a compilation from 1968 to 1972. It was an average of the 5 years. It was an average.

Mr. HART. So the average was 20 percent per year.

Miss METAKSA. No; the average over the 5-year period—

Mr. HART. Twenty percent over 5 years?

Miss METAKSA. Right.

Mr. HART. So that is then the 4 percent per year?

Miss METAKSA. Yes.

Mr. HART. That is much closer to the figures.

I just wanted to clear that one up for the record, so, if you mentioned, the minimum of homicide categorized justifiable by citizens, was about less than 6 percent.

Miss METAKSA. Wait a minute.

There is the mean average of justifiable homicide in the 5 years.

When I am talking about what was the 20 percent, by private citizens, in two categories.

Mr. HART. No. So you are returning to the original statement then, that the mean average in 1968 to 1972 per year, the mean would be per year, 20 percent?

Miss METAKSA. Yes; of the total including first and second degree murder, negligent and manslaughter, and I have got the table back here.

Mr. HART. The figure they show is about 6.1 percent, the mean is about 6 percent.

Miss METAKSA. Well, as I said, I do not have the complete data that you have there. It is with the author, he let me take this and bring it down to you, and I will leave it with you.

Mr. HART. I would suggest to the author that you recheck that table, it is table 1.

Miss METAKSA. I would suggest to you that maybe what you have is not the same thing that the author has got.

Mr. HART. We have all of the studies that they did and that is why I am surprised that when you read that, because it is nowhere near the studies mentioned for any of those years.

The data is there. I do not have that study with me. I brought it down, and I left it for your discretion.

Mr. CONYERS. We will try to resolve the discrepancy.

Miss METAKSA. If you wish to get hold of the author, I will pass him on to you.

Mr. CONYERS. Perhaps we can help by clarifying the point for the committee's understanding. You are very adequate in this area. To get this straightened out, I probably will invite counsel to communicate with you about these discrepancies.

Miss METAKSA. Thank you very much.

Mr. CONYERS. But we are very grateful for your being here. We know you have been here throughout the hearing. The common question I would like to ask both of you before we move toward a windup, was the first question I asked of Mr. Anop. I do not think he ever got around to answering it.

Has, in the course of the hearing today, any information come to either of you that has affected your views on the subject?

Miss METAKSA. No, sir; I have not been influenced. I was impressed with Judge Fox and of his comments.

I can tell you, I endorse a lot of his proposals.

Thank you.

Mr. ANOP. I think they are dealing with the issue, and also dealing with people who are on the other side of the issue, I think we really do have a common base.

I have always thought this way, but, however, I might say. we have shown more willingness to cooperate on the issue, in the sense of trying to get something done, and because I think you are going to have difficulty, if your committee comes out with proposals against confiscation and registration, you know the White House is saying no, as a practical matter, I know a lot of my U.S. Congressmen are saying no.

Mr. CONYERS. Are you involving me now?

Mr. ANOP. No; but I would say that there is some change for crime legislation, and this section is extremely popular, and I have only got five things to read, and that my testimony will be through them, but I am interested in crime, and it bothers me that there is such a high crime rate, in my research from the Massachusetts Institute of Technology, they have come up with an interesting statistic on a person intruding into your home.

In your lifetime, according to the crime statistics, you have a 77-percent chance of having your home broken into while you are there, over a lifetime.

My question is, What do you do under those circumstances, and the handgun according to even the statistics, they say it gives you a 50-50 chance.

I read one of the statistics, and this is something I never read before, and I would like to have that, 50-50 chance, if that happened to help me in my lifetime, and I am sure a lot of people that are licensed, and some who are unlicensed, who would like to have the same chance, because it is a fact, why are those handguns out there, that is the one question I ask, besides sporting purposes, 325 gunowners in my State who have hunting licenses, why do other people have those guns, close to 1 million handguns in Massachusetts.

Why, because they are afraid, they are afraid because the police do not seem to do too much for them.

If you are living in a ghetto area, the crime rate is so high, suppose I reported someone within that area, within a couple of weeks is out, right away on bail, or he comes back after a slap on the hands.

It is fear, for a lot of people that have a gun, and a lot of other people just feel they have a right to have a gun.

I will just add these quick five things I want to read.

Mr. CONYERS. They are in your statement.

Mr. ANOP. Right, but there is one important one, I would like to really get to, this is on the LEAA period.

Mr. CONYERS. What would you propose?

Mr. ANOP. What I would propose for them, is that we start from scratch.

Mr. CONYERS. It sounds like a good idea.

Mr. ANOP. In Boston, we just spent \$85,000 on hiring four people, and what with salaries, just about \$20,000 a piece in Boston.

We put them in Police Commissioner di Grazia's office.

I tell you this, I would like to see that \$80,000 to \$100,000 going to a police pay incentive plan, where we invest in the foot patrolmen, and if we can talk about Roxbury, where we have blacks, we can talk about the Puerto Rican community, and then we make sure that we have the Hispanic American police in there, and in the black community, the black police, and No. 2, we also institute the undercover system which they tried successfully in Orange City, Calif., and this can be pushed in my own State, and I would like to make a good note of that, that in Orange City, Calif., in four categories of crime, including burglaries, rape, robberies and auto thefts, in the 2-year period, the crime rate in those four categories was reduced 11.4 percent, and the foot patrolmen received a 3-percent increase in their pay, because of the decrease in crime, and you know what, the people of that city were ecstatic.

They were not unhappy about paying that extra money, and it was closely monitored by the city manager.

That is what I would like to see.

Mr. CONYERS. Mr. Anop, finally, how many gun, sporting and recreational organizations, are you affiliated with?

Mr. ANOP. How many gun organizations?

Mr. CONYERS. Yes.

Mr. ANOP. I am not a member of the NRA. My organization is one that is within my State—

Mr. CONYERS. Is that because of any difference in views?

Mr. ANOP. No. The NRA just never bothered to get together with us. I have spoken with some officials, but I am not a member of the NRA.

In my State, we have our own unique problem. I have contacted them and some of my representatives in Washington have, I have told them that I know in Washington, I know of them, and we work together, and I told them I would be glad to cooperate with the NRA, because I feel they are providing a valuable national function.

Mr. CONYERS. Well, what are the other organizations that you are affiliated with?

Mr. ANOP. I am affiliated with the 264 sportsmens' clubs in Massachusetts.

Mr. CONYERS. 264?

Mr. ANOP. 264 sportsmens' clubs, and I represent snowmobile people, skin divers, beach buggy organizations, and it is a 5,000-member organization, and this deals with the firearms issue.

Mr. CONYERS. In these 264 organizations, how many members are there?

Mr. ANOP. I mentioned the total represents about 50,000, a little over 50,000, and since I added the skin divers, that brings it up to 55,000 approximately, in addition to the 5,000 gun owners, there is some overlap, because gun owners have to do with a lot of them in specific areas of guns, and they are not interested in hunting.

Some just have guns for self-defense, so we do have a slight overlap.

I would say it is close to 800 or 900 members there.

Mr. CONYERS. Of that number, how many of these are members from the Roxbury area?

Mr. ANOP. From the Roxbury area, to tell you the truth, we do not have a club in the Roxbury area.

Mr. CONYERS. A person could be a member?

Mr. ANOP. No, we do not have one exactly.

We do not have a club in Roxbury, but they can go to the clubs on the outskirts.

Mr. CONYERS. How many members are there in the Roxbury area?

Mr. ANOP. I don't know.

Mr. CONYERS. Are there any?

Mr. ANOP. I'm not sure.

Mr. CONYERS. I mean, is there one?

Mr. ANOP. I am not sure.

No, if there are, I do not have the membership list for that county in front of me.

Mr. CONYERS. Could you in subsequent communication advise me of that statistic?

Mr. ANOP. Right, I will.

Now I can tell you straight out, that if I do not have a member in Roxbury, I will say it.

No, it's known, I can tell you straight out, any communication you will have with me a straight answer.

I do not have a member in Roxbury, I will say it. Part of the problem with guns, say someone brings into homes down in Roxbury, and down in my gun clubs, and also the Massachusetts Rifle and Pistol Association, people are taught how to defend themselves in their homes.

Mr. CONYERS. They need that in Roxbury worse than anywhere else.

Mr. ANOP. That is true, however, the contacts I have had with the Black Caucus and other groups, they are disinterested in that type of activity, and I have contacted people in the Black Caucus, I have tried to get down to the political action aspect, and I found that a large number of blacks do not belong to sportsmens clubs, they do not belong to those kinds of activities, those types of sports activities in and around Boston, black and minorities club members generally do not mix in those circles.

Maybe we are talking about a classic reflecting, as to a problem with integration, or what have you, I do not know what it is, but I am telling you, if I do have a percentage in Roxbury, I would say that there would have to be very few.

That is part of what is happening in the cities.

Mr. CONYERS. Well, thank you very much, and on that note we are going to bring a close to what I consider to have been a very important regional hearing here in New York.

We express our gratitude to the many people who cooperated with our staff, most especially Counsel Tim Hart for making this a very productive day of hearings.

Mr. ANOP. Will I get a Washington invitation?

Mr. CONYERS. If there is additional testimony that you wish to bring to our attention, I am sure we would be happy to consider it.

Mr. ANOP. I think I would like to work on that program along the likes of Orange City. I would like to see something done with the program of that variety, maybe even as a pilot thing, from LEAA, because those salaries are an administrative cost, and they are ridiculous.

Mr. CONYERS. Send those facts to us so we can examine them.

On that note, the hearings here in New York will end.

Thank you very much.

[The prepared statements of Mr. Anop and Miss Metaksa follow:]

**STATEMENT BY VICTOR M. ANOP, EXECUTIVE DIRECTOR, GUN OWNERS' ACTION LEAGUE**

Although the topic of this hearing is the Federal Firearms Laws, a more appropriate, and popular title would be: "How to Make Crime Not Pay in America." Very simply, when we talk of gun control what we generally mean to say is, how can we control gun-related crime? We have to do much more than talk only about gun control because many non-sportsmen have guns due to the fact that the government, thru its police powers and fossilized courts, have failed to insure their security and safety. FEAR permeates society, and Supreme Court decisions relating to evidence, self-incrimination, and attorney privileges have all aided the criminal in using his illegal gun to rape society of life, liberty and property. I come here not to defend firearms, because a firearm, like any other instrumentality does not act independently, nor does it make rational decisions, nor is it the cause of criminal behavior or activity. I come here instead to defend the rights of all the Mass. gun owners who are licensed, and of whom there are approximately 1,000,000. I have divided my comments into different categories, including Massachusetts Firearms Laws and Bills-1975; Federal Firearm Laws and Proposals-1975; The Anti-Gun Lobby; and Proposals to Combat Gun-Related Crime.

**MASSACHUSETTS FIREARM LAWS AND PROPOSALS—1975**

Two new laws became effective in 1975 including Chapter 649 and Chapter 830 which related to firearms. The first, 649, is the much-heralded Mandatory 1 Year Sentence Law which allows no suspended sentence upon conviction of the unlicensed carrying of a handgun, rifle or shotgun. The primary measurable

effect has been to drastically increase the number of licensed gun owners by 150,000. As the police chief of Richmond, Mass. stated, "I haven't yet had a criminal apply for a Firearms Identification Card, and they still carry guns. All honest people, as usual, including housewives, have applied for permits." We supported the bill to guarantee that any criminal convicted under this law for unlicensed carrying after commission of a crime would be forced to go to jail for at least a year. As an "expert" on the law, I noticed a defect which eliminated exemptions for carrying by certain cases of non-residents. At my insistence, the exemptions offered by Chapter 140A § 129C were restored by a law passed this year which also guaranteed that pistol permit possessors would be notified in writing concerning license expirations. It should be made clear that the Bartley-Fox Law was not vigorously supported by the anti-gun factions in the Mass. Legislature. However, the support of the state's gun owners working in cooperation with the House and Senate leadership in Mass. guaranteed its unanimous passage. Anti-gun Senators Backman and McKinnon debated against the bill in the Senate although they were recorded in favor of the bill when a roll call vote was forced. The mandatory sentence approach has always been favored by gun owners, and therefore, clearly illustrated how measures aimed at criminal activity can garner the support of gun owners and responsible legislators. Such a measure should not be projected nationally because, like licensing, only the law-abiding individuals have conformed; the Court system has already suspended 2 persons in contravention of the law, despite popular support of its provisions.

Chapter 830 of 1974 accomplishes exactly what we recommend on the National scale—namely, a mandatory sentence of 2½ to 5 years tacked onto the sentence of any person convicted of a felony committed while using a firearm. At this point, the new law has not been used because it did not receive the publicity of Chapter 649 of 1974. We plan to actively campaign for implementation of this statute because there is little inherent danger that an innocent person would be affected.

Due to strenuous objections of the states gun owners, 22 anti-gun bills have already been defeated during 1975 including: H. 475 (Handgun Permit for Felons) H. 1182 (Gun Amnesty Bill) H. 2340 & S. 1092 (Handgun Ban & Confiscation) H. 2342 & H. 4119 (Complete Registration of All Guns), H. 2343 (15 Day Waiting Period for F.I.D. Card) H. 2344 (Promote Non-Lethal Weapons—\$300,000 a year) H. 2345 (Bans all Newspaper Advertising of Firearms) H. 2346 (Harsh Gun Transportation Regulations) H. 2347 (Only Dealers Could Sell Ammo & Guns to Dealers—Indirect Confiscation) H. 2348 (Requires Registration to Buy Ammo—Gun & Person) H. 2349 (Handgun Ban Except for Police, Military, Licensed Pistol Clubs) H. 1748 & H. 2742 (Replace all Bullets with Tranquilizer Drugs Including Police) H. 2352 (Eliminates Right of Local Police to Use Hollow Point Bullets) H. 2576 (Eliminates Lifetime Status of the F.I.D. card & Mandates an Unspecified Rest for Gun Ownership) S. 1104 (Creates a Civilian Disarmament Board) S. 1136 (Handgun Confiscation) S. 1794 (Gun Proficiency Test) H. 4679 (Increased Handgun Permit FEE & TEST) H. 4231 (Resolution Asking U.S. Congress to Standardize Gun Licensing) H. 6086 (Restricts Firearms Possession While Under the Influence of Alcohol).

The two handgun confiscation bills—H. 2340 and S. 1092 were defeated by votes of 196-24 in the House, and 30-5 in the Senate despite strong support by the Boston Globe and the anti-gun lobby. Gun registration was defeated in the House 165-55. Both defeats in 1975 were by greater margins than in 1974.

Still pending before the Senate is H. 5753, a Saturday Night Special Bill favored by Rep. William Hogan, which would ban the sale and manufacture of handguns which meet the combined criteria of: 3 inch barrel or less; 32 calibre or less, and a liquidous melting point of 900° F. This bill passed the House after Hogan amended the bill. The bill is dormant in the Senate as several constitutional questions have been raised as well as the most practical issue that all Mass. pistol owners must be properly licensed to own any type of pistol. Conviction of possession without license means 1 year in jail. This measure was referred to committee by a 28-9 vote which means it has little likelihood of passage.

*Since 1968, the only gun related bills which have become law were supported by gun owner organizations.*

#### FEDERAL FIREARM LAWS AND PROPOSALS—1975

Basically the types of bills being considered on the National level are very similar to many state proposals including handgun confiscation, registration, and banning "Saturday Nite Specials." Other federal regulations have become incompatible with the Free Enterprise System.

*Registration.*—The 1968 Supreme Court decision relating to registration, *Haynes v. U.S.* (390 U.S. 85) held that evidence of failure to register a firearm in accordance with the National Firearms Act could not be used to convict the accused because such evidence would violate his 5th amendment right against self-incrimination. What penalty, therefore, could be imposed against a private citizen who has no prior criminal record, and whose only crime is failure to register? Further, the cost of any further registration weighed against the benefits makes such a program unrealistic. The federal government and many states have imposed registration of all sales by gun dealers for years, yet no positive signs of better improved law enforcement are obvious. Mass. has registration of all firearm sales and purchases since 1968, and the Dept. of Public Safety has difficulty keeping pace with the paper work. In addition to the issue of registration, Mass. has refused to tie itself to the F.B.I. crime computer which stores the names of known criminals. Former Governor Sargent called this an invasion of privacy—firearms registration by non-felons seems to have a much more chilling effect on civil rights than does crime information. In areas such as Washington, D.C. registration was the forerunner of confiscation legislation. Registration therefore, has not proved to be a successful anti-crime tool.

*Handgun Confiscation.*—Such a program on the National scene would confront several constitutional questions including 2nd, 4th, 5th, 9th, 10th and 14th amendment questions. Besides severe legal confrontations such measures face other practical hurdles. Even if such bills overcame legal questions it is doubtful that the general public would cooperate, nor could the government adequately compensate willing individuals for turning in their handguns. Even the non-objective pollsters tell us that handgun confiscation is not favored by a majority of the American Public. Gun owners are particularly disturbed by such measures because regardless of contrary legal interpretation, the Constitution clearly states that the right to keep and bear arms shall not be infringed. Will the criminal turn in his handgun? Will smugglers stop dealing in contraband handguns? Will police and the military stop using handguns so that they will not be available at stations and armories for theft? Will eliminating the gun eliminate crime? Would the majority of legitimate gun owners turn in their handguns? The answers to all these questions is clearly "no" and these are sound reasons why such a measure should not, and will not, pass.

*Saturday Nite Specials.*—Definition of this term often romanticized by the media, is like the mythical unicorn, in that everyone has heard of it, but no two individuals describe it the same. It makes no difference what the price of a firearm may be; the most important factor this committee should concern itself with is what is done with the person who uses any gun (regardless of size or price) in the commission of a felony. Did this person lie when he signed his name to the federal form 4773 or did he obtain the firearm illegally or under false pretenses? The answer is so simple it is absurd—present firearm abuse penalties must be enforced, and where found weak they must be strengthened. Gun-related crime can not be condoned by an strata of government or society. The Saturday Nite Special Bill before the Mass. Legislature has the same pitfalls as Federal proposals.

#### FEDERAL RULE CHANGES

Recently, regulations promulgated by the Alcohol, Tobacco and Firearms Division, and a proposal by the President to reduce the number of federally licensed gun dealers have both had detrimental effects on the free enterprise system. Many legitimate handgun collectors, and pistol shooters have balked at buying more than 1 gun because of the threat of harassment by federal agents. Many large gun dealers started in burglar-proof basements with low operating capital, and reduction of gun dealer licenses will drive the small dealer out of business. Many pistol clubs depend on a club member who became licensed in order to transfer firearms to club members conveniently. The dealers of Mass., and throughout the nation, are very upset over these new regulations, and rightfully so; the qualifications of *all* dealers are closely scrutinized and similar licensing is undertaken in many states. With these restrictive directives in effect, I fail to see how much further the federal government can intrude into the personal business rights of the dealer, and his purchasers. I can guarantee that G.O.A.L. will closely monitor these regulations, and check the procedural validity of their enactment. The dealers and legitimate purchasers demand fair treatment since they are very cooperative with Federal Agents.

## THE ANTI-GUN LOBBY (OSTRICH APPROACH TO CRIME)

It is pure illusion that the anti-gun lobby has popular support in Mass. They are well funded, but lack numbers and legislative clout. Their media contact is excellent because they are so radical, and individuals like Sheriff Buckley and Commissioner DiGrazia have made much political hay from gun control. According to latest F.B.I. reports, Boston has become the crime capital of America based on 1 crime per 35 people involving murder, rape, robbery, assault, burglary, larceny, and auto theft; it is very easy to see why guns are an escape goat for a police commissioner whose programs have fallen flat. The people of America should not be led to believe that the police in Mass. support DiGrazia and Buckley's stand. In reality, G.O.A.L.'s legislative program has the written endorsements of the Boston Police Patrolmen's Association, the Central Mass. Police Association, the Mass. Police Chiefs Association, the Mass. Auxiliary Police Association, the State Policemen's Association and the Southern Mass. Police Association.

We have never reflected on the masculinity of Sheriff Buckley, although he continues to attack sportsmen and gun owners viciously by calling a gun a "phallic symbol"—something which reinforces a primitive machismo of gun owners. Please come to Mass. gentlemen and inspect the Billerica House of Correction which a local resident has called Buckley's Campus because of the open furlough programs. The so-called gun lobby has no radical spokesmen who advocate infringing on the rights of the disinterested law abiding citizen. We are a mass of independent people who refuse to allow government to become dictatorship; we support our local police, and will continue to do all possible to incarcerate criminals while protecting the rights of victims. Can the anti-gun lobbyist honestly advocate the same principles? The half-truths and lies of the anti-gun lobby continue, but the general public is becoming aware of the pros and cons of the handgun issue. We have not taken an ostrich approach to crime—we confront the reality by demanding legislative changes now in our courts, police programs and prison systems.

## PROPOSALS TO COMBAT GUN-RELATED CRIME

On page A and B of this presentation 3 newspaper clippings tell the story of crime futility. One of 21 who are arrested for serious crime in Boston, and 1 of 14 of those convicted went to jail. 95% arrested and 93% convicted are free to commit crime. In America, a juvenile burglar has a 659 to 1 chance to go to jail. Anthony Travisono, Director of the Rhode Island Dept. of Correction said, "offenders seem to be going up all over the U.S. and from 72 to 75 percent of those once inside, come back". Finally, Chief Justice Tauro cited a letter by Commissioner DiGrazia which said, "Clogged courts . . . will continue to have a major impact on the crime rate . . . the importance of speedy disposition of criminal cases acts as a deterrent to criminal behavior." I agree that crime is rampant and I would support this position at hearings relating to the criminal justice system. However, public relations and gun confiscation will not lessen or cure Boston's crime problem, and the Commissioner should know this.

The following are approaches to the gun-related crime problems:

1. Impose mandatory sentences for all violent crimes, especially those felonies committed while using firearms, and study the Supreme Court cases relating to suppression of evidence in order to reform the excessive rights afforded criminals.
2. Provide incentives thru L.E.A.A. programs to improve state criminal courts for speedier trials.
3. Reduce suspended sentences at the Federal levels providing a deterrent to criminal activity, and encourage state courts to cooperate.
4. Establish a prison study commission empowered to write legislation relating to violent criminals, and their release back into society.
5. Support legislation relating to an individual's right to self-defense in his home, clarifying that a trespasser invades a dwelling at his own risk and the dweller has no duty to retreat from his home and may use deadly force when reasonable.
6. Encourage crime prevention thru increased productivity of police. Pay incentive plans for police in areas where crime is reduced are desirable, and necessary. Increase foot patrols. Federally this may be fostered by revamping L.E.A.A., eliminate costly administrators and provide funds directly to high-crime cities in the form of patrolman pay increases.

In conclusion, it is obvious to me that more restrictive gun control measures will not change the trends of an escalating crime rate, nor will rhetoric by self-serving political interests improve the situation. We must continue to work together in order to solve the problem of crime and not fall into the trap of the unwary by seeking simple solutions by banning non-reasoning instrumentalities such as handguns.

Those of you who are insulated by a district where banning handguns is popular can not really understand the issue of the right to bear arms, but many of your committee including urban congressmen will hear from us, not as a gun lobby, but as individuals who want you to do the right thing. I ask each one of you to remember the good people of your districts who need protection and have always followed the law. And I remind you we will continue our vigilance to guarantee you will not forget our rights.

I am hopeful that each one of you will read carefully the Gun Owners' Action League's newspaper on gun control, the pamphlet entitled "Gun Laws Don't Reduce Crime" as well as my written presentation.

I thank the committee for its attention through this long and arduous day.

---

[From the Boston Herald American, July 10, 1975]

#### VIEWPOINT—DOES CRIME PAY?

One of the few things that has been accelerating faster than taxes, inflation or unemployment in recent years is the crime rate. In the past decade, the number of serious crimes committed in the U.S. more than doubled, and last year it rose by an alarming 17 percent.

As the crisis has escalated, an increasing number of people have begun to ask whether our criminal-justice system is really working. That's a perfectly legitimate question, but unfortunately all too many of the so-called experts have tried to answer it by suggesting that the flaw in the system is the traditional assumption that punishment is an effective deterrent to crime.

That answer might make some sense if it were not for the fact that our criminal-justice system today is meting out very little punishment. Indeed, in the vast majority of cases it exacts no price at all for crime.

If you don't believe that, take a look at some figures.

In a recent eight-month period, the Boston Police Department's Anti-Crime Unit made 656 arrests for muggings and other serious crimes. Out of that total, 159 didn't show up in court and the cases of 54 others were dismissed.

The remaining 443 persons—two thirds of those who were arrested—were tried and convicted. But only 81 of them drew jail sentences; the other 362 were placed on probation or received suspended sentences. And of the 81 who were sentenced to jail, 50 were freed on appeal, leaving a grand total of 31 who actually served any time.

That means that only one out of 21 of those who were arrested and one out of 14 of those who were convicted actually went to jail for their crimes. The remainder—95 percent of those arrested and 93 percent of those convicted—are out in the street, free to commit another crime.

These statistics, by the way, are not at all untypical. In fact, the odds in favor of criminals beating the rap seem to be considerably greater elsewhere in the country.

In a recent report on crime in America, Time magazine cited the following, absolutely incredible figures:

"An adult burglar has only one chance in 412 of going to jail for a single job . . . For juveniles under 17, the figure is one in 659 burglaries, with a likelihood of only a nine-month term if the 659-to-1 shot comes in."

With odds like that, is it any wonder the crime rate has been soaring—especially among the young?

How can anyone argue that punishment is not a deterrent to crime when so few criminals are actually being punished?

We're not suggesting that everyone who is convicted of a crime, much less that all those who are arrested, belong in jail. But surely logic suggests that when only five to seven percent of serious crimes committed in Boston result in punishment, something is wrong with the system.

And if Time magazine is anywhere close to accurate in its report that the odds against going to jail are as high as 659-to-1 for burglars, is it any wonder

that some have concluded that the system is a joke, that the risk of punishment is virtually nil, that crime does indeed pay?

[From the Boston Herald American, June 5, 1975]

#### ANTI-CRIME BATTLE SEEN GETTING NOWHERE

The more money spent to fight crime in the United States—the more it increases—and by the year 2000 half the population may be watching the other half. Anthony Trivisono, executive director of the American Correctional Ass'n said yesterday.

Trivisono, who also is director of Rhode Island's Dept. of Correction, made the comment during a criminal justice seminar sponsored by the Massachusetts Correctional Ass'n and the Massachusetts Council on Crime and Correction at the Boston Bar Ass'n.

He said the liberal approach to crime and corrections of 1971 and 1972 has ended in a backlash.

"With all the increased knowledge we have and all the money spent in the past four or five years on law enforcement and corrections, it seems that in late 1974 and in '75 we're in a real plight," he said.

Trivisono said the intake in prisons in every state is climbing to the highest rates and the entire country is facing a crisis in bed space.

He said offenders seem to be going up all over the U.S. and from 72 to 75 percent of the people, once inside, come back.

"In 1975 \$14½ billion will be spent to fight crime and it basically is on the increase in every state. It doesn't seem to be doing the job. I don't have the answer. The more money we spend, the more crime we have," he said.

Trivisono said some people blame the jump in crime on increased unemployment, but in Texas it is going up as fast as the rest of the country, and unemployment is less than five percent.

He pointed out the unemployment rate in Kansas is only six percent and its crime rate also is going up.

"We'd like to think we could have a culture without prisons, but we don't know enough about people. We can't say why the increase is taking place," he said.

[From the Boston Globe, June 14, 1975]

#### RISE IN CRIME LINKED TO BACKLOG IN COURTS

(By Joseph M. Harvey)

The major cause of increasing street crime is the inability of the Massachusetts Superior Court to deal effectively and promptly with criminal cases, according to the chief justice of the state Supreme Judicial Court.

The remark, by Chief Justice G. Joseph Tauro, is contained in his annual address of the Massachusetts Bar Association which he is to deliver today at that group's convention at Wentworth-By-The-Sea in Portsmouth, N.H.

In the text of his address, Tauro cites a tenfold increase in untried criminal cases before the court over the past several years and warns that there will be "not only loss of public confidence in the legal system, but also additional and needless crime in the streets" unless the Superior Court is given more judges and improved working facilities.

The chief justice says he is "utterly frustrated by the prolonged neglect of the basic needs of the Superior Court. Until the Superior Court receives an adequate number of judges, it is self-deluding to expect any substantial improvement in this shocking situation."

The 46 judges of the Superior Court, the state's principal trial court, now spend three times as many days on criminal cases as in 1958. The disposition of criminal cases has risen from 13,338 that year to 34,038 in 1974, yet the backlog of untried cases for 1974 has increased 10 times over the 1958 total.

The chief justice cites a recent letter sent him by Boston Police Comr. Robert J. diGrazia which said that "logged courts and the resulting delays in criminal trials have had and will continue to have a major impact on the

crime rate." In his letter, diGarzia emphasized the "importance of speedy disposition of criminal cases as a deterrent to criminal behavior."

Surveys of Superior Court criminal sessions disclose that on many days criminal cases awaiting trials "are stacked up in a holding pattern like airplanes circling an airport."

The chief justice says that special summer sessions are scheduled at Boston and other counties in an effort to reduce the criminal cases backlog. Other judges will give up part of their vacations to try and catch up on trials of civil cases which have been long delayed due to the buildup of criminal cases.

"There is a very finite limit to the amount of internal self-improvement which can be accomplished by 46 over-worked judges attempting to conduct civil, criminal, and juvenile sessions in 22 locations scattered about 14 counties."

Cooperation is needed from the Governor and Legislature to make sufficient judges and funds available for needed improvements in the court system. The entire cost of operating the courts, Tauro says, is less than one percent of the state budget and far less than the cost of operating the University of Massachusetts.

The chief justice also urges the establishment of a court finance committee to work out unitary budgeting of court costs. He recommends that the state take over payment of all court expenses. Under the present apportionment method among the several counties with the state paying only a share of the court operations, "Boston ends up paying more in support of our state judicial system" than the state.

In the text of his address, the chief justice also recommends expanded programs in law schools to produce more skilled trial lawyers. He proposes that practicing lawyers help reduce the case loads in the state Appeals Court and Supreme Court by recognizing their responsibility "not to take meaningless and frivolous appeals."

He also recommends a study to accomplish unification of the operation and administration of the state courts system.

---

## GUN LAWS DON'T REDUCE CRIME

(By Neal Knox)

Much has been said in recent years about "the need for gun laws to reduce crime." But those who have been saying it have yet to cite a city or state which has reduced crime by the passage of a gun law—and some 20,000 gun laws, of all degrees of restriction, are in existence in this country. It would seem that the proponents would study these various laws, or those which have been enacted in the past decade, determine which have resulted in a decrease in the crime rates, and push for enactment of a federal law of the same type. But they do not, for they cannot find a law that works.<sup>1</sup>

Lacking evidence that gun laws reduce crime, they present statistics which make it appear that the laws reduce crime. For instance a recent *Reader's Digest* article, advocating "gun control," gave only two examples of "successful" gun laws—in Philadelphia and Toledo.<sup>2</sup> It noted that "almost 200" convicted felons, addicts and mental incompetents had been denied a gun license in the

<sup>1</sup> Several studies have purported to show that restrictive gun laws can reduce crime, but none have stood the test of time. For instance, Martin Geisel, et al., in a statistical study based on 1960 to 1965 crime statistics and published in the *Duke Law Journal* estimated that a firearms owner license law such as enacted in 1960 by New Jersey would "save between 21 and 32 lives per million population per year." In fact, the New Jersey murder rate rose from 3.5 per 100,000 in 1966 to 7.4 in 1973, almost identical to the rise (3.2 to 6.3) in neighboring Pennsylvania, which does not have such a law. The Violence Commission staff found that areas with larger percentages of firearms ownership had a larger percentage of violence committed with firearms, but not necessarily more total violence. However, Prof. Franklin Zimring of the University of Chicago, one of the co-authors of the Violence Commission study, questioned the validity of his earlier findings in a study "Firearms and the Federal Law: The Gun Control Act of 1968" published in January 1975. He wrote: "The sharp rise in the proportion of violence attributable to handguns in northeastern cities (in the past ten years) may lead to modification of the hypothesis that general patterns of handgun ownership determine the extent to which handguns are used in violent episodes." After commenting that general ownership of firearms may have increased in those areas, he stated "It is more likely that handgun ownership increased substantially among subcultural groups disproportionately associated with violence. . . ." Though Prof. Zimring remains much in favor of extremely restrictive gun laws, he seems to be saying the same thing that we have said: Criminals disobey gun laws. His findings are essentially the same as ours; we differ as to the solution.

<sup>2</sup> "Safer With A Gun?" by Stephen Oberbeck, *Reader's Digest*, Feb. 1975, condensed from *Good Housekeeping*.

first year of the Philadelphia law. But in 1964, the year before Philadelphia's law went into effect, the city's murder rate was 5.4 per 100,000 residents; by 1973 the rate had climbed to 11.5 according to the FBI Crime Reports. Similarly, in those years Philadelphia's robbery rate rose from 75.2 to 232.6 per 100,000 residents. In both categories, the Philadelphia crime rise exceeded the U.S. increase, though the remainder of the nation didn't have such an "effective" law.

Toledo's law was enacted in 1968 and, *Reader's Digest* said, "by 1970 its yearly handgun murder rate had dropped 22 percentage points." That's deceptive, for murder rates are calculated on the number of murders per 100,000 residents, not in percentages. Presumably the writer meant that a smaller percentage of all murders was committed with handguns; but if the percentage of murders with handguns went down, the number of murders with handguns did not: In 1968 there were 28 murders in Toledo; in 1970 there were 36; and in 1973, the latest year for which statistics are available, there were 62 murders.<sup>3</sup> How can anyone look at such an increase and claim that the Toledo law has been successful?

*Reader's Digest*, which claims to have "some 20 editorial researchers who check, doublecheck and then check again every comma, word and fact in every issue," stated that there are "20,000 fatal gun accidents" per year. The correct figure is about 2,600, according to the National Safety Council.

The *Reader's Digest* article also stated: "A gun kept by a civilian for protection is six times more likely to kill a family member or friend than an intruder or attacker." That's probably true, for how often is it necessary to *kill* an intruder? By comparing the rarity of actually *killing* an intruder to the number of intra-family murders and home accidents, it's simple to come up with yet another misleading statistic.

A far more significant study is the reduced number of robberies which occur in areas where criminals are aware that the proposed victim is likely to have the means of defending himself. After police trained some 6,000 Orlando, Fla., women in self-defense with firearms, the rape rate was cut in half. Further, there was a decline in both robberies and burglaries—the types of offenses most affected by an armed citizenry. That year Orlando was the only major city to show an overall crime decrease.<sup>4</sup> Store holdups in Highland Park, Mich., dropped from 1.5 per day to no robberies for four months after police began a well-publicized firearms training class for merchants.<sup>5</sup> In neither city did those trained citizens kill an attacker or, so far as is known, even display their guns in warding off a robbery or assault.

In 1973, 20 percent of all the murders in the nation occurred in just four cities: Chicago, Detroit, New York City and Washington, D.C.,<sup>6</sup> all of which have extremely restrictive gun registration and licensing laws. But the advocates of such laws contend the laws don't work in those cities because: (1) the laws aren't strong enough and (2) "weak" laws in surrounding areas make the strong laws easy to circumvent.

But no law could be "stronger" than New York City's, where virtual handgun prohibition exists—in April 1971 there were only 564 handguns licensed to persons not involved in law enforcement.<sup>7</sup> Yet despite the most restrictive law in the nation, in 1973 there were almost twice as many murders *with handguns* and more than four times as many robberies *with handguns* as in the remainder of the nation on a per capita basis.<sup>8</sup>

<sup>3</sup> Source: FBI Uniform Crime Reports. The Toledo murder rate in 1968 was 4.1 per 100,000; in 1970, 5.2; in 1973, 8.0. Though there may have been a temporary decline in the percentage of murders committed with firearms, we doubt that it was permanent. No such figures are available from the FBI.

<sup>4</sup> Source: FBI Reports, 1966, 1967. The training classes were held from September 1966 to May 1967. In the first quarter of 1967 there were three forcible rapes, compared to 33 in the same period in 1966; for the year the rate dropped from 17.1 to 8.1.

<sup>5</sup> Source: Telephone conversation between the writer and Highland Park Police Chief William Stephens, September 1967.

<sup>6</sup> Source: FBI Reports, 1973. Chicago, 1,003 murders; Detroit, 861; New York City, 1,741; Washington, D.C. 399; Total 4,004, or 20.5% of the 19,509 murders in the U.S. All four cities require handgun purchase permits and registration; New York City requires licensing of individual guns.

<sup>7</sup> Letter to the writer, dated April 16, 1971, from Wilfred N. Horne, Deputy Commissioner, Press Relations, New York City Police Department: "At the present time we have 24,354 pistol licenses in force, of which 564 are issued to persons who do not require them as a condition of employment."

<sup>8</sup> Source: Report of the New York State Commission of Investigation Concerning the Availability, Illegal Possession and Use of Handguns in New York State (1974). It states there were "20,422 handgun robberies" and 795 homicides with handguns in New York City in 1973. This is a handgun robbery rate of 258.7 per 100,000 residents; a handgun murder rate of 8.0 per 100,000. Though no exact figures are available for the U.S., surveys indicate that the handgun robbery rate excluding New York City is, at most, 61.7 per 100,000. The FBI Reports state that there were about 10,340 handgun murders in the U.S. in 1973, so the national handgun murder rate outside New York City is about 4.8 per 100,000.

During the recent House hearings on firearms laws, the high crime rates in both New York City and Detroit were blamed on Ohio and other states with minimal gun laws. But Ohio has far lower robbery and murder rates than either of the complaining states.<sup>9</sup> If the assumption were correct that gun availability causes or contributes to crime, such crimes should be highest where guns are most available, but studies have shown that "there is no statistically significant difference in crime rates between states that have firearm licensing laws and those that do not".<sup>10</sup>

Undaunted by the failure of gun laws to reduce crime in the U.S., the gun prohibitionists point to the restrictive gun laws and low crime rates of Japan and other selected foreign nations—totally disregarding the immense cultural differences that exist between nations. Handgun murders are extremely rare in Japan, where handguns are banned; however murders with any weapon are rare in Japan. *Yet, Japanese in Tokyo commit more than twice as many murders as Japanese-Americans in the U.S.*<sup>11</sup>

Japanese-Americans are arrested for murder in the U.S. less often than any other ethnic group identified by the FBI Crime Reports, on a per capita basis. In 1973, the murder arrest rate for Japanese-Americans was 0.7 per 100,000 population; for Chinese-Americans the rate was 5.7; for American Indians, 21.0; for Blacks, 46.6; for Whites and "All others," the rate was 4.2. The figures are quite consistent from year to year.<sup>12</sup>

At one time the "gun-controllers" contended that the intended purpose of gun laws was to "keep guns out of the hands of criminals." But since the U.S. Supreme Court held in 1968 that criminals cannot be forced to register illegally possessed guns, due to the Fifth Amendment protection against forced self-incrimination,<sup>13</sup> many have admitted that their aim is to reduce guns in the hands of the general public "because most murders are committed by normally law-abiding citizens during a moment of anger."

That allegation is demonstrably untrue. The head of the Michigan State Police, Col. John R. Plants, has stated that less than one one-hundredths of one percent of the guns used in Michigan crime have been registered as required by Michigan law.<sup>14</sup> Of the 185 handgun murders in Washington, D.C., in 1973 the guns used were recovered in only 84 cases; only 16 had been registered.<sup>15</sup> According to the

<sup>9</sup> The witnesses contended that Ohio and South Carolina were principal sources of guns smuggled (in violation of the 1968 Gun Control Act and other laws) into New York and Michigan. The following table shows the robbery and murder rates for each area, according to the 1973 FBI Reports:

	Murder	Robbery
Ohio.....	7.3	143.5
South Carolina.....	14.4	79.2
Michigan.....	12.1	282.7
Detroit.....	19.3	470.3
New York.....	11.1	439.6
New York City.....	17.5	747.0

<sup>10</sup> Source: "The Relationship Between Firearms Licensing Laws and Crime Rates," Alan S. Krug, Regional Analysis Center, Pennsylvania State University. Reprinted in the Congressional Record, July 25, 1967. The study was a statistical updating of a 1960 study, "The Regulation of Firearms By The States," prepared by the Wisconsin Legislative Reference Library. The Wisconsin study found: "From the foregoing statistics it would be difficult to determine the effect that either licensing or non-licensing of firearms has on the extent of crime in a state, particularly the murder rate."

<sup>11</sup> Handguns are prohibited in Japan to all except the military, police, ballistics researchers and active target shooters (substantially the same as in New York City, see Note 7). According to an article in the Oct. 2, 1971, New York Times, "Crime in Tokyo a Minor Problem" by Richard Halloran, there were 213 murders, only three with handguns, in Tokyo in 1970 for a murder rate of 1.9 per 100,000. The U.S. murder arrest rate for Japanese-Americans in 1973, and the five-year average for 1969-73, as 0.7 per 100,000 (see Note 10); since the FBI reports an average of 83.4% of murders cleared by arrest during that period, the average annual rate for murders committed by Japanese-American in 1969-73 was about 0.8 per 100,000, or less than one-half the 1970 rate in Tokyo.

<sup>12</sup> The FBI Crime Report does not publish the murder arrest rate, but it does publish the number of persons arrested for murder in six ethnic groups. The number of persons arrested in each listed group (extended from the population of reporting areas to the U.S. population) was compared to the 1970 census of each group, providing an accurate murder arrest rate for each. For purposes of calculation the number of arrested persons in the "All Other" category was added to "White"; census totals for the listed groups were subtracted from the U.S. total population to determine the population base for "White" and "All Other." The murder arrest rates for 1972 are quite similar to 1973: Japanese, .9; Chinese, 4.3; Indian, 18.7; Negro, 49.8; White and All Other, 4.0.

<sup>13</sup> *U.S. v. Haynes*, 1968. The Supreme Court held that fear of self-incrimination was a proper defense for failure to register a sawed-off shotgun, since registration under the National Firearms Act of 1935 would amount to admitting violation of provisions of

New York City Police Department, "No homicides were committed by persons using legally licensed firearms (in 1970)".<sup>16</sup>

Since the overwhelming majority of murders in Detroit, D.C. and New York City are committed with illegal guns, it's apparent that the murderers paid no more attention to "Thou shalt not have an unlicensed/unregistered gun" than they did to the far stronger injunction "Thou shalt not kill."

Although the proponents contend that restrictive or prohibitive laws will not adversely affect law-abiding citizens, such claims are entirely false. Completely disregarding the cost to gun owners of license fees, time lost from work, photographs, physicians' statements and other requirements of proposed licensing and registration programs, the cost to the general public would be horrendous. Direct costs to the City of New York for investigating and processing a pistol license application were estimated at \$72.87 in a study prepared for the Violence Commission in 1968.<sup>17</sup> In mid-1970's dollars that's more than \$100 per gun, and since there are an estimated 40 to 50 million gun owners, the total cost would be \$4 billion to \$5 billion—not including the cost of setting up and operating a computer system second only to the Social Security system. The indirect cost includes the loss of services of countless police officers who would be forced to spend their time investigating law-abiding gun license applicants rather than criminals.

By comparison, prohibition is cheaper. At an average fair market value of \$50, which seems conservative, the government could purchase the estimated 40 million hand guns in the country for "only" \$2 billion—not counting the cost of the purchasing staff and destruction system. To pay less than fair market value would be an unconstitutional seizure of property without just compensation.

But the highest price the nation would pay would be the immediate conversion of countless normally law-abiding citizens into law-violators who by oversight or intent refused to turn in their handguns, creating a multitude of scofflaws unequalled since the prohibition of alcohol.

Considering the awesome cost of such so-called gun control, the taxpaying citizen must demand irrefutable evidence that the proposed laws will have the desired effect of reducing crime. The proponents have produced no such evidence.

[From the Outdoor Message, July 1975]

#### SOME HARD FACTS ON "GUN CONTROL"

(By Prescott D. Crout)

The term "gun control" has no precise meaning. No one wants to see a loaded pistol in the hands of a small child; hence everyone is in favor of some kind of gun control. But to the anti-gun forces "gun control", at present, means "banning handguns." This fact must be kept in mind.

#### FIREARMS USED MAINLY FOR DEFENSE

Proficiency in the use of firearms is necessary for defense, both national and personal; and this proficiency is developed through the sport of target shooting. Attainment of such proficiency increases the chance that a man will survive in war, and reduces the chance that a person will become the victim of crime or accident in peace times. The principal use of handguns is for the protection of life and property, in particular the protection of home and family.

(Continued)

the law which make it illegal to either make or obtain such a weapon. As a result of this decision, the law as amended to provide that information obtained as a result of a registration application could not be used for prosecution. The decision resulted in an even more peculiar feature in the Chicago firearms registration law, which was enacted a day after the decision was published. Under the Chicago law, convicted felons, narcotics addicts, persons with mental disturbances and other categories prohibited by Illinois law from possessing firearms are "ineligible" to register guns. As a result, law-abiding citizens may be prosecuted for possessing an unregistered gun, but a convicted felon may not be.

<sup>14</sup> Source: "Handgun Ban Hit As Murder Cure," Thomas L. Washington, Detroit News June 20, 1974. (Page 7-B)

<sup>15</sup> Source: "Gun Control Bill Sent to D.C. Council," LaBarbara Bowman, Washington Post, Feb. 12, 1975. (Page A-32)

<sup>16</sup> Source: Letter from Horne, NYPD. See Note 7.

<sup>17</sup> Source: "A Preliminary Cost Analysis of Firearms Control Programs," prepared for National Commission on the Causes and Prevention of Violence Research Associates, Incorporated (D.C.). The report concludes: "Some of the programs discussed were quite high in cost. The question as to what public benefit would result from them remains, to a large degree, unanswered. Before such programs are adopted, realistic objectives should be clearly defined and unbiased analysis performed to determine their effectiveness and costs in accomplishing these objectives."

Using the crime rate for burglary in Massachusetts in 1973, and assuming that people live three to a house, it can easily be shown that over a period of thirty years there is a 71% chance that a person's home will be invaded at least once. Hence the question as to what one should do if an intruder enters his home is not irrelevant. Since it is then too late to call the police, the ultimate defense of a person's home fails to him.

#### HANDGUNS PROVIDE GOOD PROTECTION

It is often stated that if a person's home is invaded by a criminal, he should not resist. The eight nurses who were murdered by the criminal intruder Richard Speck in their Chicago apartment in 1966 would not now, if alive, consider this to be good advice. It is unfortunate that they did not have a handgun. A happier outcome occurred in the case of Mrs. Constance Howard of Bolton, Massachusetts, who, with her husband, was attacked in their home by three armed robbers in 1974. After she had been beaten and thrown in a closet, and her husband had been beaten, tied up, and was being further beaten by all three men, she took a handgun that was in the closet and shot and killed one of the invaders, whereupon the other two fled.

It has also been stated that if a man resists an intruder, and a shoot-out occurs, the man, not the intruder, would be shot. This is simply not true. In every issue of "The American Rifleman," the monthly publication of the National Rifle Association, there is a page entitled "The Armed Citizen," on which are detailed several cases in which the criminal was defeated. In any case, if he does not resist, he places his family at the mercy of the burglar, rapist, kidnaper, or murderer.

It has been said that a handgun does not provide good home protection, since for every robber stopped by a homeowner with a handgun, four homeowners are killed in handgun accidents. This statement is both false and misleading because it confuses two entirely different things: protection against intruders, and the danger of accidents. A handgun does provide good protection against intruders. Also, it should be borne in mind that in many cases a handgun achieves its purpose without a shot being fired. With a handgun, a homeowner is in control of any situation which arises; without one he is not.

#### FIREARMS ACCIDENTS CAN BE ELIMINATED

There were 2700 accidental deaths due to firearms in the United States in 1973, or 1.3 per 100,000 population. The death rates due to other types of accidents for 1973 are as follows:<sup>1</sup>

	<i>Deaths per 100,000</i>
Motor vehicle accidents.....	26.6
Falls .....	8.1
Drowning .....	4.1
Fires, burns, etc.....	3.0
Poisoning (solid/liquids).....	1.8
Suffocation from ingested object.....	1.2
Poisoning (gns/vapors).....	.7
All others.....	8.9

It is thus evident that firearms are but a minor cause of accidents. It should also be noted that only a fraction of firearm accidents are with handguns.

In 1973 the suicide rate was 11.6 per 100,000 population.<sup>2</sup> Since this is nine times the death rate due to firearm accidents, it follows that a small fraction of suicides masked as firearm accidents (because of insurance considerations, or to avoid the stigma of suicide) could greatly affect the apparent death rate due to firearm accidents.

Accidents involving guns are greatly reduced by proper training in the use of firearms—not by their prohibition. The National Rifle Association has played a major role in providing such training. In all of the shooting activities of the NRA since its beginning in 1871, there has not been a single fatality, and not a single accident!

#### HANDGUNS AND SUICIDE

It has been said that since half of the suicides are committed using handguns, the suicide rate would be considerably lower if handguns were banned. This statement is not true, as is evidenced by the following facts.

<sup>1</sup> "Accident Facts"—1974 ed.—National Safety Council.

<sup>2</sup> "World Almanac"—1975 ed., p. 954.

The suicide rate has varied little during the last 23 years, being 11.4 per 100,000 population in 1950, and 11.6 in 1970 and 1973; and hence does not reflect the increase in the number of guns in circulation since 1950.<sup>3</sup>

The suicide rate in New York State, with its strict Sullivan law which, in effect, bans handguns, is 90% of that of Massachusetts. This figure pertains to 1969, the most recent year for which data are available, and a year in which Massachusetts' gun laws were not as strict as they are now.<sup>4</sup>

In countries such as France, Sweden, and particularly Japan, where the gun laws are much more strict than they are in the United States, the suicide rates are considerably higher than they are here.<sup>5</sup>

Whether a person does or does not commit suicide depends upon the depth of his depression, and not upon the availability of any particular means of self-destruction. In the Summary at the end of the chapter entitled, "Firearms and Suicide" in the book *Firearms and Violence in American Life*, by George D. Newton and Franklin E. Zimring, it is stated that "there is little reason to expect that reducing the availability of firearms would cause a significant reduction in suicides."

In addition, a randomly selected sample of six physicians on the staff of the Pennsylvania State University were interviewed on the question of the role of firearms in suicide. All six said that they believed that there was no causal relationship between firearms and suicide. Also, Dr. Albert Ingram, Director of the University Health Service, psychiatrist, and Professor of Clinical Psychology said: "I can find no definitive studies of the possible relationship of the availability of guns and suicide. The only statements I can make would be based on personal experience and psychiatric training. A person intent on suicide, of course, does not need a gun to accomplish his purpose; and when someone feels that depressed he will suicide with whatever means he wishes, whether the means are readily available or not. In other words, in such deep depression an individual will go to any length to accomplish the suicide; often in spite of many obstacles will go to any length to obtain the means for his method of choice."

#### BANNING HANDGUNS WOULD NOT REDUCE HOMICIDE RATE

Another false statistic often advanced by the antigun lobby is that in 74% of all murders those involved are family, neighbors, or close acquaintances. The following data concerning the relationship between victim and attacker in homicide pertain to the United States in 1973: Spouse killing spouse 12.3%, Parent killing child 3.2%, Other family killings 7.7%, Romantic triangle and lovers' quarrels 7.5%, Other arguments 40.3%, Known felony type 21.6%, Suspected felony type 7.4%.<sup>6</sup>

From these data we see that 23.2% of the murders involve members of the same family. In a "romantic triangle" the attacker and the victim may be rivals, not friends.

While it is true that 53% of all murders are committed with handguns, it does not follow that banning handguns would reduce the murder rate. In Massachusetts all law-abiding citizens who own handguns are licensed—that is, they have been screened by the police and have, individually, either a Firearms Identification Card or a License to Carry Firearms. These are the only persons who would be affected by new laws banning handguns, since all other handgun owners are ignoring present laws. But it is not the licensed handgun owners who are committing murders—of the seventy murders committed with handguns in Boston in 1973, *not one was committed by a licensed gun owner!*<sup>7</sup> It is thus evident that taking handguns away from licensed gun owners, which is all that could be accomplished by passing laws banning handguns, would not lower the murder rate.

Various studies have been made which show that the act of murder occurs only because there is sufficient motivation or provocation, and is independent of the availability of any particular weapon. For example, in his book *Patterns in Criminal Homicide*, Professor Marvin E. Wolfgang writes: "It is probably safe to contend that many homicides occur only because there is sufficient motivation or

<sup>3</sup> "U.S. Fact Book"—1975 ed., p. 62.

<sup>4</sup> "Vital Statistics of the United States"—U.S. National Center for Health Statistics (annual).

<sup>5</sup> Ref. 3, p. 818.

<sup>6</sup> Pack II on Firearms Ownership, p. 57; National Shooting Sports Foundation, Inc.

<sup>7</sup> "Firearms Legislation, A Scientists' Perspective" by Alan S. Krug—from "Fact

7 "Uniform Crime Reports of the FBI"—1973; p. 10.

<sup>8</sup> Boston Police Department files.

provocation, and that the type of method used to kill is merely an accident of availability; that a gun is used because it is in the offender's possession at the time of incitement, but that if it were not present, he would use a knife to stab, or fists to beat his victim to death."

In 1960, the California Department of Justice, Bureau of Criminal Statistics, conducted a study of 640 homicides in that state for that year, and stated: "One of the clear conclusions of this research is that the mere availability of weapons lethal enough to produce a human mortality bears no major relationship to the frequency with which this act is completed. In the home, at work, at play, in almost any environmental setting a multitude of objects exist providing a means for inflicting illegal death."

Finally, an attempt was made using statistical methods to show that states which have high gun ownership rates also have high crime rates, including murder. The results were negative; in fact, *the reverse was indicated.*<sup>9</sup>

#### BANNING HANDGUNS WOULD NOT REDUCE CRIME

In regard to crime prevention one often hears the following statement: "The private possession of handguns is highly restricted in England—even the police are unarmed, and the crime rate is considerably lower than in the United States. It follows that the way to reduce crime here is to outlaw handguns." First, it should be noted that the London "Bobby" is chiefly a traffic officer, and that he is not armed. Police work, in its true sense, is centered in New Scotland Yard. Also, we note that the unarmed state of the English people did not prevent the kidnap attempt on Princess Anne, in which the assailant, armed with a handgun, wounded four persons. In England, despite the strict gun laws, handguns are and always have been readily available to criminals, and armed crime has increased tremendously in recent years.<sup>10</sup>

Switzerland has the highest per capita ownership of firearms of any country in the world, and no restrictive gun laws whatever. No permit is required to carry concealed weapons, and a man may have as many handguns as he likes: yet armed crime is so rare there that it is not separately recorded; and the homicide rate in Switzerland is only 54% of England's with its strict gun laws; and only 30% of Japan's, with its still stricter gun laws.<sup>11</sup>

The original statement concerning England is a good example of the misuse of the science of statistics. It is based on the *incorrect* assumption that causation follows correlation. Actually, the fact that correlation does not even infer causation is illustrated by the following example, which is taken from Hoel, "Introduction to Mathematical Statistics", page 121. Over the years there has been an extremely high correlation (a correlation coefficient of 90%) between teachers' salaries and liquor consumption in the United States; however, there is obviously no causal relationship between these two things. Alcoholism would not be reduced by cutting teachers' salaries, and teachers' salaries would not be increased by drinking more liquor.

It is true that the number of handguns owned by private citizens is higher here than in England. However, we also have more automobiles, more color TV's, higher personal incomes, higher steel production, and so on. In addition, there are the cultural differences between the two peoples, the difference in the effectiveness of the law enforcement agencies, and hence a difference in the certainty of speedy apprehension and punishment of criminals. The probability that a criminal who commits a violent crime will be caught and convicted is over four times as high in England as it is here.<sup>12</sup> There is no reason to suppose that the possession of handguns by law-abiding citizens increases the crime rate. On the contrary, it would reduce it, since a criminal might think twice before invading a home if he knows that he may be shot in the process!

In New York State, the notorious Sullivan law effectively prohibits the possession of handguns by private citizens. When this law was passed in 1911, the crime rate did not decline, but rose abruptly! During the following year the number of murders in New York State increased 18%, and the number of burglaries increased so rapidly that the insurance companies petitioned the Legislature to repeal the law.<sup>13</sup> That this law is completely ineffective as a means of combatting crime is

<sup>9</sup> "The Relationship Between Firearms Ownership and Crime Rates" by Alan S. Krug; see Ref. 6, p. 67.

<sup>10</sup> "Are Firearms Controls Effective?" by Colin Greenwood—"The Gun Digest"—1972 ed., p. 212.

<sup>11</sup> "Exploding the Foreign Gun Law Myth" by Willis Hobart—from "Guns and Ammo"—Aug. 1973, p. 30.

<sup>12</sup> "Annual Abstracts of Statistics—1973" (Great Britain), pp. 7, 81, 83.

<sup>13</sup> "Gun Control" by Robert J. Kukla (Stackpole Books—1973), p. 307.

indicated by the following facts.<sup>14</sup> Of the thirty most crime-ridden metropolitan areas in the United States, New York City ranks first in the rate for violent crime, and sixteenth in the rate for murder and non-negligent manslaughter. Boston does not appear on this list. New York City also has the second highest murder rate of the 17 largest cities in the United States. New York State stands first among all fifty states in the rate for violent crime, and fourteenth in the rate for murder. The rate for violent crime in New York State is 2.1 times that for Massachusetts, and the rate for murder in New York State is 2.5 times that for Massachusetts.

That the Sullivan law is completely ineffective as a means of keeping handguns out of the hands of criminals is indicated by a report issued by Mayor John Lindsay of New York City in December, 1973, in which he complains of the illegal importation of handguns into New York from other states.<sup>15</sup>

#### POLICE OPPOSED TO HANDGUN BAN

The overwhelming majority of police officers are opposed to banning handguns. This is evidenced by the fact that the major police organizations in Massachusetts have publicly endorsed the position of the Gun Owners' Action League (GOAL) in opposition to irrational anti-gun legislation, particularly the banning of handguns. These organizations include: The Massachusetts Chiefs of Police Association, The Central Massachusetts Police Association, The Massachusetts Auxiliary Police Association, The Boston Police Patrolman's Association, The State Policemen's Association of Massachusetts, and The Southern Massachusetts Police Association.

#### ANTI-GUN LAWS DO NOT DISARM CRIMINALS

The statement is often made that "handguns should be outlawed in order to take handguns out of the hands of criminals". At present Massachusetts has very strict gun laws. These laws require a person to have a Firearms Identification Card to possess a handgun in the home, or to purchase and carry a long gun; or to have a License to Carry Firearms in order to purchase and carry a handgun. Because of these laws, handguns are, in so far as criminals are concerned, already outlawed. Therefore, present laws accomplish all that can be achieved by legal means to prevent the possession of handguns by criminals. In addition, Massachusetts now has the Bartley-Fox law, which provides a mandatory sentence of one year for any person convicted of carrying any gun without the required permit, and the new Aymer law provides a mandatory sentence of two years for any person convicted of committing a felony using a handgun.

Since criminals are law breakers, there is no reason to believe that they would obey further proposed laws and turn in their handguns. Severe penalties can, however, be imposed upon criminals convicted of using firearms in the commission of a crime.

The anti-gun lobby admits that handguns cannot be legislated out of the hands of criminals yet they still claim that handguns should be outlawed because, even though this would not disarm criminals, it would begin to dry up the armament pool available to criminals, which is a step in the right direction. First it should be noted that 99% of the handguns in the country are used for entirely legitimate purposes, and that drying up a pool of 30,000,000 handguns would be quite a feat. Handguns will always be available to criminals in a black market, which could be supplied, if necessary, by foreign sources. The underworld already has distributing and marketing facilities, and could easily add a handgun procurement and manufacturing agency to their many capabilities. In fact, a handgun which is adequate for criminal purposes can be made by any third rate mechanic working a few hours in his basement.

Teenagers have made "zip" guns, and handguns have been made in state prisons by inmates. Finally, the thirteen Crime Factors listed by the FBI do not include the availability of firearms.<sup>16</sup>

#### CITIZENS HAVE A BASIC RIGHT TO DEFEND THEIR HOMES AND FAMILIES

It would be extremely unwise to place law-abiding citizens in the dilemma of having to decide whether to keep handguns for the defense of their homes and families, or to continue to be law-abiding citizens. Many men and women would

<sup>14</sup> Ref. 2, pp. 148, 966, 967; also ref. 7, p. 77.

<sup>15</sup> "The American Rifleman"—Feb. 1974—p. 18.

<sup>16</sup> Ref. 7, p. VIII.

give top priority to the safety of their families, would not turn in their handguns, and would hence technically become criminals, even though they have led exemplary lives. In their view, the Government, by increasing the risks which they must take in defending their families—the greater risk of injury without a handgun, or the risk of prosecution with one—has, in effect, allied itself with the criminals. These people want the Government to protect them from *criminals*—not from themselves and their families; and they feel that it has no right, and no valid reason to want to interfere in their private affairs.

#### A MAJOR CAUSE OF CRIME—OVERLOADED AND OVERLENIENT COURTS

It must be remembered that the law is just some printing in a law book. To a law-abiding citizen this is important, but to a criminal it is important only in so far as it affects him directly. To him, unenforced or unenforceable laws do not exist. The principal deterrent to a criminal is the *certainty* of swift apprehension and punishment. This is far more important than the use of extreme severity in punishment.

In regard to the certainty of punishment—the following data pertain to the United States in 1973.<sup>17</sup>

Per 100 offenses			
Persons charged	Persons guilty as charged	Persons guilty of lesser offenses	Juveniles referred to juvenile court
95.1	26.4	13.5	7.6
45.0	10.0	4.7	7.9
30.2	6.8	2.3	8.0
49.3	12.0	5.2	5.4
14.8	2.7	1.0	6.8
18.0	6.4	.6	5.9

It is thus obvious that criminals have a pretty good chance of getting away with their crimes. In the case of burglary, for example, in only 2.7% of the cases is an adult caught and convicted as charged, although another 1% is convicted of a lesser crime, and some of the 6.8% turned over to juvenile court are probably found guilty. Also, it must be borne in mind that not all persons convicted are imprisoned (58% in the case of burglary,<sup>18</sup> 74% in the case of homicide, 90% for robbery, 51% for assault, 44% for larceny, and 71% for sex offenses).

This does not present a very terrifying picture to a criminal—one that would make him feel certain of swift apprehension and punishment. Nor is his fear increased by the fact that in New York City the court dockets are so jammed that in only 10% of the cases in which felony indictments are returned by grand juries, are these cases ever brought to trial;<sup>19</sup> nor by the statement by Judge Paul A. Tamburello of the Superior Court in Suffolk County that "We are in a state of judicial paralysis".<sup>20</sup> It would certainly not be increased by the statement made on March 2, 1974, by Congressman John B. Conlan that "Our criminal-justice system, weakened by Liberal attitudes often favoring the rights of criminals over the rights of law-abiding victims of crime, is currently jailing only three criminals for every 100 major crimes committed throughout the United States. Criminals and potential criminals are very aware of that low batting average".<sup>21</sup>

On the other hand, his confidence would be increased by recent U.S. Supreme Court decisions which handicap the law enforcement agencies by increasing the difficulty of apprehending criminals, and decreasing the certainty of their punishment.<sup>22</sup> The above picture does, however, make law-abiding citizens feel apprehensive, and clearly indicates an area in which to concentrate if crime is to be really reduced. This is, of course, not the only area—a long range solution of the crime problem requires the treatment of all the psychological, sociological, and economic factors involved.

#### OPINION POLLS ARE OF LITTLE VALUE

In order to evaluate the results of the various polls purporting to show a high percentage of the populace in favor of tougher gun laws, it is necessary to keep

<sup>17</sup> Ref. 7, p. 118.

<sup>18</sup> Ref. 3, p. 162.

<sup>19</sup> "U.S. News and World Report"—Feb. 8, 1965.

<sup>20</sup> "Boston Herald American"—Dec. 20, 1974, p. 19.

<sup>21</sup> "Gun Control Means People Control" by Phoebe Courtney (Independent American) p. 134.

<sup>22</sup> Ref. 21, p. 132.

in mind that those results consist of data on the opinions of people who are to an overwhelming extent, either uninformed or deliberately misinformed. For example, the Gallup poll of 1964 was taken in January—just two months after President Kennedy had been assassinated, during which time the public was continually bombarded with anti-gun propaganda. In addition, there are questions of statistical significance, the nature of the population sample used, the wording of the questions, the influence of the pollster on the persons questioned, and so on. All in all, one would expect that the results of a poll would show whatever the pollsters wanted them to show.

#### REGISTRATION—PRELUDE TO CONFISCATION?

It has been claimed that registration of guns would assist in solving crimes by making it possible to trace the firearms used. Since criminals do not register their guns, and operate largely with firearms obtained from illegitimate sources— theft, rental, or purchase in the black market, this is not true.<sup>23</sup> Tracing a gun would only lead to its last legitimate owner.

Gun registration would prepare the way for gun confiscation by the internal or external enemies of this country. Any would-be dictator would want the people disarmed. When Hitler came into power in Nazi Germany he used the gun registration lists to confiscate the guns of his opponents.<sup>24</sup> After occupying Denmark he forced the Danish Government to use the gun registration lists to confiscate all guns. After occupying Czechoslovakia he used the gun registration lists, obtained by traitors, to confiscate all guns there. After the Cuban revolution Castro used the gun registration lists to confiscate all guns in Cuba.<sup>25</sup> One of the Communists' Three Cardinal Rules for Revolution was, "Cause the registration of all firearms on some pretext, with a view to confiscating them and leaving the population helpless".<sup>26</sup>

#### THE RIGHT TO KEEP AND BEAR ARMS

The Second Amendment to the U.S. Constitution means precisely what it says, namely that "a regulated militia being necessary to the security of a free State, the right of *the people* to keep and bear arms shall not be infringed." The word "militia", as used in colonial days, did not refer to a "National Guard", but to a loose knit paramilitary organization of the type exemplified by the Minute-men of Massachusetts in 1775. This organization did not have a roster, and consisted of citizens individually possessing and bearing arms, and proficient in their use. The idea of a large standing army was repugnant to the writers of the Constitution.<sup>27</sup>

#### HANDGUNS—THE GREAT EQUALIZER AND CRIME DETERRENT

Finally, it should be remembered that a few centuries ago there were no handguns, but there was plenty of crime. In order to survive, men had to devote a considerable amount of time to becoming and remaining proficient in the use of arms; and groups of physically strong men, wearing suits of mail and carrying swords, could terrorize a community at will. The handgun changed all that, and has played the role of a great equalizer and crime deterrent. With a handgun a woman is more than a match for any brute who wishes to attack her, as is evidenced by the fact that an epidemic of rape in Atlanta, Georgia, stopped abruptly when the Chief of Police provided a course for women in the use of handguns, issued women permits to carry handguns, and publicized this fact. The problem of rape was successfully solved in a similar manner in Orlando, Florida, and in Phoenix, Arizona. One cannot help but wonder whether the victims in other crimes would not have become victims if they had possessed handguns at the time they were attacked.

No person is obliged to possess a gun. However, everyone benefits from the deterrent effect of guns, since criminals do not know which homes possess them. Since a person has a basic right to defend his home and family, and hence the right possess the rational means for doing this, the decision as to whether a handgun should be kept in the home of any law-abiding citizen for protection should be the prerogative of those directly involved.

<sup>23</sup> Ref. 13, p. 387.

<sup>24</sup> "The Review of the News"—Oct. 4, 1967, p. 18.

<sup>25</sup> Ref. 13, p. 439.

<sup>26</sup> Ref. 13, p. 218.

<sup>27</sup> "Our Fundamental Right to Keep and Bear Arms" by William P. Fall (American Opinion).

## A PRESENTATION OF FACTS ON "GUN CONTROL"

(By J. Warren Cassidy)

One of the most highly charged and frequently debated issues of our time is that of gun control or, properly translated, gun confiscation. As chairman of the Speaker's Bureau of the Gun Owners Action League (GOAL), I am charged with the responsibility of making public, wherever possible, the viewpoints of the hundreds of thousands of legitimate gun owners and sportsmen in Massachusetts whose opinions are almost never given the light of day by our major communications media. In this regard, myself and others have spoken throughout the State on this issue before service clubs, schools, civic and fraternal organizations, police associations, radio audiences and State legislature. During these presentations, time limitations have made it impossible to present the total picture which must be painted before the public can truly understand and sympathize with the gun owner's position. Therefore, I have taken pen in hand to present those comments which, to one degree or another, have proven effective.

I realize that there are many more points to be made but the following can serve as one basic outline.

\*In 1906, Richard Speck cold-bloodedly assaulted and executed 9 nurses in Chicago.

\*In the late 1960's Charles Manson murdered, among others, an expectant Hollywood actress.

\*Two years later, Juan Corona, a field supervisor, killed at least 27 migrant workers in California.

\*In 1973 a homosexual ring in Texas was responsible for the death of between 12 and 15 young men.

\*More recently, in January, 1975, 13 people were murdered in a locked vault in Montreal, and

\*Finally, on February 1, 1975, the Los Angeles Police Department discovered the 9th victim of a killer they have titled "The Skid Row Slasher".

What have all these terrible events in common? At least 3 things: 1) all the deaths were violent, 2) they were all crimes against the laws of God and man, and 3) none of the weapons used in the homicides were firearms. I use these examples to introduce what I believe to be one of the two most telling points the gun owner has in opposing those who would disarm us—that crime control and gun control have absolutely nothing in common.

A careful study of the records, as kept by the police departments and summarized by the Federal Bureau of Investigation, must lead one to the conclusion that gun laws, of whatever type, have failed not only to control or reduce violent crime but seem to assist in its increase. Some examples:

1. Between 1940 and 1970 the Boston murder rate increased 1300% while its population decreased by 25% and restrictive gun laws were multiplied. In 1940 there were 10 murders in the City and in 1973, 135 murders. In 1974 Boston's crime rate went up 25% while other cities in its population class increased about 11%.

2. Chicago—In 1965, prior to a city registration law and a strict state licensing law, Chicago saw 395 murders. After 8 years of stringent gun control, 1973 saw 864 murders.

3. Philadelphia—In 1963 and 1964 there were 157 murders each year in this city. In 1965 City Hall passed a gun licensing law so strict that the sale of guns within the city was reduced by 75% in 3 years. Yet, in 1970, total murders jumped to 442 and in 1973, 537.

4. New York City, shameful possessor of our nation's highest violent crime rate, also has our Country's strictest gun laws. The infamous Sullivan Act means almost a total ban on the private ownership of handguns. In 1960, in New York, the murder rate was 3.7 per 100,000 of population and by 1971, 13.6 murders per 100,000. In 1926, with 7,049 premises pistol permits there were 289 murders. Forty years later (1966), the permits had dropped to 282 and the murders increased to 654. By the end of 1973 there were 1,680 murders in what is laughingly called the "Big Apple". Of course, murder is not the only crime. Another interesting comparison in this home of oppressive gun laws are those figures relating to felonious assaults and robberies. In 1926 there were 2,276 felonious assaults and 1,173 robberies. By 1966 these figures were 23,598 assaults and 23,539 robberies; by 1973, 38,148 of the first and 72,750 of the second.

5. Baltimore—In 1974 Baltimore introduced the \$50 gun bounty charade called PASS (People Against Senseless Shooting). This ill-conceived giveaway resulted

in a 50% increase in murder and gun assaults during its short-lived career. In the 235 days before the beginning of the program there were 112 murders. In the first 60 days of the program there were 47 murders. Before the program began there were 11.1 daily gun assaults and during the program this increased to 25.1 daily.

6. England, which has had one form of handgun control or another since 1903, has shown a 450% increase in firearm crime since 1961 (1961—552 indictable offenses and in 1968—2,500). Additionally, for the first time in over 50 years, bobbies are being armed.

7. Finally, a general figure that says it all. Between 1968 (the year of the Gun Control Act) and 1973, crimes of violence (murder, rape, robbery and aggravated assault) have increased 47% throughout this Country.

A point that makes these figures even more disconcerting to the gun control people is the fact that in those earlier years guns were far easier to come by. Mail order houses did a booming business prior to 1968 and the uninhibited interstate purchases, combined with fewer State and Federal laws governing the ownership and possession of handguns, with more gun dealers to distribute the products made for far more uninhibited traffic.

Are there any definitive answers as to why violent crime has sky rocketed in the last decade? There are probably as many opinions as there are "experts" and I will not attempt to discuss this multi-faceted sociological point here. But, there are educated guesses as to the conditions which breed crime. Again, turning to the FBI Uniform Crime Reports, they list population density; community size; population composition with regard to age, sex, race, economic status, mores, stability of the population (including commuters and transients), climate, education, recreation and religious characteristics; police effectiveness; standards governing appointment to the police, court, and prosecuting official policies; public attitude towards law enforcement programs; and the administrative and investigative efficiency of the local law enforcement agency. There is not a word about gun laws.

In a case where gun laws could not possibly affect the conditions relating to crime, New York City again offers us a dramatic example of what the FBI is talking about. Two of the boroughs of New York, Queens and Manhattan, both have approximately 1,800,000 population each and both are subject to the identical Sullivan Law. The murder rate in Manhattan is nearly 5 times as great as in neighboring Queens. Obviously, gun laws have no meaning here.

In addition to the above conditions, most people engaged in a serious study of crime believe that criminals, violent or otherwise, are not punished and are allowed to ply their trade freely on the streets of our nation.

One of the great dangers of the anti-gun movement lies in its attempt to delude the public from the real causes of crime and to raise false hopes of reducing violence through elimination of a weapon.

A few quotations from various individuals might be helpful here. Former Massachusetts Corrections Commissioner, John Boone, one of the most liberal corrections men in the Country, stated over WEEI radio's *Bay State Forum*, "You create crime by invoking gun control. You put people into business. People can go into contraband guns." (Sounds like a prohibition problem of the Volstead era?) "You are talking about getting a man into prison for killing, not for what he kills with. In my city where I come from, a man would get angry and stick a man with a knife or hit him on the head with something."

In the *Herald-American* of October 22, 1974, the noted columnist and educator, Max Lerner, in commenting on those of us who believe that one answer to crime control is strict law enforcement, stated, "I go with them in the belief that the soft approach to crime has fizzled badly. The champions of the social environment theory as an explanation of crime are probably as wrong as they are wearisomely repetitive. I suspect there is considerable truth in the proposition that punishment as a deterrent does to some extent deter. The sociologists who have written it off contemptuously would do well to take another look at some of the recent findings."

Finally, Judge Thomas Newth, District Court of Southern Essex, stated in the *Daily Evening Item* of December 10, 1974, in chastising the Youth Service Division, "What the Division should be concerned about is helping the youngsters. That starts with punishment so that he is made aware of the fact that he has done something wrong. If you start with rehabilitation and forget the punishment you're not going to accomplish a great deal."

Again I must turn to statistics, boring as they may be, to reinforce the points made in these three quotations.

1. Between 1963 and 1972 there were 786 law officers murdered in the United States. Of the murderers arrested, 76% had prior arrests, 59% had prior convictions and 178 of the killers were on parole at the time they killed the law officer.

2. During one 3-month period in Washington, D.C., there were 361 arrests for illegally carrying a gun. Of these, 309 cases were either acquitted, suspended, placed on probation, fined, or not tried at all. Only 52 were inconvenienced by any form of sentence.

3. In Lynn, Massachusetts, during my term as Mayor (1970-1972), 80% of the felonies committed were by criminals on parole or probation.

4. The 1971 FBI reports show that for every 100 robberies committed there were only 27 arrests and 4 convictions.

5. Three weeks after Senator John Stennis, D-Mississippi, was shot and seriously wounded in front of his home in Washington, the attempted killer was picked up on probation while in the commission of another crime.

6. Again turning to the FBI—in a study encompassing the years 1965-69 involving 16,332 persons released from Federal prison, it was discovered that by 1969, 63% had been rearrested and, of those, 85% who were acquitted were rearrested before the end of 1969.

What does all this prove? In my opinion, the examples show that laws in themselves are meaningless unless enforced. An unenforced law simply causes more crime by breeding disrespect for the law in general. It is obvious to all of us who own and use guns that we obey all of the laws affecting our pastime. We realize that:

1. It has been illegal for 45 years in the Commonwealth of Massachusetts to carry a handgun without a permit.

2. Sawed-off shotguns are illegal to manufacture, to distribute, to sell, to buy, to own or to use.

3. We obey any and all laws pertaining to drugs, to driving, and hopefully, in most cases, to drinking. But, is the criminal, who is by definition a breaker of the law, deterred by any of these when his appearance before a judge results in either filing of the charges, a suspended sentence, probation, or a \$50 fine?

A criminal who will use a gun illegally will not stop to be finger printed, photographed, and investigated by the Department of Public Safety as must every law-abiding permit holder. As far as he is concerned there is already absolute gun control because it is illegal for him to own or possess a firearm.

With this in mind we must look in wonder at the discovery of guns in Walpole State Prison, the shooting of guards by inmates of the Norfolk County Jail in Dedham, and the murder of hostages in the State's Prison at Huntsville, Texas.

It must be obvious to any objective thinker that prison furloughs, prisoners' unions, and conjugal visits have not reduced violence one whit at Walpole. Remember the recent activity of 8 inmates who, while holding guards as hostages, said they would rather die than be dehumanized. Well, 5 of these inmates were convicted murderers who had pretty well dehumanized their victims.

By using other examples we can show that laws in themselves, unenforced and thereby scorned, do not solve the problems for which they were enacted. Have any of your automobile insurance premiums been reduced by the vaunted No-Fault Insurance law? The new Massachusetts Title law pertaining to automobiles has cost the public a good deal of money and aggravation and, yet, Massachusetts still leads the nation in car thefts. What has the 18-year-old drinking law done to reduce the condition of drunkenness among our youth? Laws pertaining to drugs are the most extensive on the books. These laws have, in effect, outlawed the existence of drugs, but in practice this terrible disease multiplies annually. Finally, the elimination of the State Training Schools most certainly has not helped in reducing juvenile crime; nor has the declassification of drunkenness, truancy, wayward children, stubborn children and runaways as crimes reduced the incidence of these activities.

Why then do so many people in public life attack these very subjects in the manner that they do? Probably because people vote and inanimate objects do not. The politicians will blame the drugs, not addicts; liquor, not alcoholics; cigarettes, not smokers; cars, not drivers; society, not criminals; and guns, not murderers. The *People vs Handguns* would like us to remember the rock, not Cain; the knife, not Brutus; the derringer, not John Wilkes Booth; and the rifle, not Lee Harvey Oswald.

Do we who enjoy the shooting sports violate society as does television violence and movie and newsstand pornography? Is the TV program, *The American Sportsman*, responsible in any way for the seeds of destruction that are shown among television viewers by the constant murder programs thrown at them? I cannot comprehend how groups such as the People vs. Handguns can help to force certain programs such as *The American Sportsman* off the air while doing nothing about the Kojaks, Columbos, and the bloody Westerns. Why don't these anti-gunners form committees called People vs. TV Violence or People vs. Pornography? It is ironic that the same anti-gunner groups and their newspaper and TV supporters do not hesitate to chastise decent law-abiding citizens who enjoy the shooting sports, while at the same time worshipping in the cult of those who support the likes of Patty Hearst, Angela Davis, George Jackson, Cinque DeFreeze, Nancy Ling Perry and Bernadine Dohrn. How can these leaders of the Soledad brothers, the Symbionese Liberation Army and the Weathermen be praised while the sportsman is condemned? Perhaps because in their fanatically liberal minds good and evil do not differ and should not be treated accordingly.

There are endless examples available to us to prove, beyond a shadow of doubt, that gun control has never reduced crime and that the type of weapon available has nothing to do with the state of the criminal mind. Even our opponents have all but conceded that their gun bills, such as House Bill 2340, will do nothing to reduce crime in the Commonwealth. They now seem to be zeroing in on the matter of gun accidents and suicides.

In the first instance, accidental deaths, relating to firearms are so minuscule as to place them near the bottom of the list of causes of accidental deaths. In 1973 there were reported 117,000 deaths due to accidents. Of these, 2,500 were killed by firearms; 3,700 by poisons; 3,900 by choking; 6,900 by fires; 7,500 drownings; 17,500 by falls; and 56,000 in motor vehicle accidents.

Relating to suicides, there were 24,400 total suicides in the United States in 1973. Of these, 12,000 were by guns. The suicide rate per 100,000 of population was 11.4 in 1950 and 11.6 in 1973. Apparently, in that 23-year period, the matter of gun control, the increasingly affluent society, and type of destructive device available had no effect whatsoever on the percentage of people who chose to take their own life. Sweden, France and Japan all have more restrictive gun laws than does the United States yet all have higher suicide rates. I do not believe any fair-minded person could imagine that anything but the state of mind led to the impulse for self-destruction.

We must pass on to the second important reason that we in the Gun Owners Action League and in the National Rifle Association are waging this battle with the anti-gunners lobby. That reason is, of course, the right to keep and bear arms.

The greatest danger inherent in the confiscation of the gun of the law-abiding citizen lies in taking away his natural right of self-defense. No government in a free society has this right. Protecting one's self and one's family is so basic a natural drive that it should be unquestioned. Further, the right of private property is basic in a free society and, most certainly, its protection by its owner is just as basic. Beyond these natural rights we have the Constitutional rights of the 2nd and 14th amendments as well as the Constitutional guarantee of 36 of our states. I am well aware that a discussion of the Bill of Rights, particularly the 2nd amendment, would be highly charged and could go on almost indefinitely. But, I am equally aware that our opponents ignore the legal rights that enforce our side of the gun argument and to set down the facts and the history of the Bill of Rights would be a course in itself. Suffice it to say that the anti-gunners will eventually force judicial confrontation and we must be ready for that moment.

Returning to the dangers of confiscation, we are all aware that no police organization can cope with the rising crime rate, particularly in light of present judicial permissiveness. Their response to your call cannot be quick enough to defend you against the attacker. In Lynn, for example, we usually have one officer on duty in the early morning hours for every 4,300 inhabitants. These same officers, by the way, are being harassed by our mutual opponents when they are forced to act in society's defense. Such a group as the Civil Liberties Union, while defending the criminal, is attempting to disarm the policeman. You are familiar with the outcry that arises whenever police ask for hollow point bullets, shot-guns and other means of equalizing their chance in battle with crime. It is sad but true that many political leaders and police commissioners would rather see the police officer murdered by the killer than the killer stopped by the policemen.

The reason, of course, is the outcry raised by the radical liberal element whenever a killer must be violently stopped. When the police officer dies, only his widow and fellow officers appear concerned. No more than a sympathetic editorial will reach the Mayor or police commissioner.

Again, to the matter of self-defense, remember that your attacker will most always be young, strong and more violent than you and he will not be deterred by any qualms of conscience or fear of the law. Karate and Judo will not work for the old, non-athletic individual. Self-protection is our own personal obligation and we must not be herded together like sheep under the so-called protection of a self-proclaimed shepherd. This approach has been tried by dictators from time immemorial and disarming the private citizen has always been the dictator's first step. Listen carefully when those who would confiscate our weapons shout that only the police and military should have guns. Tremble a little when the *Detroit Daily Press* says, "No private citizen has any reason or need at any time to possess a gun. We realize that the Constitution guarantees the right to bear arms but this should be changed." Wonder at Norval Morris of the University of Chicago when he states in his book, *The Honest Politicians' Guide to Crime Control*, "We seek a disarmed populace. We will ultimately have a police force not equipped with guns." And, closer to home, the *Boston Globe* stated, "The People vs Handguns petition, should it become law, would end the discussion of barrel length. There would be no debate about pistol clubs. Only police and the military would have legal access to handguns."

In order to end these comments on a positive note, I suggest that we look closely at the conclusions and recommendations of GOAL as they follow:

1. We conclude that present Massachusetts firearms laws are very effective or would be if they were properly enforced.

2. We strongly recommend an increase in penalties for criminal misuse of firearms and for carrying firearms without a license, and further recommend that the penalties be certain prosecution, mandatory sentencing and meaningful punishment.

3. We recommend that all organizations interested in the welfare and rights of the individual in our society make every effort to educate the public as to the true nature of our present laws so that proper enforcement of these laws will have popular support and thereby create an optimum balance between freedom and control in firearms use.

4. We conclude that sporting use of handguns has a wide and valid participation and further suggest the possibility of using the instruction and familiarization capabilities of the organized shooting clubs to provide suitable safety training for use of firearms.

5. We conclude that most law enforcement officers hold the view that we need better support in enforcing present laws from the courts and prosecution rather than additional restrictions on legitimate firearms or confiscation of these firearms.

6. We maintain that a ban or prohibition of handguns would not serve to reduce the crime rate in Massachusetts. Rather, such prohibition of legitimate handguns would result in a rise in violent crime just as an abrupt rise in crime followed the passage of the Sullivan Law (which prohibits handguns) in 1911 in New York State.

GUN OWNERS' ACTION LEAGUE,  
Southboro, Mass., July 22, 1975.

Mr. JOHN CONYERS, Jr.,

Chairman, Subcommittee on Crime, House of Representatives, Washington, D.C.

DEAR REPRESENTATIVE CONYERS: The enclosed materials have been compiled for the convenience of your committee.

As a method of introduction, the following is a brief resume of my background:

#### EDUCATIONAL BACKGROUND

1970—Graduated from Westfield State College, Westfield, Mass. B.A. History.

1974—Graduated from Suffolk University Law School, Boston, Mass. (J.D.)

#### OCCUPATIONAL BACKGROUND

1970-1971—Social Studies Teacher, Junior High School, Holyoke, Mass.

1971-1973—Executive Secretary of the Mass. Commission on Military Affairs.

1974—Legislative Agent, Council of Sportsmen's Clubs of Mass.

1975—Executive Director, Gun Owners' Action League.

## SPECIAL AWARDS, ACTIVITIES

- 1972—Speaker, Mass. Town Finance Committees. Subject: Fiscal Autonomy.  
 1973—Named Outstanding Young Man of America.  
 1974—Welfare Issue Advisor for Mass. Gubernatorial Candidate.  
 1975—Member of Panel of Experts on the Bartley-Fox Law (Mandatory 1 yr. sentence for illegal possession of firearms.).  
 Please contact G.O.A.I. if any further information on Massachusetts is required.

Respectfully,

VICTOR M. ANOP,  
*Executive Director.*

---

 BIOGRAPHICAL DATA OF TANYA K. METAKSA

Married; three children; age, 38 years, birthdate 5-6-37.

## EDUCATIONAL HISTORY

B.A. Smith College, Northampton, Mass., June, 1958. Area of study was history and social studies.

1968-1972 University of Connecticut, Storrs, Conn. Eighteen credit hours for state teacher certification on the high school level in social studies. 24 credit hours towards a M.A. in education.

## PROFESSIONAL EXPERIENCE

1969 to present: Connecticut Sportsmen's Alliance: Secretary/Treasurer. Has been a spokeswoman for the over 250,000 organized sportsmen in Connecticut. Edits and publishes a bi-weekly newsletter that is distributed state-wide. Has appeared on state-wide radio and television. Worked closely with officials such as Governors Meskill and Grasso, Commissioners Lufkin, Costie, and Gill in assisting the State of Connecticut and the Department of Environmental Protection in matters concerning the interests of Conn. outdoor recreational users. Currently serving on the Council for Environmental Education, Conn. State Committee for Shooting Ranges, and the Ad-Hoc Advisory Committee to the Department of Environmental Protection. Organized participation by governmental officials on National Hunting and Fishing Days in 1972, 1973 and 1974. Participated in the Bureau of Outdoor Recreational Hearing in Boston in 1972.

1971 to present: Connecticut State Rifle and Revolver Association: Legislative Director. In conjunction with the Connecticut Sportsmen's Alliance has been instrumental in helping draft legislation:

1975—mandatory prison sentences for felonies committed with a firearm; extend the mandatory waiting period of handgun purchase.

1974—redefine "dangerous weapon" in the Conn. Penal Code, Deer Management Act.

1973—Five year pistol permit law; realistic funding of the Firearms Board; permit the use of secondary reservoirs for recreational purposes; supported the Connecticut River Scenic Easement Act.

1968 to present: Competitive pistol shooter. Participating in club, league and state-wide pistol competition.

---

 STATEMENT OF TANYA K. METAKSA, SECRETARY/TREASURER, CONNECTICUT SPORTSMEN'S ALLIANCE

I am here to give testimony on the use of firearms in the commission of crimes. This subcommittee, the Subcommittee on Crime, is concerned, as are all law-abiding citizens in this country with crime and criminals. We are all searching for answers to the problem of crime prevention as well as the problem of criminal rehabilitation.

Let's look into the problem of crime prevention. Today in this country the legal statutes are so vast that it takes valuable time of lawyers and their law clerks just to research a particular point of law. This is not just the case for the Federal Government but it is also the case for state governments, county governments and right down to the smallest town or borough. Thomas Ehrlich, Dean School of Law, Stanford University, describes the problem as "legal pollution".

He states, "I do think there are too many laws in this country. Legislatures, in particular, have a propensity to try to solve too many problems by passing more laws." He goes on to discuss why so many laws have been passed. "It is the pressures of our political process and the premium we put on political rhetoric that makes passing laws seem equivalent to progress. Too often, laws are passed with little thought about their implementation." This eminent jurist has very neatly summed up a political fact of life. If there is a problem to be solved, let's pass a law that makes the problem illegal and then maybe the problem will go away.

However, this approach has failed time and time again and here we are in New York City the home of the infamous Sullivan Act, where a handgun carrying permit for the law-abiding tax-paying citizen is almost impossible to obtain. Yet, this restrictive law does not lead to less criminal mis-use of firearms. New York City certainly has more crime per 100,000 population than Connecticut where firearms laws are more lenient with regards to private ownership of firearms. This highly restrictive law and its interpretation by the police and the courts certainly does not prevent crime.

Another method of crime prevention is in the route of stiff and unreducible sentences such as the new Massachusetts Bartley-Fox Law. Let me recount the story of such a law that was passed in Connecticut in the early sixties. This law imposed an additional mandatory sentence for the commission of a felony with a firearm. The first offense was a one year mandatory sentence to be served in addition to the sentence for the specific felony. Second and subsequent offenses had longer jail terms. What is the history of this law you may well ask. Well, there is no history. No, not because the great state of Connecticut had no felonies committed with firearms, but because no prosecutor ever asked for this law to be implemented, nor did any judge invoke it in the sentencing of a defendant. In 1971, while rewriting the Penal Code the Legislature of the State of Connecticut eliminated this part of the Code. However, this year, the 1975 Legislature enacted a similar law and Governor Grasso in signing this bill applauded this approach to the control of criminal misuse of firearms. We support the Governor's position but remain skeptical about the court enforcement of this law due to past history. Sportsmen and law-abiding gun-owners throughout this country support such legislation but have become very disheartened by the lack of judicial support of this kind of law.

The opposite approach to the stiff and irreducible sentence is, of course, to try and rehabilitate the criminal in one manner or another. I think that it is generally agreed that prisons as a rule do not rehabilitate—they are a punitive answer to crime. The rehabilitative approach that is becoming more common today is that once a person is convicted of a criminal offense he is given probation. Probation is based on the premise that the criminal will discard his criminal ways in order to stay out of the prison system. It is further based on the intellectual concept that all persons really desire to be "good" and fear being caught and punished. However, let's examine the facts on probation.

Using the 1973 report of the Governor's Select Committee on Law Enforcement Problems in California here are some interesting statistics. In 1971 out of the 56,000 defendants found guilty in superior courts 70% (39,000 adjudged criminals) were granted probation, while only 10% (5,600) were sent to prison. The remaining 20% were fined or given suspended sentences. However, of the 56,000 defendants 78% (43,680) of them had prior criminal records and 35% of them (19,600 criminals) were either on probation or parole at the time of their arrest when this study was done in 1971. Facts such as these would seem to indicate that probation is not rehabilitative. In fact, it is most injurious to society since the criminal is again let loose among the unsuspecting public free to perpetrate more crimes.

Do harsh laws relating to the possession and carrying of firearms deter or prevent the carrying of firearms? In New York State the convictions related to the violations of the Sullivan Law follow the same pattern as felonious convictions in California. According to the New York State Commission investigating the illegal use and possession of handguns in New York state in 1971 57% of the adults prosecuted for illegal possession of handguns were convicted. That of course, leaves 43% of those arrested for illegal possession of handguns were either found not-guilty, the charges were dropped or were plea bargained away to a lesser charge. However, only 15% of those convicted of illegal possession of a handgun were given prison sentences. This means that of those persons arrested on this charge, a felony charge, only 8.5% were sent to jail. Out of every 1,000 persons arrested for illegal possession of a handgun ONLY 85 ever

served any kind of a prison sentence. In 1972 the figures are even more startling. Only 35% of those prosecuted on this charge were convicted while the percentage of those receiving prison sentences dropped to 13%. This breaks down to 45 out of every 1,000 persons arrested for illegal possession of a handgun ever serving time in prison on this felony charge. The old comic book adage that crime does not pay certainly is not valid today. It would seem from this type of data that laws relating to the possession and/or carrying of firearms are broken as easily as any other law. The deterrent effect of laws concerning themselves with the illegality of murder, aggravated assault, robbery, rape, etc. The illegal use of firearms, whether they be handguns, rifles or shotguns in the commission of criminal acts does not diminish because it suddenly becomes illegal to possess such firearms.

Laws that have the co-operation of the public seem to be in the last analysis laws that are workable in solving criminal problems. In Connecticut, a small state in size but with a population density of 623.7 per square mile there are firearms laws that have the understanding and support of the law-abiding citizens. Let me give you a brief resume of the Connecticut Statutes relating to the ownership, sale and carrying of firearms.

(1) In order to purchase or transport a long gun within the state there is no need for a permit as long as the long gun is carried unloaded within a motor vehicle.

(2) A resident may possess a handgun on his property without a permit.

(3) In order for the handgun owner to carry the handgun within the state he must apply for a Pistol Carrying Permit. This permit is initially issued by a local authority (police chief, first selectmen) for limited carrying privileges within the local area. In order to receive this permit the applicant submits three letters of reference, is fingerprinted and may be asked to demonstrate a knowledge of safe and proper gun handling. After a police check to assure that the applicant is a suitable person and not a felon the permit is issued. Upon receipt of a local permit the gun owner may then apply for a State Permit which is issued by the State Police and is valid throughout the state.

(4) In order to purchase a handgun the purchaser must either have a valid Pistol Carrying Permit or must fill out an application to purchase and then wait 14 days for a police check (both local and state) to determine that he is not a convicted felon. All handgun sales are recorded in quadruplicate, two copies to the State Police, one copy to the local police and the fourth copy to be kept by the dealer for a period of at least six years.

(5) Pistol Carrying Permits may be revoked for cause at any time by either local or state police.

(6) Appeal from refusal to issue a permit or from revocation of a permit are addressed to the Connecticut State Board of Firearms Permit Examiners. This Board which is duly and legally constituted under Section 29-32h of the Statutes is made up of five members. Three representatives of law enforcement agencies and two laymen. This Board is empowered to hear appeals and to order, if necessary, the issuance of a permit. The decisions of this Board over the past seven years have been unanimous and the breakdown of decision is approximately 50% in favor of the applicant and 50% in favor of the issuing authority. The Board has been upheld by the Court of Common Pleas in every case with the exception of one. In that case the Court ruled in favor of the applicant and granted him a permit when the Board had originally ruled in favor of the police chief's non-issuance of a permit.

I have included as an addenda to this testimony the complete listing of the state of Connecticut statutes relating to firearms.

The number of state Pistol Carrying Permits is approximately 50,000 which has grown from 6,000 since 1961. This contrasts greatly with the city of New York where there are approximately 2,000 pistol carrying permits issued in a city of 8 million, while Connecticut has a population of only 3 million.

What may you ask is the record of the permit holder. Gentlemen, the record is so good that it is hard to believe. The number of revocations of permits is less than  $\frac{1}{2}$  of 1% (250 approximately) of permits issued over the last ten years. And the number of permits revoked because the permit holder became involved in a gun related felony is less than 1 permit revocation per year. As these figures demonstrate the law-abiding citizen of Connecticut who desires to have and carry handguns for lawful purposes is not a criminal, does not use his firearm in a criminal manner but is a solid citizen of my state.

As the figures that have been related here demonstrate the law-abiding firearms owning citizen is no threat to himself or to society. Since he possesses and uses firearms in a lawful manner, the firearms themselves are no threat to society either. However, firearms in the hands of a criminal become dangerous weapons. The criminal by law may not legally possess firearms, especially handguns in Connecticut. Clearly the firearm is not the culprit. Yet, most firearms law proposals are aimed at the inanimate object—the Gun. The cry, one hears, is to get rid of the inanimate object and the criminal and his crimes will vanish. Yet, we witness these criminals from street thug to highly financed underworld racketeers thumbing their noses at the statutes, at the police, at the legislatures and yes, at the public as he goes on his merry way breaking law after law and very rarely being called to account for his misdeeds.

The answer is not in yet more laws to be added to the "legal pollution" that is strangulating our judicial system. The answer is not the old-fashioned approach of adding piecemeal to the existing legal system. The legal system in this country is like the proverbial house of cards. Very shortly one more law will make it all collapse of its own weight.

Let's try and remove all our pre-conceptions and try to get new, yes, *radically new* solutions of our problems. Let's redesign the legal system so that it may better cope with today's, tomorrow's and the twenty-first century's problems of crime and its prevention. We need a futuristic approach to modern problems. We are dealing with complex legal and sociological problems that must be solved by our police and then by our courts. We are now in the era of the specialist.

The doctor of medicine is specialized, the dentist is specialized, even the automotive mechanic is specialized. Yet, we are still dependent upon lawyers, judges, prosecutors and courts in general which address themselves to the entire spectrum of legal cases. What I am suggesting is that the time has come to identify those areas of criminality that deserve our undivided attention and specialize in their treatment and cure.

Crimes of violence of any type should be given top priority. Society is not served when the perpetrators of violent crime are back on the streets hours after their arrest; when convicted felons are given probation because the prisons are overcrowded or do not rehabilitate. Our legal system must be able to differentiate immediately between the felon charged with aggravated assault and the felon charged with forgery. The former is a much greater menace to society than the bad check passer. Our police, our lawyers, our courts and our prisons should have specialists in the area of violent criminality. We should guarantee fair, prompt and certain justice for the perpetrators of violent crime by setting up a judicial system designed to cope with this specific and dangerous criminal problem.

I am well aware that the cost for such a venture would be indeed large. However, the cost of violent crime for the government but especially for the victims is much greater than the cost for a properly functioning judicial system. Those of us who are in contact with the problems of crime and crime control, from the policeman on the beat to handgun owner who is by law required to prove his suitability know the solution to this problem is not a simplistic answer of banning the gun but needs a more comprehensive approach to the entire question of criminality, law and our sociological problems. What I am proposing is the first step in an overhaul of our judicial system in order to solve one problem of crime—that of violent crime.

Mr. CONYERS. The subcommittee will stand in adjournment.

[Whereupon, the subcommittee was adjourned at 7:40 p.m.]



## APPENDIX

### APPENDIX 1

July 28, 1975.

G. MARIE WILT, Ph.D.,  
Research Institute,  
Wayne State University,  
Detroit, Mich.

DEAR DR. WILT: I am enclosing for your analysis and comment a copy of a paper submitted to the Subcommittee on Crime for its hearing record on Federal firearms legislation on Friday, July 25, in New York City. The paper, entitled "Homicide—An Overview", was presented by Mrs. Tanya Metaksa, representing the Connecticut Sportsmen's Alliance.

Mr. Andersen, the author, is an engineer by profession and has been informed that you will receive a copy of his dissertation. The principal reason I refer it to you is because the author cites the justifiable and excusable homicide statistics contained in Table I of "Contemporary Trends in Detroit's Homicides (Sept. 28, 1973)" as "startling evidence that to disarm the private citizen is an invitation to disaster", [see p. 7, *infra*].

I have told Mr. Andersen that I will relay your response to him once I have received it.

Your cooperation would be deeply appreciated.

Sincerely,

TIMOTHY J. HART,  
Assistant Counsel, Subcommittee on Crime.

WAYNE STATE UNIVERSITY,  
Detroit, Mich., August 15, 1975.

TIMOTHY J. HART,  
Assistant Counsel, Subcommittee on Crime, Committee on the Judiciary, House  
of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. HART: As you requested, I have analyzed the paper on homicides written by Jorgen W. Andersen. I hope you will find my comments helpful. Please understand that my analysis, while critical of Mr. Andersen's conclusions, is intended to provide a constructive assessment of the difficulties in his argument and an explanation of how such data are properly interpreted.

The first problem I find with Mr. Andersen's conclusions is on pages 1 and 2. Here he relates gross homicide rates with gross divorce rates. I do not understand the purpose of these data, because he does not present both homicide and divorce data for the same states. If one were interested in the relationship of divorce to the occurrence of homicides, one would have to know the divorce rate of homicide participants, not just of the general population.

The same problem applies to his argument concerning literacy on page 2, and to his discussion of Gaston County on pages 2 and 3. Several variables are discussed together, but no relationship among them is shown. Yet on page 3, Mr. Andersen claims that economics and the integrity of the family "... are two of the most important factors in effecting homicide rates." While this may be the case, there is no validation in his argument for such a statement.

Similar gross generalizations, unsupported by evidence, are found in his discussion of cities on pages 3 and 4. His conclusion about the heterogeneity of the U.S. population and its influence on homicide (page 4) must also be questioned because no data are offered to support it. His quotation from Wolfgang here seems out of context. Where is his evidence that shows homicide participants to be more "alienated" or "separated" than non-homicide participants? Without statistically significant data supporting such propositions, one must view these statements as hypotheses to be tested.

On page 5, Mr. Andersen misinterprets data from my study of homicides. I did not find relationships to be casual at all among persons involved in conflict-motivated homicides. Again on this page, he relates a category of homicides which I developed and defined during my research—conflict-motivated—to a variable that was not included in my research—television violence. Without supportive empirical evidence, this can be stated only as an hypothesis to be tested.

Continuing on pages 5 and 6, Mr. Andersen states “. . . the ghetto resident is a victim of chronic depression and the incessant barrage of electronic violence . . .” I must continue to ask, where are his data that show persons from any geographic area to be more or less depressed or more or less exposed to “electronic violence” than persons from any other area—be it suburb, inner city, or rural.

In social science research, just as in physical and natural science research, one must present data from a specific, clearly defined population (or a probability sample of a population) in order to make valid statements about that population. As you can see, my criticisms are all based upon the lack of such scientifically rigorous statements.

If Mr. Andersen (page 7) were to review data from large cities (annual police department reports) he would find that inner city residents are victimized by burglary far more frequently than suburban residents.

Again, on page 7, Mr. Andersen criticizes the proposition that “a gun in the household is six times more likely to kill a member of the household than a forcible intruder.” Suffice it to ask where he has presented his contradictory data. In addition, the statement he criticizes does not compare forcible entry to homicides. It does compare the potential for a family member to be killed by a family-owned gun with the potential for an intruder (protection against whom is supposedly the reason for owning a gun) to be killed.

His conclusion from my research (page 7) is totally unfounded. I presume he is referring to the data in Table IV (since there is no Table I that refers to Detroit data). Quite in contradiction to his statement that “. . . there is startling evidence that to disarm the private citizen is an invitation to disaster” my research shows that removing handguns would prevent many homicides. Of the 1972 homicides, 424 or 63.0% were committed by handguns, and 98 or 14.5% by other guns. Frank Zimring's research (*Is Gun Control Likely to Reduce Violent Killings?* 35, U. Chicago Law Review, 1968) clearly shows that violence is less likely to reach this level if handguns are not involved. As far as conflict-motivated homicides are concerned, most arguments preceding these cases are spontaneous, as are the results. If there were no guns accessible, many would result in injury rather than death. This, at least, is a reduction in the level of violence.

As the research of Marvin Wolfgang showed, homicide victims are frequently as involved in the violent interaction as perpetrators. My research supports this interactional pattern. Frequently, the difference between who becomes the victim and who becomes the perpetrator is determined by who decides to use a weapon. In the 1972 conflict-motivated homicides, 69.8% of the perpetrators brought weapons into the conflict, but only 6.2% of the victims did so. This provides further support for reducing violence by controlling firearms.

Again, on page 8, Mr. Andersen presents unsupported conclusions. The fact that persons did use deadly force does not mean they “had” to. There is no evidence to support his suggestion that all these people were protecting themselves because police “. . . cannot be everywhere all of the time.” As the above discussion of 1972 Detroit homicide data shows, the majority were conflict-motivated. Thus persons were not using guns to protect themselves, but to resolve arguments. Removal of guns would have prevented many of these deaths.

As far as Mr. Andersen's interpretations of my data are concerned, I must indicate that, as with all researchers, I reserve the right—as well as the responsibility—to objectively analyze my data and present my findings. In scientific endeavors, researchers support or contradict each other's findings by making studies that provide empirical evidence of such support or contradiction.

I am certain that Mr. Andersen's intentions were positive, in that he shows a concern about the gun control issue. However, his paper presents the opinions of a citizen and, to some extent, hypotheses that could be tested. He provides no arguments or data that are empirically supported. Thus one must understand his position as being that of a concerned citizen, rather than of a scientist presenting research findings.

Thank you for the opportunity to evaluate this paper.

Sincerely,

G. MARIE WILT,  
Research Associate.

## HOMICIDE—AN OVERVIEW

Prepared for Presentation to the Joint Committee on the Judiciary—1975-76  
Connecticut General Assembly Session.

(By Jorgen W. Andersen)

## INTRODUCTION

Homicide is a grisly topic to study, offensive to the sensibilities, a dismaying testimony to the ills of our society. It is, however, a subject of growing concern to the public.

Probably one of the reasons this topic is one of great emotionalism is that the body of knowledge is woefully inadequate. Where fact is not, fancy will flourish.

One of the first conclusions the writer reached in researching homicide was that a modest sum spent in crime reporting would be well invested. Each and every state should generate, in compatible format, an annual uniform crime report.

Even the Federal Bureau of Investigation alludes to the difficulties of collecting data by cautioning the reader that some of its information may not be accurate due to political factors. No city chamber of commerce enjoys the prospect of its community being labeled "Murder City" as did Detroit in 1972. Such politicizing is counter-productive, it is necessary to understand the nature of a human problem before being able to solve it.

Nonetheless, the F.B.I. Uniform Crime Report is the most authoritative source available. The failings of this report are obvious, for example, the specific inclusion of the "lovers triangle" category of homicides which represents a very clear minority of murder circumstances, while leaving the largest category labeled as "other". Great caution must be exercised. Conclusions must be reached only after a rigorous test of logic. A particular pitfall is the comparison of statistics that are not of like kind.

It is hoped that, in some small way, this report will provide an insight as to the causative factors of homicide.

All citizens should be concerned with the real contributing factors to violent crime. Of the thirteen states that share the ten lowest homicide rates, the populations range from a low of 618,000 to a high of 4,418,000, the population density from 8.6 per square mile to 906 per square mile (the highest in the nation).<sup>1</sup> The ten lowest homicide rates vary from .8 per 100,000 (North Dakota) to 4.0 per 100,000 (Washington State) and represent a mean average of 2.81 per 100,000, less than a third of the national 9.4 per 100,000 rate. The character of the states that enjoy these low homicide rates range from predominantly rural to heavily industrialized.

The states sharing the ten highest homicide rates range in population from a low of 489,000 (Nevada) to a high of 11,197,000 (Texas), the population densities from 4.4 per square mile to 156 per square mile. The ten highest homicide rates are between 11.4 per 100,000 (New Mexico) and 17.4 per 100,000 (Georgia) having a mean average of 13.8 per 100,000 population. It appears then that homicide rates are not determined by population or population densities.

A clue to the homicide problem is found in Nevada, the home of extensive gambling and the "quickie" divorce. The divorce rate in Nevada is by far and away the highest of the twenty-five states considered thus far.<sup>2</sup> The divorce rate in Nevada is 1,753 per 100,000 population versus 224 per 100,000 in North Dakota. Perhaps these are extreme examples, but it is interesting to note that the mean average divorce rate of the states having the highest homicide rates is 62% higher than that of the mean average of these states sharing the lowest homicide rates.

Further investigation reveals that Louisiana, sharing the third highest homicide rate with Florida, has the highest functional illiteracy rate in the nation. Recall also that it was only a few years ago that Florida was the subject of teachers sanctions. The Southeast region has consistently suffered the highest homicide rates, however, it is not of just academic interest that the same region showed one of the lowest increases in homicide rates between 1972 and 1973 (approximately 1.6%) compared to the North Central region (approximately 12%). The National Assessment of Educational Progress<sup>3</sup> reports that between the years of

<sup>1</sup> Population and population density from the Bureau of the Census 1970 Census Report.

<sup>2</sup> Computed from Division of Vital Statistics National Center for Health Statistics data.

<sup>3</sup> National Assessment of Educational Progress, Education Commission of the States, 300 Lincoln Tower, 1860 Lincoln Street, Denver, Colo. 80203.

1960 to 1973 the Northeastern, Central and Western region performance levels all declined while the Southeastern region either held its own or improved.

It seems reasonable to suspect that socio-economic conditions play a significant role in the determinant of homicide rates.

A graphic example can be found in a detailed study of Gaston County, North Carolina. Gaston County is almost totally subject to the economics of the textile industry. With several large mills and many smaller operations, along with the nation's largest textile equipment manufacturer, Gaston County Dye Works, Gaston County had an unemployment rate of less than one percent until mid 1974. In mid 1974 the textile industries suffered a precipitous depression. By the end of 1974 the unemployment rate had risen to approximately 18%. From the Gaston County Court Clerks Office, the separation rate began to rise dramatically in mid 1974 (in North Carolina a minimum of one year separation is required for divorce). In 1973 the homicide rate in Gaston County was 7.4 per 100,000 population. In 1974 it had risen to 20.2 per 100,000. A first order approximation based on the homicides that occurred through the end of May 1975 projects that the 1975 homicide rate will be roughly 26 per 100,000 population.<sup>4</sup>

It should be clear, at this point, that economics and the integrity of the family unit are two of the most important factors in effecting homicide rates. There are, however, other stimulus to the phenomena. The inherent instability of the urban environment has been recognized by anthropologists and social historians for many years. Cities never have and never will repopulate themselves.<sup>5</sup> Virtually every major population center in the Northeast corridor decreased in size during the period from 1960 to 1970. In the Southeastern region quite the reverse is true. Every major southern city had increased substantially in size during the same period.<sup>6</sup> In both cases, the changes were not due to increase or decrease of birth rates but rather they were due to the transient nature of the populus. Consequently, there seems to be a continuing confrontation between differing groups of people each apprehensive and suspicious of the other.

The heterogenous nature of the United States is a significant reason for our seemingly high homicide rates. To be sure, poverty, economic travesty and even war have ravaged other nations. However, no other nation is as factionalized on the scale extant in the United States. "The pluralism of ethnic groups tends to promote a separateness, anonymity, and alienation."<sup>7</sup> For example, integration in the south has been accomplished only to produce black separatism in the north. This should not be surprising. From the time of the Industrial Revolution one ethnic or national group has discriminated against another ethnic or national group even if separated by time of arrival in this country by just a few years. The problems encountered by black citizens are by no means unique, they are simply the last people to become admitted as full participants in our society.

One might presume that violence would tend to erupt between ethnic or racial groups, such is not the case. The frustrations, despair and hopelessness of those victimized by apartheid are vented amongst their own genre. Whites kill whites and blacks kill blacks. In studying murder circumstances by age, sex, race, marital status, occupation and education, the relative distribution of perpetrators and victims within those categories are remarkably close to constant. Contrary to popular belief, in the Northeast region family homicides account for only 18.4% of the total. The known suspect felony motivated homicide is approximately 35% of the total and the conflict motivated homicides is approximately 47% of the total. It is interesting to note that amongst conflict motivated homicides the extent of familiarity between the perpetrator and the victim varies widely. A comprehensive study of conflict motivated homicides completed by Cmdr. James D. Bannon of the Detroit Police Department indicates that in many cases the degree of familiarity is casual at most.

Another factor in the conflict motivated homicides, particularly in the inner city, is television violence. There have been examples of hideous crimes committed to duplicate those viewed on television.<sup>8</sup> Fortunately, it appears that this is the exception rather than the rule. What is significant is that youngsters who had television as the principal means of entertainment have spent their developing years in witnessing violence as the resolution of conflict. It matters not a whit that the "good guys" get the "bad guys" in the end, for it is very easy

<sup>4</sup> M. Morrow, Gastonia Chamber of Commerce, Gastonia, North Carolina.

<sup>5</sup> Linton, Rainoh, "The Tree of Culture" (c) 1955 Knopf.

<sup>6</sup> "How the Cities Grew", From "The World Almanac (R) and Book of Facts 1972", Source: Bureau of the Census.

<sup>7</sup> Marvin Wolfgang by Time Inc., June 30, 1975 edition.

<sup>8</sup> "What You Can Do About TV Violence," Eugene H. Methvin, Reader's Digest, July 1975 edition.

to rationalize one's own position as being the correct one. The media is schizophrenic, on the one hand pleading for crime control while on the other decrying censorship for its irresponsible depiction of carnage in the name of the first amendment. It is not difficult to see that given factionalism, poverty and illiteracy that the ghetto resident is a victim of chronic depression and the incessant barrage of electronic violence serves as a catalyst where very little is needed to be the precipitant of murder.

In attempting to find the root cause of violence in this country it is important to recall that much of our tradition is steeped in violence. We have found it convenient to vent our frustrations in the name of some "higher" cause. Picket lines are frequent scenes of violent acts and malicious mischief.

The construction unions have so consistently used brute force in their organizational efforts that the problem has reached the proportions of a national scandal. The so-called "civil rights" and "anti-war" riots of the sixties were nothing short of insurrection. One can recall the "radical-chic" of the same decade. It is difficult to perceive how the interest of collective bargaining is achieved through coercion, civil rights in violation of the rights of others, or peace through violence. It seems that the body politic has either resigned itself to such acts or has tacitly accepted them.

"It is trite but it remains true that the main causes of crime are social and economic. The question arises whether people really care. The solutions are so obvious. It's almost as if America wished for a high crime rate."<sup>9</sup>

Gun control has been the subject of lively debate. Few responsible participants on either side of the issue express an interest in encumbering the sporting use of guns. Rather the question seems to be more closely related to the value of firearms for self-defense.

A consensus of opinion amongst municipal and state law enforcement officials seems to indicate that the handgun in a home represents a very real passive deterrent to the would-be forcible intruder. Though hard data is not available the incidence of forcible entry into occupied households is believed to be but a small fraction of forcible entry into unoccupied households.

The street criminal is a cunning rascal who will not take unnecessary risks to obtain dubious returns for his efforts. It appears that the rising suburban and rural crime rate is due, at least in part to the increased mobility of the inner city felon. He would much prefer to victimize an unoccupied middle class household than an occupied ghetto dwelling. The common felon is not willing to jeopardize his life or identity by entering what is probably an armed home.

A frequently quoted proposition is that a gun in the household is six times more likely to kill a member of the household than a forcible intruder. The logic of this proposition is fallacious. It does not meet the test of comparing like kind data. To compare homicide to forcible entry is a classic example of comparing apples to bananas.

From the data contained in Table I of "Contemporary Trends in Detroit's Homicides", compiled by G. Marie Wilt and Cmdr. James D. Bannon of that city's police department, there is startling evidence that to disarm the private citizen is an invitation to disaster.

In the five years including 1968 and 1972 in Detroit, the mean average excusable (defense of life and property) and justifiable (terminal action against the perpetrator of an armed felony) by private citizens represented 20.56% of the total including first and second degree murder, non-negligent manslaughter, and negligent manslaughter. The mean average of justifiable homicide by police through the same period represented 4.16% of the total. In short, the private citizen found himself in the position of having to use deadly force approximately five times more frequently than the law enforcement officer. It is critically important to note that the private citizens considered were found to be innocent by either the police or the courts. Any law enforcement officer will concede that the police cannot be everywhere all of the time. According to Lt. Riedel, watch commander of the Detroit Police Homicide Division, the handgun and the shotgun were the most frequent devices used in self-defense.

<sup>9</sup> Norval Morris by Time Inc., June 30, 1975 edition.

TABLE IA.—THE 12 STATES SHARING THE 10 HIGHEST HOMICIDE RATES

State	Rank	Rate <sup>1</sup>	Population <sup>2</sup>	Population density <sup>2</sup>	Divorce rate <sup>3</sup>
Georgia.....	1	17.4	4,589,575	79.0	528
Mississippi.....	2	16.1	2,216,912	46.9	499
Florida.....	3	15.4	6,789,443	125.5	840
Louisiana.....	3	15.4	3,643,180	81.0	(4)
South Carolina.....	4	14.4	2,590,516	85.7	308
Alabama.....	5	13.2	3,444,165	67.9	617
Tennessee.....	5	13.2	3,924,164	94.9	553
North Carolina.....	6	13.0	5,082,059	104.1	373
Texas.....	7	12.7	11,196,730	142.7	1,583
Nevada.....	8	12.2	488,738	4.4	1,753
Michigan.....	9	12.1	8,875,083	156.2	287
New Mexico.....	10	11.4	1,016,000	8.4	606

<sup>1</sup> Rate per 100,000 population. Source: 1973 FBI uniform crime report.

<sup>2</sup> Source: 1970 census report, Bureau of the Census.

<sup>3</sup> Rate per 100,000 population. Computed from Division of Vital Statistics, National Center for Health Statistics and Bureau of the Census data.

<sup>4</sup> Not available.

Note: Mean average homicide rate, 13.79 per 100,000 population. Mean average divorce rate, 631.4 per 100,000 population.

TABLE IB.—THE 13 STATES SHARING THE 10 LOWEST HOMICIDE RATES

State	Rank	Rate <sup>1</sup>	Population <sup>2</sup>	Population density <sup>2</sup>	Divorce rate <sup>3</sup>
North Dakota.....	1	0.8	617,761	9.2	224
New Hampshire.....	2	2.1	737,681	81.7	468
Maine.....	2	2.1	993,633	32.1	473
Vermont.....	3	2.2	444,732	47.9	483
Iowa.....	3	2.2	2,825,041	50.5	321
Wisconsin.....	4	2.6	4,417,933	81.1	268
Idaho.....	4	2.6	713,008	8.6	623
Minnesota.....	5	2.7	3,805,069	48.0	285
Utah.....	6	3.2	1,059,273	12.9	495
Connecticut.....	7	3.3	3,032,217	623.7	260
Rhode Island.....	8	3.4	949,723	905.5	253
South Dakota.....	9	3.8	666,257	8.8	271
Washington (State).....	10	4.0	3,409,169	51.2	632

<sup>1</sup> Rate per 100,000 population. Source: 1973 FBI uniform crime report.

<sup>2</sup> Source: 1970 census report, Bureau of the Census.

<sup>3</sup> Rate per 100,000 population. Computed From Division of Vital Statistics National Center for Health Statistics and Bureau of the Census data.

Note: Mean average homicide rate, 2.81 per 100,000 population. Mean average divorce rate, 388.9 per 100,000 population.

TABLE II.—HOMICIDES IN DETROIT, 1972<sup>1</sup>

(In percent)

Bracket	Perpetrators	Victims
By age: <sup>2</sup>		
16 to 20 years.....	15.7	10.9
21 to 29 years.....	39.4	33.8
30 to 39 years.....	18.4	17.3
By sex:		
Male.....	81.4	81.4
Female.....	18.6	18.3
By race:		
Black.....	83.3	78.9
White.....	16.7	20.7
By marital status:		
Single.....	48.0	45.8
Married.....	28.2	29.8
Common law.....	12.9	8.1
By occupation: <sup>3</sup>		
Unemployed.....	42.5	39.5
Unskilled.....	27.5	25.7
Welfare.....	.2	.2
By education:		
0 to 5 years.....	14.2	10.4
6 to 12 years.....	81.8	83.2
13 plus years.....	3.9	6.4

<sup>1</sup> Source: "A Comprehensive Analysis of Conflict Motivated Homicides—Detroit 1972". Copyright © 1974 by G. Marie Wilt and James D. Bannon.

<sup>2</sup> Does not total 100 percent because only the most significant categories are tabulated, refer to 1. above.

TABLE III.—NORTHEASTERN STATES

[in percent]

	Spouse versus spouse	Parent versus child	Other family	Lovers triangle	Other	Known felony	Suspected felony
Murder circumstances...	9.7	3.1	5.6	5.7	41.1	26.6	8.2

Note: Total family homicides, 18.4 percent. Presumed conflict (presumed through process of elimination) motivated including lovers triangle, 46.8 percent. Known and suspected felony motivated, 34.8 percent.

	Handgun <sup>1</sup>	Rifle <sup>1</sup>	Shotgun <sup>1</sup>	Cutting or stabbing instrument	Other <sup>2</sup>	Personal <sup>3</sup>	Tots firearm
Murder weapons.....	39.29	4.6	6.13	29	8.4	11.3	51.3

<sup>1</sup> Extrapolated by multiplying regional factor of 0.513 by weighting factors generated by the national average distribution of 0.53, 0.06, 0.18, 0.07, 0.09 respectively.

<sup>2</sup> Clubs, poison, etc.

<sup>3</sup> Hands, feet, etc. (no foreign objects).

Source: 1973 FBI uniform crime report.

TABLE IV.—HOMICIDES KNOWN TO THE POLICE—1960 THROUGH 1972

	Total	Murder 1 and 2 and non-negligent manslaughter	Excusable by citizen	Justifiable by citizen	Justifiable by police	Negligent manslaughter
1972.....	693	(.762) 528	(.105) 73	(.061) 42	(.052) 36	(.020) 14
1971.....	690	(.736) 508	(.100) 69	(.078) 54	(.062) 43	(.023) 16
1970.....	550	(.751) 413	(.147) 81	(.055) 30	(.036) 20	(.011) 6
1969.....	488	(.725) 354	(.172) 84	(.064) 31	(.027) 13	(.012) 6
1968.....	423	(.716) 303	(.203) 86	(.043) 18	(.013) 13	(.007) 3
1967.....	332	(.663) 220	(.184) 61	(.042) 14	(.099) 33	(.012) 4
1966.....	232	(.754) 175	(.168) 39	(.043) 10	(.030) 7	(.004) 1
1965.....	204	(.725) 148	(.196) 40	(.191) 4	(.044) 9	(.015) 3
1964.....	138	(.754) 104	(.152) 21	(.036) 5	(.043) 6	(.014) 2
1963.....	137	(.752) 103	(.168) 23	(.022) 3	(.036) 5	(.022) 3
1962.....	143	(.79) 113	(.168) 24	0	(.021) 3	(.021) 3
1961.....	141	(.766) 108	(.199) 28	(.014) 2	(.014) 2	(.007) 1
1960.....	157	(.758) 119	(.197) 31	(.013) 2	(.025) 4	(.006) 1

<sup>1</sup> From "Contemporary Trends in Detroit's Homicides", table I, G. Marie Wilt and James O. Bannon, Sept. 26, 1973.

TABLE V.—THE HARTFORD, CONN., URBAN AND SUBURBAN<sup>1</sup> COMPLEX, 1973

City or town	Homicides	Nonwhite (percent) <sup>2</sup>	Population <sup>3</sup>
Urban: Hartford.....	21	29.2	158,017
Suburban: <sup>4</sup>			
Simsbury.....	0	1.9	17,475
Windsor.....	0	3.0	22,502
Bloomfield.....	0	13.8	18,301
Farmington.....	0	.7	14,390
West Hartford.....	0	.7	68,031
Wethersfield.....	0	.6	26,662
East Hartford.....	1	1.3	57,583
Total suburban.....	1	(*)	224,944

<sup>1</sup> Complete data for Avon, Conn., not available.

<sup>2</sup> Note that race is not a governing factor, if it were Bloomfield, Conn., should have had at least 1 homicide, and that perpetrated by a nonwhite.

<sup>3</sup> From the 1970 Census data. Source: Bureau of the Census.

<sup>4</sup> Not applicable.

## APPENDIX 2

## STATEMENT OF JAMES MULLARKEY, PRESIDENT OF NORTHEASTERN STATES COUNCIL OF SPORTSMEN INC.

My name is James Mullarkey and I am President of the Northeastern States Council of Sportsmen.

The Council is composed of sportsmens' groups representing the States of Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont.

I do not have an exact count of the individual members involved in the various state organizations, but I do know that New York State, alone, has a membership in excess of 250,000.

It is on behalf of these members that I submit the following statement concerning firearms legislation.

In recent years a continuing series of cleverly slanted articles have appeared in leading national publications opposing the private ownership of firearms. Television and radio stations have been used to editorialize against the private ownership and use of firearms, even to the point of ridiculing and condemning the 20,000,000 law-abiding citizens who are legitimate hunters, target shooters and/or collectors.

It has been suggested by some that we are behind other countries in firearms legislation. This sort of thinking does not quite fit with our traditions in the United States. It is not consistent with our history as a free and independent Nation. In many of the foreign countries one is not permitted to own a handgun and a rifle or shotgun must be registered. In many countries one must belong to a recognized, restricted membership hunting or shooting club in order to receive permission to own a firearm.

Because of these regulations, the central authorities know who own firearms and in what quantities. As a result, in Europe during the late '30's and early '40s, during the invasion of the Low Countries, it was remarkably simple for the invaders to pick up the lists of registered firearms owners and confiscate the weapons, thus stifling any effective resistance. It may also be recalled that when the invasion of England, by Hitler, seemed imminent, the United States was asked to furnish guns to arm the civilians so that resistance could be offered. The American sportsmen responded and donated thousands of sporting firearms to our English "cousins" to assist them in protecting their homeland.

In the United States we have had attempted rebellions for one reason or another but despite this we have enjoyed nearly 200 years of uninterrupted freedom.

We have never had a "coup d'etat" where some general has decided that the duly elected authority is doing something contrary to his own or the public welfare and sent his troops out to take over the country.

I submit to you that perhaps the fact that we do have widespread private ownership of firearms has helped in this respect.

Our Legislators are, for the most part, intelligent and earnest individuals who are concerned with the welfare of their constituents and must turn to others frequently for advice. In some instances they are poorly advised, sometimes I think deliberately, by individuals and groups seeking to further their own cause.

The Legislators are led to believe, in the case of firearms, that additional laws are the be-all and end-all of the crime problem. Countless bills have been introduced concerning the control of purchase, ownership and use of firearms and their components. Most of these are ill-conceived and unfair to the vast majority of the 20,000,000 law-abiding, tax paying, voting men and women who also happen to be firearm owners. Many of the bills introduced would, in effect, smother the legitimate sale of firearms by licensed dealers, and the ownership of firearms by private citizens for sporting or self defense purposes. These proposed laws would place such unreasonable burdens of record keeping and proof of responsibility upon dealers and owners that many individuals would simply give up their firearms rather than take the trouble and become involved in problems with bureaucratic red tape.

Is this what these bills are designed to do?

If we restrict the right and the ability of our citizens to keep and bear arms, where, then, is the strength of our Nation? The Military Law of New York State, and I suspect most other States, indicates "the unorganized militia shall consist of all able-bodied male residents of the state between the ages of seventeen and forty-five".

Do some people so fear that they cannot achieve their idealistic programs that they would disarm the very people who are mandated as the final line of defense and protection of our Nation?

We are a strong Nation and the right to "Keep and Bear Arms" is a great part of our strength.

A firearm is an inanimate object and, in and of itself, can do or cause no harm. It must be activated by a human agency and it is this human who uses the gun illegally that should be the subject of restrictive legislation.

As an individual and an officer in several sportsmens' groups, I say that the sportsmen support the right of law-abiding citizens to own and use firearms, but we do not advocate a traffic in firearms totally divorced from control by proper authority. At the present time it is felt that, with proper administration, adequate control exists.

The sportsmen feel that when regulation is required to correct abuses, legislation should not exceed these criteria:

(1) Prohibition of the possession of firearms by felons, fugitives, mental incompetents, drug addicts and habitual drunkards;

(2) Severe additional penalties for the use of a dangerous weapon in the commission of a crime;

(3) Making the sale of firearms to juveniles subject to parental consent and the public use of firearms by juveniles subject to adequate supervision; and

(4) Regulations on the carrying of concealable handguns should be reasonable.

As sportsmen we are opposed to licensing or registering the possession of rifles or shotguns because we are convinced that appointed or elected officials should not have the arbitrary power to say who may or who may not own a gun. We know there is no positive evidence whatever that licensing, in fact, reduces the misuse of firearms.

The existence of a lawless few must not become an ill-considered excuse to jeopardize the rights of many.

Sportsmen will consider firearms legislation that will right a wrong, stop crime and remove evil from society. They will support firearms legislation that does not impose an unreasonable burden upon honest members of society out of all reasonable proportion to the results to be gained from its application to the criminal.

Few if any of the gun laws proposed meet any of the criteria indicated in the previous paragraph.

I offer one last fact which I believe stands out above all others concerning firearms registration.

No dictatorship has ever been imposed upon a nation of free men who have not first been required to register their privately owned weapons.

In conclusion, may I say, society fears the misuse of firearms; the sportsmen fear that the legitimate use of firearms will be destroyed by ill-conceived legislation and arbitrary enforcement. We must all work together to find a common constructive ground of agreement that will preserve the intent of the Constitution and protect the rights of all or our entire society will be the loser.

---

## APPENDIX 3

### HANDGUN CONTROL IN MASSACHUSETTS: A REPORT TO THE GOVERNOR

(By Edwin G. Schallert, Robert M. Ollan, Henry D. Levine, Wendy Lynn Gray and Graham Glenday)

#### INTRODUCTION AND RECOMMENDATION

The United States and Massachusetts have experienced rising crime rates, rising handgun-related death rates, and rising levels of private handgun ownership. Handguns have gained notoriety for their prominent role in homicides, suicides, and fatal accidents as well as for their common use in aggravated assaults, armed robberies, and non-fatal accidents.

The goals of handgun control are numerous: fewer gun-related deaths and injuries, a reduction in crime rates, and a less violent society. We identify handgun availability as the variable most sensitive to societal intervention in pursuit of these goals. Handgun availability is measured by the number of handguns

(legal and illegal) in private possession and the ease of access to handguns—purchase, theft, readiness at hand. The objective, therefore, is to minimize the availability of handguns to private citizens.

We recommend that Massachusetts restrict handgun possession to police officers, military personnel required to carry sidearms, manufacturers, museums, and licensed gun clubs. All other owners should be required to surrender their firearms in return for compensation equal to the fair market value of these weapons.

This report examines the status of handgun control laws and the availability and abuse of handguns in Massachusetts. This is followed by a review of the evidence relating handgun availability to violence and a demonstration of the need for stringent handgun control legislation. A number of alternative policies are discussed, after which the recommended policy is described and evaluated in terms of its benefits, costs, consequences, and relevant political forces.

#### CURRENT MASSACHUSETTS GUN CONTROL LAW

Massachusetts currently has one of the strictest gun control laws<sup>1</sup> in the country, especially with regard to handguns (revolvers, pistols, and other weapons with barrels less than 16 inches in length). The law presently provides three levels of licensing:

(1) *Firearms Identification Card (FID)*.—Any Massachusetts resident wishing to own or carry a gun of any type must possess an FID. Only a felon, narcotics user, mental incompetent, minor or alien can be denied a card. The FID costs two dollars, and must be issued within 30 days of application.

(2) *Permit to Purchase*.—Any resident wishing to purchase a handgun may apply for a permit to purchase. The permit is granted at the discretion of the local police chief after a review of the individual's record, character, and reason for wishing to purchase a handgun. The discretion is almost total, subject only to judicial review to determine if it has been abused. Individual chiefs are completely at liberty to set their own standards for granting the permit. The permits are valid for ten days only. After purchase, the gun must be kept in the individual's home or place of business, as the permit does not entitle one to carry the gun on his person.

(3) *License to Carry*.—Anyone wishing to carry a handgun on his person must have a license to carry. This license is also granted at the discretion of the local police chief, after a review of the same considerations described above. The law implies, however, that greater caution is to be exercised in granting a license to carry than in the case of a permit to purchase. (It should be noted that an individual possessing a license to carry need not obtain an FID or a permit to purchase.) The license costs ten dollars, and is valid for a five-year period, after which a new application must be made. Obtaining a license to carry takes approximately two weeks.

Upon purchase of a handgun, an individual's permit to purchase or license to carry must be presented to the person selling the gun. The purchaser's name, address, etc., are then entered on state and federal registration forms, along with the serial number and description of the gun. If the individual wishes to resell the gun at any time after purchase, the change of ownership must be reported to the appropriate state and federal authorities.

Information provided by the Firearms Bureau of the Department of Public Safety indicates that approximately 450,000 FIDs and 150,000 licenses to carry had been issued in the period from 1969 to mid-1974; the Bureau also indicates that only one-half of one percent of all licenses issued in 1973 had been revoked, largely in the case of security guard job terminations. There are an estimated 500,000 to 700,000 legally owned handguns<sup>2</sup> in the Commonwealth at present; approximately 10 percent of these are owned by competitive shooters. Less than 20 percent of those persons owning handguns own more than one such gun.<sup>3</sup>

A mandatory sentencing law for those convicted of illegal possession of handguns went into effect in Massachusetts on January 1, 1975.<sup>4</sup> The law provides for a minimum one-year sentence for anyone violating licensing laws; probation,

<sup>1</sup> General Laws of Massachusetts, Part I, Ch. 140, Sections 121-131H, and Part II, Ch. 269, Sections 10-14.

<sup>2</sup> Estimate based on 1968 Harris Survey, George D. Newton, et al., *Firearms and Violence in American Life*, a Staff Report to the National Commission on the Causes and Prevention of Violence, Washington, D.C., 1969 (hereafter cited as *Staff Report*), and Dept. of Public Safety figures for guns registered since 1969.

<sup>3</sup> See *Staff Report*, p. 176.

<sup>4</sup> General Laws of Massachusetts, Part I, Ch. 140, Section 131.

parole, furlough, and suspended sentences are not allowed. Efforts are currently underway to delay enforcement of the law for three months, so that the public can be educated as to its existence.

#### HANDGUNS AND VIOLENCE

Handguns are commonly involved in five types of incidents that result in death, injury, or economic loss: accidents, suicides, homicides, aggravated assaults, and armed robbery. Data on the frequency of such incidents in a single year (1973) in Massachusetts are given in Table I. The availability of a handgun significantly contributes to the rate and seriousness of each of these types of violence.

TABLE I.—VIOLENT INCIDENTS IN MASSACHUSETTS IN 1973

Type of Incident	Number of incidents involving handguns	Total number of such incidents
Accidents:		
Deaths.....	10	2, 443
Nonfatal injuries.....	70	NA
Suicides:		
Deaths.....	140	506
Nonfatal injuries.....	35	NA
Homicides.....	110	242
Aggravated assaults.....	1, 300-1, 750	8, 680
Armed robbery.....	4, 000	7, 000

Note: These figures are derived in the appendix. NA—not available.

#### Accident

The effect of the availability of handguns on accidental deaths and injuries is clear and direct.<sup>6</sup> In the words of the Eisenhower Commission Task Force on Firearms, "The simple truth is that more gun accidents happen where more guns are."<sup>6</sup> Analysis of regional data and a study of gun accidents in Detroit provide empirical support for this conclusion.<sup>7</sup>

As long as handguns remain in private hands, these accidents will continue. Particularly disturbing is that the victims are likely to be young: figures at the national level indicate that 40 percent of those killed in firearm accidents are under twenty years old and the median age at death for gun accident victims is 24 years.<sup>8</sup>

#### Suicide

While the relation between access to handguns and the rate of suicides needs further study, it is probable that the prevalence of handguns facilitates the act of suicide. Psychiatrist Rhenatus Hartogs explains:

"The individual who wishes to terminate his life finds it very easy to pull the trigger and put an end to his sufferings, and the mere presence of a gun makes it so much easier for him to actually accomplish and go through in this wish."<sup>9</sup>

Given the evidence of ambivalent motives of many suicide victims,<sup>10</sup> the proximity of a handgun may be decisive.

Moreover, the handgun is an especially efficient means of terminating one's life. Results of one study given in Table II show that only one other frequently employed method (hanging) is nearly as deadly as a firearm in suicide attempts for men and women.<sup>11</sup> While it is unknown which methods persons attempting suicide would turn to in the absence of handguns, the potential reduction in deaths is substantial.

<sup>6</sup> See, for example, Arnold Kotz, *Firearms, Violence and Civil Disorders* (Menlo Park, Cal.: Stanford Research Institute, 1968), p. 68.

<sup>7</sup> *Staff Report*, p. 29.

<sup>8</sup> *Ibid.*, pp. 29, 70.

<sup>9</sup> See figure 5-5 in *Staff Report*, p. 28, citing *Vital Statistics of the United States*, 1966.

<sup>10</sup> As quoted in Carl Bakal, *The Right to Bear Arms* (New York: McGraw-Hill, 1966), p. 58.

<sup>11</sup> For example, former Chicago Mental Health Director Dr. Thaddeus L. Kostrubala, who studied the circumstances of 3,064 Chicago suicides, concluded that 80 percent of the victims didn't want to die and wanted somebody to stop them (*New York Post*, September 28, 1965).

<sup>12</sup> The methods listed account for about 80 percent of all suicides by men and two-thirds of those by women.

TABLE II.—METHODS OF SUICIDE ATTEMPTS AND COMPLETED SUICIDES FOR MEN AND WOMEN IN LOS ANGELES FOR THE YEAR 1957

[Number of cases: 1,368 for men; 2,068 for women]

Method	Men		Women	
	Attempts (percent)	Attempts ending in death (percent)	Attempts (percent)	Attempts ending in death (percent)
Firearms <sup>12</sup> .....	19	84	3	69
Barbiturates.....	26	20	53	9
Cut wrist.....	12	3	10	0
Hanging.....	8	83	2	47
Poisoning.....	7	23	9	8

Source: Norman L. Farberow and Edwin S. Schneidman, "The Cry for Help" (New York: McGraw-Hill, 1961), p. 35

### Homicide and Aggravated Assault

Since aggravated assault differs from homicide only in that the attacked victim survives, the analysis of homicides provided below is basically applicable to aggravated assault.<sup>12</sup> In addition, while the discussion below focuses on firearms in general, "The overwhelming majority of gun crime (82 percent of homicides in 1972) is committed with the handgun" (emphasis in original).<sup>14</sup>

Although other weapons are used in homicides, none are as versatile as a gun. Firearms make some attacks possible that simply would not occur without firearms. They permit attacks at greater range and from positions of better concealment than other weapons. They also permit attacks by persons physically or psychologically unable to overpower their victim through violent physical contact.<sup>13</sup>

In addition, firearms are more deadly than other weapons. Extensive data for the city of Chicago demonstrate that the fatality rate of firearms attacks is about five times higher than the fatality rate of attacks with knives, the next most dangerous weapon used in homicides.<sup>16</sup>

The circumstances leading to homicides also bear on the relationship between the availability of firearms and the murder rate. Evidence from Chicago, consistent with FBI statistics at the national level, shows that more than 70 percent of all homicides involved acquaintances, neighbors, lovers, and family members and that about three-fourths of the killings resulted from altercations over such matters as love, money, and domestic problems.<sup>17</sup> In such crimes the attacker is "likely to have acted spontaneously in a moment of rage and not necessarily with a single determination to kill."<sup>18</sup> The availability of a handgun dramatically increases the possibility that a sudden impulse will result in serious consequences.<sup>19</sup>

### Armed Robbery

Handguns are the predominate weapon used in armed robberies. In large U.S. cities, more than 90 percent of these crimes are assisted by a handgun,<sup>20</sup> and for good reason. As Ramsey Clark observes, "What enables people to commit a

<sup>12</sup> Almost all firearms suicides are handgun suicides.

<sup>13</sup> Staff Report, p. 46.

<sup>14</sup> Robert J. Riley, "Comment: Shooting to Kill the Handgun," *Journal of Urban Law*, LI (1974), p. 495.

<sup>15</sup> Staff Report, p. 40.

<sup>16</sup> Franklin E. Zimring, "Is Gun Control Likely to Reduce Violent Killings," *University of Chicago Law Review*, XXXV Summer 1968), p. 728.

<sup>17</sup> *Ibid.*, p. 722, Table 1.

<sup>18</sup> Staff Report, p. 43.

<sup>19</sup> Statistics from Detroit, regional comparisons, and a study of guns used in homicides and assaults in eight major cities compiled by the Eisenhower Commission Task Force on Firearms all documented that the proportion of gun use in violence rose and fell with the level of gun ownership. See Staff Report, Chapter 11.

The only noteworthy research that contradicted this conclusion is by Alan S. Krug. *The True Facts on Firearms Legislation—Three Statistical Studies*, National Shooting Sports Foundation, Inc., 1968. See Study One, "The Misuse of Firearms in Crime," and Study Three, "The Relationship Between Firearms Ownership and Crime Rates: A Statistical Analysis." Krug's simplistic and woefully deficient studies have been thoroughly critiqued by Franklin E. Zimring, "Games with Guns and Statistics," *Wisconsin Law Review*, Vol. 1968, pp. 1113-1118, 1120-1126.

<sup>20</sup> National Commission on the Causes and Prevention of Violence, *To Establish Justice, to Insure Domestic Tranquility* (Washington, D.C., 1969), p. 169.

crime? If you wanted to rob a bank and had only a knife, you might hesitate. A gun emboldens you."<sup>21</sup>

Interviews with robbers by one psychiatric investigator confirm that the gun can be an essential ingredient in a robbery:

"Robbery appears to be a crime made infinitely more possible by having a gun. To rob without one requires a degree of strength, size and confidence which was lacking in many of the men with whom I spoke. . . . For the most part the men involved in robbery were not very large and not very strong. Some were not very aggressive. Some of these men could not possibly carry out a robbery without a gun. In short, there was a clear reality element in the need for a gun once a man made the decision to rob."<sup>22</sup>

Once again, the prevalence of handguns in society facilitates these acts of violence.

#### THE NEED FOR HANDGUN CONTROL

The key cause of handgun deaths, injuries, and crime in Massachusetts is the availability of handguns to the population; thus, the obvious way to reduce gun violence is to reduce access to handguns. But is there independent evidence to support the logical inference that measures to restrict access to firearms will reduce violence? Persuasive evidence comes from analysis of state and local firearms regulations.

The most sophisticated and convincing study of the impact of handgun controls is by Geiscl, Roll, and Wettick.<sup>23</sup> The authors measured the effectiveness of gun control legislation by the extent to which differences in death and crime rates among fifty states and the District of Columbia and among 129 U.S. cities with populations over 100,000 could be explained by differences in gun control legislation. Eight sorts of death and crime rates were considered: rates of homicide by firearm, all homicide, suicide by firearm, all suicide, aggravated assault by firearm, all aggravated assault, accidental death by firearm, and armed robbery. Using the methodology of multiple linear regression, the authors controlled for a variety of confounding variables such as income, education, race, and age of the populations of the various states and localities.

The study concluded that gun control legislation is related to fewer total deaths by homicide, suicide, and accident by firearms; that New Jersey gun control legislation (which is slightly more stringent than present Massachusetts law) saves 21 to 32 lives per million people in the population each year; and that the most plausible explanation for the effectiveness of gun controls is that the percentage of adults who could lawfully obtain firearms is reduced by stringent gun control legislation.

Geisel, Roll and Wettick are by no means the only researchers who have concluded that states and cities having handgun legislation will have lower death and crime rates.<sup>24</sup> Indeed, a thorough review of the literature reveals only one study that contradicts this conclusion.<sup>25</sup> The author of the study, Alan S. Krug, in a piece commissioned by the National Shooting Sports Foundation, contends that state-level firearm licensing laws have no effect on the rate of violent crime. He comes to this conclusion by arbitrarily lumping the states into two classifications—"licensing" and "nonlicensing"—and then comparing the average crime rate of each class. The study has a number of deficiencies.<sup>26</sup> For example, it completely ignores the influence on crime of a variety of factors such as geography, race, population density, and per capita income. And Krug's 36 "licensing" states range from New York, with its relatively tough Sullivan laws, to South Dakota, where no permit and only a brief waiting period are required to purchase a gun. Even Louisiana is considered a "licensing" state although a permit to purchase

<sup>21</sup> Ramsey Clark, *Crime in America* (New York: Simon and Schuster, 1970), p. 108.

<sup>22</sup> Dr. Donald E. Newman, Director of Psychiatric Services, Peninsula Hospital and Medical Center, Burlingame, California, "Firearms and Violent Crime: Conversations with Protagonists," in *Staff Report*, Appendix E, p. 190.

<sup>23</sup> Martin S. Geiscl, Richard Roll, and R. Stanton Wettick, Jr., "The Effectiveness of State and Local Regulation of Handguns: A Statistical Analysis," *Duke Law Journal*, Vol. 1969, p. 647.

<sup>24</sup> See, for example, Stephen Hartman, "Urban Murder, 1966-67; the American Example." Study submitted by Senator Thomas Dodd, in U.S. Senate, Committee on the Judiciary, Subcommittee to Investigate Juvenile Delinquency, *Firearms Legislation*, hearings, 91st Cong., 1st sess., July 1969, p. 208; William F. Mullen and Lawrence Grant, "Testing the Effects of Gun Control Legislation." in U.S. Senate, Committee on the Judiciary, Subcommittee to Investigate Juvenile Delinquency, *Federal Firearms Legislation*, hearings, 90th Cong., 2nd sess., June-July 1968, p. 724.

<sup>25</sup> Alan S. Krug, *True Facts*, Study Two, "The Relationship Between Firearms Licensing Laws and Crime Rates."

<sup>26</sup> See Franklin Zimring, "Games with Guns and Statistics," pp. 1118-1120.

a gun is only necessary in New Orleans.<sup>27</sup> Krug's thesis is hardly persuasive, and given available evidence one is led to conclude that measures to reduce the availability of firearms will lower death and crime rates.

#### ALTERNATIVE GUN CONTROL POLICIES

Four alternative policies are described and evaluated. These are the maintenance of the status quo, the relaxation of current gun control laws, a bounty system, and the introduction of harsher penalties. While each of these alternatives has some merit, none of them will result in a major, long-run reduction in the violent use of handguns because none effectively reduces the absolute number of handguns in circulation.

##### *Maintenance of the Status Quo*

The present gun control laws of Massachusetts have served their limited purpose well. The incidence of illegal gun usage is lower in Massachusetts than in most other states.<sup>28</sup> The gun problem however, has reached the point where the absolute magnitude of handgun ownership is beginning to dwarf the relative success of the Massachusetts laws. (At least 30,000 handguns per year are purchased in Massachusetts.)

A major defect of the present law is that it does not reach handguns sold outside of the borders of the Commonwealth. Thousands of handguns are illegally purchased by Massachusetts residents from dealers in other states or are brought into the state to supply the illegal market. The supply of handguns is large and the price low enough that virtually anyone wishing to purchase a handgun would have little trouble doing so, particularly in Boston. (It is possible to rent a gun in order to commit a crime to get the money to buy a gun!)

The present law also does little to help reduce the incidence of "crimes of passion" or accidents. The handgun-related deaths involve, for the most part, otherwise law abiding individuals who have little trouble obtaining guns under the present laws. Even with stricter enforcement, these laws would prove ineffective.<sup>29</sup>

##### *The Relaxation of Current Gun Control Laws*

Arguments supporting the relaxation of gun laws focus on (1) the Constitutional aspects of gun ownership, (2) the ineffectiveness of gun control in reducing crime, (3) the cost of administering gun control, and (4) the use of handguns for personal protection.

The "right of the people to bear arms" as a right guaranteed by the Second Amendment is frequently cited as a reason to allow unrestricted gun ownership. The Supreme Court has indicated that the right referred to in the Constitution is a collective rather than an individual right.<sup>30</sup> Yet, those opposed to gun control view the Supreme Court's decision as an "alteration" rather than an "interpretation" of the Constitution, and thus invalid.<sup>31</sup> In Massachusetts the pro-gun forces will try to resolve the question by a popular initiative to amend the state constitution to state specifically that individuals have the right to own guns.<sup>32</sup>

Whether or not gun control violates Second Amendment rights, most proposed gun control legislation impinges to some degree on individual freedom. Such impingement should be considered when weighing policy options. Given this criterion alone, ownership with no registration or licensing requirements is the best alternative, while gun registration would be preferable to restrictive licensing or a ban on handgun ownership.

Denying the relationship between guns and violence is another argument against gun control. As discussed above, it is our conclusion that the evidence supports a casual relationship between the availability of guns and the number of gun-related deaths and accidents.

There are monetary costs associated with gun control programs. These costs vary with the number of people allowed to own guns and on the thoroughness and efficiency of the screening process. It can be argued that these costs are greater than the benefits (in terms of lives saved or accidents prevented) that

<sup>27</sup> Robert J. Riley, "Shooting to Kill," p. 502.

<sup>28</sup> Federal Bureau of Investigation, *Uniform Crime Reports*, 1973, pp. 60-61.

<sup>29</sup> R. J. Riley, "Shooting to Kill," pp. 500-514.

<sup>30</sup> *United States v. Miller*, 307 U.S. 174 (1939); See also *United States v. Tot*, 131F. 2d 261 (3rd Cir. 1942), *Cases v. United States*, 131F. 2d 916 (1st Cir. 1942).

<sup>31</sup> Prescott D. Crout, "An Examination of Certain Statements Taken From Anti-Gun Propaganda," p. 8.

<sup>32</sup> Material from an interview with Bruce Wedlock (January, 1975).

result, or that greater benefits might be gained by allocating the money to programs that could save more lives. Federal regulations have required, however, their own bureaucratic organizations that would persist despite state law relaxation; the savings, therefore, would be minimal.

The use of guns for personal protection and crime prevention also argues against laws that would restrict gun ownership. This can be refuted on three grounds. First, guns bought to protect families against intruders are more likely to be used to harm a family member or friend.<sup>33</sup> Second, guns provide little or no deterrence to crime.<sup>34</sup> Third, homeowners rarely win gun battles with intruders and decrease their own chances of survival by resisting.

#### *The Bounty System*

An attempt can be made to reduce handgun availability by a bounty system in which monetary rewards are offered by the government for all handguns turned in. Baltimore's Operation PASS (an acronym for People Against Senseless Shooting) exemplifies this approach. In effect from August 22, 1974 to November 6 of that year, PASS offered gun owners \$50 for any weapon that could be fired and \$100 for tips about hidden guns. In all, 13,600 guns were collected.

The attraction of such a program is that it infringes minimally on individual freedom; no compulsion is required, as private gun ownership remains legal. Yet this is also the most serious drawback to a bounty plan. Without compulsion and as long as possession of handguns is legal, most of these weapons will remain in private hands. In the one large-scale experiment with a bounty plan in Baltimore, less than 10 percent of the city's guns were turned in.<sup>35</sup> There is reason to believe that a bounty system that includes compulsion would be more successful.

#### *The Introduction of Harsher Penalties*

The NRA asserts that there is a certain segment of society that obtains guns with the intention of committing criminal acts. They further contend that gun control laws should be targeted only at this criminal element by imposing harsh penalties for the criminal usage of handguns while not restricting handgun ownership by the average citizen.<sup>36</sup> These penalties are to act as a deterrent.

The rationale for this argument is that anyone intending to commit a crime would consider the penalties and abandon his plans.<sup>37</sup> A harsh penalty, therefore, should potentially reduce the number of rationally planned crimes. Most homicides, however, are irrational acts occurring in situations of passion. Even if other weapons such as knives are substituted, fewer deaths will result.<sup>38</sup> Further, harsher penalties would not affect gun-related accidents; reducing gun availability would.

### PROSCRIBING PRIVATE OWNERSHIP OF HANDGUNS

#### *The program and its implementation*

In light of the clear causal link between the availability of handguns and the rate of violent crime; the failure of present strict licensing and registration laws to end handgun abuse; the evidence that private ownership of handguns does not significantly deter criminals but does increase the frequency of gun accidents and domestic assaults; and society's inability to enforce measures designed to keep private handguns from falling into the hands of criminals, we have concluded that the Commonwealth of Massachusetts should ban private ownership of handguns. We believe that an appropriate and efficient program would be composed of the following elements:

(1) Possession of handguns manufactured after 1898<sup>39</sup> should be restricted to police officers, military personnel required to carry sidearms, museums,

<sup>33</sup> Case Western Reserve Medical School Study, 1973. See also *Staff Report*, Chapter 10.

<sup>34</sup> C. Bakal, *op. cit.*, p. 259.

<sup>35</sup> There are about 250,000 households in Baltimore. Conservative estimates are that one-third of these have at least one firearm (see *Staff Report*, Chapter 2). The average number of weapons for each firearms-owning household in the U.S. is about 2.25. This would mean that there are at least 200,000 firearms in Baltimore. The 13,600 weapons turned in would equal nearly seven percent of these.

<sup>36</sup> National Rifle Association of American literature: "The American Rifleman," January 1972, "The NRA Story."

<sup>37</sup> H. L. Packer, "The Limits of Criminal Sanction," (1968).

<sup>38</sup> Zimring, "Is Gun Control Likely to Reduce Violent Killings?" *supra* n. 16.

<sup>39</sup> This is the cut-off date for qualification as an "antique firearm," under the Federal Gun Control Act of 1968, 44 U.S.C. § 921 (a) (16).

manufacturers, and licensed gun clubs.<sup>40</sup> Other proposals for restricted ownership frequently include exceptions for private security guards and/or businessmen in high-crime areas. We have considered and rejected such exceptions because of their ambiguous definition, a potential source of administrative difficulties and citizen abuse. In addition, we are impressed with the evidence that handguns in the possession of private businessmen (a) are themselves the target of thieves; (b) are less frequently involved in fending off intruders than in the injury of innocent persons; and (c) are likely to be turned against their owners, or provoke assaults to use deadly force themselves.<sup>41</sup>

(2) Civilian handgun owners should be required to surrender their weapons, legal or illegal, to the Department of Public Safety or its designees (e.g., local police stations) within 180 days of the effective date of enabling legislation. To avoid 14th Amendment difficulties and to encourage full compliance, those surrendering weapons would receive the fair market value (FMV) of their guns, as determined from such industry sources as the Stoeger Arms Company's *Gun Traders Guide*. Provision ought to be made for independent appraisal of rare or unusually modified weapons. Those turning in guns should be allowed to remain anonymous. While this might create incentives to steal weapons and let the state, in effect, "fence" them, it will also encourage the surrender of illegal weapons and will thus increase the "yield" of a gun proscription program. Moreover, it should not work to the disadvantage of the insured legitimate gun owner, and would give those fearful of having their guns stolen an incentive to surrender them early in the 180-day grace period.

To maximize the program's yield, the Department of Public Safety should notify all owners of registered handguns of the program. By keeping track of the serial numbers of collected weapons, the Department will be able to identify owners of registered weapons who have not obeyed the law. Owners of guns not surrendered within the grace period should bear the burden of explaining their loss or disappearance.

(3) Massachusetts' new penal statute mandating a one-year sentence for violation of gun laws ought to be retained and applied to handgun-prohibiting legislation. Though no connection has yet been demonstrated between severe penalties and the deterrence of crime, the new statute will most likely produce easy convictions, and promises to play a role analogous to that of income tax statutes in the prosecution of organized crime figures.

(4) The Commonwealth should establish a program of bounties for tips leading to the discovery and confiscation of handguns not surrendered within the 180-day grace period. A bounty equal to the value of guns recovered would offer great incentives to would-be informants. A bounty higher than FMV would offer still greater incentives (while driving up the price of illicit guns to at least the level of the lowest collectable bounty), but has the disadvantage of encouraging gun owners to turn themselves in (anonymously or through a friend) in order to collect more than they could by legally surrendering their handguns. In addition, a bounty above the FMV would encourage the importation of cheap guns from other states for sale to Massachusetts at a profit. Accordingly, we recommend that bounties not exceed the FMV of guns recovered. Provision should be made for preserving the anonymity of informants; but as this would increase the difficulty of securing search warrants, tipsters desiring anonymity should be told that it would lessen the chance of weapons being recovered, and thus of bounties being paid.

(5) The above program should be accompanied by a ban on the sale of handguns within the Commonwealth and their importation from out of state. In addition, prohibiting the sale of any ammunition of a caliber used only in handguns would make it more difficult to use whatever guns are not surrendered within 180 days. Note that present Federal law prohibits the sale of handguns by retailers in one state to residents of another.<sup>42</sup>

<sup>40</sup> The exception for gun clubs must be extremely narrow and rigidly circumscribed. We would advocate a prohibition on the formation of new clubs, a limit on the number of guns per club (based on membership), provision that no gun ever leave club property, periodic unannounced police checks to verify the presence of all guns, and the mandatory posting of a large bond by each club to be forfeited if any guns are stolen. Gun club members are sure to find all of the above restrictions onerous; they will have the option of abandoning their hobby if its costs are too high.

<sup>41</sup> See Case Western Reserve study cited above.

<sup>42</sup> 44 U.S.C. § 922 (a) (3), 922 (b) (3).

*Benefits, costs and consequences*

*Benefits.*—Table III, below, presents data on the incidence of handgun-related crime in Massachusetts, and the extent to which we believe such crime would be diminished by handgun proscription.

TABLE III.—ESTIMATED EFFECTS OF HANDGUN PROSCRIPTION ON VIOLENT INCIDENTS IN MASSACHUSETTS.

Type of incident	Number <sup>1</sup> (1973)	Expected reduction		
		Low estimate	Medium estimate	High estimate
<b>Accidents:</b>				
Deaths.....	10	4	6	8
Nonfatal injuries.....	70	30	40	55
<b>Suicides:</b>				
Deaths.....	140	15	25	35
Nonfatal injuries.....	35	0	0	0
<b>Homicides:</b>				
Aggravated assaults.....	110	35	55	75
Armed robbery.....	1,300-1,750	415	725	1,135
Summary:	4,000	250	600	1,500
Total lives saved.....		55	85	120
Injuries prevented or made less severe.....		445	765	1,190

<sup>1</sup> The number (1973) column records the number of each incident by handguns in Massachusetts in 1973.

Note: These estimates are derived in the appendix.

As detailed in the table, a prohibition on private ownership of handguns in Massachusetts can be expected (over the long run) to save between 55 and 120 lives per year; prevent or mitigate some 445 to 1190 injuries per year; and prevent the occurrence of between 250 and 1500 armed robberies per year. These reductions will result from the interaction of two factors. First, many assaults, robberies, accidents etc., will never occur at all. Second, many incidents which do occur will involve weapons less lethal than a handgun, and less likely to intimidate or maim victims.

Note that the figures given above do not reflect the savings in medical expenses and lost wages which can be expected to accrue from a decrease in handgun abuse. Also excluded is the cost of human suffering now endured by the victims of handgun abuse and their families.

*Direct Costs.*—It is difficult to estimate the cost of the program outlined above. There are probably over one-half million legal handguns in Massachusetts, and there is no way of knowing how many illegal weapons are also present in the state. Moreover, it seems likely that most illegal gun owners and some legal owners will retain their weapons, particularly those purchased before 1969 and thus not registered with the Department of Public Safety.

Assuming that a very high proportion (80 percent or more) of registered weapons and a smaller proportion (67 percent or less) of unregistered weapons will be surrendered, we estimate that between 250,000 and 500,000 weapons will leave private hands during the 180-day grace period. Handgun owners as a group are often described (by pro-gun control as well as anti-gun control sources) as law-abiding and formalistic in their approach to legal institutions. This will raise the program's yield, but the psychological attachment of handgun owners to their weapons creates incentives for civil disobedience that will be aggravated by the difficulty of tracing unregistered weapons and the inertia which mitigates against compliance with an action-compelling statute.

The price of new handguns of American manufacture today usually exceeds \$100 and may approach \$200. Assuming that many of the weapons surrendered will be old or less expensive models of foreign manufacture, the average value of surrendered guns will be on the order of \$100. The capital cost of the recommended program will thus be \$25 to \$50 million. To this must be added administration costs, but we expect that these will be minimal and not substantially different from those of Massachusetts' present firearms and gun-owner licensing programs. The state will forego the fees presently charged handgun owners for their licenses, but this will be offset by the non-recurring nature of program expenses. Note that the benefits of handgun proscription will continue and even increase over time.

A second direct cost of private handgun proscription will be the economic losses suffered by handgun manufacturers and licensed retailers in Massachusetts. This state is a major gun manufacturing center; the largest of the state's eight small arms producers, Smith & Wesson, was reported in 1973 to have 2,000 employees and sales of \$40 million.<sup>48</sup> As the companies are unwilling to publish detailed employment and sales figures, we can only estimate that 3,000 persons in the Commonwealth are employed in the handgun industry. It is expected that the impact of banning private handgun ownership on manufacturers will be small. First, according to one well-placed source, domestic, civilian handgun sales are only about 10 percent of the market (police, armed services and security guards form the major share). Second, handgun sales in Massachusetts constitute less than one percent of the total U.S. civilian market.

The impact on licensed retailers is likely to be greater. There are over 30 gun stores and gunsmiths in the Boston area alone. Handguns usually account for around 50 percent of their firearms sales; the total value of handgun and related equipment sales in Massachusetts is about \$5 to \$7 million annually. The loss of these sales will cost the state \$200,000-\$300,000 in sales taxes, and the stores themselves will undoubtedly experience some economic hardship.

The third major category of direct costs are those associated with the enforcement of a ban on private handgun possession, including the costs of prosecuting lawbreakers. Barring major changes in the states' criminal justice system, such costs are likely to be significant but inseparable from other system expenses. In any case, they cannot be estimated in advance of some experience under the new law.

*Indirect Costs.*—Prohibiting private ownership of handguns will inflict some non-pecuniary costs upon Massachusetts and those of its citizens who now own handguns.

First, proscribing the private ownership of handguns represents an abridgment of individual freedoms. In a complex society that seeks to promote the welfare of its citizens, many kinds of behavior are proscribed or required. In all such cases however, the costs of diminished freedom and individual flexibility should not be borne unless outweighed by the benefits which social control promises to provide.

Second, to the extent that previously law-abiding citizens fail to obey a handgun proscription law, the state creates criminals and undermines respect for its statutes. The number of expected violators cannot be assessed accurately in advance, but it is likely to exceed 100,000 and may approach 150,000, especially given the difficulty in tracing guns purchased before 1968.

Third, criminals are unlikely to surrender their guns. Most illegal guns were once legal and, in time, proscription of private guns will severely limit the stock of handguns in criminal hands. In the short run, however, there will be some instances in which a former gun owner who has surrendered his weapons will be victimized and perhaps killed by a gun-toting assailant. Such incidents will be very immediate, and countervailing examples will not be available because we will never be able to pinpoint cases in which someone did *not* die or was *not* robbed because of the absence of an available handgun. There is some danger of citizen backlash as real lives lost are compared to statistical, but unidentifiable, lives saved.

Fourth, the use of handgun registration lists to facilitate implementation of the program will support the contention of anti-gun control forces that registration is a step towards confiscation. It might, as a consequence, become more difficult to pass strong gun control laws in states which now have weak statutes or no statute at all.

#### *The Politics of Passage*

The political aspects of handgun proscription in Massachusetts are influenced by two salient facts. First, the state's present handgun control statute ranks with those of New York and New Jersey as one of the three most restrictive in the nation. Second, the two sides in the controversy are composed of factions that cross traditional political lines. Confusion is compounded by the relatively radical nature of proposals to eliminate private ownership of handguns which has made opponents of some individuals who long favored and worked for gun controls that would be considered strict elsewhere in the nation.

<sup>48</sup> *Standard and Poor's Register of Corporations, Directors and Executives*, 1973, p. 1726.

*The Anti-Gun Forces.*—People vs. Handguns (PVH), devoted exclusively to securing a ban on private ownership of such weapons, is the leading Massachusetts group working toward that end. It is supported by a variety of citizens groups and by major news media in Eastern Massachusetts (most notably the *Boston Globe*).

PVH is led by Middlesex County Sheriff John Buckley, an anomalous Republican/Irish Pol liberal activist. The organization, founded in 1974, seeks to enlist the support of other groups rather than build an individual membership of its own. To date, its proposal has been endorsed by at least 11 other organizations—ranging from the Massachusetts Bar Association to the Massachusetts Federation of Women's Clubs to Boston B'nai B'rith—with a total membership in excess of 70,000 (though not all of these can be counted as supporters of PVH).

PVH and its supporters expect their legislation, which is similar in most respects to the program recommended above, to be defeated in the state legislature. Accordingly, they are working toward a popular initiative on their bill in the 1976 general election, as provided for in Article 48 of the state constitution. Their target budget for this drive is \$30,000.

Several other organizations devote a portion of their resources to handgun control. The Massachusetts Council on Crime and Correction, for example, devotes most of its resources to improving the state's criminal justice system but spends 15 to 20 percent of its time and money on gun control. (Buckley is a past Executive Director of the Council, and PVH has office space in a building owned by the Council, but the organizations claim to have independently "discovered" the issue.) Still another active group is Citizens for Participation in Political Action (CPPAX), which played a role in placing a handgun prohibition question on the ballot in five Massachusetts communities in 1974.

PVH and its allies have received considerable media support, including editorial endorsements from WCVB television (Channel 5), a number of radio stations, and the *Boston Globe*. The *Globe's* support merits special mention because of its wide influence. The paper regularly publishes news stories and analyses concerning handguns and gun control efforts. Its editorial page strongly endorses prohibition of private handguns; its news coverage reflects this editorial position. In addition, Buckley appears to have excellent relations with *Globe* editors.

The biased coverage of New England's leading newspaper is of enormous value to proponents of handgun proscription. It is certainly of more value than free advertising because readers have more faith in the veracity of news stories than in editorials or advertisements. None of this has been lost on the opponents of stricter gun controls whose anger at the *Globe* has evolved into recent efforts to organize a boycott of the paper.

*The Pro-Gun Forces.*—Several organizations with overlapping memberships and cooperating leaderships represent the interests of those who defend private ownership of handguns. On the federal level, the oft-celebrated ability of the NRA to deluge Congress with 500,000 pieces of mail on short notice has given pro-gun forces a reputation for discipline and organization. In Massachusetts, however, no single group speaks for all handgun owners.

The Massachusetts Council of Sportsmen's Clubs is the largest group in the state working actively against stricter gun controls. The Council is a federation of local clubs—there are apparently no individual members—with a total membership of 40,000. Though large, the Council does not communicate directly with individual gun owners and gun control is not its exclusive or even primary concern. Its efforts are largely directed toward fishing and hunting matters, wildlife conservation, etc.

By contrast, the 4,500 member State Rifle and Pistol Association (SRPA) is devoted to gun-related matters, and labors unceasingly in opposition to more stringent controls on handguns. The SRPA holds the NRA "franchise" in Massachusetts; it conducts NRA-sanctioned competitions, for instance. However, only about one-quarter of the NRA's 20,000 Massachusetts members belong to the SRPA. The organization's annual budget is approximately \$20,000, of which half goes to pay the cost of a newsletter. On a mass mailing to Massachusetts NRA members, SRPA can raise about \$10,000. It hopes to raise and spend a total of \$25,000 to fight handgun proscription.

The Gun Owners Action League (GOAL) is a more purely political organization, founded last year for the express purpose of lobbying against stricter gun control statutes. GOAL refuses to divulge its membership figures, but it almost certainly has less than 5,000 members and perhaps not more than 1,000. Its

target budget to fight PVH's initiative and to advance an initiative of its own which would amend the state constitution to guarantee the individual's right to bear arms is \$50,000, but it may not be able to raise that sum (it is presently working to raise funds to pay the fee of its newly hired legislative representative).

Beyond these major organizations are many smaller ones. The Liberty League, for example, is a smaller group oriented toward political action. Rod and gun clubs across the state can be expected to work against handgun proscription. Extreme groups such as the John Birch Society and the Minutemen will oppose handgun proscription vigorously.

Gun organizations are led for the most part by college-educated individuals employed in engineering and other technical fields, and residing in the Boston area; members however, tend to be blue-collar workers. Those actively involved in opposing handgun proscription complain of apathy among gun owners and difficulties in raising money and volunteers for long-term projects, but we have no way of verifying those reports.

Gun manufacturers would be expected to be major participants in the gun control struggle. Manufacturers contribute \$2 million annually to the NRA, generally in the form of advertisements in the NRA's magazine. Representatives of anti-gun control groups claim, however, that the manufacturers have given them no aid beyond free literature. It is argued that the manufacturers find private sales to be more of a nuisance than a boon. PVH expresses a different view; Sheriff Buckley has suggested that the manufacturers can be expected to raise hundreds of thousands of dollars to defeat PVH's initiative campaign.

*Legislative and Public Sentiment.*—Available evidence indicates that those opposing handgun proscription will continue to have the upper hand in the state legislature, but that the electorate as a whole favors an end to most private ownership of handguns and will vote for it in 1976.

A series of Gallup polls taken over the past decade indicate that between 75 percent and 80 percent of the American public favors strict gun controls, including licensing of owners and registration of weapons. Strict controls, however, are qualitatively different from a ban on private possession of handguns, and it seems likely that at least a few of those supporting the former will balk at the latter.

In early 1973, a WCVB telephone poll of 300 Boston-area residents revealed that 85 percent favored legislation limiting the possession of handguns to police officers and licensed pistol club members. The small size of the interview sample indicates that WCVB's data cannot be considered precise; assuming a random sample, however, the chances are 95 out of 100 that the actual proportion of the population favoring such legislation is between 79 and 91 percent.

U.S. Congressman Joe Moakley (D-Boston) polled his constituents by mail on the question of limiting handgun possession to police officers. His March 1974 questionnaire elicited 21,000 replies; 68 percent of those responding favored the limitation. Moakley's question, however, was poorly worded, and his sample was self-selected and therefore unlikely to be representative of his constituents as a whole.

In November of 1974, five Boston-area communities included on their general election ballots a question requesting an opinion on legislation prohibiting the private ownership of handguns, with exceptions for collectors, licensed pistol clubs, police officers and security personnel. All five communities expressed support for the legislation, with the proportion approving ranging from 60 percent in working-class East Boston to 80 percent in liberal, affluent, Newton and Brookline.

The close agreement among several divergent samples indicates that a popular initiative seeking to prohibit private ownership of handguns would be supported by at least two-thirds of the Boston-area electorate. Note, however, that public opinion in Western Massachusetts has not been sampled; one would expect that portion of the state to be less favorably disposed towards handgun proscription. None of the polls, moreover, were conducted after a long and bitter campaign of charge and countercharge. Former State Rep. Ralph Sirlanni, past chairman of the Public Safety Committee and presently the Committee's legislative research director, believes that public support for handgun proscription would fall after an "educational" campaign by anti-gun control forces. While this may be true, the shift is unlikely to be large enough to defeat PVH's initiative.

A small group to whom an issue is highly salient will often have more influence over public decisions than a large majority to whom the issue is peripheral. Those who oppose gun control feel very strongly about the matter, and will often make voting decisions solely on the basis of a candidate's stand on the issue. Proponents of gun control, with some exceptions, rarely feel so strongly. Thus, when the General Court's Public Safety Committee considered Senator Backman's handgun proscription legislation last year, Representative Sirianni received 1500 letters opposing the bill and 12 favoring it. Pro-gun leaders have reported that they could routinely arrange, on short notice, for 2000 citizens to pack a legislative hearing. Such commitment effectively sways legislators, who tend to respond less to public opinion than to public expression.

This explains the dramatic success of pro-gun forces in defeating Senator Backman's bill by a vote of 33 to 4 in the State Senate in 1974. Even with the younger, more liberal legislature elected this November, it is believed by both sides the PVH's legislation (or the similar Backman bill) will receive only about 10 votes in the Senate and 40 in the House. PVH has, in fact, virtually given up on the legislature and devotes the bulk of its efforts to preparing for a popular initiative on its program in 1976.

Those working for the popular initiative appear confident of victory, but that means little 20 months before an election. Perhaps 40 percent of Massachusetts households own firearms, and half that proportion own handguns. They will certainly vote, and the champions of their cause (if the past is our guide) will overcome their poverty and spend well into six figures to spread their views.

On the other hand, proponents of handgun prohibition can count on extensive media support to make up for their shortage of funds, and they are starting out with substantial (if shallow) public support. Although gun control, like fluoridation, is an issue on which a vocal minority of opponents have consistently turned back the determined efforts of reformers, it seems likely that Massachusetts will, in 1976, become the first state in the nation to end most legal private ownership of handguns within its borders.

#### APPENDIX

##### DERIVATION OF FIGURES FOR TABLE I

The numbers of deaths (total and by firearms) for accidents, suicides, and homicides were found in Commonwealth of Mass., Department of Public Health, Office of Health Planning and Statistics, *Annual Report of Vital Statistics*, Boston, 1972. The numbers of deaths by firearms were converted to numbers of deaths by handguns as follows. National statistics indicate that one-third of firearms accidental deaths were by handguns (see *Staff Report*, p. 31). It was assumed that 95 percent of suicidal firearms deaths were by handgun. Handguns were used in 80 percent of all homicides where a firearm was used (see *supra*, footnote 14).

The figure for non-fatal accidental injuries was obtained by applying a conservative estimating ratio of seven non-fatal injuries for every fatality (see *Staff Report*, p. 29). Non-fatal injuries for suicides were estimated by assuming that for every four suicides there was one non-fatal injury (see *supra*, Table II, which shows that 80 percent of suicide attempts by firearms result in deaths).

The total number of armed robberies and aggravated assaults in Massachusetts in 1973 was taken from the Federal Bureau of Investigation, *Uniform Crime Reports*, Washington, D.C., 1973, (hereafter referred to as *UCR*). The rate of firearm use for these two types of crime was taken to be equal to that for the North-eastern region, given in *UCR*. It was then assumed that 80 percent of these firearm incidents involved handguns.

##### DERIVATION OF FIGURES IN TABLE III

The three estimates of "Expected Reduction" of violent incidents are derived using the assumption that 40 percent (for the low estimate), 60 percent (for the medium estimate), and 80 percent (for the high estimate) of households that presently have handguns will no longer have them six months after the program we recommend goes into effect.

Given the direct relationship between handgun availability and accidental deaths and injuries, it was assumed that a one percent reduction in households with handguns would result in a one percent reduction in accidents.

Estimates of the reduction in deaths by suicide were calculated as follows. First, the assumed proportion of households that would no longer have handguns given above was multiplied by the number of suicide deaths in 1973 to get an upper bound on expected reduction. Second, it was assumed that 80 percent of this upper bound figure equalled the number of suicide victims with ambivalent motivations (see *supra*, footnote 10). It was then presumed that half of those with ambivalent motives would find a sure way to kill themselves anyway, but that the other half would either decide not to commit suicide or would use another, less effective method of attempting suicide and that as a result only 25 percent of this would die (see Table II of this report for data on the effectiveness of other methods of suicide).

For non-fatal injuries resulting from suicides, there would be a slight increase due to individuals who would have killed themselves with a gun but who survive suicide attempts because of substitution of other methods. There would be a slight decrease because those who currently injure themselves might either not try to kill themselves or would be injured less severely due to substitution. These cancel out.

For homicides an upper bound for expected reduction in deaths for each estimate was again obtained by multiplying .40, .60, and .80 times the number of homicides in 1973. For the remaining deaths, it was estimated that one-fourth would not occur due to the absence of a gun and that in the remaining three-fourths of the cases a knife would be substituted for a gun which would result in only one-fifth as many deaths (see *supra*, footnote 16).

Upper bounds for aggravated assaults that could be reduced were calculated as for homicides and suicides. Thirteen hundred was taken to be the number of such assaults in 1973 in deriving the low estimate, 1,500 was used for the medium estimate, 1,750 was used for the high estimate. Since analysis of aggravated assaults is almost identical to analysis of homicides, it was again assumed that one-fourth of the assaults would not occur without a gun and that injuries in 80 percent of the remaining three-fourths of the cases would be less severe due to substitution of other weapons. A few additional aggravated assaults would occur each year because of the expected reduction in homicides; some of those who would have been victims of homicide would survive due to substitution of other less effective weapons for a gun.

Reductions in armed robbery were simply best guesses based on the assumption that reduction in robbery would be proportional to reduction in the number of households with handguns and that the constant of proportionality was .15 for the low estimate, .25 for the medium estimate, and .5 for the high estimate.

---

## APPENDIX 4

### HOMICIDE ANALYSIS—NEW YORK CITY—1973

(By Henry G. Schaaff)

#### PART I.—*Comparison of homicides—1973-72*

##### PREFACE

For the first time in nine years New York City has experienced a decrease in the number of homicides committed annually. The 1,680 cases reported in 1973 represent a decrease of 11, or 0.7% from the 1691 cases reported in 1972.

The information presented in Part I includes time of occurrence, location, means employed and details of the circumstances surrounding the commission of the homicide.

##### SUMMARY

###### *General Comments*

1. 1,680 Homicides were reported to the New York City Police Department in 1973. This is a decrease of 11, or 0.7% from the previous year. These statistics include Murder and Non-Negligent Manslaughter, and do not include Vehicular Homicides or other accidental, negligent or justifiable killings.

2. The 1,680 Homicides recorded in 1973 represent a Homicide Rate of 21.3 homicides for each 100,000 residents in New York City.

3. In comparison with the nation's ten largest cities, New York City ranks eighth (8th) in a comparison of homicide rate per 100,000 residents.

*Place of Occurrence*

4. The borough of Manhattan had the highest Homicide Rate (42.3) per 100,000 residents, for 1973. (Table No. 1)

5. Three of the five boroughs experienced decreases in homicides from 1972, Manhattan with a 1.5% decrease. The Bronx with 4.4% and Queens with a 9.8% decrease. (Table No. 1)

6. The location of a homicide may be classified into a number of categories. The simplest breakdown, inside/outside, reveals that the most frequent place of occurrence was inside 54%. However when location is broken down into finer categories the "street" emerges as the most frequent location of an occurrence (42.2%). Residences, including hallways, lobbies, basements, and elevators were second with 41.5% of all homicides reported in 1973. (Table No. 5)

*Time of Occurrence*

7. The month to month variation of homicides has decreased appreciably from the previous year. In 1972, the range was 76 between the months with the smallest and largest numbers reported, while the 1973 range was only 57. (Table No. 6)

8. The month of July had the largest number (166) of homicides recorded, with May (164) as a close second. (Table No. 6)

9. Overall, homicides were distributed quite evenly over the four quarters of the year. The first quarter had 377 (22.5%), the second 442 (28.3%), the third 417 (24.8%), and the last quarter had 444 (26.4%). (Table No. 6)

10. The weekend continues to dominate in the occurrence of homicides for the week. The period from 4PM Friday to 8AM Monday had 724, or 43.1% of all homicides recorded in 1973. (Table No. 7)

The day of the week having the most homicides in 1973 was Saturday with 347, or 20.7% of the total, followed by Friday with 222 (13.2%), a distant second. (Table No. 7)

12. By hour-of-day, the period between 10PM and 1AM emerged as the highest time period for the commission of homicides in 1973, with 354, or 21.1%. (Table No. 8)

13. The hour with the most recorded homicides was between 10PM and 11PM, with 137 (8.2%), followed by 12 Midnight to 1AM, with 177 (7.0%). The hour from 7AM to 8AM had the least number of homicides, 25, or 1.5%. (Table No. 8)

*Victims*

14. Adults, 21 years of age or older represented 86% (1,445) of all homicide victims, Youth, 16 to 20 years accounted for 9% (157), Juveniles between the ages of 7 and 15 were 2.5% (42), and Infants were 2.2% (36) of the total. (Table No. 10, 11)

15. Males continued to account for the vast majority of homicide victims with 1400 in number (83.3%), while Females accounted for the other 280 (16.7%). (Table No. 9, 12)

16. The racial breakdown of homicide victims for 1973 was: 893 Black (53.2%), 437 Hispanics (26%), 342 Whites other than Hispanic (20.3%), and 8 Yellows (0.5%). (Table No. 9)

17. In 865 homicide cases, the victim had either alcohol, narcotics or both in his or her blood at the time of death. This represents 51.5% of all homicide victims for 1973. (Table No. 13)

18. Of the 865 victims with alcohol/narcotic blood content, 756 were male, representing 54% of all male homicide victims, while 109 were female, or 38.9% of the total female homicide victims. (Table No. 14)

*Victim—Perpetrator Relationships*

19. In 1334 of the 1680 homicides committed in 1973, it was established whether or not a prior relationship existed between the perpetrator and victim. Of these 1334 identifiable cases a prior relationship was established in 962, or 72.1% of them. The other 372 cases (27.9%) were of the strict stranger-to-stranger type. (Table No. 18)

20. A total of 155 victims (11.6%) were killed by members of their own family, representing a proportion of 1 in every 11 homicide victims. (Table No. 18)

21. 277 homicide victims (20.8%) were killed by someone with whom they shared a close personal relationship. The close personal relationships consisted of Family Members, 155 (11.6%); Common Law Mates, 68 (5.1%); and Boy-friends or Girlfriends, 54 (4.1%). (Table No. 19, 20)

22. Intraracial killings (i.e.: homicides where both victim and perpetrator are of the same race) remain as the highest type, with 80.5% (1330) of the 1280 cases wherein the race of both the perpetrator and victim was established. (Table No. 22)

#### Perpetrators

23. Of the 1,680 homicides committed in 1973, 1,089 cases were solved by arrests. This resulted in a clearance rate of 64.8% for the year.

24. Of the total arrested for homicide, 31% (441) were under 21 years of age and 6.6% (94) were less than 16 years old. (Table No. 23, 26)

25. 98 of the total persons arrested for homicide in 1973 admitted to being drug addicts at the time of their arrest. (Table No. 28)

#### Circumstances of Homicides

26. When the circumstances of homicides could be established, 867 (51.6%) resulted from an altercation or dispute, either between strangers or those with a prior relationship. (Table No. 29)

27. 251 or 14.9% of all homicides happened during the course of a Robbery, 125 (7.4%) were related to Narcotics, 27 (1.6%) involved Sex crimes, while 30 (1.8%) resulted from Burglaries. (Table No. 29)

28. Six (6) Peace Officers were killed in the line of duty in New York City in 1973. All six were shot to death, 5 with handguns, one with a rifle. They included four New York City Police Officers, one Transit Authority Patrolman and a Sanitation Patrolman.

#### Means Employed in Homicides

29. The principal means used to commit homicides continues to be the Firearm, with 50.2% (844). The Handgun is the single weapon employed most, with 805 (47.9%) homicides resulting from its use. (Table No. 30)

30. Although slightly lower than the 870 used in 1972, Firearms remain as the chief weapon used by homicide perpetrators. The 1973 total of 844 was 672 more than was used 10 years ago in 1964.

31. Handguns are still the chief individual weapon employed in the commission of homicides with 805, as compared to only 130 used in 1964, a decade ago. (Table No. 30)

TABLE 1.—HOMICIDES BY BOROUGHS AND FIELD SERVICES AREA 1973 AND 1972

Command	1973	1972	Number change	Percent		Rate per 100,000 population <sup>1</sup>	Rank per 100,000 population
				Change	New York City		
Manhattan.....	651	661	-10	-1.5	38.8	42.3	1
Bronx.....	373	390	-17	-4.4	22.2	25.3	2
Brooklyn.....	497	477	+20	+4.2	29.6	19.1	3
Queens.....	138	153	-15	-9.8	9.1	6.9	5
Richmond.....	21	10	+11	+110.0	1.3	7.1	4

<sup>1</sup> Rate per 100,000 population based on New York City—1970 census: (7,895,563).

TABLE 2.—FIELD SERVICES AREA COMMANDS

Command	1973	1972	Number change	Percent		Rate per 100,000 population <sup>1</sup>	Rank per 100,000 population	
				Change	Borough			
Manhattan, south.....	177	188	-11	-5.9	27.2	10.5	34.7	3
Manhattan, north.....	474	473	+1	+2	72.8	28.3	46.0	1
Bronx.....	373	390	-17	-4.4	100.0	22.2	25.3	4
Brooklyn, south.....	215	182	+33	+18.1	43.3	12.8	11.8	5
Brooklyn, north.....	282	295	-13	-4.4	56.7	16.8	36.1	2
Queens.....	138	153	-15	-9.8	100.0	9.1	6.9	7
Richmond.....	21	10	+11	+110.0	100.0	1.3	7.1	6

<sup>1</sup> Rate per 100,000 population based on New York City—1970 census: (7,895,563).

TABLE 3.—HOMICIDES BY PRECINCT, 1973 AND 1972

Precinct	1973	1972	Number change	Percent			Rate per 100,000 population	Rank per 100,000 population
				Change	Borough	City		
1.....	6	4	+2	+50.0	0.92	0.35	43.8	9
5.....	13	27	-14	-51.9	1.99	.77	23.7	28
6.....	9	12	-3	-25.0	1.38	.53	16.1	36
7.....	21	8	+13	+162.5	3.22	1.25	34.0	21
9.....	56	58	-2	-3.4	8.60	3.33	63.3	6
10.....	6	18	-12	-66.7	.92	.35	15.1	38
13.....	11	12	-1	-8.3	1.68	.65	16.2	35
MTS.....	33	22	+11	+50.0	5.06	1.96	141.0	2
17.....	3	3	-----	-----	.46	.17	5.0	55
MTN.....	19	24	-5	-20.8	2.91	1.13	43.3	11
19.....	15	6	+9	+150.0	2.30	.89	10.1	47
20.....	22	26	-4	-15.4	3.37	1.30	22.5	29
CPP.....	4	1	+3	+300.0	.61	.23	-----	72
23.....	29	33	-4	-12.7	4.45	1.72	25.8	27
24.....	23	44	-21	-47.7	3.53	1.36	19.8	31
25.....	71	48	+23	+47.9	10.90	4.22	75.9	4
26.....	32	27	+5	+18.5	4.91	1.90	40.8	8
28.....	123	117	+6	+5.1	18.89	7.32	230.8	14
30.....	28	43	-15	-34.9	4.30	1.66	37.8	17
32.....	97	107	-10	-9.3	14.90	5.77	95.3	7
34.....	30	21	+9	+42.9	4.60	1.78	19.7	32
40.....	39	41	-2	-4.9	10.45	2.32	48.8	8
41.....	87	101	-14	-13.9	23.32	5.17	50.9	7
42.....	66	70	-4	-5.7	17.69	3.92	43.7	10
43.....	24	28	-4	-14.3	6.43	1.43	10.9	44
44.....	47	37	+10	+27.0	12.60	2.79	35.5	19
45.....	7	3	+4	+133.3	1.87	.41	8.2	49
46.....	30	20	+10	+50.0	8.04	1.78	26.5	26
47.....	15	10	+5	+50.0	4.02	.89	7.9	50
48.....	52	73	-21	-28.8	13.94	3.09	34.3	20
50.....	3	1	+2	+200.0	.80	.17	3.1	66
52.....	3	6	-3	-50.0	.77	.37	3.7	67
60.....	13	14	-1	-7.1	2.61	.77	15.7	30
61.....	6	8	-2	-25.0	1.20	.35	3.2	65
62.....	6	3	+3	+100.0	1.20	.35	3.4	64
63.....	5	4	+1	+25.0	1.00	.29	3.7	61
66.....	4	5	-1	-20.0	1.80	.23	2.8	67
67.....	13	14	-1	-7.1	2.61	.77	14.8	39
68.....	4	6	-2	-33.3	1.80	.23	2.8	68
69.....	23	11	+12	+109.1	4.62	1.36	19.5	33
70.....	6	4	+2	+50.0	1.20	.35	4.4	56
71.....	21	23	-2	-8.7	4.22	1.25	12.6	40
72.....	13	11	+2	+18.2	2.61	.77	11.4	43
73.....	61	58	+3	+5.2	12.27	3.63	64.1	5
75.....	51	41	+10	+24.4	10.26	3.03	30.6	22
76.....	16	14	+2	+14.3	3.21	.95	22.4	30
77.....	44	57	-13	-22.8	8.85	2.61	40.5	15
78.....	20	18	+2	+11.1	4.02	1.19	36.0	18
79.....	45	46	-1	-2.2	9.05	2.67	41.7	13
81.....	28	29	-1	-3.4	5.63	1.66	42.6	12
83.....	42	33	+11	+27.3	8.45	2.50	28.7	24
84.....	14	6	+8	+133.3	2.81	.83	39.1	16
88.....	19	26	-7	-26.9	3.82	1.13	29.9	23
90.....	36	40	-4	-10.0	7.24	2.14	28.1	25
94.....	7	6	+1	+16.7	1.40	.41	10.8	45
100.....	3	8	-5	-62.5	2.17	.17	6.5	54
101.....	6	10	-4	-40.0	4.34	.35	11.5	42
102.....	3	4	-1	-25.0	2.17	.17	3.5	63
103.....	29	44	-14	-34.1	21.01	1.72	18.3	34
104.....	1	4	-3	-75.0	.72	.05	.9	71
105.....	27	23	+4	+17.4	19.56	1.60	12.3	41
106.....	11	8	+3	+37.5	7.97	.65	7.4	52
107.....	11	8	+3	+37.5	7.97	.65	6.8	53
108.....	8	9	-1	-11.1	5.79	.47	10.7	46
109.....	7	2	+5	+250.0	5.07	.41	4.0	59
110.....	15	13	+2	+15.4	10.86	.89	7.7	51
111.....	2	2	-----	-----	1.44	.11	1.3	70
112.....	3	9	-6	-66.7	2.17	.17	1.6	69
113 <sup>1</sup> .....	3	-----	-----	-----	2.17	.17	-----	-----
114.....	9	9	-----	-----	6.52	.53	4.0	58
120.....	13	8	+5	+62.5	61.90	.77	9.0	48
122.....	7	2	+5	+250.0	33.33	.41	4.1	57
123.....	1	0	-----	-----	4.76	.05	3.6	62

<sup>1</sup> 113 precinct was opened in October 1973.



SCALE

- - 10 Incidents Per 100,000 Pop.
- - 5 Incidents Per 100,000 Pop.
- - 1 Incident Per 100,000 Pop.



Rate of Homicide Per 100,000  
Population by Precinct - 1973

TABLE 4.—HOMICIDES BY PLACE OF OCCURRENCE, 1973 AND 1972

Year	Inside		Outside		Total
	Number	Percent	Number	Percent	
1973.....	907	54.0	773	46.0	1,680
1972.....	955	56.5	736	53.4	1,691

TABLE 5

Location	1973	Percent of total	1972	Percent of total
Residence <sup>1</sup> .....	697	41.5	728	43.1
Bars and restaurants.....	68	4.0	50	3.0
Street.....	709	42.2	677	40.0
Transit systems (trains and stations).....	11	.7	14	.8
All others <sup>2</sup> (inside and outside).....	195	11.6	222	13.1
Total.....	1,680	100.0	1,691	100.0

<sup>1</sup> The following specific locations are included within the category of residence: Domicile, hallway, lobby, basement, elevator, and hotel.

<sup>2</sup> Includes social clubs, parking lots, roofs, yards, water, etc.

TABLE 6.—HOMICIDES BY MONTH, 1973 AND 1972

Month	1973	Percent of total	1972	Percent of total
January.....	145	8.6	129	7.6
February.....	116	6.9	116	6.8
March.....	116	6.9	125	7.4
April.....	136	8.1	125	7.4
May.....	164	9.8	125	7.4
June.....	142	8.5	114	6.7
July.....	166	9.9	190	11.2
August.....	142	8.5	168	9.9
September.....	109	6.5	151	8.9
October.....	151	9.0	159	9.4
November.....	147	8.8	134	7.9
December.....	146	8.7	155	9.2
Total.....	1,680	100.0	1,691	100.0

HOMICIDES BY MONTH

1973-1972

1972----- 1973—

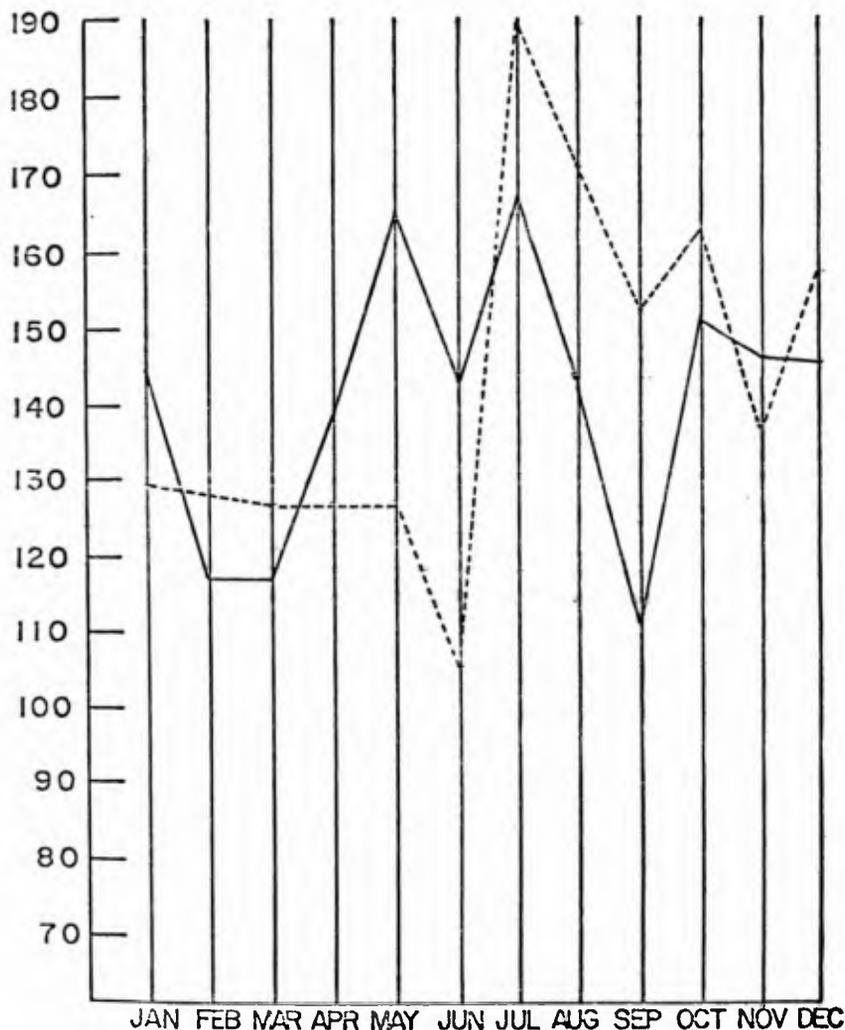


FIGURE 1

TABLE 7.—HOMICIDES BY DAY OF WEEK, 1973 AND 1972

Day of week	1973		1972	
	Number	Percent of total	Number	Percent of total
Sunday.....	217	12.9	234	13.8
Monday.....	220	13.1	190	11.2
Tuesday.....	217	12.9	210	12.4
Wednesday.....	199	11.8	215	12.7
Thursday.....	189	11.3	226	13.4
Friday.....	222	13.2	216	12.8
Saturday.....	347	20.7	343	20.3
Unknown.....	69	4.1	57	3.4
Total.....	1,680	100.0	1,691	100.0

TABLE 8.—HOMICIDES BY TIME OF DAY, 1972, 1973

Time	1972		1973	
	Number	Percent of total	Number	Percent of total
0001 to 0100.....	113	6.7	117	7.0
0100 to 0200.....	93	5.5	105	6.3
0200 to 0300.....	88	5.2	81	4.8
0300 to 0400.....	76	4.5	62	3.7
0400 to 0500.....	42	2.5	43	2.6
0500 to 0600.....	42	2.5	32	1.9
0600 to 0700.....	30	1.8	36	2.1
0700 to 0800.....	24	1.4	25	1.5
Within 0001-0800 <sup>1</sup> .....	4	.2	10	.6
0800-0900.....	25	1.5	28	1.7
0900 to 1000.....	35	2.1	34	2.0
1000 to 1100.....	30	1.8	33	2.0
1100 to 1200.....	29	1.7	26	1.5
1200 to 1300.....	40	2.3	36	2.1
1300 to 1400.....	37	2.2	35	2.1
1400 to 1500.....	48	2.8	39	2.3
1500 to 1600.....	57	3.4	51	3.0
Within 0800-1600 <sup>1</sup> .....	1	.1	2	.1
1600 to 1700.....	63	3.7	54	3.2
1700 to 1800.....	65	3.8	42	2.5
1800 to 1900.....	80	4.7	68	4.0
1900 to 2000.....	84	5.0	92	5.5
2000 to 2100.....	90	5.3	88	5.2
2100 to 2200.....	120	7.1	111	6.6
2200 to 2300.....	98	5.8	137	8.2
2300 to 2400.....	93	5.5	100	6.0
Within 1600-2400 <sup>1</sup> .....	3	.2	8	.5
Total known.....	1,510	89.3	1,495	89.0
Unknown hour.....	181	10.7	185	11.0
Total.....	1,691	100.0	1,680	100.0

<sup>1</sup> Known to have occurred within the 8-hour period stated, but unknown as to specific hour.

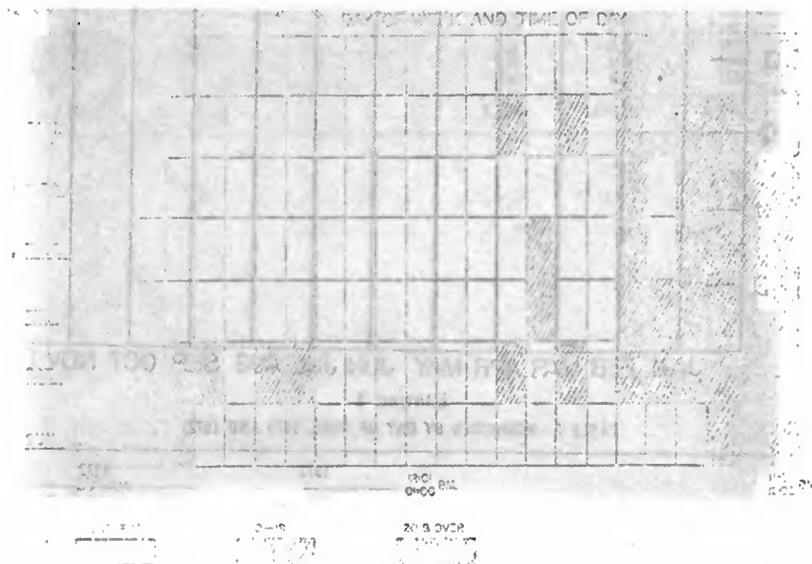


FIGURE 2

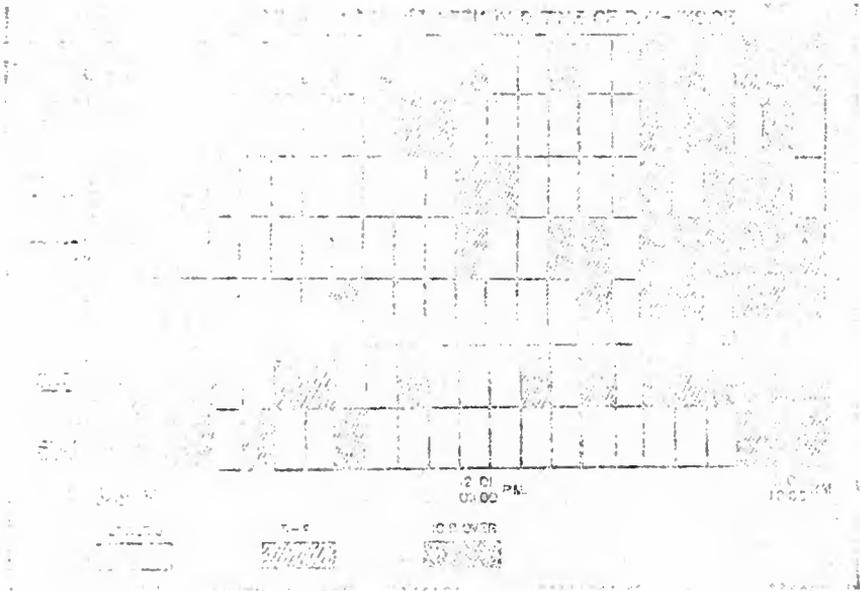


FIGURE 3

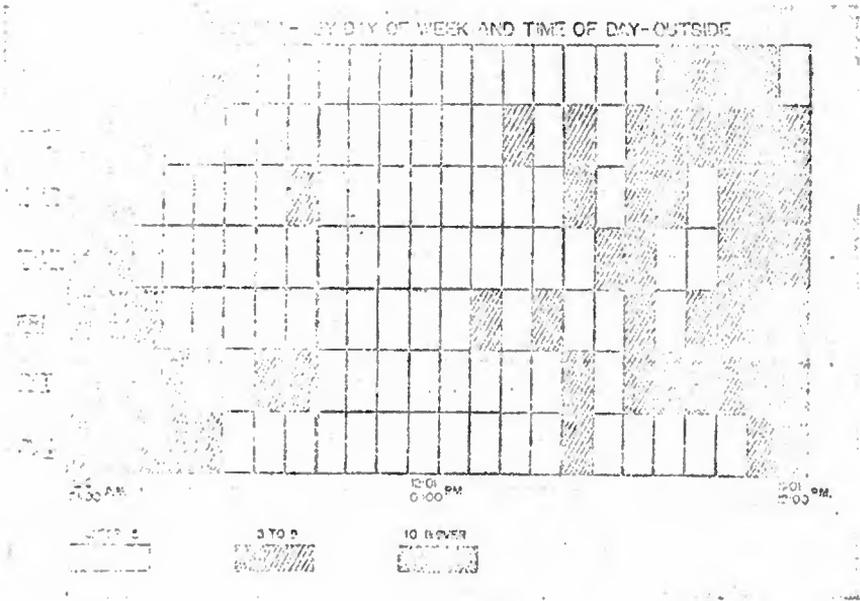


FIGURE 4

TABLE 9.—VICTIMS BY ETHNIC GROUPS, YEAR 1973

Age groups	Black	Hispanic	White	Yellow	Totals age groups
Under 7 years:					
Male.....	14	2	4	0	20
Female.....	11	4	1	0	16
7 to 15 years:					
Male.....	21	7	8	0	36
Female.....	5	1	0	0	6
16 to 20 years:					
Male.....	66	47	15	3	131
Female.....	16	3	7	0	26
21 years and over:					
Male.....	643	329	239	2	1,213
Female.....	117	44	68	3	232
Total all age groups:					
Male.....	744	385	266	5	1,400
Female.....	149	52	76	3	280
Total.....	893	437	342	8	1,680
Percent.....	53.2	26.0	20.3	.5	100.0

TABLE 10.—HOMICIDE VICTIMS, BY AGE, 1973

Age group	Volume	Percent of total
Under 7.....	36	2.2
7 to 15.....	42	2.5
16 to 20.....	157	9.3
21 to 25.....	302	18.0
26 to 30.....	255	15.8
31 to 35.....	209	12.4
36 to 40.....	174	10.3
41 to 45.....	124	7.4
46 to 50.....	105	6.3
51 to 55.....	75	4.5
56 to 60.....	52	3.1
61 to 65.....	39	2.3
65 and over.....	78	4.6
Unknown age, but over 21.....	22	1.3
Total.....	1,680	100.0

TABLE 11.—HOMICIDE VICTIMS BY AGE GROUP, 1973-72

Age groups	Victims			
	1973		1972	
	Number	Percent	Number	Percent
21 and over.....	1,445	86.0	1,433	84.8
16 to 20.....	157	9.3	161	9.5
7 to 15.....	42	2.5	51	3.0
Under 7 yr.....	36	2.2	46	2.7
Total.....	1,680	100.0	1,691	100.0

TABLE 12.—HOMICIDE VICTIMS, BY SEX, 1973-72

Sex	1973		1972	
	Number	Percent of total	Number	Percent of total
Females.....	280	16.7	272	16.1
Males.....	1,400	83.3	1,419	83.9
Total.....	1,680	100.0	1,691	100.0

HOMICIDE VICTIMS WITH ALCOHOL, NARCOTICS OR BOTH IN BLOOD AT TIME OF DEATH,  
1973

In 1973, 865 homicide victims were found to have detectable levels of alcohol or narcotics in their blood. This is slightly more than half of all victims (1680). A breakdown of this figure reveals that 587 victims had detectable levels of alcohol in their blood, 159 victims had detectable levels of narcotics in their blood and 119 victims had detectable levels of both alcohol and narcotics in their blood.

The only legal criteria in New York State that establishes whether or not a person is in a state of intoxication is found in the Vehicle and Traffic Law. The law states that a person with a blood alcohol content of .05% or more is legally defined as having his ability to operate a motor vehicle impaired.

Based upon this criteria, the following breakdown is offered to illustrate the number of homicide victims whose blood alcohol content was either above or below the legally defined measure.

TABLE 13

Type victims	Volume	Percent of all victims	Percent of victims with alcohol narcotics in blood
All homicide victims.....	1,680	100.0	-----
Victims with alcohol, narcotics or both in blood.....	865	51.5	100.0
Victims with only alcohol in blood.....	587	34.9	67.9
.05 percent or more of alcohol in blood.....	511	30.4	59.1
Less than .05 percent alcohol in blood.....	76	4.5	8.8
Victims with only narcotics in blood.....	159	9.5	18.4
Victims with both alcohol and narcotics in blood.....	119	7.1	13.7

Breakdown  
 Homicide Victims with  
 Detectable Levels of  
 Alcohol or Narcotics  
 in Blood at the Time  
 of Death.

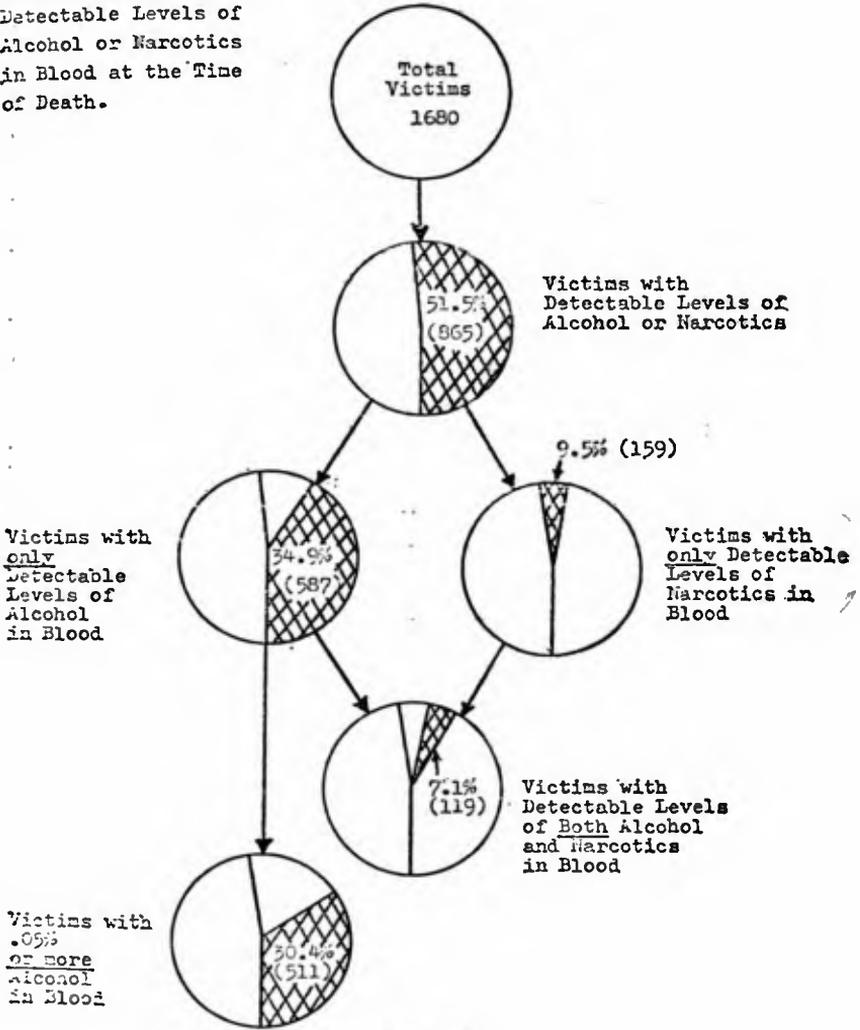


FIGURE 5

TABLE 14—HOMICIDE VICTIMS WITH ALCOHOL, NARCOTICS OR BOTH IN BLOOD AT TIME OF DEATH 1973

	Comparison with all homicide victims		
	Male	Female	Total
All homicide victims.....	1,400.0	280.0	1,680.0
Victims with narcotics alcohol blood content.....	756.0	109.0	865.0
Percent of total victims.....	54.0	38.9	51.5

TABLE 15 [BY SEX]

	Volume	Percent of total homicide victims	Percent of victims with alcohol/narcotics content
Male.....	756	45.0	87.3
Female.....	109	6.5	12.7
Total.....	865	51.5	100.0

TABLE 16.—HOMICIDE VICTIMS WITH ALCOHOL, NARCOTICS OR BOTH IN BLOOD AT TIME OF DEATH 1973

[By race]

	Male		Female		Total	
	Number	Percent	Number	Percent	Number	Percent
Black.....	442	51.1	69	8.0	511	59.1
Hispanic.....	225	26.0	10	1.2	235	27.2
White.....	88	10.2	30	3.5	118	13.7
Yellow.....	1		0	0	1	
Total.....	756	87.3	109	12.7	865	100.0

TABLE 17.—BY AGE

Age group	Male	Female	Total	Percent of total alcohol/narcotics content
7 to 15.....	4	0	4	0.5
16 to 20.....	55	13	68	7.9
21 and over.....	697	96	793	91.6
Total.....	756	109	865	100.0

Note: There were 8 (0.9 percent) juveniles/youths under the New York State minimum age for consumption of alcoholic beverages (18 yr) who had a blood content of alcohol at the time of their death.

## HOMICIDE PERPETRATOR—VICTIM RELATIONSHIPS, 1973

Establishing whether or not a relationship existed between the perpetrator and victim prior to the commission of the homicide is an important factor necessary for investigation and analysis of the case.

In 1,334 cases (79.4% of the total 1,680 cases) it was possible to establish whether or not a relationship existed between the perpetrator and the victim prior to the homicide. Of these identified cases, 685 (51.3%) were between friends or acquaintances, however casual, 372 (27.9%) were between total strangers, and 277 (20.8%) were between those who shared a close personal relationship. A prior relationship was established in 72.1% of the 1,334 cases for which this data was available.

## CLOSE PERSONAL RELATIONSHIPS

- A. Marrieds  
 B. Common Law Marrieds  
 C. Intrafamily  
 D. Boyfriend/Girlfriend

TABLE 18.—HOMICIDES, VICTIM-PERPETRATOR RELATIONSHIPS, 1973

Perpetrator	Victim	Volume	Percent of total close relationships <sup>1</sup>	Percent of total identifiable homicides <sup>2</sup>	Percent of total homicides
Husband.....	Wife.....	46	16.6	3.5	2.7
Wife.....	Husband.....	35	12.6	2.6	2.1
Common law husband.....	Common law wife.....	37	13.4	2.8	2.2
Common law wife.....	Common law husband.....	31	11.2	2.3	1.9
Boyfriend.....	Girlfriend.....	34	12.3	2.6	2.0
Girlfriend.....	Boyfriend.....	20	7.2	1.5	1.2
Other intrafamily relationships.....		74	26.7	5.5	4.4
Total close relationships.....		277	100.0	20.8	16.5
Friends and acquaintances.....		685		51.3	40.8
Total relationships.....		962		72.1	57.3
Total stranger to stranger relationships.....		372		27.9	22.1
Unknown if relationship existed or not.....		346			20.6

<sup>1</sup> Total identifiable close relationships equal 277.

<sup>2</sup> Total identifiable homicides equal 1,334.

TABLE 19.—HOMICIDES INVOLVING CLOSE PERSONAL RELATIONSHIPS, 1973-72—INTRA-FAMILY

Perpetrator	Victim	1973	1972
Husbands.....	Wives.....	46	33
Wives.....	Husbands.....	35	15
Estranged husbands.....	Estranged wives.....	9	2
Father.....	Son.....	3	1
Do.....	Daughter.....	4	2
Mother.....	Son.....	6	11
Do.....	Daughter.....	12	16
Son.....	Father.....	4	6
Do.....	Mother.....	2	7
Daughter.....	Father.....	0	1
Do.....	Mother.....	0	1
Parents.....	Daughter.....	0	1
Grandmother.....	Grandson.....	0	1
Brother.....	Brother.....	8	5
Do.....	Sister.....	3	0
Sister.....	Brother.....	2	2
Stepfather.....	Stepdaughter.....	1	0
Stepson.....	Stepfather.....	1	1
Uncle.....	Nephew.....	1	2
Do.....	Niece.....	1	2
Nephew.....	Uncle.....	1	1
Niece.....	do.....	0	1
Cousin.....	Cousin.....	0	2
Father-in-law.....	Son-in-law.....	1	0
Son-in-law.....	Father-in-law.....	2	1
Daughter-in-law.....	Mother-in-law.....	1	0
Brother-in-law.....	Brother-in-law.....	7	5
Do.....	Sister-in-law.....	1	0
Mother's boyfriend.....	Son.....	1	0
Do.....	Daughter.....	3	1
Aunt's boyfriend.....	Nephew.....	0	1
Total Intrafamily relationships.....		155	121
Percent of total identifiable homicides <sup>1</sup> .....		11.6	10.2

<sup>1</sup> Identifiable homicides: 1973 equals 1,334, 1972 equals 1,184.

TABLE 20.—HOMICIDES INVOLVING CLDSE PERSONAL RELATIONSHIPS, 1973-72—COMMON LAW ASSOCIATIONS

Perpetrator	Victim	1973	1972
Husband.....	Wife.....	37	17
Wife.....	Husband.....	31	14
Total common law associations.....		68	31
Percent of total identifiable homicides <sup>1</sup> .....		(5.1)	(2.6)

<sup>1</sup> Identifiable homicides: 1973 equals 1,334, 1972 equals 1,184.

TABLE 21.—BOYFRIEND AND GIRLFRIEND RELATIONSHIPS

Perpetrator	Victim	1973	1972
Boyfriend.....	Girlfriend.....	34	14
Girlfriend.....	Boyfriend.....	20	15
Total.....		54	29
Percent of total identifiable homicides <sup>1</sup> .....		(4.1)	(2.5)
Total of all relationships.....		277	181
Percent of total identifiable homicides <sup>1</sup> .....		(20.8)	(15.3)

<sup>1</sup> Identifiable homicides: 1973 equals 1,334, 1972 equals 1,184.

## ETHNIC RELATIONSHIP OF PERPETRATOR AND VICTIM

Of the 1,680 Homicides committed in 1973, there were 1,280 cases where the ethnic relationship between the perpetrator and the victim was established.

Intraracial Homicides continue to dominate, i.e., people continue to kill those predominantly of their own race. Of the 1,280 identifiable cases, 80.5% were intraracial, while the remaining 19.5% were interracial, i.e., between those of different ethnic groups.

TABLE 22

Perpetrator	Victim	Volume	Percent of total homicides
Black.....	Black.....	608	47.5
Hispanic.....	Hispanic.....	295	23.0
White.....	White.....	125	9.8
Yellow.....	Yellow.....	2	.2
Total intraracial homicides.....		1,030	80.5
Black.....	White.....	60	4.7
Do.....	Hispanic.....	40	3.1
Hispanic.....	Black.....	60	4.7
Do.....	White.....	55	4.3
White.....	Black.....	17	1.3
Do.....	Hispanic.....	14	1.1
Other <sup>1</sup> .....		4	.3
Total Interracial homicides.....		250	19.5
Total identifiable homicides.....		1,280	100.0

<sup>1</sup> includes: 3 Hispanic-yellow relationships, 1 white-yellow relationship.

PERPETRATORS OF HOMICIDES  
TABLE 23.—HOMICIDE PERPETRATORS BY AGE, 1973

Age group	Volume	Percent of total
7 to 15.....	94	6.6
16 to 20.....	347	24.4
21 to 25.....	317	22.3
26 to 30.....	224	15.8
31 to 35.....	173	12.2
36 to 40.....	101	7.1
41 to 45.....	72	5.1
46 to 50.....	31	2.2
51 to 55.....	22	1.5
56 to 60.....	19	1.3
61 to 65.....	8	.6
66 and over.....	12	.9
Total.....	1,420	100.0

TABLE 24.—PERPETRATORS ARRESTED FOR HOMICIDE, 1973—BY RACE

Race	Volume	Percent of total
Male black.....	659	46.4
Female black.....	104	7.3
Total black.....	763	53.7
Male Hispanic.....	378	26.6
Female Hispanic.....	24	1.7
Total Hispanic.....	402	28.3
Male white.....	231	16.3
Female white.....	21	1.5
Total white.....	252	17.8
Male yellow.....	2	.1
Female yellow.....	1	.1
Total yellow.....	3	.2
Total perpetrators.....	1,420	100.0

TABLE 25.—PERPETRATORS ARRESTED FOR HOMICIDE, 1973—BY SEX, 1973-72

Year	Male		Female		Total
	Number	Percent	Number	Percent	
1973.....	1,270	89.4	150	10.6	1,420
1972.....	1,064	88.4	139	11.6	1,203

TABLE 26.—BY AGE, 1973-72

Age group	1973		1972		Numerical change	Percent change
	Number	Percent	Number	Percent		
7 to 15 yr.....	94	6.6	73	6.1	+21	+28.8
16 to 20 yr.....	347	24.4	238	19.8	+109	+45.8
21 and over.....	979	69.0	892	74.1	+87	+9.8
Total.....	1,420	100.0	1,203	100.0	+217	+18.0

TABLE 27.—HOMICIDE ARRESTS BY ARRESTING OFFICER, 1973-72

	1973		1972		Numerical change	Percent change
	Number	Percent	Number	Percent		
Practinct police officers <sup>1</sup> .....	85	6.0	172	14.3	-87	-50.6
Practinct anticrime.....	14	1.0	18	1.5	-4	-22.2
Special operations division (except ESS).....	6	.4	12	1.0	-6	-50.0
Citywide anticrime.....	2	.1	0	0	+2	-----
Public morals division.....	3	.2	9	.7	-6	-66.7
Traffic division.....	0	0	3	.2	-3	-100.0
Narcotics division.....	1	.1	0	0	+1	-----
Youth aid division.....	0	0	1	.1	-1	-100.0
Other commands (nondefective).....	9	.6	10	.8	-1	-10.0
Homicide squad <sup>1</sup> .....	1,226	86.3	875	72.7	+351	+40.1
Robbery squad.....	9	.6	24	2.0	-15	-62.5
Burglary-larceny squad.....	9	.6	14	1.2	-5	-35.7
Other detectives <sup>1</sup> .....	39	2.8	7	.6	+32	+457.1
Other peace officers <sup>2</sup> .....	17	1.2	58	4.8	-41	-70.7
Total arrests.....	1,420	100.0	1,203	100.0	+217	+18.0

<sup>1</sup> Beginning in 1973, for administrative purposes, all homicide arrests are catalogued with a member of the detective bureau as the arresting officer, and the police officer as the "apprehending officer". If the police officer actually took the perpetrator into custody. This explains the proportionate increase in the number of arrests recorded by detectives as compared to clearance in the number of arrests made by precinct police officers.

<sup>2</sup> Includes special police officers, transit authority, housing authority and port authority.

## PERPETRATORS ARRESTED FOR HOMICIDE ADDICTED TO NARCOTICS, 1978

Of the 1,420 persons arrested for Homicide in New York City during 1973, only 98, or 8.1% admitted to using narcotics. This was determined only through voluntary admissions by the arrested persons. Since United States Supreme Court rulings have resulted in many homicide perpetrators remaining silent during and after their arrest, these statistics should not be considered complete.

TABLE 28.—PERPETRATORS OF HOMICIDES ADDICTED TO USE OF DRUGS 1973-72

Types of drugs	1973 addicts <sup>1</sup>	Percent of total homicides	Percent of total arrested	1972 addicts <sup>1</sup>	Percent of total homicides	Percent of total arrested
Heroin.....	57	3.4	4.7	104	6.2	8.6
Cocaine.....	3	.2	.2	4	.2	.3
Synthetic opiates.....	38	2.3	3.2	24	1.4	2.0
Opressant and stimulant.....	0			2	.1	.2
Total.....	98	5.9	8.1	134	7.9	11.1

<sup>1</sup> Includes those with a record of drug addiction, or voluntary admission of same at time of arrest.

## HOMICIDES BY CIRCUMSTANCES AND MEANS EMPLOYED

TABLE 29.—CIRCUMSTANCES OF HOMICIDES 1973-72

Circumstance	1973		1972	
	Number	Percent	Number	Percent
Altercations.....	590	35.1	508	30.0
Family disputes.....	155	9.2	121	7.2
Common law disputes.....	68	4.1	31	1.8
Boy/girlfriend disputes.....	54	3.2	29	1.7
Robberies.....	251	14.9	243	14.4
Burglaries.....	30	1.8	7	.4
Sex related.....	27	1.6	37	2.2
Narcotics related.....	125	7.4	5	.3
Arson.....	15	.9	19	1.1
Assaults on peace officers.....	6	.4	5	.3
Youth gangs.....	41	2.4	12	.7
Organized crime.....	12	.7	24	1.4
Revenge.....	16	1.0	27	1.6
Child battery <sup>1</sup> .....	28	1.7	41	2.4
Other <sup>2</sup> .....	84	5.0	55	3.3
Unknown/not stated.....	206	12.3	568	33.6
Total.....	1,680	100.0	1,691	100.0

<sup>1</sup> Child battery is not included in the total, for most of these homicides are included in family disputes.

<sup>2</sup> Includes illegal abortions, snipers, deranged perpetrators, innocent bystanders, et cetera.

TABLE 30.—MEANS EMPLOYED IN COMMISSION OF HOMICIDES, 1973 AND 1972

Means employed	1973		1972	
	Number	Percent	Number	Percent
Hand guns.....	805	47.9	834	49.3
Rifles and shotguns.....	39	2.3	36	2.1
Total firearms.....	844	50.2	870	51.4
Knives.....	554	33.0	560	33.1
Sharp instruments.....	13	.8	9	.5
Physical force.....	171	10.2	142	8.4
Blunt instruments.....	51	3.0	73	4.3
Miscellaneous.....	47	2.8	37	2.2
Total.....	1,680	100.0	1,691	100.0

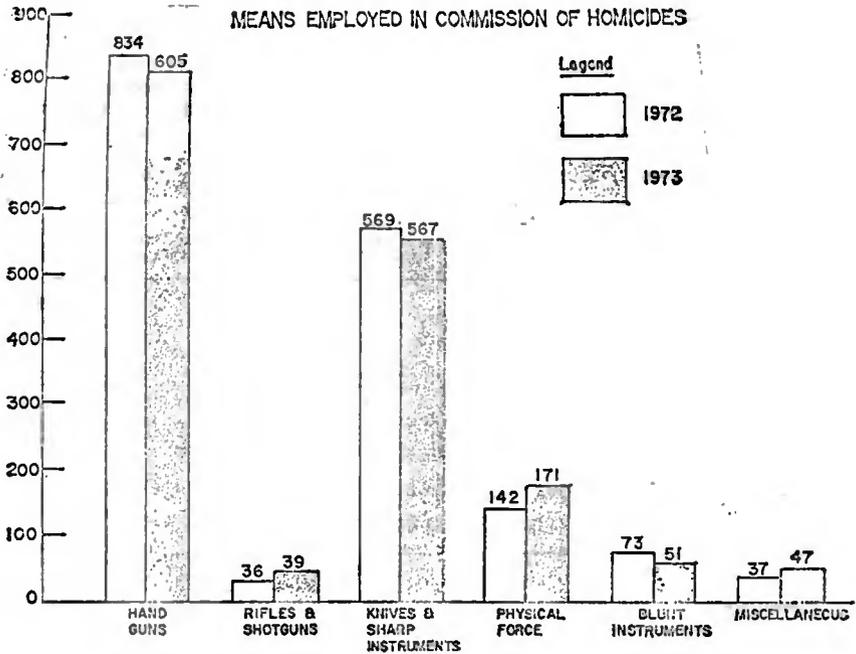


FIGURE 6

PART II.—*Homicide overview*

## PREFACE

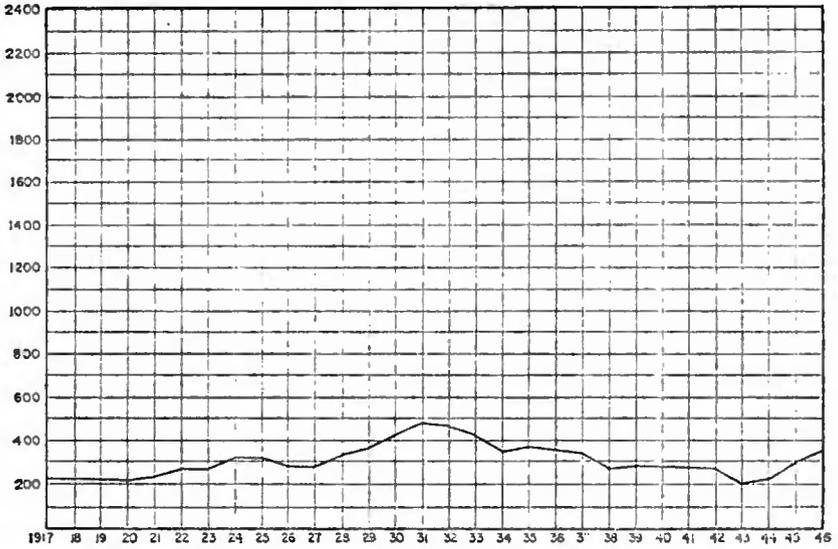
This part of the Homicide Analysis deals with Homicide Rates, Trends and comparisons with nationwide Homicide statistics.

The areas of Place of Occurrence, Time of Occurrence, Means Employed, and the Victim-Perpetrator Relationship factor are explored.

A ten year span, from 1964 to 1973 was used predominantly, to give an overview of the Homicide Trends in New York City for the past decade.

HOMICIDE TRENDS.—NEW YORK CITY

HOMICIDES - NEW YORK CITY  
Part 1 1917 - 1946



HOMICIDES - NEW YORK CITY  
PART 2 1946 - 1973

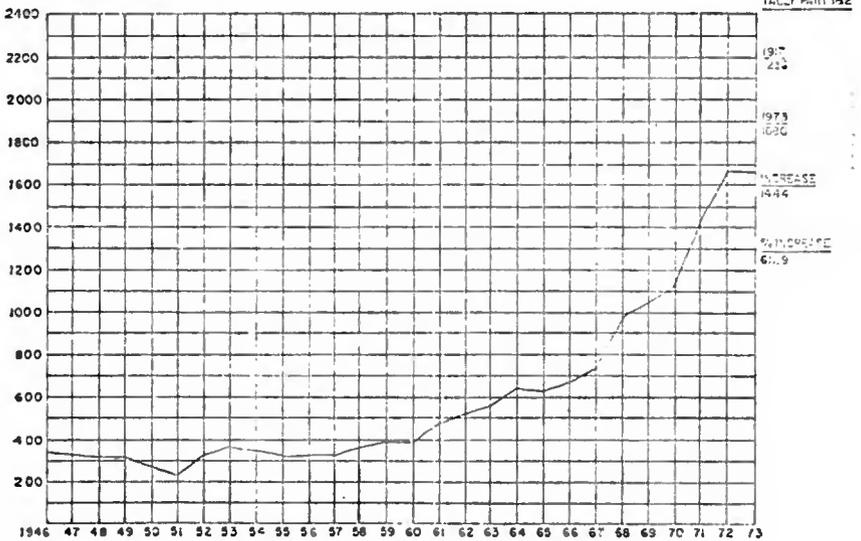


FIGURE 7

## COMPARISON OF HOMICIDE TRENDS.—NEW YORK CITY AND NATIONWIDE, 1939-73

TABLE 31.—HOMICIDES, NEW YORK CITY AND NATIONWIDE, 1939-73<sup>1</sup>

Year	New York City			Nationwide		
	Number of homicides	Number change from previous year	Percent change from previous year	Number of homicides	Number change from previous year	Percent change from previous year
1939.....	291			7,514		
1940.....	275	-16	-5.5	7,540	+26	+0.3
1941.....	268	-17	-2.5	7,562	+22	+0.3
1942.....	265	-3	-1.1	7,569	+7	+0.1
1943.....	201	-64	-24.1	6,517	-1,052	-13.9
1944.....	228	+27	+13.4	6,552	+35	+0.5
1945.....	292	+64	+28.1	6,847	+295	+4.5
1946.....	346	+54	+18.5	8,442	+1,595	+23.3
1947.....	333	-13	-3.7	7,760	-682	-8.1
1948.....	315	-18	-5.4	7,620	-140	-1.8
1949.....	301	-14	-4.4	6,990	-630	-8.3
1950.....	294	-7	-2.3	7,020	+30	+0.4
1951.....	243	-51	-17.3	6,820	-200	-2.9
1952.....	309	+66	+27.2	7,210	+390	+5.7
1953.....	350	+41	+13.3	7,120	-90	-1.2
1954.....	342	-8	-2.3	6,850	-270	-3.8
1955.....	306	-36	-10.5	6,850		
1956.....	315	+9	+2.9	6,970	+120	+1.8
1957.....	314	-1	-.3	6,920	-50	-.7
1958.....	354	+40	+12.7	8,182	+1,262	+15.2
1959.....	390	+36	+10.2	8,583	+401	+4.9
1960.....	390			9,136	+553	+6.4
1961.....	483	+93	+23.8	8,599	-537	-5.9
1962.....	508	+25	+5.2	8,404	-195	-2.3
1963.....	549	+41	+8.1	8,500	+96	+1.1
1964.....	637	+88	+16.0	9,250	+750	+8.8
1965.....	634	-3	-.5	9,850	+600	+6.5
1966.....	654	+20	+3.1	10,920	+1,070	+10.9
1967.....	746	+92	+14.1	12,090	+1,170	+10.7
1968.....	986	+240	+32.2	13,650	+1,560	+12.9
1969.....	1,043	+57	+5.8	14,590	+940	+6.9
1970.....	1,117	+74	+7.1	15,810	+1,220	+8.4
1971.....	1,466	+349	+31.2	17,630	+1,820	+11.5
1972.....	1,691	+225	+15.3	18,520	+890	+5.0
1973.....	1,680	-11	-.7	19,631	+1,111	+6.0

<sup>1</sup> 1939 chosen as base year due to the fact that statistics on a national scale were not collected prior to 1939.<sup>2</sup> Based upon preliminary annual release by FBI, on Mar. 29, 1974.

Note: In New York City there was 1,680 homicides in 1973, which is, 1,389 more than the 291 homicides in 1939, or a difference of 477.3 percent higher. Nationwide there was 19,631 homicides in 1973, which is 12,117 more than the 7,514 homicides in 1939, or a difference of 161.3 percent higher.

## BOROUGH HOMICIDE TRENDS

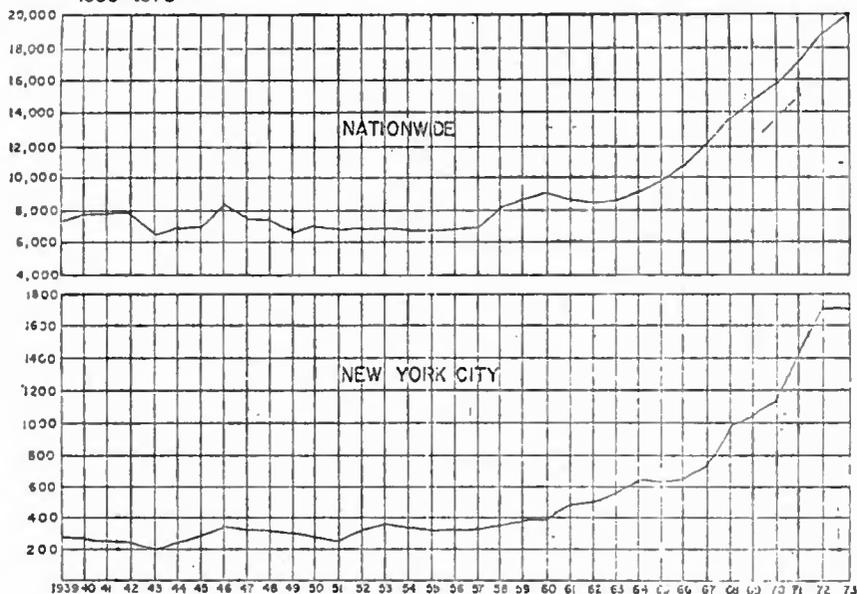
HOMICIDES-NATIONWIDE & NEW YORK CITY  
1939-1973

FIGURE 8

TABLE 32.—HOMICIDE BOROUGH BREAKDOWN, 1937-73

Year	New York City	Manhattan	Brooklyn	Bronx	Queens	Richmond
1937	331	217	70	20	22	2
1938	272	162	76	17	14	3
1939	291	189	61	20	14	7
1940	275	172	54	29	18	2
1941	268	163	70	19	14	2
1942	265	166	55	28	13	3
1943	201	121	39	19	19	3
1944	228	136	60	20	11	1
1945	292	184	71	22	12	3
1946	346	205	85	30	21	5
1947	333	185	90	31	20	7
1948	315	176	70	39	25	5
1949	301	154	88	42	17	0
1950	294	159	86	37	13	3
1951	243	114	65	37	26	1
1952	304	166	78	29	28	3
1953	317	160	80	38	38	1
1954	305	156	80	37	31	1
1955	290	151	85	34	19	1
1956	315	159	90	37	24	5
1957	297	151	85	45	15	1
1958	354	168	96	62	23	5
1959	390	185	114	57	49	5
1960	390	180	130	38	40	2
1961	483	239	150	60	29	5
1962	508	223	158	72	49	6
1963	549	237	186	78	45	3
1964	637	281	205	94	52	4
1965	634	239	202	129	57	7
1966	654	257	231	99	59	8
1967	746	271	264	141	62	8
1968	986	355	327	194	106	4
1969	1,043	411	345	199	80	8
1970	1,117	394	389	229	93	12
1971	1,466	536	466	330	124	10
1972	1,691	661	477	390	153	10
1973	1,680	651	497	373	138	21

TABLE 33.—HOMICIDES BY BROUGH AND FIELD SERVICE AREAS, 1964-73

Year	Change from previous year		
	Volume	Number	Percent
<b>Manhattan South:</b>			
1964.....	78	+14	+21.8
1965.....	57	-21	-26.9
1966.....	83	+26	+45.6
1967.....	87	+4	+4.8
1968.....	120	+33	+37.9
1969.....	118	-2	-1.7
1970.....	107	-11	-9.3
1971.....	170	+63	+58.9
1972.....	188	+18	+10.6
1973.....	177	-11	-5.9
1964-73.....		+99	+126.9
<b>Manhattan North:</b>			
1964.....	203	+30	+17.3
1965.....	182	-21	-10.4
1966.....	174	-8	-3.9
1967.....	184	+10	+5.7
1968.....	235	+51	+27.7
1969.....	293	+58	+24.7
1970.....	287	-6	-2.1
1971.....	366	+79	+27.5
1972.....	473	+107	+29.2
1973.....	474	+1	+0.2
1964-73.....		+271	+133.5
<b>Manhattan total:</b>			
1964.....	281	+44	+18.6
1965.....	239	-42	-15.0
1966.....	257	+18	+8.0
1967.....	271	+14	+5.4
1968.....	355	+84	+31.0
1969.....	411	+56	+15.5
1970.....	394	-17	-4.8
1971.....	536	+142	+36.1
1972.....	661	+125	+23.0
1973.....	651	-10	-1.5
1964-73.....		-370	+131.7
<b>Bronx:</b>			
1964.....	94	+16	+20.5
1965.....	129	+35	+37.2
1966.....	99	-30	-23.3
1967.....	141	+42	+42.4
1968.....	194	+53	+37.6
1969.....	199	+5	+2.6
1970.....	229	+30	+15.1
1971.....	330	+101	+44.1
1972.....	390	+60	+18.2
1973.....	373	-17	-4.4
1964-73.....		+279	+296.8
<b>Brooklyn South:</b>			
1964.....	68	+5	+7.9
1965.....	75	+7	+10.3
1966.....	79	+4	+5.3
1967.....	102	+23	+29.1
1968.....	99	-3	-2.9
1969.....	126	+27	+27.3
1970.....	164	+38	+30.2
1971.....	163	-1	-.6
1972.....	182	+19	+11.7
1973.....	215	+33	+18.1
1964-73.....		+147	+216.2
<b>Brooklyn North:</b>			
1964.....	138	+15	+12.2
1965.....	127	-11	-8.0
1966.....	152	+15	+19.7
1967.....	162	+10	+6.6
1968.....	228	+66	+40.7
1969.....	219	-9	-4.0
1970.....	225	+6	+2.7
1971.....	303	+78	+34.7
1972.....	295	-8	-2.6
1973.....	282	-13	-4.4
1964-73.....		+144	+104.3

TABLE 33.—HOMICIDES BY BOROUGH AND FIELD SERVICE AREAS, 1964-73—Continued

Year	Change from previous year		
	Volume	Number	Percent
<b>Brooklyn total:</b>			
1964.....	206	+20	+10.8
1965.....	202	-4	-2.0
1966.....	231	+29	+14.4
1967.....	264	+33	+14.3
1968.....	327	+63	+23.9
1969.....	345	+18	+5.5
1970.....	389	+44	+12.8
1971.....	465	+77	+19.8
1972.....	477	+11	+2.4
1973.....	497	+20	+4.2
1964-73.....		+291	+141.3
<b>Queens:</b>			
1964.....	52	+7	+15.6
1965.....	57	+5	+9.6
1966.....	59	+2	+3.5
1967.....	62	+3	+5.1
1968.....	106	+44	+71.0
1969.....	80	-26	-24.5
1970.....	93	+13	+16.3
1971.....	124	+31	+33.3
1972.....	153	+29	+23.4
1973.....	138	-15	-9.8
1964-73.....		+86	+165.4

## HOMICIDE TRENDS BY TIME OF OCCURRENCE

## PERPETRATORS ARRESTED FOR HOMICIDE 1963 - 1973

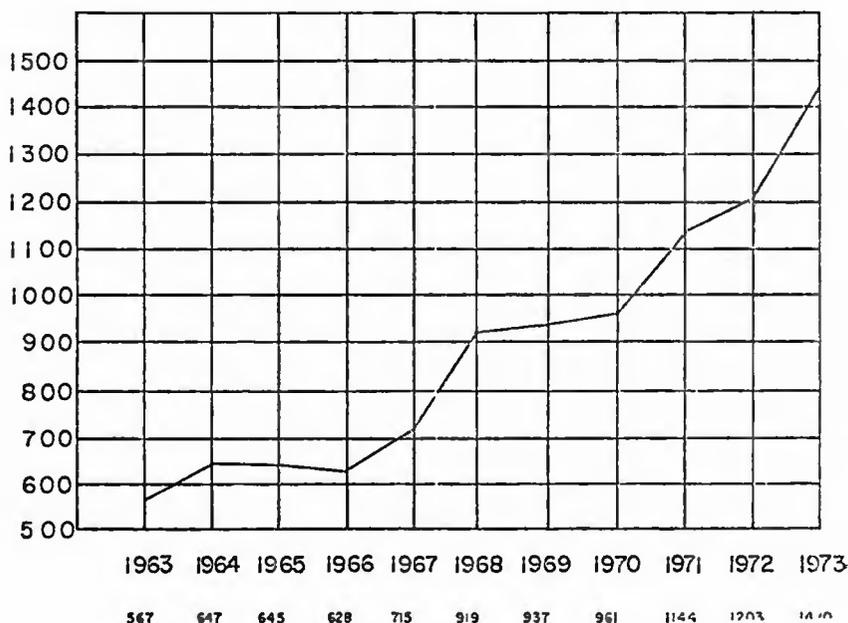


FIGURE 11

TABLE 36.—HOMICIDES BY MONTH FOR 10-YEAR PERIOD 1964-73

Year	January		February		March		April		May		June	
	Number	Percent of total	Number	Percent of total	Number	Percent of total	Number	Percent of total	Number	Percent of total	Number	Percent of total
1964	50	7.8	51	8.0	39	6.1	43	6.7	58	9.1	39	6.1
1965	48	7.6	41	6.5	49	7.7	48	7.6	69	10.9	52	8.2
1966	46	7.0	35	5.3	47	7.2	51	7.8	56	8.9	58	9.2
1967	38	5.8	51	7.8	35	5.3	35	5.3	39	6.0	49	7.5
1968	65	9.6	52	7.9	76	11.5	72	11.1	83	12.7	74	11.4
1969	85	12.9	73	11.1	93	14.1	80	12.3	97	14.9	73	11.2
1970	88	13.3	85	12.8	89	13.6	86	13.1	97	14.9	86	13.1
1971	120	18.2	97	14.5	114	17.3	126	19.1	144	22.1	106	16.2
1972	129	19.4	116	17.4	125	18.9	121	18.4	135	20.5	114	17.4
1973	145	21.8	116	17.4	116	17.4	136	20.6	164	24.9	142	21.8
1964-73	834	7.8	744	7.0	789	7.4	829	7.8	867	8.1	823	7.7
1964	57	8.9	60	9.4	47	7.4	61	9.5	54	8.5	78	12.2
1965	68	10.5	52	8.2	39	6.1	54	8.2	45	7.1	69	10.9
1966	69	10.5	65	9.9	53	8.1	73	11.2	46	7.0	73	11.2
1967	72	9.7	69	9.2	57	7.6	70	9.4	60	8.0	71	9.5
1968	79	12.0	69	10.3	79	11.8	99	15.0	68	10.3	100	15.3
1969	97	14.9	96	14.4	107	16.1	104	15.6	83	12.4	86	13.0
1970	101	15.4	90	13.6	109	16.3	97	14.6	87	13.1	89	13.5
1971	126	19.1	143	21.5	147	22.1	105	15.8	119	18.0	174	26.4
1972	190	28.5	168	25.2	151	22.5	159	23.7	134	20.0	155	23.2
1973	166	25.1	142	21.3	109	16.3	151	22.5	147	22.1	147	22.1
Total, 1964-73	1,024	9.6	985	9.3	875	8.2	973	9.1	859	8.2	1,042	9.8

HOMICIDE PERCENTAGES BY MONTH  
1964-1973

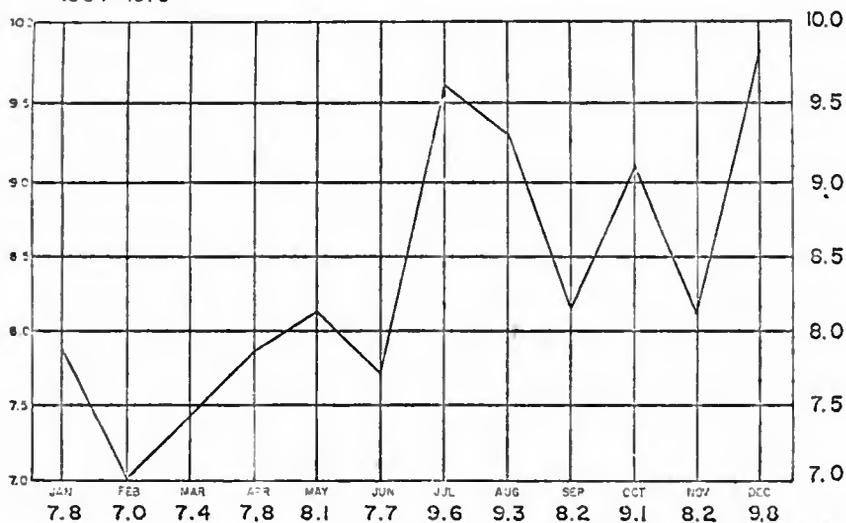


FIGURE 12

HOMICIDE TRENDS BY DAY OF WEEK - 1964-1973

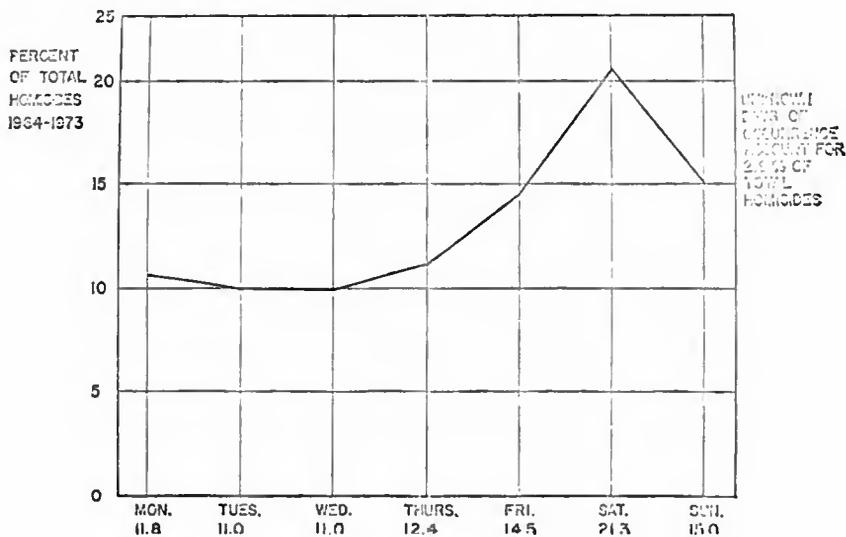


FIGURE 13

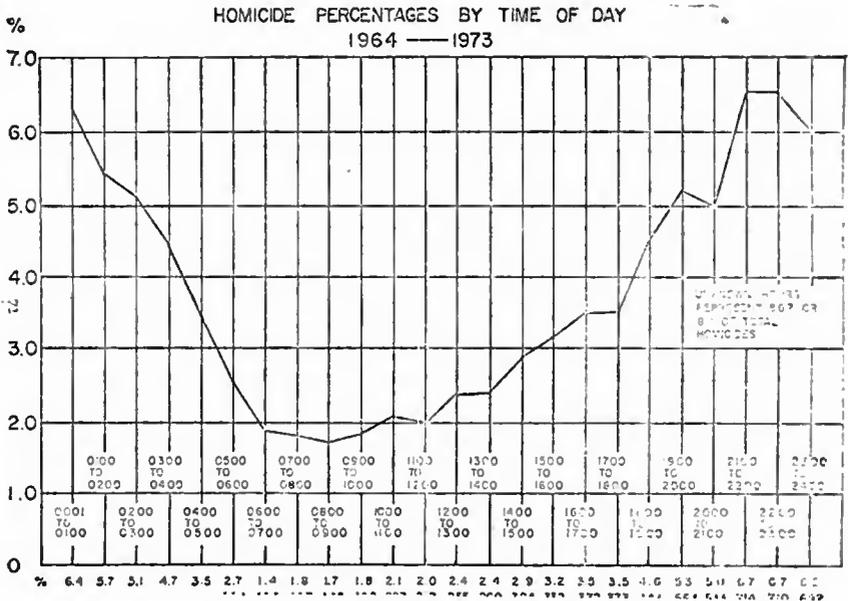


FIGURE 14

TABLE 37.—HOMICIDES BY DAY OF WEEK, 1964-73

Year	Sunday		Monday		Tuesday		Wednesday		Thursday		Friday		Saturday		Unknown		Peak time Friday, Saturday, Sunday		Total	
	Num- ber	Per- cent	Num- ber	Per- cent	Num- ber	Per- cent														
1964	96	15.1	60	9.4	54	8.5	81	12.7	81	12.7	98	15.4	157	24.6	10	1.6	351	55.1	637	.....
1965	98	15.4	66	10.4	58	9.1	74	11.7	74	11.7	99	15.6	162	25.5	10	1.6	359	56.6	634	.....
1966	123	18.8	86	13.1	57	8.7	75	11.5	75	11.5	97	14.8	144	22.0	16	2.4	364	55.7	654	.....
1967	117	15.7	99	13.3	94	12.6	67	9.0	96	12.9	120	16.1	145	19.4	8	1.1	382	51.2	746	.....
1968	165	16.7	122	12.4	102	10.3	109	11.0	120	12.2	147	14.9	207	21.0	14	1.4	519	52.6	986	.....
1969	149	14.3	124	11.9	110	10.5	105	10.3	137	13.1	143	13.7	239	22.9	36	3.5	531	50.9	1,043	.....
1970	169	15.1	120	10.7	121	10.8	105	10.3	145	13.0	177	15.8	236	21.1	34	3.0	582	52.1	1,117	.....
1971	231	15.8	175	11.9	154	10.5	161	11.0	174	11.8	229	15.6	284	19.4	58	4.0	744	50.8	1,466	.....
1972	234	13.8	190	11.2	210	12.4	215	12.7	226	13.4	216	12.8	343	20.3	57	3.4	793	46.9	1,691	.....
1973	217	12.9	220	13.1	217	12.9	199	11.8	189	11.3	222	13.2	347	20.7	69	4.1	794	47.3	1,680	.....
1964-73	1,599	15.0	1,262	11.8	1,177	11.0	1,175	11.0	1,317	12.4	1,548	14.5	2,264	21.3	312	2.9	5,419	50.9	10,634	.....

## HOMICIDES BY PERPETRATOR—VICTIM RELATIONSHIP

TABLE 38.—HOMICIDES INVOLVING CLOSE PERSONAL RELATIONSHIP BETWEEN VICTIM AND PERPETRATOR, 1964-73

Year	Total homicides	Intrafamily		Common law		Boyfriend, girlfriend		Total relationships	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent
1964.....	637	101	15.9	49	7.7	10	1.6	160	25.1
1965.....	634	93	14.7	43	6.8	26	4.1	162	25.6
1966.....	654	101	15.4	46	7.0	18	2.8	165	25.2
1967.....	746	106	14.2	32	4.3	50	6.7	188	25.2
1968.....	986	120	12.2	27	2.7	33	3.3	180	18.3
1969.....	1,043	117	11.2	29	2.8	31	3.0	177	17.0
1970.....	1,117	114	10.2	32	2.9	34	3.0	180	16.1
1971.....	1,466	132	9.0	41	2.8	37	2.5	210	14.3
1972.....	1,691	121	7.1	31	1.8	30	1.8	182	10.8
1973.....	1,680	155	11.6	68	4.1	54	3.2	277	16.5
1964-73.....	10,654	1,160	10.9	398	3.7	323	3.0	1,881	17.6

## APPENDIX 5

## TOKYO.—ONE CITY WHERE CRIME DOESN'T PAY!

A study of the reasons for Tokyo's low urban crime rate and what can be learned to help America's crime crisis, published by the Citizen's Crime Commission of Philadelphia.

## FOREWORD

During the Fall of 1974, the President of the Citizens Crime Commission of Philadelphia, Arthur C. Kaufmann, and its Executive Vice President, Ian H. Lennox, became so intrigued with *THE TOKYO CRIME STORY* that they secured a grant from several foundations and, through government and other sources, established the right connections to visit Japan for a personal study of the situation.

What follows is for the most part, the information they brought back. Included, also, are the names of a cross section of officials and businessmen interviewed. The authors are deeply indebted to all those Japanese and Americans who were so gracious with their time and their willingness to share data and opinions. Such an exchange of information can only help to solve the world crime problems—but especially help the USA through one of its most serious crises in almost 20 years.

All of the information in this report, as well as data contained in charts and tables, were edited by Myles Standish and Luis J. A. Villalon.

## CHAPTER I

## THE DECLINING JAPANESE CRIME RATE

Prestigious publications like the *Wall Street Journal* and the *New York Times* have recently carried stories regarding Japan and Tokyo as the least crime-ridden nation and city, respectively, in the industrialized world. The former, for instance, points out that "While the crime rate has soared in many major cities during the last decade—up 300 percent in New York, 200 percent in West Berlin, 160 percent in London—that in Tokyo (with a population of 11.5 million spread over 729 square miles) has actually declined 10 percent. And the *Times* says wistfully: "People in Tokyo rarely cross the street against a red light. They do not scrawl graffiti on subway walls. And they do not commit many murders, either."

Exposing a nation of fear-ridden urbanites, sated with a daily diet of mugging, rape and murder, to this kind of a paradise, if such it be, is like chaining a raggedy kid in front of a toy store window at holiday time. Law-and-order critics will be inclined to use the new data as justification for their contempt for American crime control efforts. Others will dismiss the statistics as

either misleading or non-comparable, or imply that crime control is a simple task in a nation of authority-ridden, tea-drinking sheep as contrasted with the highly individual frontier-descended inhabitants of the land of the free and the brave.

The "truth," or, more pertinent, the applicability of the Japanese approach to law-and-order to a Western country like ours is, of course, somewhere between the two extremes and only rationally discernible through an in-depth study of Japanese mores, plus their police and legal, judicial and penal methods and procedures. The first step is to validate their statistics and, insofar as possible, compare them with available figures in Western industrial countries and major urban areas.

The statistics, themselves, whether constructed on an abacus or a computer—both of which are very much in use in Japan—bear every evidence of accuracy and care. The Japanese Ministry of Justice is not only unusually detailed and candid in their annual outpouring of facts but, for the last decade, have supplied the most pertinent ones in English as well as in their own language. They are obviously proud of their record and, while they carefully disclaim comparable conditions, one suspects, in the course of interviews and reading, that they have a polite notion that other countries' police and judicial systems could learn a few things, if they would.

In a variety of ways far more important than costume or color, Japan does differ from the typical Western country, they are far more homogeneous than the United States, have perhaps longer-standing and more durable family tradition even than their European counterparts, and have relatively easily protectable borders. But this is not to say that they have been consistently law-abiding and docile, immune to the problem crimes that have cursed the post-World War II world, Tokyo justice, too, has had to confront drugs, juvenile delinquency, and criminally-careless driving, although to a lesser extent than in the U.S.A.

Japan has not been immune to the "drug culture" that afflicted the world after the War. Drug offenses rose to a peak in 1963 but, with vigorous counter-measures, dropped 72 percent by 1969 and, in 1973, maintained a sharp (53 percent) decline from the peak year. As the number of vehicles on the roads increased in the late '60s, so did traffic accidents and casualties. The latter peaked in 1970, with a rise of about 88 percent since 1966; since then, however, casualties have declined 17 percent while the number of automobiles increased 25 percent.

Juvenile delinquency in Japan, after a peak of 12.1 per 1,000 population in 1951, declined for some years, but hit a near peak of 12.0 in 1964; this figure has since been reduced to 9.7 in 1972, still more than 3 times the rate in the adult population, which has shown a steady decline from 8.2 in 1951 to 3.1 in 1972. It is clear that Japan's police have faced the same trends as we have in the U.S.; the significant point is that they have demonstrated exceptional progress in combatting them. Proof positive that it can be done!

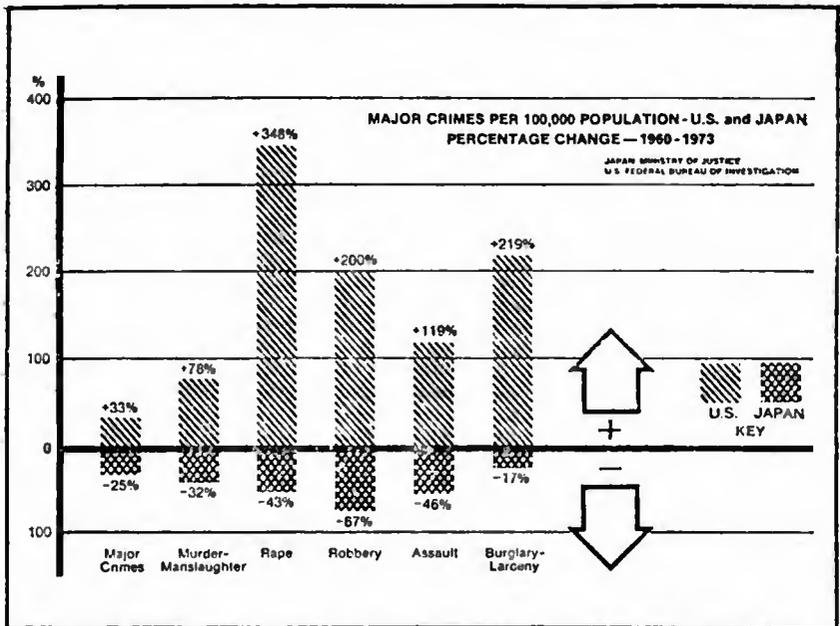
#### COMPARATIVE CRIME RATES

Relative success in coping with these post-World War II problem crimes has contributed to the more favorable Nipponese crime rate during the last decade, but has not been the sole factor. Item by item, the Japanese have been doing a substantially better job of crime control than have their Western counterparts.

Since 1960, the population of Japan has increased by 13 percent (1973). During that period the incidence of major crimes has declined 14 percent. Similarly, murder declined 24 percent, robbery 64 percent, rape 36 percent, assault 39 percent, and larceny 7 percent. Major crimes per 100,000 inhabitants dropped from 1,450.5 in 1960 to 1,101.6 in 1973. In the United States, the FBI "total crime index" rose 157.6 percent or 4,116.4 per 100,000 population, during the same period.

The murder-manslaughter rate in 1973 was 1.9 per 100,000 in Japan, compared to 9.3 in the U.S.; rape 3.8 in Japan, 21.3 in the U.S.; robbery, 1.8 in Japan, 18.4 in the U.S.; assault 3.8 in Japan, 19.4 in the U.S.; and "theft" 901.8 in Japan versus 3,262 for "burglary and larceny" in the U.S.

In other words, the average American has 4½ times more chance of being murdered, almost 6 times of being raped, 99 times of being personally robbed, 49 times of being physically assaulted, and 2.2 times of being burglarized, than the average Japanese.



The above figures and those that follow, incidentally, are computed on the basis of crimes "known to the police". It is generally conceded that a considerably higher percentage of some crimes, notably rape, robbery, and assault—are reported in Japan than in the United States. The complete statistics would make the picture even bleaker for us.

A comparison between a major Japanese city like Tokyo and major Western cities is equally startling, as reference to the chart on the page opposite (top) will attest.

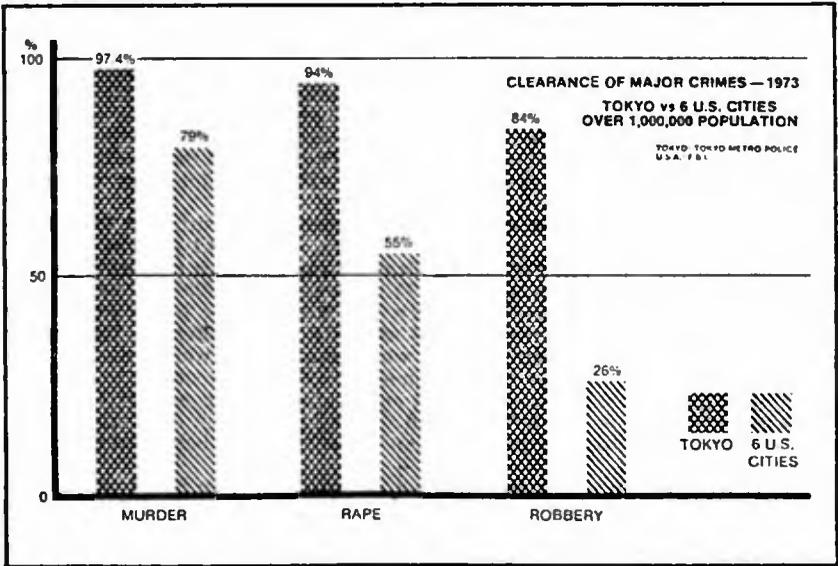
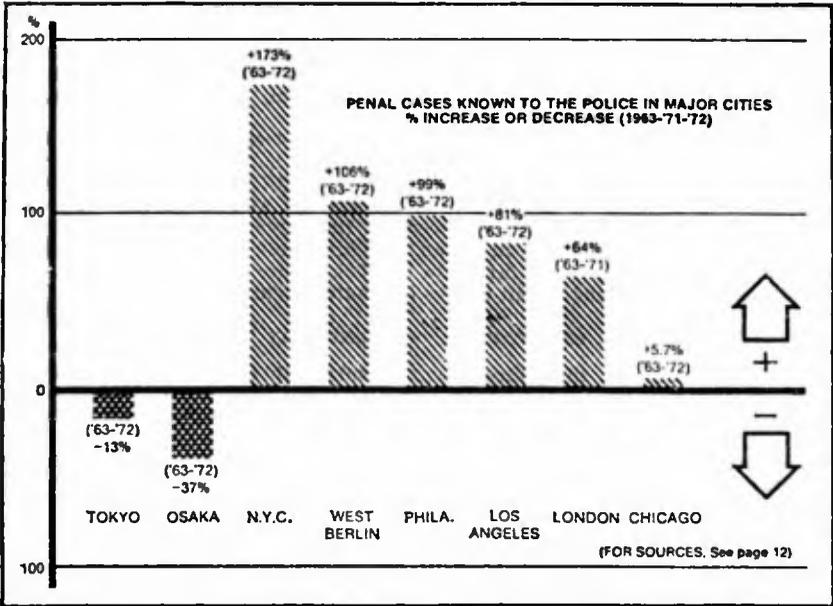
Comparing 1973 Tokyo figures and 1972 U.S. statistics, the murder rate per 100,000 population in Tokyo was 1.7 compared with New York's 19.1 (worst in the U.S.) and Philadelphia's 10.7. Rape in Tokyo stood at 3.7, against New York's 37.0, Philadelphia's 19.9, and "leader" Los Angeles Long Beach's 56.0. New York leads the robbery-mugging, etc. parade with 877.4, Philadelphia records 254.7, as against Tokyo's 3.1. In the assault category, New York is again high with 423.6, Philadelphia reports 155.4, and Tokyo comes in with 58.6.

Again, one has 11 times as much chance of being murdered in New York City as in Tokyo; 10 times more danger of rape (15 times in Los Angeles-Long Beach); 283 more chances of being mugged or robbed personally in New York (82 in Philadelphia); and 7 times more danger of being physically assaulted (2.6 in Philadelphia.)

#### COMPARATIVE CLEARANCE RATES

Not only does Japan suffer fewer crimes than does the United States, but a substantially higher percentage are cleared by arrest. The rate of clearance of all "penal code offenses" in Japan, including those involving serious automobile accidents, was 71 percent in 1972; it has ranged between 67 percent and 71 percent for the last decade. Excluding "professional and gross negligence causing bodily injury" (largely automobile accidents.) the arrest rate was 52 percent in Tokyo. A comparable figure in six U.S. cities over 1,000,000 population was 22.1 percent. The latest report of the Philadelphia Police Department states that the clearance rate for "major" crime in 1972 was 33 percent; clearance rate for all crime would be considerably lower.

But far more impressive is the clearance rate of serious crimes. In Tokyo in 1973, the combined clearance rate for murder, robbery, arson (considered major in a tinderbox city), and rape was 88 percent. For murder, alone, it was a spectacular 97.4 percent, and for rape 94 percent; for robbery, mugging and the like it was 84 percent. Obviously, the odds are bad for the criminally-inclined in this city of more than 11 million persons. (See chart on opposite page-bottom.)



Going down the list, an assaulter has only a 12 percent chance to escape the police, an embezzler or forger virtually none, and a gangster, whose bag is intimidation, a slim 8 percent. Analysis of the statistics shows that the total percentage is largely brought down by a "low" 43 percent clearance rate for theft of property, not involving persons, which constitutes 67 percent of all the crimes indicated. The fact that these clearance rates have been substantially consistent for the past five years offers little hope to the criminal that conditions for him will "improve".

Crime reporting, including clearance rates, in the United States differs somewhat from that in Japan. In the U.S., the FBI Uniform Crime Reporting pro-

gram divides crime into two broad classifications—major and minor. Major crime is subdivided into "Violent Crimes Against Persons" (consisting of murder, rape, robbery and aggravated assault), and "Crimes Against Property" (made up of burglary, larceny over \$50, and auto theft). Minor crimes include simple assaults, arson, fraud and embezzlement, vandalism, prostitution, gambling, drunkenness, and narcotics offenses.

In the U.S. as a whole, major crimes in 4,500 selected cities in 1971 were "cleared" at a rate of 46.5 percent for "violent crime" and 15.7 percent for "property crimes". In Philadelphia, as reported in 1972 by the Police Department itself, 49 percent of major crimes are cleared and 32 percent of minor crimes (in the latter category, 79 percent of the arrests are for drunkenness, a crime not dignified by arrest in Japan!). While these figures are not directly comparable, they obviously are far below the Tokyo rate of 88 percent for crimes of violence and 52 percent for all crimes of whatever category.

#### EFFECTIVENESS OF PROSECUTION

Under Japanese law, the police function ends with the investigation of the crime. Having conducted an investigation, the police must send the case, with all documents and evidence to the Public Prosecutor, who follows through with the appropriate action.

It is interesting to note that the vast majority of suspects indicated in the police investigations were simply summoned by the Prosecutor's Office and came! In 1972, only 12.1 percent had to be physically arrested. Of all suspects investigated by the Public Prosecutor, only 75 percent were detained prior to prosecution, and almost 80 percent of these were detained for less than 10 days. Of those actually detained, 72.8 percent were ultimately prosecuted.

Of all suspects disposed of by the Public Prosecutor's Office, 71.1 percent were actually prosecuted, 13.5 percent were referred to the Family Court, in 1 percent of the cases a decision was delayed and 14.4 percent were not prosecuted. Of those prosecuted, only 5.3 percent went to formal trial—without a jury, since jury trials are virtually non-existent in Japan, even under the new American-style system set up after World War II. The rest were sentenced under "summary order procedure" or "summary trial proceedings" (in minor traffic violations.) Under the former, which accounted for 95 percent of all cases, the Court decides the case on documentary and material evidence submitted, without hearing any evidence and without public hearings. The Court is empowered to fine the defendant no more than 200,000 yen (\$667). The defendant may request a formal trial—but seldom does.

In Japan, the Prosecutor is empowered to suspend prosecution at his discretion. In 1972, he did so in 14 percent of all cases, in only 4.1 percent of traffic violations, and in 38.4 percent of non-traffic penal code offenses (the more serious offenses). He declines to prosecute if (1) evidence is insufficient, or (2) "he believes it in the best interest of society and the offender to do so, after a careful review of the character, age and situation of the offender, the gravity of the offense, the circumstances under which the offense was committed and the condition subsequent to the commission of the offense." According to Japanese theory, this discretionary power is based on criminological considerations, with a view to rehabilitating the offender and sparing the stigma of a criminal. In the tightly-knit and family-oriented Japanese society, this has proven to have considerable success.

In 1973, 82.2 percent of all decisions not to prosecute were based on this discretion, 12.8 percent on insufficiency of evidence, and 5 percent on death of the defendant or withdrawal of the complaint. It is to be noted that decisions not to prosecute are accompanied by careful and continued surveillance of the suspect through the Japanese neighborhood police apparatus, which will be described in a later chapter.

The discretionary power of the Prosecutor is effectively policed by a lay investigatory body chosen by lot from among ordinary citizens, called the "Kensatsu Chinsaki." This group has been created, in the absence of a grand jury, to hear complaints from the victim or his relatives where the Prosecutor has declined

to prosecute. In cases where a detained defendant has been found not guilty after trial, or where the Prosecutor declines to prosecute after the arrest has been made, the individual may ask the Court for compensation of 2,200 yen (or about \$7.33) per day of detention.

#### CONVICTION AND SENTENCING

Once the Prosecutor decides to act, the Japanese accused has little chance of avoiding punishment. In 1972, 99.9 percent of those brought before the Courts were convicted. By contrast, in Philadelphia's Municipal Court in 1973, 44.5 percent of cases resulted in conviction, 12.5 percent in conviction of a lesser offense, and 43 percent of defendants were acquitted. In robbery cases tried by the latter body, there was a conviction rate of 78 percent.

Actual sentences in Japan tend to be lenient by our standards. The Japanese believe that the primary stigma is in arrest, and their Courts feel that prisons too often are actually schools for crime; approximately 50 percent of those in Japanese prisons are repeaters. Japanese Courts rely heavily on the impact of shame on both the offender and his family.

Of all convictions in 1972, 95.9 percent were fined, 3.1 percent were imprisoned with labor, 0.5 percent were subjected to "minor fines" (less than 4,000 yen, or \$13.50). Eight out of 2,034,709 offenders were sentenced to death. More than half of those sentenced to prison with labor received terms of one year or less, and another 40 percent were sentenced to between one and three years. 93.3 percent of sentences without labor were for one year or less. Only 100 of the 2 million were sentenced to terms of 10 years or more.

In addition, 58 percent of those sentenced to imprisonment with labor received suspended sentences, while more than 75 percent sentenced to prison without labor had their sentences suspended. The rate of suspended sentences, where fines were involved, was only .01 percent.

All sentences are reviewable, either by request from the defendant, or from the Prosecutor, if he feels that the sentence was too light or too severe, or if the defendant is found not guilty. In 1970, overall appeals to the High Court were about 12.5 percent. (Protection against double jeopardy does exist in Japan, but not until the Highest Court has made its decision.) In 1972, Prosecutors appealed 17 percent of all cases for "reinterpretation" where they were not satisfied with the Court's original finding; subsequently, only .025 percent of Lower Court post-appeal decisions were further appealed to the Supreme Court by the Prosecutor.

The Courts found it necessary to revoke only 7.5 percent of the total suspended sentences (excluding Road Traffic Law violations) in 1972. Revocation ordinarily comes from commission of an additional offense, 61 percent of which are committed within a year.

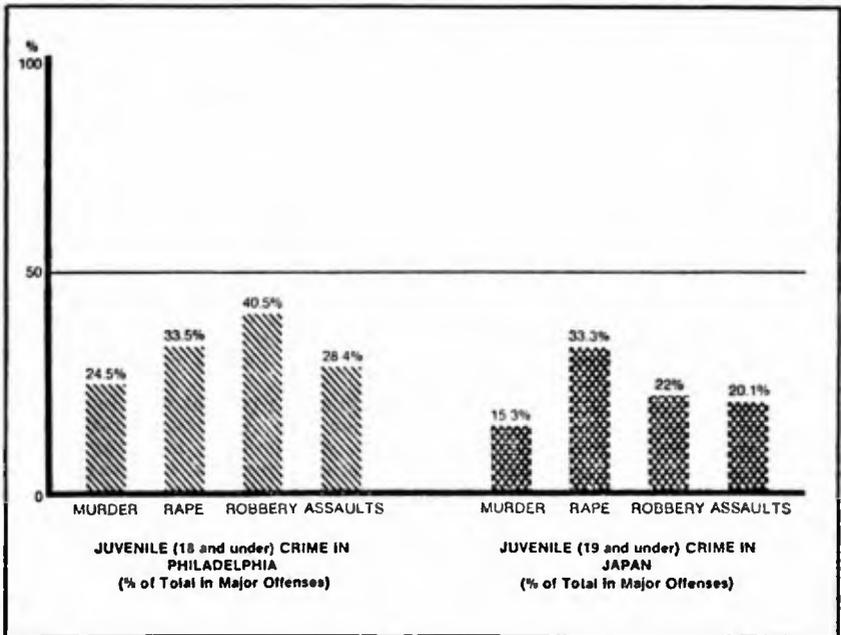
This attempted comparison between the "crime and punishment" ratios in Japan and the United States would not be complete without reference to several areas that have been much in the crime news in recent years—specifically, juvenile delinquency, narcotics control, gun control and road traffic violations.

#### JUVENILE CRIME RATES

It is very difficult to compare juvenile crime in the United States and that in Japan. The age categories are not the same and the major statistics are not directly comparable.

However, it may safely be said that Japan has had its full share of difficulty with this post-World War II phenomenon—perhaps not to the degree experienced in Western countries, with particular reference to the United States, but sufficient to greatly upset the relatively conservative, family-oriented Japanese adult population.

In 1972, 19.3 per 1,000 juvenile population (14-19) in Japan were investigated by the police for a penal code offense, as against 11.3 of adults. An encouraging note is that the percentage of juveniles to the total dropped from a high of 28.7 percent in 1963 to 16.7 percent in 1972.



But the decline was not as clear in the more serious non-traffic penal code offenses. Here, 9.7 per 1,000 juveniles were involved, as against 3.1 adults, a situation opposite that in pre-War days. The rate of juveniles per 1,000 population involved in these crimes has fluctuated indecisively for the past decade, while the adult rate per 1,000 has steadily decreased.

As might be suspected, 44.3 percent of juvenile crimes were in the category of larceny, and 37.8 percent involved "professional negligence causing death or bodily injury" (largely automobile offenses.) But what might not be so predictable is that juveniles comprised more than one-third of total offenders in such crimes as larceny, extortion, rape, and robbery.

In Philadelphia, in 1972, juveniles (18 and under) accounted for 35.7 percent of those arrested for major crimes, consistently higher than the comparable Japanese figures, except in the crime of rape.

In roughly comparable statistics, juveniles in Japan (19 and under) were involved as suspects in 16.7 percent of *all* offenses in 1973, while in the U.S. the figure (18 and under) climbed to 26.4 percent.

#### ROAD TRAFFIC OFFENSES

As the number of automobiles on the road increased sharply to the point where one-third of the population over 16 are now licensed drivers, the Japanese police and judicial system were faced with an increasing problem of control. As pointed out earlier in this chapter, the incidence of both casualties and accidents is now decreasing significantly, despite a continued increase in number of automobiles. Violators have increased, but prosecution is rigid. Rate of prosecution against the more serious violations ranges from 59 percent to 68 percent, depending on the specific offense, and is 95.5 percent for road traffic law violations. The clearance rate on hit-and-run cases runs over 90 percent.

#### GUN CONTROL

Gun control in Japan is a relatively minor problem, and the strict laws banning sale and possession do have a direct relation to the low crime rate. In all of Tokyo, there are only 71,000 gun permits, none of which are for pistols or revolvers. (824 are for swords!) To quote the Crime Prevention Division of the Tokyo Police Department, "The police on their part are conducting severe control

over illegal possession of firearms, swords and gunpowder for the sake of safe and peaceful civilian life."

In Tokyo in 1973, there were no offenses involving pistols, only four involving rifles or shotguns and five in which gunpowder was used. There were 22 gun accidents. Seized were 142 pistols, 145 hunting guns, and 1,251 illegal swords. In Japan as a whole, there were only 28 murders involving hand guns; in the United States, with about twice the population, there were 10,017. The known gangs do not use guns and police use is extremely rare. Japanese officials modestly admit that their island status makes such rigid gun control less difficult. All of this notwithstanding, the U.S.A. is in desperate need of a strong and uniform gun control act.

#### DRUG OFFENSES

The sharp decrease in drug offenses noted at the beginning of this chapter resulted from increasingly strict controls, beginning at the water's edge and including more vigorous prosecution and stiffer punishments. While the U.S. Drug Enforcement Administration admits to knowledge of 93,392 addicts on heroin at the end of 1972, the Tokyo police state flatly that "It is hard to find a new narcotic addict today." Organized crime stays strictly out of drug traffic.

Heroin, LSD and opium are held well under control, with little traffic and few violations. Latest plague of the Japanese police is the use of cannabis (marijuana), but it can hardly be considered a major menace with only 782 offenses reported nationwide in 1973. Actual narcotic offenses had fallen to 504 by 1973, and opium offenses were down to 240. Stimulant drug offenses (amphetamines) rose to more than 12,000 in 1973, but were down from a peak of 53,000 in 1954. If past experience in other outbreaks is any gauge, with stiffened penalties and more police attention, this incidence of increased use of stimulant drugs is due for early reduction.

In sad contrast, it is estimated by responsible authorities that "There are between 20 and 30 thousand heroin addicts, and 30 and 40 thousand heavy abusers of other drugs" in Philadelphia, alone!

Crime statistics must be approached cautiously, subject as they are to imperfections of definitions, of inadequate reporting and of actual distortion of officialdoms who wish to appear more competent than they are—but the foregoing cannot but be convincing that not only is Tokyo the safest major city in the industrial world but that Japan is one of the least crime-ridden countries.

The evidence stems not only from the relatively low incidence of crime but from comparatively prompt and sure performance in the other aspects of their system of justice. For one reason or another, it is obvious that the criminal's life is not a comfortable one in Japan—or, at least, considerably more hazardous and uncomfortable than in most other places with which we are familiar.

There can be and are a variety of reasons. Some are intrinsically Japanese—but others are not. The rest of this firsthand, authenticated report will attempt to sort them out and, if at all possible, try to restate them for a Western society desperately in need of answers.

## CHAPTER II

### THE JAPANESE SOCIAL ENVIRONMENT

To begin to understand why Metropolitan Tokyo has the lowest crime rate of any major city in the world, we must first look into the Japanese social environment and isolate the forces which combine to achieve that condition. It is, of course, dangerous to generalize about a people, but there are certain broad facets of the Japanese and their character which can be considered as contributing to that low crime rate.

First and foremost, the Japanese are a homogeneous people with about 650,000 Koreans as the only important minority among 107 million total population. This does not include the 1.25 million Okinawans who have recently returned to Japanese sovereignty and who remain on their own island.

While the Japanese are subject to the same irrational behavior that leads to crime in the Occident, we must understand that, as Orientals, these homogeneous Japanese do not think and act in the same way under the same conditions as does a heterogeneous American community. It is natural for us to look at others in terms of ourselves and our own traditions and behavior patterns, but we cannot accurately understand the Japanese in those terms. Their sociological thought patterns are different from ours, as are many of their motivations. And

those differences are magnified when compared to our ever-growing African and Latin American minorities.

#### THE JAPANESE "IE"

Although in most societies the basic unit is the family, the Japanese seem to have developed this concept to both a higher and a different degree. A striking difference between Western European and American families and those of the Japanese is that the household (the "ie") dominates. The Japanese family is composed of people living within the family household, with the ties of place more important than kinship or blood in binding them together. For example, a son who has moved out of the household and established one of his own, or a daughter who has married and entered her husband's household, will be remembered on occasions of marriage, birth or death but will not be helped or protected as will a son-in-law who marries a daughter and comes to live in the family household. This seems to be a throw-back to the feudal concept where even servants and other family retainers were considered as members of the household, to be aided and protected by the head of the "family."

Thus, the father is the head of the family and the head of the household. As such, he is the dominant force and the unquestioned dispenser of both largesse and justice. He is most certainly a stronger figure than in most Western European-American households which tend to retain the matriarchal concept prevalent in Africa. His role is, however, consistent in part with the father-leader image in Latin American families.

While women have received a great deal of legal freedom as a result of the U.S. Occupation of Japan in the post-World War II era, equality in the home is far from universal. This does not stem so much from the difference of the sexes as from the general lack of seniority and prestigious positions to which women can ascend. Although there is an increase in marriages of choice among post-War generation young people, arranged marriages are still fairly common in Japan.

The entire socio-economic fabric of Japan, in and out of the household, is woven in terms of seniority and the prestige which comes from being the older, senior person. Juniors, whether they be male or female, defer on all occasions and in all matters to their seniors. Closely related is a universal respect for authority, whether it be parent, employer or government. The structure is almost rigidly vertical as contrasted to the American social structure which may be considered as horizontal. For example, while Americans consider and treat as equals fellow-graduates from a high school or college, the Japanese will remain almost silent in the presence of a fellow-alumnus who is from an earlier class. Their very language makes this differentiation in the forms of greeting used with persons considered seniors, equals, or juniors, whether in the same family or group or not.

#### "THE GROUP" IN JAPANESE SOCIETY

"Group" is the operative word which dominates Japanese society. It is a concept and a structure at the same time, something which has no true counterpart in any other country. The concept is "we" or "us" against "them" or the outsiders. In expanding circles from the individual comes, first, the family household; then the "group", which may be a school class, a school or university, an employing company or a political party; and, finally, the nation. The individual consciously avoids any action (including committing a crime) which would bring loss of prestige or "face" to anything which relates to "we" or "us".

Fear of "loss of face" contributes measurably to the low crime rate in Japan. By committing a crime, a Japanese not only loses face for himself or herself but also for a senior, whether parent or employer. An action which brings loss of face inevitably results in expulsion from the social structure of which the individual is, so essentially a part.

Within the group, the structure is rigid—from the lesser to the higher. The lesser will do nothing to cause embarrassment to the higher person because of the over-riding fear of expulsion from the group. The higher person, being very much aware of the need to keep the lower one in the organization, goes far to placate the lower person in his or her wants, needs and desires. Thus a balance is achieved which keeps the organization or group in being and, through its counterparts, the Japanese society and state.

The mutual relationship can perhaps best be shown through an examination of the average Japanese company. Based upon the ancient military pattern of organization, it is structured to a greater degree than an Occidental corpora-

tion. A worker has little relationship with other workers of the same level outside his or her section. Unlike in the United States and Britain, there is no overwhelming commitment to a functional job with certain prescribed skills. The Japanese worker will undertake any task requested by his section chief, upon whom he depends and with whom he deals exclusively. The section chief, in turn, has his little group of peers who look to the next rank above in the hierarchy. Movement up the ladder is almost always on the basis of seniority, rarely on ability. When, for example, anyone in the structure receives a pay increase, the other members of his immediate group will expect the same. Despite the limitation on the efficiency of the organization or enterprise as a whole, the Japanese seem to be able to live with the restrictions imposed upon them by the group concept.

On the other hand, the concept makes for a tightly organized and devoted workforce. Unions are primarily by company, and not by craft or industry as in the AFL-CIO before the merger. It has been said that employment is a closer, tighter bond in Japan than marriage. There is practically no mobility among workers. They expect life employment with a company when they join it as young people. In return, management goes far beyond anything in the Occident in the way of fringe benefits and interest in the affairs of their employees—even to the extent of providing company graves!

Workers tend to spend their social life as well as their working life in the company of their fellow-employees, and even tend to marry them—and this pervades the entire corporate structure from the lowliest "broom slinger" to the head of the company. The latter is considered as the head of the "family", and there is very little difference between the attitude of the Japanese toward their family household and their employing company.

Each company, as it starts (like the recent additions to the electronics and automobile industries), has to build from scratch its own "family" of workers, engineers and managers, and does not and cannot "steal" workers away from other companies.

This same group concept permeates the Japanese political scene. Inherent in the group structure is the total respect and allegiance given to the person above one in the structure. One takes ideas and suggestions only from equals or seniors, never from juniors. The junior would never presume to pass on an idea or a suggestion without "going through channels." The senior makes the decisions, which are accepted without outward questioning by all subordinate to him in position, age, and rank. Compromise is all but impossible, because to compromise would be a loss of face to a Japanese individual or group. Equals have great difficulty in arriving at a conclusion if they do not have a senior present to voice the group consensus. Out of such a thought process comes single-party domination of the political scene, even though it has far from a majority in the Diet.

It would appear that the Japanese fear being alone under any circumstances. They seem to reject, for example, the quest for a room of one's own—the goal of every American, especially in larger families which comes from the lower economic levels of our society. A typical Japanese reaction on visiting an American home is to ask a person with a room of his or her own, "Whom do you talk to—do you not get lonesome being alone in your room?" They do everything in groups from bathing to going on company organized pleasure trips to shrines and national parks. Thus, the worst thing that can happen to the average Japanese is to be ejected from a family household or group. The "team spirit" is evident in business and industry in every respect.

#### THE URGE TO CONFORM

The urge to conform is, therefore, part of the pattern of Japanese behavior. This is shown in the standard uniforms for young people right on up through the university, in the working dress of thousands of employees in a large factory and in the standard dark business suit which has become the uniform of adult males. The mass migration of families on holidays to national religious shrines, parks and gardens is indicative. This general pattern of conformity naturally translates itself into the conformity of abiding by the law.

Japanese conformity has an historic origin. It was bred into the people during the long Edo or Tokugawa shogunate (1600-1868) and intensified under the Emperor Meiji (1868-1912) and his successors. The long period of isolation under the Tokugawa shoguns kept out foreign influences, solidified social customs

and concepts. Under the shoguns, extensive controls over the population were instituted. Travel at home and abroad was restricted. This resulted in the return to Japan of many merchants and others who had taken up residence in neighboring areas of the Far East and in the closing of ports of entry to all foreigners, including missionaries and traders.

The Tokugawa regime organized the people into small groups, with each one held responsible for any infraction of the rules and the law by an individual member of the group. Even religion was employed to control the people. Each individual was required to register with a temple, a means of control which has its counterpart today in the required semi-annual visits by police to every household in Japan. The success of the totalitarian regime in Japan of the 1930's and 1940's in controlling not only the people but their thoughts as well, even to the extent of setting up "thought control" police units was made possible by building on the heritage left by the Tokugawa shoguns.

#### SELF-DISCIPLINE AND SELF-DENIAL

The sense of discipline which pervades the Japanese household often leads foreigners into believing that the Japanese are a very docile people. Under ordinary circumstances they are. Few Japanese rebel as individuals; if they seek to change anything, it must be as part of a group such as the Communist Party or of one of the ultra-radical student groups. They will, for example, individually struggle daily in and out of Tokyo as commuters on tremendously overcrowded public transportation. But, when they are aroused by what they consider an unwarranted display of power by transport workers' unions or the management of the transportation system, they can and will go on a furious rampage—always in a group. It is this innate sense of discipline which has made the Japanese such excellent soldiers who prefer to die rather than surrender.

The exercise of self-discipline and self-denial is an ingrained characteristic of the Japanese people. Rigid self-discipline is an economic fact of life for the great mass of the Japanese. While their standard of living has risen since 1946 at a phenomenal rate—and although they are exposed at every turn to the material products of their ingenuity, skill and commercial expertise, the Japanese exercise great restraint in doing without those products which they cannot afford to buy. The average Japanese household, like its American counterpart, has a very narrow margin of income over expenditure but on a much smaller basic income.

Contrary to their American counterparts, however, the residents of Tokyo and other large cities do not make up their income deficiencies by habitual shoplifting, "ripping off" employers and carrying away anything and everything which is movable. While the Japanese do engage in rioting, it is usually dominated by political overtones rather than, as described by Edward Banfield in his "The Unheavenly City", by "rioting mainly for fun and profit." The organized looting of retail establishments by non-participants in a riot is unknown in Japan. In stark contrast is the profile of the average person arrested in the Detroit riots of the 1960's an employed, white or black, married man with an income quite sufficient for supporting his wife and children. The difference in self-discipline between the residents of Tokyo and Detroit or any other large American city is startling.

#### EDUCATION AND LITERACY IN JAPAN

The average Japanese family spends about 5 percent of its monthly income for "reading and recreation", reflecting Japan's 98 percent literacy rate second, world-wide, only to Sweden's. Our overall rate is almost as high, but Japan does not have the pockets of high illiteracy (rural and urban slums) from which comes a disproportionate share of our criminals, white and black. Furthermore, the Japanese make much better use of their ability to read, in the face of a much more complicated written language than English. They purchase almost astronomical numbers of books, monthly publications and newspapers yearly. Neither the literacy rate nor the long tradition of education and training, regardless of social or economic status, is watered down by the presence of large non-Japanese-speaking (or reading) minorities.

Education unquestionably plays an important role in maintaining great respect for the law. With a national system of schools and universities, the Japanese are not subjected to the vagaries of will and purse of local or state government that result in the widely varying standards of education in the U.S. The repetitive method teaching, with drill upon drill and with great emphasis on memorization, may not stimulate the imagination and increase motivation as advocated by

the late Professor John Dewey and his successors in the Education Mission to the U.S. Occupation Forces in Japan, but it certainly instills conformity and respect for rule and regulation, law and order.

The following passage from the Report of that Mission is significant: "In order that the newer aims of education may be achieved, teaching methods emphasizing memorization, conformity and a vertical system of duties and loyalties should be modified to encourage independent thinking, the development of personality and the rights and responsibilities of democratic leadership. The teaching of morals, for example, should be less by precept than by instruction deriving from experiences in concrete situations in school and community."

#### THE JAPANESE "SPIRIT"

Another reason for Japan's low crime rate may be that indefinable something which is called the Japanese "spirit". It pervades almost everything they do and think, even to the extent of instructing police cadets in the ancient ceremony of pouring tea or in how to arrange flowers. It may come to the Japanese through their basic trio of contemplative and meditative religions. The major ones—Shintoism, Buddhism, and Confucianism—all live at peace with each other and, because the individual Japanese may relate to one cult or another at different times and for different purposes, combine to confuse the statistician. For example, young Japanese children are customarily presented soon after birth before a Shinto shrine. Marriages are usually a Shinto ritual. But, in death, Buddhism prevails with its rituals employed for funerals and burial in a cemetery of a Buddhist temple.

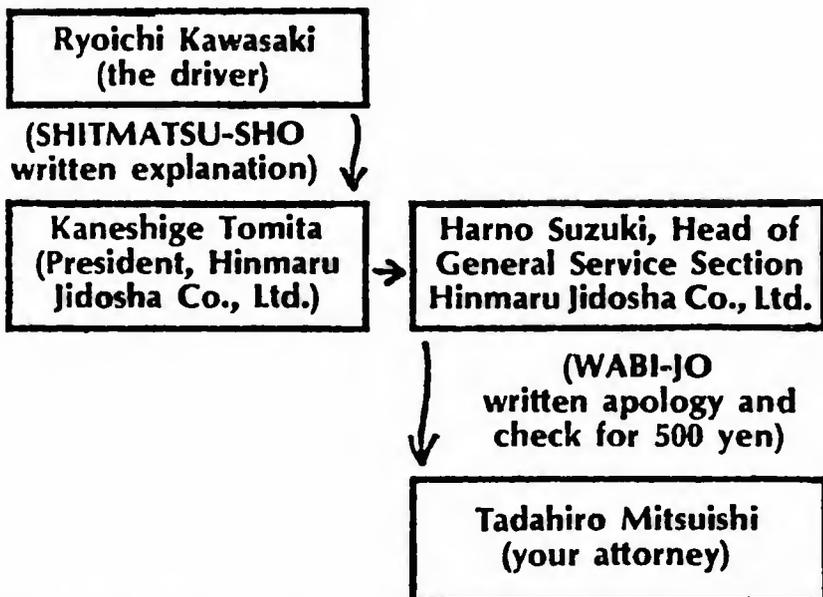
All of these religions stress proper conduct more than ethics, morals and theology. They encourage the young to enter upon paths which lead away from violence and crime into those of calm meditation and contemplation. They make for passivity rather than violent action. This, in turn, is reflected in the architecture of the home, the temple and the public building; in the art forms and literature, including painting and music; in the quiet calm of a Japanese garden, be it in a small home or in a large public park; and in the traditional ceremonies, whether they deal with the pouring of a cup of tea or affixing poems to the trees at blossom time. Not unrelated is the Japanese custom resorting to a tub of very hot water in which to soak away the tensions and cares of the day. Cleanliness may not be next to Godliness but, when communal soaking and bathing is added, is certainly a deterrent to violent action stemming from tensions and frustrations.

The following case history gives an illustrative sidelight on the Japanese character and its bearing on crime control. We should remember that the taxi service in Tokyo is reputedly in the hands of the racketeers. One would be hard-pressed to imagine the following correspondence emanating in part from a Mafia-controlled operation in New York:

Debbie Smith is a young lady whose family lives in suburban Philadelphia. While in high school, she spent a year in Japan as an exchange student in the Osaka area. Now a senior at Princeton University, majoring in Japanese studies, she was sent to Tokyo in the summer of 1974 on a university student project dealing with the management of Japanese multi-national corporations. On her arrival at Tokyo's Haneda Airport, Debbie engaged a taxi to drive her and her luggage to the home of her host (Tadshiro Mitsuishi), an attorney-at-law.

The driver of the taxi, Ryoichi Kawasaki, had the usual difficulty in finding the Mitsubishi house in the city which does not have a definite pattern of streets and house numbers. The result was that both he and Debbie spent considerable time stopping en route and asking directions. The normal fare for the distance covered would have been in the range of 500 to 600 yen (\$1.70 to \$2) but the meter reached 1030 yen, which Debbie protested but paid. She reported the overcharge to her host, and out of that evolved the following correspondence which is quoted verbatim:

"DEAR DEBBIE: It was too bad we had few time in Tokyo. A letter was waiting for me when I came back to Tokyo. So I am enclosing all that Harno Suzuki, head of general service section of Hinmaru Jidosha Co., Ltd., sent to me, i.e., SHITMATSHUSHO or written explanation, WABI-JO or written apology, together with 500 yen. This amount of money is supposed to be the difference between 1030 yen and the amount ought to have been. You might be puzzled at these complicated procedures, which I think is typically Japanese, so I will illustrate them for your information.



If you have different opinion to settle this case (!), please advise me as soon as possible because Toshiro told Harno Suzuki, the driver's superior officer, to wait for your consent when Harno Suzuki called me at office during my trip in the United States.

Yours very truly,

TADAHIRO MITSUISHI,  
(Address)".

WRITTEN EXPLANATION (TRANSLATION)

To: Kaneshige Tomita, President of Hinmaru Jidosha Co., Ltd.

From: Ryoichi Kawasaki, crew of Setagaya Branch of Hinmaru Jidosha Co., Ltd.

DEAR MR. TOMITA: I took a foreign passenger the other day at Hamamatsu-cho toward Azabu direction. When I arrived at the destined place, the taximeter indicated 1030 yen. I probably was, I think, kind to her. But I am sorry for her because the meter kept going while she and I got off the car and looked for her house since I had been unable find it. Please forgive me with the punishment for suspending three-times drivings of mine, as I will be careful not to discomfort passengers any more in future. I would not object to any kind of punishment should this kind of case happen from now on.

[SEAL]

RYOICHI KAWASAKI.

WRITTEN APOLOGY (TRANSLATION)

We have no words to apologize you for Ryoichi Kawasaki, a member of our crew, discomforting you by demanding extortionate rate with rude manners on 26 July 1974. We, Setagaya Branch, punished Ryoichi Kawasaki for suspending three-times drivings and asked him to reconsider what he had done to you. We will re-educate our crew so that we will never have this kind of case any more and we will make assurance doubly sure.

[SEAL]

HARNO SUZUKI,  
Setagaya Branch of  
Hinmaru Jidosha Co., Ltd.

While the Japanese are subject to universal impulses of mankind to commit crimes, there are many social restraints and influences which keep these people from crossing the line. Paramount is an all-compelling need for the respect of fellow-beings which can be lost by the simple action of arrest on suspicion of

having committed an offense. Japanese society keeps potential offenders against prescribed codes of action in line by threat of expulsion from the group and/or family household. Such expulsion appears by far to be a greater punishment than mere incarceration. Finally, an indication of the Japanese view of crime is found in the expression, "Only the misfits of society need lawyers." The compulsion to conform makes a Japanese look with horror on being considered a "misfit."

## CHAPTER III

### POLICE ORGANIZATION AND METHODS

All local police systems, including that of Metropolitan Tokyo, are units of a national police force headed by the National Public Safety Commission and its subordinate National Police Agency. This national service has played a major role in the country's history, for good and for evil. Since the occupation after World War II, Japan has struggled with the political and philosophical problem which bedevils all advanced countries; how to balance high efficiency in police work with full rights for the individual. Japan's success in striking a proper balance is attested to be the achievement of the world's best record in crime control, especially in urban centers, accompanied by almost universal public support.

The principal overt and outspoken opponents of both the National and the Metropolitan Police are, as would be expected, the Japanese Communist Party and the extreme-left student groups. These are highly organized and take to the streets on the slightest provocation with their standard uniform of a plastic helmet, armed with wooden staves, bamboo poles, iron pipe, and, of late, Molotov cocktails and high explosives. They are a constant problem—but one which gets solved temporarily but efficiently by the Security Police Division of the Metropolitan Police of Tokyo—the principal demonstration ground of the ultra-leftists.

Another element obviously antagonistic to the police are the organized criminals, who represent a particular problem to the urban police, also primarily in Tokyo. In recent years, since the national government stopped its intensive campaign to break up the organized racketeers, an accommodation of sorts has been established between the police and the criminals. As long as the latter remain within the bounds of the activities which the police seem willing to overlook, watchful attention by the police takes the place of overt action and interruption, as will be enlarged upon later in this chapter.

The police of Japan have been a tree swaying back and forth over the past half century, accommodating to the political winds of their country. During the totalitarianism of the decades immediately prior to World War II, they became oppressive and even instituted a "thought control" operation to blot out any thinking contrary to overt support of the regime in power. When General Douglas MacArthur and the U.S. Occupation Forces assumed control of Japan, legislation was issued which broke up the formerly centralized national police and substituted a system core consistent with United States ideas of local independence. The following is a summary of the changes quoted from "The Police of Japan," issued in March, 1974, by the National Police Agency:

"Since the first establishment of KEIHORYO" (Police Bureau) in the then Ministry of Home Affairs in 1874 up to the termination of the Second World War, the police of Japan operated under the centralized police system, a characteristic of which was its centralized control exercised by the Police Bureau of the Ministry of Home Affairs. Prefectural Governors, who were also Government officials, were likewise under the supervision of the Minister of Home Affairs.

After the post war period, the former Police Law was enacted in 1947 in line with the occupation policies of the Allied Forces then stationed in this country.

As a result of this new law governing the police services in Japan, the centralized police system, which had been effective prior to that time was changed to a decentralized police system similar to that then in use in England and the United States of America.

Major points of this change were as follows:

Responsibilities of the police were limited to those duties relating to maintaining peace and order, investigation of crimes and protecting life and property of the nation.

As a democratic method of administering the police, the National and Prefectural Public Commission system was adopted for the first time in Japan.

All those cities, towns and villages having population of more than 5,000 residents would maintain their own self-governing (or autonomous) police forces.

As a result of this change, the police of Japan were much more democratized than ever before. However, it soon became apparent that this decentralization seriously reduced the efficiency of the Japanese police.

Furthermore, maintaining such types of autonomous police forces tended to cause a heavy financial burden on smaller cities, towns, and village communities.

In order to correct these defects, the current new Police Law was adopted on June 8, 1954 following the ratification of the Treaty of Peace with Japan (on April 28, 1952.)

This change of police law brought about a new police system combining the concepts of democracy and centralization into a better system with hitherto strong points which were derived from a concept of a democracy suited to the various subdivisions of Japanese Government.

Major characteristics of this new police system are as follows:

The Public Safety Commission System which had been introduced under the former police law was left intact, thereby guaranteeing democratic administration and supervision of our police service and political neutrality.

The responsibility for maintaining the public peace and security of the State was very much clarified. The status of a Minister of State was given to the Chairman of the National Public Safety Commission which greatly improved coordination at all levels.

The dual system of maintaining both National Rural Police and Municipal Police was abolished and they were integrated into one "unified service"—namely Prefectural Police ("KENKEI") throughout the country.

This reduced the financial burden previously imposed on the small local Governments.

The current police system in Japan has been tailored to fit the current needs of this country but yet is flexible enough to respond to any future needs."

#### NATIONAL POLICE ORGANIZATION

As noted above, the principal legacy from the Occupation Forces was the civilian control of the police through the National Public Safety Commission and the public safety commissions of the various prefectures, plus those of Metropolitan Tokyo and of Hokkaido (the northernmost island of Japan), both of which are special organizations with considerable autonomy. All, however, are under the control of the National Commission and its administrative arm, the National Police Agency. The National Commission is under the direct jurisdiction of the Prime Minister, whose approval is necessary for the appointment or dismissal of the Director-General of the National Police Agency, and of the Superintendent-General of the Tokyo Metropolitan Police Department (TMPD).

The charts on pages 19, 20, and 21 taken from "The Police of Japan," show the structure and inter-relationship of the police agencies of the country.

#### MAGNITUDE OF TOKYO CRIME CONTROL

Tokyo has 11.6 million people living on 797 square miles, a ratio which is not much different from that of many major American cities. But the numbers of crimes in Tokyo, as has been detailed in Chapter 1, is many times smaller than in American cities in proportion to their size. The ratio of police to population, on the other hand, is about the same; Tokyo has 1:270 whereas, for example, Philadelphia, with one of the highest ratios in the U.S. 1:240.

In 1973, in Tokyo, there were 208,188 total offenses against the Pennl Code. Of these, 168,299 (80.8 percent) involved theft and 17,171 (8.2 percent) were "violent offenses" (illegal assembly with dangerous weapons, assault without injury, bodily injury, intimidation and extortion.) In the same period, "atrocious crimes" (homicide, robbery, arson and forcible rape) amounted to only a mere 1,250 (0.6 percent) of the total.

#### TMPD ORGANIZATION AND STRENGTH

The chart on page 22 indicates the organization of the TMPD (Tokyo Metropolitan Police Department) under the Metropolitan Public Safety Commission of Tokyo. This pattern of a civilian or lay commission exercising control over the police is duplicated at the national and prefectural levels.

Perhaps one of the most interesting aspects of the organization of the TMPD is the stress on reaching into the community and maintaining close contact with residents, through the establishment of 94 police stations and more than 1200 police "boxes" (KOBANS) in the metropolitan area. Their organization and functions will be described in detail later in this Chapter.

While the authorized strength of the force has risen since then to about 42,000, the charts on page 23 offer an interesting analysis of the personnel of the TMPD by classification, age, and rank as of December 31, 1971.

#### PAY SCALES

Using the low exchange rate of U.S. \$1=278 yen, the gross annual pay scale in force in 1973 in the Tokyo Metropolitan Police Department was: Superintendent-General \$29,795; Superintendent, \$14,563; Inspector, \$12,743; Assistant Inspector, \$11,948; Sergeant, \$10,797; Senior Policeman, \$10,519; Policeman, \$5,817. Starting pay for a police recruit was \$3,894. This increases to \$4,783 on graduation from training school, a rate which is expected to be raised 33 percent in the near future. A high school graduate must spend four years in grade, including one year in the police training school (six months for women) before he or she is eligible for promotion to sergeant. "Senior Policeman" rank is attained by appointment, not by examination. A college graduate, however, spends only six months in the training school, and only one year in grade is required for him to take the promotion examination.

#### RECRUITMENT AND TRAINING

The NEW YORK TIMES reports that Tokyo police are recruited from all over Japan in a search for the best men—which gives them added prestige in a nation where prestige is important. Here, the neighborhood policeman is known respectfully as "O-Mawari-San" (Mr. Walk-around.) A high school diploma is the usual minimum educational requirement, and much attention is paid to the recruitment of college graduates. The result is a very high grade of personnel.

Training in a formal sense continues throughout a police career. Recruits attend and live in the Tokyo Metropolitan Police Training School for a year (six months for college graduate and women.) There, they receive the basic education and training necessary for police officers. Their studies include law, police practice and a mastery of "Judo" and "Kendo", the traditional Japanese martial arts. They also enjoy activities in sports, art, movies, music appreciation and the traditional tea pouring ceremony and flower arrangement!

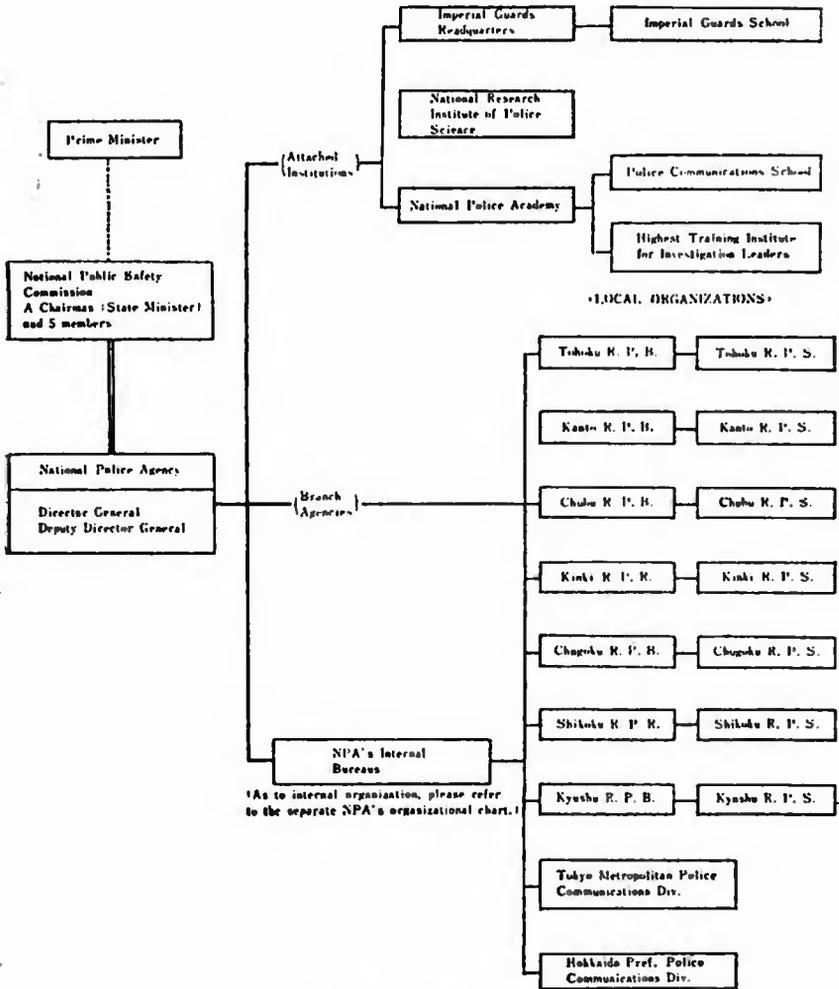
After a year's service at police stations, officers return to the School for six weeks to improve their abilities in police practice and technique based on their experience. Officers of the rank of Assistant Inspector or under are selected for advanced special training at the School for periods of one week to three months in such subjects as traffic control, public security, criminal investigation, crime prevention or juvenile guidance. Those who are assigned to new branches of the police are sent to the School for new basic training. Upon promotion to the rank of Sergeant or Assistant Inspector after examination, officers are sent to the Kanto Regional Police Training School in Tokyo, administered by the National Police Agency.

After passing the examination for Inspector, officers attend the National Police Academy. Other educational institutions are used for special education in such fields as foreign languages, automobile repair and maintenance, or special techniques for criminal investigation.

Officers attending the police training schools live in dormitories and those on day shift customarily spend part of each work period in some training, organized by the Training Section of the TMPD and given by senior officers to their subordinates in the course of daily police routine at police stations and other posts. It is obvious that the efficiency of the Japanese police is due in no small part to continuous formal training during their entire career.

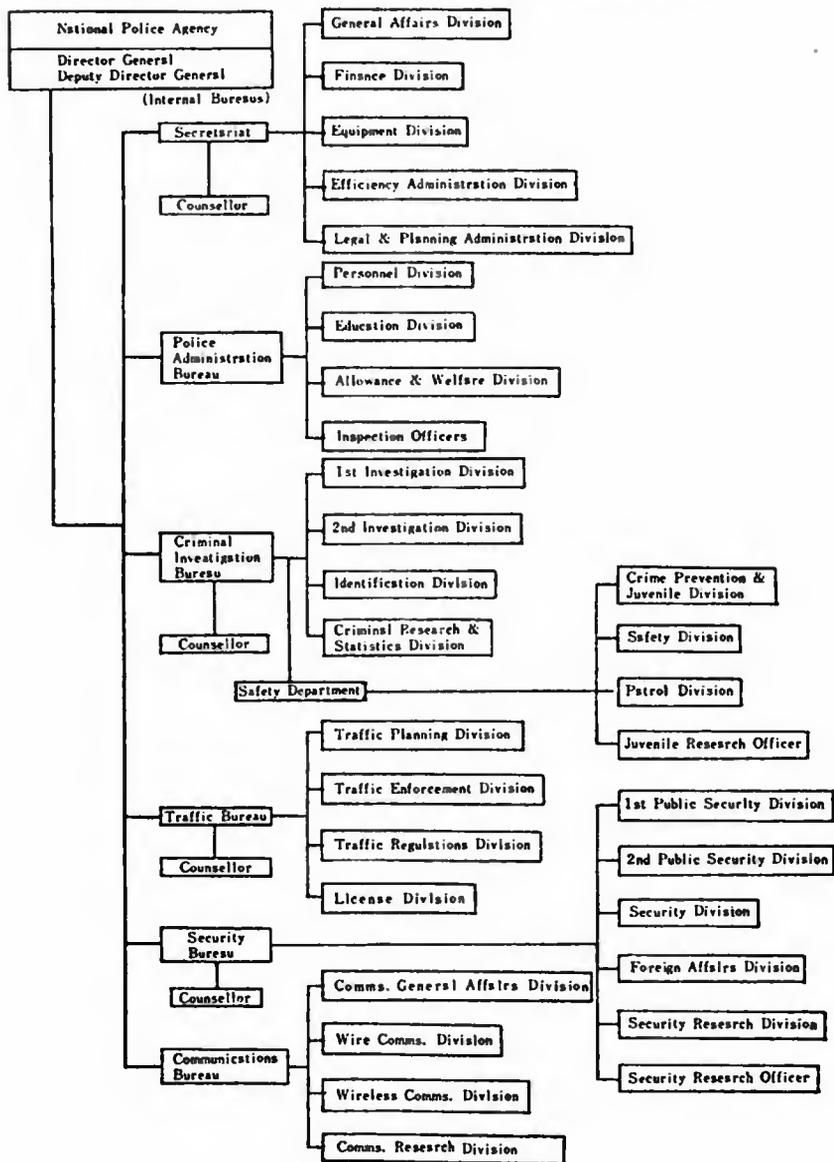
The following table indicates the education and training system of the National Police Agency:

POLICE ORGANIZATION (NATIONAL LEVEL)



REMARKS: (1).....indicates "Jurisdiction"  
 ===== indicates "Control"  
 (2)R. P. B. (Regional Police Bureau)  
 R. P. S. (Regional Police School)

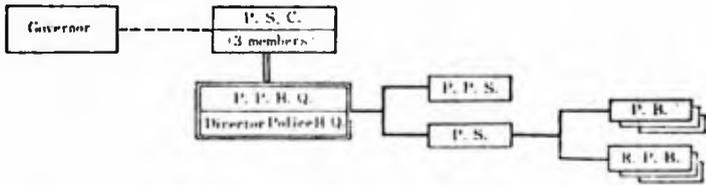
## ORGANIZATIONAL CHART OF NATIONAL POLICE AGENCY



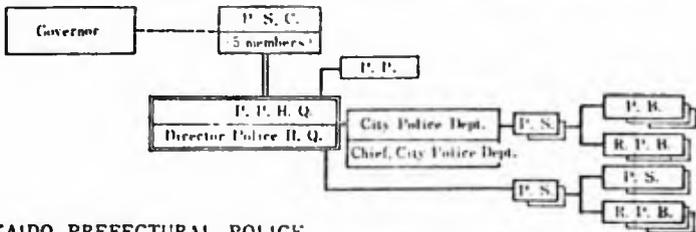
## ORGANIZATION OF PREFECTURAL POLICE

(as of June, 1971)

## 1. ORDINARY PREFECTURAL POLICE

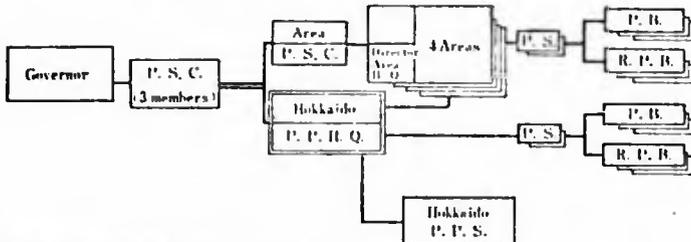


## 2. Six(6) MAJOR PREFECTURAL POLICES (Osaka, Kyoto, Kanagawa, Aichi, Hyogo and Fukuoka)



## 3. HOKKAIDO PREFECTURAL POLICE

(Jurisdiction is divided into 4 Areas: Ashikawa, Kushiro, Kitami and Hakodate)  
Each Area has its own police headquarters known as "Area Police Headquarters."



## 4. TOKYO METROPOLITAN POLICE

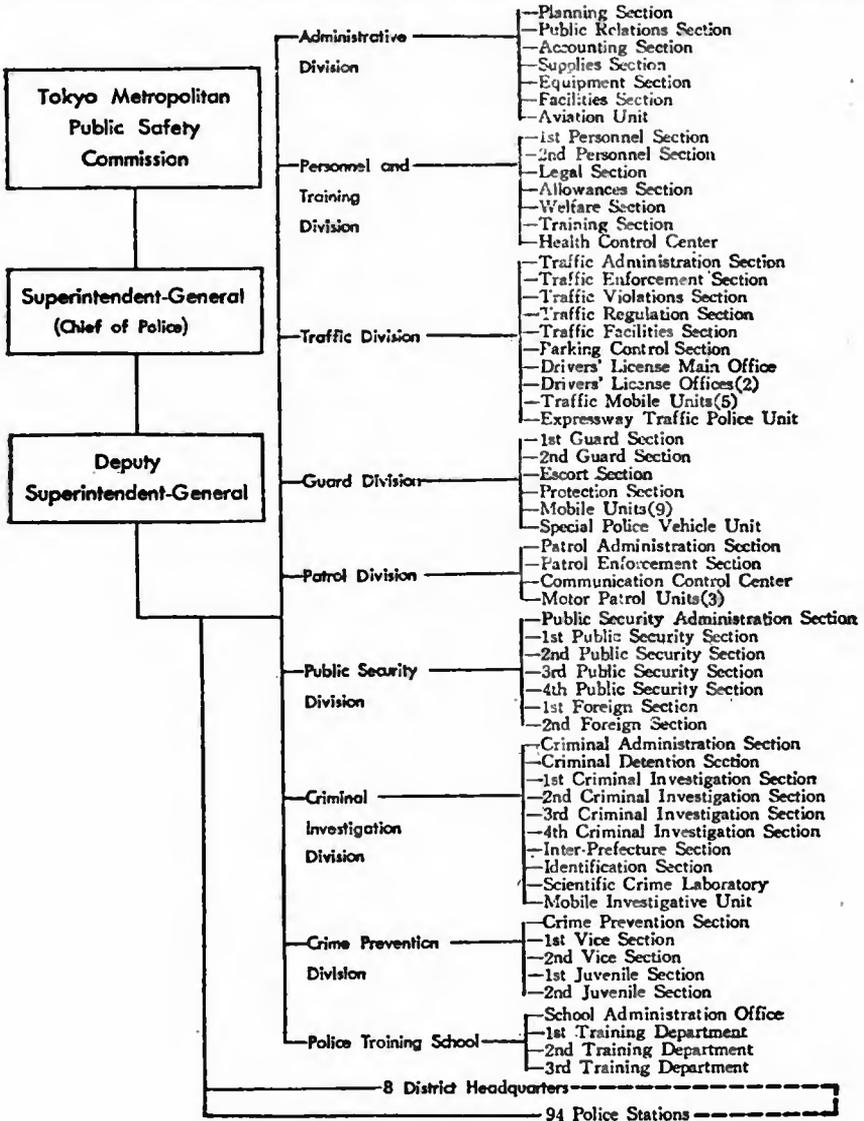


Total number of police stations, police boxes and residential police boxes across the country. (As of May 15, 1972)

Police Stations.....1,210  
Police Boxes.....5,766  
Residential Police Boxes.....10,489

- Remarks: (1) P. S. C. (Public Safety Commission)  
P. S. (Police Station) P. B. (Police Box)  
R. P. B. (Residential Police Box)  
P. P. S. (Prefectural Police School)  
P. P. H. Q. (Prefectural Police Headquarters)  
(2) - - - indicates "Jurisdiction"  
= = = indicates "Control"

**ORGANIZATION CHART**  
**"Kei-shi-cho"**  
**METROPOLITAN POLICE DEPARTMENT, TOKYO**

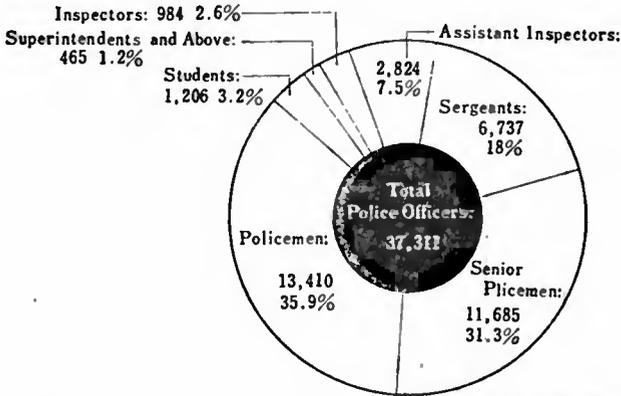


NUMBER AND AVERAGE AGE OF  
POLICE PERSONNEL CLASSIFIED BY RANK

Classification	Number of Personnel	Age								
		20	25	30	35	40	45	50	55	
Total Police Officers	37,311	35.03								
Superintendents and Above	465	50.02								
Inspectors	984	46.01								
Assistant Inspectors	2,824	44.09								
Sergeants	6,737	41.06								
Police-men	Senior Policemen	11,685	42.02							
	Policemen	13,410	24.01							
	Students	1,206	20.00							
Total Civilian Personnel	2,975	40.10								

As of December 31, 1971

NUMBER OF POLICE OFFICERS CLASSIFIED BY RANK



As of December 31, 1971

## POLICE EDUCATION &amp; TRAINING SYSTEM

## I. SCHOOL EDUCATION

Type of educational program (Responsible police organization in charge)	(Name of a course)	(Student's requirements and duration of course)
<u>Pre-service Education</u> (Prefectural Police School)	(Pre-service Course)	Newly recruited policemen
<u>In-service Supplementary Education (Regional Police School)</u>	(In-service Supplementary Course)	Policemen who have been in actual service (about six months to one year) after their completion of Pre-service Education
<u>In-service Education</u> (Prefectural Police School) (Hokkaido Police School) (National Police Academy)	(In-service Course)	Police officers below the rank of Assistant Police Inspector, Police Superintendents and Police Inspectors
<u>Technical Education</u> (Prefectural Police School)	(Technical Course)	Police officers below the rank of Assistant Police Inspectors
(Regional Police School)	(Technical Course)	Police officers below the rank of Assistant Police Inspectors
(National Police Academy)	(Technical Course)	Police officers over the rank of Assistant Police Inspectors
<u>Leaders Education</u> <u>Elementary Leaders Education</u> (Regional Police School) Hokkaido P / school included	(Elementary Leaders Course)	Policemen who are eligible for Police Sergeants
<u>Middle-class Leaders Education</u> (Regional Police School) Hokkaido P / school included	(Regular Course)	Police Sergeants who are eligible for Assistant Police Inspectors
<u>Advance-class Leaders Education</u> National Police Academy	(Regular Course)	Assistant Police Inspectors who had pas- saged entrance examinations for this specific course
	(Special Course)	Newly promoted Police Inspectors
<u>Cadet Officer Education</u> (National Police Academy)	(Cadet Officer Course)	Newly appointed Assistant Police Inspectors who had passed National competitive examination for senior public service personnel
(National Police Academy)	(Supplementary Course)	Police Inspectors who had experienced fixed duration of actual police activities after completing the above cadet course
<u>Technical Instructors Training</u> (National Police Academy)	("JUDO" and "KENDO" Instructors' Course)	Police Inspectors and Assistant Police Inspectors who are to become JUDO or KENDO instructors
	(Arresting-Technique Instructors' Course)	Police Inspectors and Assistant Police Inspectors who are to become instructors on arresting-techniques
Type of educational program (Responsible police organization in charge)		(Student's requirements and duration of courses)

Research Students (National Police Academy)	(Name of a course)	Police officers over the rank of police Inspectors
Special students for Highest Training Institute for Investi- gation Leaders (National Police Academy) (Highest Training Institute for Investigation Leaders)		Those Superintendent or Inspectors under 45 years of age, who have been experienc- ing specified period of actual assignment after completing Regular Course (including Cadet Officer Course) conducted by the National Police Academy
Entrusted education and training by other agencies and institutes		

Note: Police personnel other than uniformed officers are also educated and trained at either of the above various courses on necessity basis.

## 2. ON-THE-JOB TRAINING

Training continuously given through day-to-day leadership and guidance by senior officers to his subordinates	Short Course, Research Course, Training of Practices, Travelling Guidance, Distribution of Training Aids and Material, Field exercise and practice, Examination or test & others	Policemen who are not under police school training
Training conducted through special methods such as		

## POLICE EQUIPMENT

The equipment of the members of the TMPD varies from a .38 calibre pistol and small portable radio communicator for each man on patrol to the most complex central control rooms produced by Japan's highly sophisticated electronics industry. It includes computers, telephoto transmitters and receivers, fingerprint and voice identification systems, and electronic machines which compose montage photos of crime suspects or victims.

In 1972, the major equipment of the TMPD included: 448 patrol cars, 110 traffic control cars, 1,357 traffic motorcycles, 22 wreckers, 2 mobile cranes, 8 stereo camera cars for traffic investigation, 28 motor launches for the Harbor Police Division, and 6 helicopters. Special vehicles included armored cars, water cannon carriers for the Mobile (riot control) Police units, buses equipped with water cannons and vehicles with enclosed command posts which can be raised and lowered to permit senior officers to survey crowds from above the street level. The TMPD Aviation Unit, which operates 6 of the 15 police helicopters in Japan, has its own heliport with the Unit headquarters building there.

## CRIME LABORATORIES AND DATA BANKS

The TMPD operates its own Scientific Crime Laboratory and an Identification Section with fingerprint and photo files. In addition, the TMPD has access to the National Research Institute of Police Science, maintained by the National Police Agency, which is active not only in forensic science—but also in psychology and psychiatry. The Institute is also conducting research in crime prevention and juvenile delinquency.

Inasmuch as drivers' licenses are issued by the police, the National Police Agency maintains a Drivers Control Center with a computerized file of over 28 million drivers, which file is constantly updated and is readily accessible to the TMPD.

## COMMUNICATION SYSTEM

As may well be expected in a country which has won a leading position in the world's electronics industry, the TMPD has an excellent communications system. "Dial 110" is stressed in all police crime prevention efforts as the number to telephone when seeking protection or in other emergencies involving the police. The Communications Control Center to which all "110" calls are placed, handles approximately 1,200 calls per day as compared with 3,000 daily on the similar "911" call in Philadelphia. The Center is linked by telephone or radio with all police

stations and police boxes, as well as with patrol cars, patrol boats, helicopters and foot patrol officers. Its equipment includes a computerized patrol car locator system, facsimile and telephotographic transmitters and receivers and emergency alarm systems. The Center is tied into other prefectural police headquarters throughout Japan and to the Control Center of the Tokyo Fire Board. The Center can get a patrol car to the scene of a crime or other emergency anywhere in Metropolitan Tokyo on the average in just under 3½ minutes after receiving a "110" call.

## TRAFFIC CONTROL

With over 2.5 million registered motor vehicles and just under 2.8 million licensed drivers in its territory, the TMPD of necessity gives considerable attention to traffic control. The Traffic Division keeps its officers moving on foot, on horses, on motorcycles and in automobiles and helicopters. Extensive use is made of policewomen who drive small model traffic patrol cars, as well as operate tow-away equipment. A special unit of the Division concentrates on traffic control on expressways.

The Traffic Information Center is connected through exclusive communications lines with electronic devices called "Traffic Congestion Reporters." These are installed at 268 main highway intersections throughout Metropolitan Tokyo. The Center also receives information by radio on traffic conditions from helicopters, patrol cars, traffic motorcycles and foot patrol police. Attached to the Center is a special force of traffic control coordination police who are dispatched to the scene of heavy congestion to work with officers from local police stations and boxes. Traffic information is distributed by the major broadcast radio and TV networks, all of which maintain studios at the Center, and through direct telephone service available to citizens seeking such information.

Closely related is the Extended Area Traffic Signal Control Center which automatically controls traffic signals in the central urban area and on the major arterial highways by computer. The system operates through use of electronic detectors installed at 562 sites with normally heavy traffic. The detectors record the passing of vehicles automatically and continuously send information on conditions to the computers at the Center. The Central Processing Unit computes the traffic volume, speed of the vehicles, etc., in the entire controlled area in accord with the traffic situation. By 1976, these computers will be regulating traffic flow at over 2,400 intersections in an area of 68 square miles.

In addition to being active in the control of air and noise pollution by motor vehicles, the Traffic Division also operates an extensive traffic safety program for both drivers and pedestrians, including school children. Visual aids are used extensively in conjunction with lectures to promote traffic safety through an awareness of traffic rules, driving skills and automobile maintenance.

The Traffic Division has effectively improved traffic control and safety through the use of bus lanes on congested streets, regulation of the entry of trucks and other heavy vehicles into the central urban area, rigid control of parking through fines (see section on Crime Laboratories and Data Banks, above) and tow-away, and the relatively wide use of pedestrian malls from which all vehicular traffic is banned.

The record of achievement of the Traffic Division may be seen in the following table covering the 10-year period 1962-1971:

## 10-YR FOLLOW-UP OF TRAFFIC ACCIDENTS, POPULATIONS AND VEHICLES IN TOKYO

Year	Deaths	Injuries	Population of Tokyo	Automobiles registered in Tokyo	Casualties per 100,000 population	Casualties per 1,000 automobiles
1962 :						
Number.....	959	50,427	10,224,309	814,841	502.6	63.1
Index number.....	100	100	100	100		
1963 :						
Number.....	986	54,304	10,467,231	924,816	528.2	59.8
Index number.....	103	108	102	113		
1964 :						
Number.....	1,050	58,456	10,667,390	1,063,199	577.8	56.0
Index number.....	109	116	104	130		
1965 :						
Number.....	788	56,672	10,913,891	1,181,010	526.5	48.7
Index number.....	82	112	107	145		
1966 :						
Number.....	794	67,898	11,025,013	1,337,192	623.1	51.4
Index number.....	83	135	108	162		
1967 :						
Number.....	749	87,534	11,200,717	1,540,626	788.2	57.3
Index number.....	78	174	110	189		
1968 :						
Number.....	716	102,914	11,353,724	1,749,168	913.0	59.2
Index number.....	75	204	111	215		
1969 :						
Number.....	864	106,387	11,457,484	2,005,489	936.0	53.5
Index number.....	90	211	112	246		
1970 :						
Number.....	824	87,582	11,400,596	2,196,921	775.6	40.2
Index number.....	86	174	111	270		
1971 :						
Number.....	660	74,446	11,507,244	2,343,051	652.7	32.1
Index number.....	69	148	113	288		

An insight into Japanese attitudes toward compliance with the law may be obtained through the record of traffic violations. In 1971, in all Japan, there were 5.7 million minor traffic violations detected, of which 5.552 million were settled by payment of fines without the offenders being brought into court. Of those notified of traffic violation offenses, 96.5 percent of the offenders paid their fines within the prescribed period of time!

## MOBILE UNITS

Operating out of TMPD Headquarters in Tokyo's world-famous riot control police—a force of about 3,000 men (30 percent of all such police in Japan) who are stationed strategically throughout the city and who are under the command of the Guard Division. This specialized police force, which is described in detail in Chapter VII, has won the admiration of their peers in other countries.

In addition to their riot control responsibilities, the mobile units are also utilized for traffic and general crowd control during various public events, rescue and protection operations in the event of natural disasters or serious accidents and group patrolling in cooperation with local station police.

## PATROL DIVISION

Of particular interest to American crime control specialists is the way in which the TMPD Patrol Division is organized. Ninety-four police stations, complete with living and sleeping accommodations, have been established throughout Metropolitan Tokyo, to operate in close and continuous contact with the residents of its patrol area. In addition to its police station, each district or precinct has approximately 13 police boxes ("koban") in urban areas or residential police boxes in the more sparsely populated suburban area. At each urban police box, which is actually a small station house also with sleeping accommodations, about 10 police officers are assigned to work in four shifts around the clock. They engage in observation, patrol and routine checks of their patrol areas of responsibility for the purposes of traffic control, crime prevention, detection of criminals, receiving of complaints and reports, and numerous other police and non-police activities. One police officer and his family is stationed in each residential police box. He performs similar duties.

But perhaps the most significant effort by the TMPD to maintain tight control over crime is the required visit twice each year by the patrol police operating out of each police box to the average of 130 households in their patrol area. Through these visits, the police elicit information not only on the household being visited but also on the neighbors and the neighborhood. The visits also afford the police and the residents of the patrol area to get to know each other in a spirit of mutual respect. Householders are required to complete a "Residence Information Card" on each visit by the police making the visit. A sample of the card is reproduced on the adjoining page. The sample is in English for the use of foreigners but is identical to that used for Japanese residents. The completed cards are kept on file in the local police station as well as at TMPD Headquarters.

#### RELATIONS WITH ORGANIZED CRIME

According to a long-time American resident of Tokyo who has been a close observer of the Metropolitan and National Police, there has been unofficial accommodation with organized crime. Ten years ago, a campaign to break up the gangs was undertaken by the National Government. The police resented this effort because it destroyed the detente that they had established with the gangs. With the Government's cancellation of the campaign, things are allegedly back to where they were. The gangs are well-coordinated with rackets assigned to them by the criminal leadership.

The police have set specific limits within which the gangs can operate unmolested. They have made it quite clear to the gangs that they will not tolerate any traffic in guns or narcotics and eliminate such traffic as soon as identified.

In 1974, there were an estimated 120 groups of gangsters in Tokyo with 28,000 members and 2,720 groups ("families") with 115,000 members throughout Japan. The racketeers are theoretically restricted to dealing in prostitution, gambling, loan sharking (up 10 percent over the previous year), taxis, and, more recently, in the construction industry, but not in as sophisticated a manner as their American counterparts. Gangsters operate in horse and other forms of racing. There are no "bookies" in Japan, and it is understood that most horse races are fixed.

#### GUN CONTROL

Japan has strict laws controlling guns, relating to possession, sale and registration of sporting arms. They are vigorously enforced. The police ruthlessly seek out both traffickers and possessors. The task is easier in Japan than in the United States both because of its island character and the fact that smuggling is under total control of the national police, in contrast to divided responsibility between our numerous Federal, state and local agencies.

The tightness of national control over firearms is demonstrated in the following quote from a report of the National Police Agency; the statement applies to all of Japan, not just Tokyo:

"Of all crimes committed in 1971, 105 cases were weapon-oriented crimes such as homicide, robbery, rape, bodily injuries and intimidation.

"Categorically speaking, there were 50 rifle cases, 42 hunting-gun (shotgun) cases, and 7 air-gun cases. Most of these weapon-oriented crimes were committed by persons connected with racketeer groups in this country.

"With respect to pistol cases in particular, 47 cases (94 percent) were committed by persons having some connection with these racketeer groups.

"In face of this situation, tighter controls and clampdown over these Japanese racketeer groups are very much desired."

In the same year, there was a national total of 3,107 cases of illegal possession of firearms of all types cleared by the police, with seizures of 2,116 firearms of various types. This record bespeaks the advantages of absolute determination of the police nationally and within Metropolitan Tokyo to assure strict enforcement of the national prohibition against possession of firearms. Even in the case of authorized possession for sporting purposes, in 1971 the National Police Agency reports only a total of 326 accidents involving 335 injured persons. The Agency goes on to state that "most of these accidents can be attributed to careless handling of weapons." It adds that, "In view of this trend, the police are making every effort to prevent firearms accidents by providing guidance to gun users." This is a far cry from the accidental slaughter of hunters each Fall in the United States, where the authorities of any single state would be delighted to record the low number of hunting accidents that occur in the entire country of Japan.

RESIDENCE INFORMATION CARD

Residence Information Card  
(巡回連絡カード)

警察署 氏名	
-----------	--

警察署 受持警察官	派出所 駐在係
--------------	------------

第 区	
第 号	

Dear Sir :

This is to inform you that as a patrolman assigned to this area, I am responsible for occasionally visiting every household in the area. The purpose of this visit is to get better acquainted with the residents in the area to promote understanding between the citizens and the police and for the police to offer better service to the community. We would like to request your cooperation in this respect by filling out the attached form. The police equipped with this information can insure speedy dispatch of police officers to your home in an emergency, efficient investigation thereof, efficient aid in case of disaster, efficient assistance to persons looking for your home and improved work procedures, etc.

Thank you.

(Please fill out the boxes bordered with a thick line. The information furnished will be kept confidential.)

HOME ADDRESS (用 住 所)	TEL ( )		NATIONALITY (国 籍)		TERM OF RESIDENCE (居住期間)	
FAMILY MEMBERS (家 族)	FULL NAME (氏 名)	RELATIONSHIP (親 類)	SEX (性 別)	OCCUPATION OR SCHOOL (職 業・学 年)	DATE OF BIRTH (生 年 月 日)	ALIEN REG. CARD NO. (在 留 証 書 号)
		HOUSEHOLD HOLDER (世帯主)				
CONTACT IN CASE OF EMERGENCY (非常の場合の連絡先)	HOUSEHOLDER'S BUSINESS ADDRESS (世帯主の勤務先)	TEL ( )				
	NAME AND ADDRESS OF FRIEND OR NEXT OF KIN TO BE CONTACTED (友人等の住所氏名)	TEL ( )				
EMPLOYEES (使用人がおりましたら記入して下さい)	FULL NAME (氏 名)	DATE OF BIRTH (生 年 月 日)	SEX (性 別)	JOB (職 業)	ADDRESS OF FAMILY (家族の所在地)	
LICENSEPLATE NUMBER OF AUTOMOBILE (自動車等の番号、その他)	CAR (乗用)	TRUCK (貨物)				
COMMENTS OR SUGGESTIONS TO THE POLICE (警察に対する要望等) 記入して下さい						
カードの作成依頼 額と受理年月日	依頼 町	・	・	連絡年月日	年 月 日	年 月 日
	受理 町	・	・	連絡者印		

## PUBLIC AND COMMUNITY RELATIONS

In large measure, the success of TMPD in controlling crime is due to an intense and effective program of public and community relations. Over 50,000 people visit TMPD Headquarters annually for a guided observation tour of such major facilities as the Communications Control Center, the Extended Area Traffic Signal Control Center, the Identification Section, the Crime Laboratory and the Police Museum.

In addition, the Public Relations Section of the Administrative Division of TMPD has its own handsome building, the Police Public Relations Center, which was established on the Ginza in central Tokyo in 1961. Over 100,000 people visit the Center each year. Moving pictures and slide shows deal with such subjects as traffic safety, crime prevention and crime detection. The Center offers the additional attractions of a roller-skating rink, Judo and Kendo halls and a library, all of which are open to the general public.

The Metropolitan Police Band, another arm of public and community relations, gives regular Wednesday concerts in the Hibiy Park open air concert hall in central Tokyo, as well as performing at numerous police-sponsored events such as campaigns for traffic safety and crime prevention. The Band is active in supporting music classes and music appreciation clubs throughout the city.

The relationship between the police and the residents of patrol areas goes far beyond crime control and prevention. The public requests a great deal of help from the police which is not related to crime. When a request for help is made in matters not of police responsibility, the police pass it along to the appropriate government agency and then follow up to see that action on the request is taken. The police have been known to remind a resident American businessman that his dog was due for its anti-rabies shot!

Close cooperation between the community and the police is maintained through voluntary civilian crime-prevention associations set up with police encouragement, with an unpaid block captain for approximately every 30 households. These anti-crime organizations promote cooperation with the police and the speedy reporting of crimes and traffic accidents by the use of the police emergency telephone number "110". A system of electronically-operated loud buzzers, either outside a house or connected to the local police box (similar in design and concept to the increasingly popular electronic burglar alarm systems in the U.S.), is spreading in Tokyo. In some instances, these associations have developed civilian patrols which operate both at night and in the daytime to increase constant vigilance against crime, particularly burglary.

In addition to these neighborhood crime prevention groups, there are also national, prefectural and city crime prevention associations which are similar to, but not identical with, the citizens crime commissions in the U.S. These associations are generally funded by the police and not, as in the U.S., by private contributions particularly from the business community. These groups—wherever they may be throughout the nation—cooperate and exchange ideas on a regular, methodical basis.

The TMPD is much aware of the value of the "Fourth Estate" in winning public support and cooperation. Facilities at TMPD Headquarters are permanently manned by representatives of 22 media agencies including newspapers, radio and television broadcasting stations and newsreel companies. In addition to a steady flow of Public Relations Section news releases concerning accidents, emergencies and other police activities, the Superintendent General (police commissioner or chief of police) and other senior officers of TMPD hold frequent interviews and press conferences with media representatives, in order to make important announcements or to appear on television and radio programs to discuss police problems and activities.

## CITIZEN ATTITUDES TOWARD POLICE

With a typical Japanese penchant for self-examination, the Tokyo Metropolitan Police Department conducts periodic surveys to find out what the average Japanese citizen thinks of policemen and their performance. As we have noted previously, the government, in view of a post-World War II background of what might fairly be called a police state, is acutely conscious of the problem of enforcing the law without undue interference with the individual's civil rights or offending his sensibilities. Citizen attitudes are also important to them because of the extensive use made of individual citizens on a volunteer basis in crime prevention and education and in surveillance of parolees and probationers.

The opinions expressed are diverse enough to seem believable. It is interesting to note that they compare reasonably well with the results of similar surveys made in the U.S., particularly in view of the fact that the Japanese police system obviously intrudes considerably more on the full freedom of the individual than does ours. The results of these latter surveys will be interspersed, where applicable, with the conclusions of those conducted in Japan. The questions are never precisely the same, but their relationship is easily deducible.

When Japanese were asked in 1974 whether they were "on good terms or not with the policeman assigned to their neighborhood," 85 percent answered "good" or "fair" while only 7 percent had a negative response. (Here, as in all cases, the difference between the reported percentages and 100 percent was "don't know".) There was only minor variation among age groups, with the youngest (20-29 years) being most critical (27 percent "good", as against 40 percent for the total, and 11 percent "not on good terms").

In comparison with 5 to 6 years ago, 25 percent of respondents felt that the police had improved; 43 percent that they "had remained the same"; and 6 percent that they "had worsened". Principal points of improvement were police attitude and manner of speaking and increase in approachability. The largest point of objection, obviously a small percentage of the total "vote", complained about attitude.

Two American polls—one by the National Opinion Research Center for the President's Commission on Law Enforcement and Administration of Justice in 1966; and one by the American Institute of Public Opinion in 1967—bear on this question. When the former asked "How good a job do the police do on being respectful to people like yourself?", 85 percent said "good" or "pretty good", and 4 percent answered "Not so good".

In the second poll, when asked "How much respect do you have for the police in your area?"—"a great deal, some, or hardly any"—77 percent answered "great deal", 17 percent "some", and 4 percent "hardly any". Here again, there was very little sharp variation among age groups, but those 20-29 were not quite as convinced; the "great deal" fell to 64 percent, and the "hardly any" rose to 10 percent.

Willingness to report a crime is considered in Japan as some measure of attitude toward police. In the 1974 questionnaire, 9 percent of respondents said they had been victimized "by a burglary, pick pocketing, purse-snatching, or similar crime", compared with 6 percent in a similar survey made in 1969. 40 percent failed to report a crime; more than half who didn't report indicated that it was minor and that reporting was "too much trouble." Only one respondent found going to the police unpleasant, and 11 were skeptical for the value of reporting in terms of getting back their valuables.

22 percent of respondents said that crime had occurred in their neighborhood during the past year, as against only 16 percent who answered in 1969. The report states that "The number of all areas in which some crime had occurred increased considerably—with the incidence of crimes in the 9 largest cities highest."

(In a 1972 study by the American Institute of Public Opinion, Americans, in answer to "Is there more crime in this area than there was a year ago, or less?", answered "more", 35 percent; "less", 11 percent; "the same", 42 percent with the remainder having no opinion.)

In the Japanese survey, the sample was asked whether "Compared with 5-6 years ago, has crime in your neighborhood become more frequent and the neighborhood less safe?", 14 percent found the situation "Improved", 53 percent "unchanged", and 16 percent felt it "has become unsafe". Most of the last group blamed their conclusion on an increase in molesters and sneak thieves, a larger degree of visibility for "juvenile delinquents and gangsters", and an "influx of strangers."

When asked about the effectiveness of police in their neighborhood, 24 percent felt it to be "weak", 51 percent didn't, and the remaining 25 percent "didn't know." The impression of weakness was higher in the nine largest cities and among the more educated.

Taking the same subject from another angle, 48 percent felt that the police's investigative activity was generally good; 18 percent approved the work on major crimes but not on lesser ones; 4 percent took the reverse position; and 6 percent were generally unsatisfied. Only 4 percent lacked an opinion.

(When Americans were asked, in the NORC Poll of 1968, "How good a job do the police do in giving protection to the people in the neighborhood?", 42 percent

said "very good", 35 percent "pretty good", and 9 percent "not so good". When asked "Do you think the police here do an excellent, good, fair or poor job of enforcing the laws," 22 percent said "excellent", 45 percent "good", 24 percent "fair", and 8 percent "poor". In a 1970 Louis Harris Poll, Federal, State and Local police got favorable votes by percentages ranging from 60 percent to 64 percent, with the least confidence shown in the big cities.)

When Japanese citizens were asked to mention "one or two services you require of police," 87 percent mentioned "patrolling" (with 55 percent finding it of first priority in the nine largest cities), 23 percent "traffic control", 19 percent listed "prevention of juvenile delinquency", 17 percent called for "nuisance control", and 11 percent mentioned "availability to citizens".

Overall, the results of this recent self-examination tend to show up no more than the usual number of police critics, and do not seem to reflect any widespread objection to either police methods or the laws under which they work. It would appear that the citizens of Japan are willingly accepting many of those measures which some Americans may consider an infringement upon individual rights, including strict gun control, a nationalized police organization and a police force considerably more familiar with their habits and habitats than is ours.

It is also evident that, via the hundreds of thousands of volunteer "eyes and ears" developed through a conscious, daily effort by the police, the TMPD has been able to capitalize on its effective and efficient organization. This with the continual intensive training of personnel at all levels, has made Metropolitan Tokyo the most crime-free city in the world.

## CHAPTER IV

### THE COURTS AND THE LEGAL PROFESSIONS

American observers are amazed at the almost total absence of political and other influence found in the judiciary, in the public prosecutors offices and among the practicing lawyers in Japan. The professionalism demonstrated by all three branches of the legal profession, coupled with that of the police, has gone far to maintain crime in Japan at the world's lowest rates. Unlike the United Kingdom for example—this country does not have an age-old tradition in the professional administration of the law. Therefore, the Japanese have within the past century, grafted foreign legal concepts on their own home-grown culture. These were refined in the period following World War II; the results, herein discussed, have been outstanding.

#### THE JUDICIARY

The Supreme Court of Japan is not only the highest in the land but is also the administrative apex of the entire judicial system. There are no courts, including military, that do not come within the jurisdiction of that national system. Furthermore, all judges, public prosecutors, and private lawyers must graduate from the Legal Training and Research Institute, which is an arm of the Supreme Court, before they can enter into the practice of their profession.

All judges, including the Justices of the Supreme Court, are appointed by the Cabinet headed by the Prime Minister, except the Chief Justice of the Supreme Court who is nominated by the Cabinet and appointed by the Emperor. The following is quoted from "Outline of Japanese Judicial System", published in 1972 by the Supreme Court of Japan.

"The status of judges is duly guaranteed by the Constitution. However, in order to prevent an unsuitable or incompetent judge from bringing disgrace on the responsible position, the following measures are provided:

(1) A judge may be removed by a judgment of an impeachment court composed of 14 members of the Diet, if he has committed serious misconduct; (2) The appointment of the Justices of the Supreme Court is reviewed by the people at the first general election of members of the House of Representatives following their appointment and in addition they are subject to a decennial review by the people at the time of national elections, and a justice is removed if the majority of voters favors his dismissal; (3) The term of office of the judges of the inferior courts is limited to ten years with eligibility for reappointment; (4) There exists a system of compulsory retirement by age by which very old judges may be eliminated; (5) A judge who has neglected his duties or disgraced himself by his conduct is subject to disciplinary punishment by the High Court or the Supreme Court."

A completely new structure of the Japanese courts was brought into being with the adoption, on May 3, 1947, of the Court Organization Law. This Act provides for five kinds of courts: The Supreme Court, High Courts, District Courts, Family Courts and Summary Courts. The chart on the next page shows the jurisdiction and procedure in criminal cases of the Japanese Courts:

A brief description of the courts is given below:

(1) The *Supreme Court* (recently housed in a new \$400 million building, built like a fortress with a grand air of dignity and respect) is the court of highest appeal and sits in Tokyo. Its membership numbers 15 Justices including the Chief Justice. The Court not only has appellate functions in both civil and criminal case but also decides on the constitutionality of legislation and upon precedent involving itself and the lower courts. Significantly, the Supreme Court has administrative responsibility for all the lower courts and for the unique national "Legal Training and Research Institute, Tokyo", from whose two-year program all Japanese judges, public prosecutors and lawyers must graduate before either appointment or admission to practice.

In its normal work, the Supreme Court sits in three Divisions (the Petty Benches) composed of five Justices, to which cases are assigned. If a case involves a constitutional question or a change in court precedents, the Court sits en banc (The Grand Bench.) A majority of eight justices is required to declare a law unconstitutional.

Of interest is the practice of assigning a number of "judicial research officials" to assist the Supreme Court Justices in their work. These officials are drawn from the ranks of the judges of the lower courts.

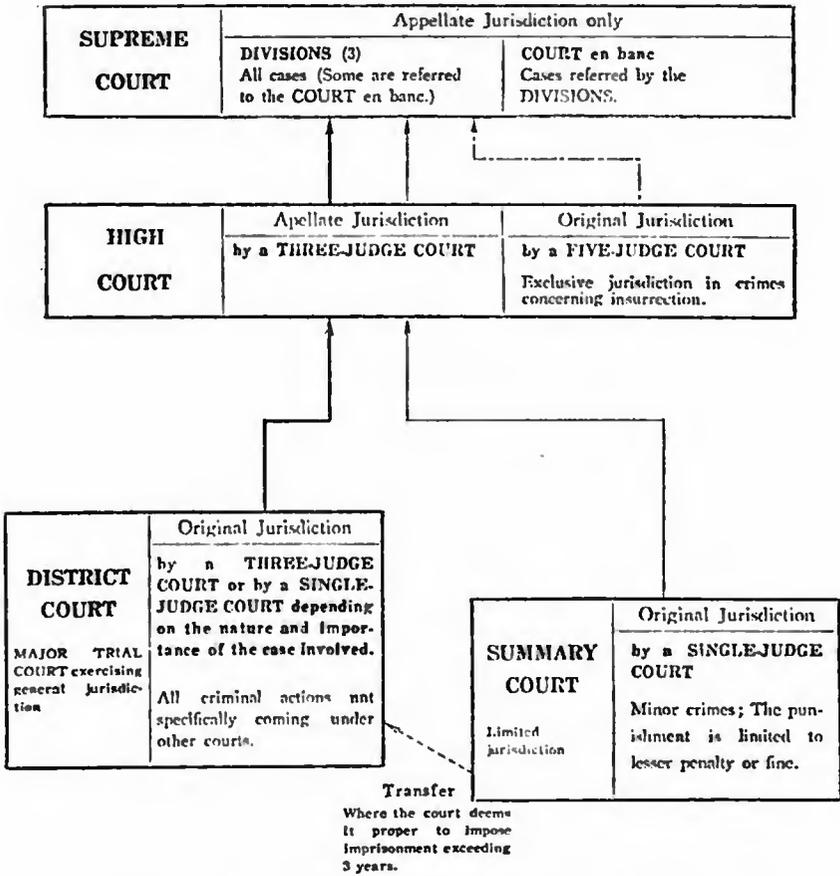
(2) The eight *High Courts* are located in Tokyo and seven other major cities of Japan which is divided into eight regions for this purpose. Including the eight Chief Judges or Presidents, there are about 280 High Court judges. Some of the High Courts have as many as six branch courts or offices. The High Courts have appellate jurisdiction over those lower courts below them. The Tokyo High Court has original jurisdiction to review decisions of such regulatory agencies as the Fair Trade Commission and the Patent Office among others. Cases in the High Courts are tried before a three-judge panel, except only insurrection cases and those concerning regulatory agencies go before a five-judge panel.

(3) There are 50 *District Courts* whose district coincides with a prefecture. Including their 244 branch offices, these courts are staffed with about 800 judges and 450 assistant judges. Except for cases in which high courts have initial jurisdiction, the District Courts are the courts of the first instance. Depending upon the importance and the nature of the case, the judges sit singly or in a panel of three, usually a judge and two assistant judges.

(4) The *Family Courts* are described in detail below because of their importance in juvenile crime control. Their 200 judges, 150 assistant judges and 1500 probation officers handle all disputes and conflicts within the family as well as all related domestic affairs of legal significance. The Family Courts are located throughout the country.

(5) *Summary Courts*, staffed by about 780 judges, total 575 in cities, towns and villages throughout Japan. Their powers are limited to civil cases involving 300,000 yen (about \$1000) or less and certain minor criminal cases. Punishment is limited to short-term imprisonment or small fines.

**Jurisdiction and Procedure in Criminal Cases**



Note: A direct appeal may be made to the SUPREME COURT from a judgment of the DISTRICT COURT or the SUMMARY COURT in which the court decided unconstitutionality of law, ordinance, etc.

## FAMILY COURTS

Worthy of special attention are the Family Courts which, based upon the proposals of American Judge Ben B. Lindsay, began operations on January 1, 1949. It was decided to place both family and juvenile problems under the jurisdiction of one tribunal in the belief that the adjustment of the family's situation is an absolute pre-requisite for the protection of children and the prevention of delinquency. There are a total of 50 Family Courts throughout Japan—in each Prefecture except for Hokkaido, which has four such Courts. The Family Courts have 242 branch offices and 96 sub-branch offices.

According to the "Guide to the Family Court of Japan", published in 1974, "Only persons possessing sufficient enthusiasm and understanding to deal with family and juvenile cases are appointed as judges." Qualified judges have a full ten years' experience as judges or lawyers. An average of three to four Family Court Probation officers are assigned to each judge. They must be university graduates in sociology, psychology, and pedagogy and are trained for their work in a special institute. Each Family Court has its own medical clinic. Most important arms of this court are the Family Court Councilors and Conciliation Commissioners. They are members of the general public who are appointed year by year, "on the basis of their social conscience and moral spirit", to participate in the determination and conciliation of family affairs cases.

The general jurisdiction of the Family Court has been described above. Juvenile delinquents include not only minors who have committed criminal offenses under the law, "but those whose tendencies indicate that they may commit offenses in future as well", as explained further in the discussion of juvenile delinquency in Chapter VII. Children under 14 years of age are primarily handled by the Child Guidance Center, even for offenses under the penal laws, but their cases must be turned over to the Family Court if restriction of personal freedom is thought to be required.

Adults who have committed acts injurious to the welfare of juveniles are also subject to the Family Court's jurisdiction. Such offenses as the inducement of sexual acts, cruel treatment, and employment of children at extremely late hours, are examples. Neither desertion nor neglect of the duty of support by parents or guardians, however, constitutes an offense justifying the jurisdiction of the Family Court in Japanese Juvenile Law. Support is subject to determination and conciliation in the Family Affairs Division, while desertion, if sufficient to constitute an offense under the Penal Code, is handled by a regular criminal court.

The Family Court also has a very broad jurisdiction encompassing all disputes and conflicts within the family, as well as all related domestic affairs which are of legal significance.

(The effectiveness of the procedures and operations of the Family Courts is certainly partly responsible for progress being made in combatting in juvenile crime.)

## LEGAL EDUCATION AND TRAINING

The selection, education and training of members of the legal profession in Japan is a most competitive process. To begin with, the better universities are highly selective. Since a major in law is an added attraction to a business employer in the hiring of university graduates, law studies form an important part of their scholastic program. In the public universities, students who major in law must take at least one and one half years of liberal arts work. In the private universities, law majors can and do spend four years concentrating on preparation for the very difficult bar examination. The selective process deliberately limits passage of the examination to about five percent of the candidates in any given year. Few candidates pass the examination on the first try; three and four attempts are quite normal for even a very bright student. For that reason, the average age of successful candidates tends to be higher in Japan than in the United States.

The competitiveness of the system is shown in the following statistics. Each year, about 100,000 students in Japan enter universities to study law. Of them, only about 500 will be appointed as Assistant Judges and Assistant Public Prosecutors or admitted to practice as private lawyers. In 1966, the ratio of lawyers to population was 1:625 in the United States and 1:12,000 in Japan. This latter ratio now (1974) stands at 1:10,800. These figures are somewhat misleading because the Japanese legal system concentrates upon keeping cases involving civil disputes, most lesser criminal actions, juvenile delinquency, traffic violations,

divorce and other family matters out of the courts by resorting to arbitration, conciliation, and counseling through the expanding use of non-legal professionals and volunteers. The overall result is considerably less demand for practicing attorneys, especially in matters of criminal, commercial and corporate law.

Passage of the bar examination does not mean the successful candidate is admitted to the bar. Instead, the candidate qualifies as a "legal apprentice" and for admission to the Legal Training and Research Institute in Tokyo (the only one in Japan), attendance at which is required by law before embarking on a legal career. Two years are devoted there to gaining practical training for becoming an Assistant Judge, an Assistant Public Prosecutor or a private lawyer. The legal apprentices spend eight months in court on both civil and criminal cases under a full trial judge, four months training with a public prosecutor and four months in the office of a private lawyer. The balance of the 24 months is devoted to study in the Institute with lectures given by a faculty composed of practicing judges (the majority of the faculty), Public Prosecutors and attorneys.

In the course of the two-year compulsory program at the Institute, the legal apprentices spend time visiting and studying prisons, courts, police agencies, factories, stock exchanges, banks, hospitals and mental institutions—places that few American jurists ever see—to give them practical experience in the world in which they will live and work. Of special interest is the emphasis at the Institute on courses in the psychology of testimony and criminal psychology. These demonstrate a much greater interest by the Japanese courts in the social sciences than their American counterparts generally show.

While American law schools stress studies of litigation and the adversary roles of the different members of legal profession, Margaret Mary McMahon writing in the November issue, 1974, of the American Bar Association Journal, states: "The Japanese Institute concentrates on draftsmanship as the 'most effective tool for developing legal minds and teaching fundamental legal techniques'."

At the end of their time in the Institute, the legal apprentices are subjected to a rigorous final examination, the outcome of which will determine whether or not they are qualified to embark upon a legal career. When that examination is passed, the fledgling member of the legal profession decides upon his preference for his life's work—the judiciary, public prosecution or practice as a private attorney. The best qualified applicants for judges and prosecutors are chosen and the rest go into private practice. Rarely can or does the successful graduate of the Institute pass from one field to another.

The following table shows what kinds of professional careers were selected by the graduates of the Institute in recent years.

	Total	Associate Judge	Public prosecutor	Practicing attorney	Miscel- laneous
1965.....	(23) 441	(6) 72	(1) 52	(16) 316	1
1966.....	(25) 478	(2) 66	(1) 47	(21) 359	(1) 6
1967.....	(26) 484	(4) 73	49	(21) 356	(1) 6
1968.....	(28) 501	(6) 85	(1) 49	(20) 369	(1) 8
1969.....	(18) 516	(2) 84	53	(16) 373	6
1970.....	(21) 512	(1) 64	38	(20) 405	5
1971.....	(37) 506	(2) 65	(3) 47	(30) 388	(2) 6
1972.....	(34) 495	(2) 58	(5) 59	(27) 370	8

Note: The figures in parentheses show the numbers of women lawyers.

Upon appointment as an Assistant Judge, the graduate embarks on a career of continuing education and training. He undertakes four months of supplemental training during his first year at the Tokyo District Court and in the Institute. In addition, he attends special lectures for two days a week at the Institute. Then, there is a special training program one year later. Other special programs follow four years of experience as an Assistant Judge, and again after seven years just prior to appointment to full Judge. Currently, because of a national personnel shortage in the judiciary, consideration is being given to reducing the seven year requirement before appointment to full Judge, to five years. This is a far cry from the all-too-widespread practice prevailing in many American localities of electing persons who are not learned in the law to judicial posts and/or the utilization of political influence to secure the appointment of an incapable person.

Both the judiciary and public prosecutors in Japan are career posts as long as the holders do not bring shame to their office. Re-appointment is almost automatic for those who perform their duties properly. A great deal of prestige, so important to all Japanese people, attaches to these public offices. And because they are each part of their respective centralized, national systems, promotion is frequently through transfer to a more important post in another part of the country. While their salaries are not high in comparison to other areas of the civil service or to positions in business which frequently require legal training, both Judges and Prosecutors are given housing or housing grants as a bonus for their public service, as well as many other fringe benefits.

#### MINISTRY OF JUSTICE

Consistent with the Japanese philosophy of government which provides for a single national police force and a single national judicial system, the Ministry of Justice, headed by the Minister who is a member of the Prime Minister's Cabinet, has total responsibility throughout Japan. It supervises prosecution, retention in custody while awaiting and during trial and, upon sentencing, imprisonment of all persons convicted of crimes. Prior to World War II, the Ministry also had the responsibility for administration of the judicial system, but, when the new Constitution became operative on May 3, 1947, the Supreme Court became independent of the Executive Branch of the Government and took over from the Ministry all business related to the Courts.

The broad range of Ministry of Justice functions is described in the following quote from a document issued by the Ministry:

"As an executive department responsible for administering legal affairs, the Ministry of Justice performs the functions as summarized below:

(1) Establishment of general policy of prosecution; general direction and supervision of the work of public prosecutors' offices; planning relating to the organization and administration of public prosecutors' offices; drafting and interpretation of criminal laws and ordinances, etc. (Criminal Bureau).

(2) Enforcement of penalties and treatment of offenders and of persons detained pending trial in prisons and detention houses; correctional education of juvenile delinquents in Juvenile Training Schools; scientific diagnosis and classification of delinquents in Juvenile Classification Homes; drafting of laws and ordinances relating to correctional administration; training of correctional officials, etc. (Correction Bureau).

(3) Administration of Regional Parole Boards and Probation-Parole Supervision Offices; planning and drafting of laws and ordinances relating to the rehabilitation of released offenders; planning for improving parole and probationary supervision; supervision of volunteer probation officers and rehabilitation aid hostels and promotion of their activities; encouragement of crime prevention campaigns among the public; business relating to amnesty, etc. (Rehabilitation Bureau).

(4) Administration of Legal Affairs Bureaus and District Legal Affairs Bureaus; administration of civil matters such as family registration, residents' registration, registration of immovables, commercial registration, registration of corporations, deposit, public notarization; nationality; drafting of laws and ordinance relating to civil matters etc. (Civil Affairs Bureau).

(5) Business pertaining to civil and administrative suits in which the interest of the State are involved, which includes the responsibility to represent the State in Court in a suit to which the State is a party and to direct an administrative agency in a suit to which the agency is a party, etc. (Litigation Department).

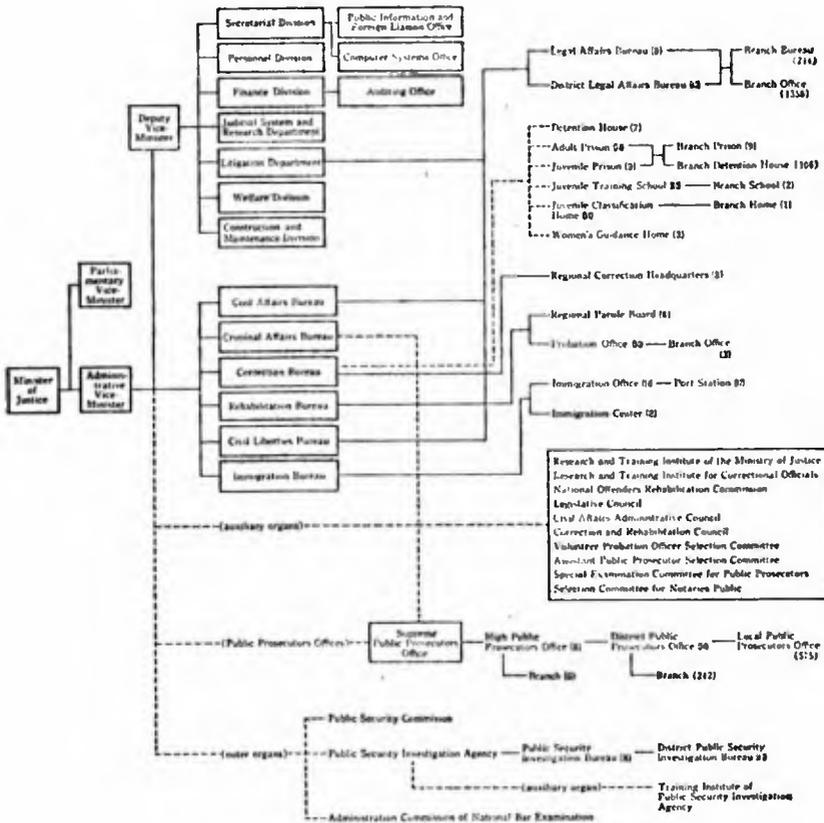
(6) Cases pertaining to the protection of fundamental human rights of people, including investigation and disposition of infringements upon their rights, etc. (Civil Liberties Bureau).

(7) Immigration control, including the control of aliens and Japanese nationals entering and leaving Japan, the registration of alien residents and matters concerning deportation, etc. (Immigration Bureau).

(8) Investigation to control subversive organizations falling under the Subversive Activities Law, and application to the Public Security Commission for taking necessary action against such organizations, etc. (Public Security Investigation Agency).

(9) Drafting of laws and ordinances relating to the judicial system, compilation of all statutes, Cabinet orders and ordinances, preparation of statistics relating to the work of the Ministry, and administration of the Ministry's Library, etc. (Judicial System and Research Department.)"

Organization of the Ministry of Justice



**WORK LOAD IN THE LEGAL PROFESSION**

Margaret Mary McMahon in her article referred to above, has this to say about the work load in the Japanese Courts and among lawyers, generally.

"... the over-all result of Japan's selective legal education is a chronic shortage of judges and a small supply of lawyers in a country whose expanding economic power and burgeoning constitutional rights create a growing demand for legal professionals. About 2500 judges decide nearly 3 million cases every year. The Judge's burden is compounded because he is required to write an opinion in every case. For the Japanese population of more than 108 million, there are only 10,000 lawyers. As a result, in nearly 50 percent of the cases at the trial level, one or both of the litigants are unable to obtain the services of a lawyer.

Yet even the crucial shortage of legal professionals has different ramifications in Japan than it would have in the United States. Most governmental agencies and large companies in Japan use their own staffs to do legal work, and non-lawyer specialists in tax law, patent law, and even drafting court papers, do much of the work reserved for lawyers in the United States. While to the American people lawyers' services are so essential they have become fringe benefits in labor contracts, in Japan many people feel that "only the misfits of society need lawyers." Even in business negotiations between Japa-

nese companies. the presence of an attorney is likely to be considered over-technical and offensively distrustful.

Litigation represents only a small amount of social control and dispute settlement in Japan today. According to statistics published in 1965, people in California alone file fourteen lawsuits for every one filed in Japan. Many civil disputes are solved by traditional informal conciliation and never reach the courts; of those that do, nearly three fourths are settled by some form of conciliation or compromise before or during the lawsuit. From the time the judiciary was introduced into Japan in the late nineteenth century, it has become with the belief of many Japanese people that conciliation is more suited than litigation to the personality, character and social structure of the Japanese people. Even today, under the Civil Conciliation Law of 1951, conciliation is still preferred to litigation in many civil suits. And in family law matters, the privacy of conciliation is always preferred to a public trial. Ironically, its success itself depends on access to the courts: if conciliation is to protect the rights and dignity of the individual, it must be voluntary, which means litigation must be a viable alternative. But for the majority of Japanese people and businesses, the courts are not within reach.

The crisis proportions of the storage of legal professionals make it essential that more people be admitted into the profession. Yet it seems unlikely that any major changes will be made quickly as long as the Japanese legal system has other means of coping with disputes and as long as the jurists and scholars hold to the notion that larger numbers of people inevitably mean a lower caliber profession."

The splendid character and devotion to duty of all those we met in the criminal justice system, is a joy to behold.

From the above, it will be seen that the Japanese legal profession is actually three branches growing from a single tree whose roots are the national Legal Training Research Institute of the Supreme Court. Because of the national and centralized character of the system of justice, political influence and pressure upon judges and public prosecutors, which is (all too frequently present especially at state and local levels in the United States,) is unknown in Japan. A facile and uncomplicated system of appeal reduces the opportunity for continuous delays that characterize United States judicial procedures.

Finally, the absence of juries and jury trials assures the prompt and professional administration of justice once the accused is brought to trial—another major factor in the low crime rate in Japan. All in all, the many conversations we held with people in all walks of life—both those associated with "the system" and those who observe it at work—confirm that this is a "no nonsense" procedure, hence merits the respect it receives from the people of Japan.

## CHAPTER V

### CRIMINAL PROCEDURES

In describing criminal justice in Japan, the Ministry of Justice uses the ancient Chinese character for "law." The Ministry goes on to state:

"Originally, however, it was an ideograph signifying criminal justice. This rather complicated symbol consists of two parts. The left-hand component means water. In ancient times the people of the Far East seemed to respect the equal treatment of persons, which could be symbolized by water, as one of the essentials of criminal justice. The right-hand component, which again can be broken down into an upper part and a lower part, signifies the role of an imaginative animal resembling a unicorn which was supposed to have the supernatural power of tossing the guilty party to one side, out of the forum. Our ancestors, who invented this ingenious device for symbolizing abstract concepts, envisaged the two important functions of criminal justice, that is, the discovery of criminal personality and the fair treatment of it."

The Japanese Constitution of 1946 emphasizes that law in that country is primarily codified and that case law is of secondary importance. The rights of a person accused of a violation of the Penal Code are spelled out precisely in both the Constitution and separate laws such as the one covering the police. The law of criminal procedure is a mixture of European codification and the Anglo-American concept based on common law. The new Code of Criminal Procedure of 1948 has adopted the Anglo-American concept to protect human rights.

There is a much closer inter-relationship between the police, the public prosecutor and the judges in Japan than their counterparts in the United States. Much of that relationship is defined by Japanese law, which tends to spell out procedures, responsibilities and penalties in considerable detail. The New Code of Criminal Procedures of 1948 defines the steps the police must take in their criminal investigation and prior to, and after, arrest of the suspect. That Code was supplemented by the Rules of Criminal Procedure of 1949, and together they control the procedures which are allowed and which must be followed. This splendid coordination produces both speed and simplicity in handling cases.

#### WARRANTS OF ARREST AND DETENTION

Generally speaking, warrants for arrest must be secured by the police and warrants for detention by the public prosecutors. However, any person observing a crime may arrest without a warrant, an offender who is committing, or has just committed, a crime in the presence of the arresting person. A saving provision permits an investigating police officer to make an arrest without a warrant if he believes the suspect has committed certain types of serious crimes and "if in addition, there is not time to procure a warrant." In that case, a warrant must be secured after the arrest.

If the police wish to detain a suspect, they must go with the suspect before the public prosecutor within 48 hours after the arrest, with their evidence showing reasonable grounds to support their suspicion of guilt. The public prosecutor must immediately inform the suspect of charges against him and his right to the aid of counsel. The suspect must be given an opportunity to explain his involvement or lack thereof in the alleged violation of the Criminal Code. The prosecutor must investigate to obtain support for the suspicion of guilt. If he finds that the detention of the suspect is both necessary and supported by reasonable grounds, he must within 24 hours, apply to a judge for the issuance of a warrant of detention. If the prosecutor fails to secure the detention warrant within that period, then he must either release the suspect or begin the formal prosecution.

The suspect must be brought before the judge in charge of the issuance of the warrant of detention and given an opportunity to explain his involvement or lack thereof. The judge examines the evidence submitted by the public prosecutor and interrogates the suspect to determine whether or not there are reasonable grounds to support a suspicion of guilt. This is a closed hearing. The suspect is entitled to the aid of counsel—if he can afford one. (Once prosecution begins, however, the defendant is assured legal counsel at state expense.) Only after the issuance of the warrant of detention may the suspect request that the judge disclose in open court the grounds for detention.

#### PRE-TRIAL PROCEEDINGS

The primary purpose of the detention of suspects before trial is to permit the public prosecutor sufficient time in which to prepare the case and to conduct his investigation. The initial period is limited to 10 days, but the judge issuing the warrant of detention may extend it for not more than an additional 10 days. For certain serious crimes a still further detention of 5 days is permitted by law.

At the end of that period, the public prosecutor must either "file an information" to open the case to trial, or, he may drop prosecution without filing such an information. Even though the prosecutor is convinced of the guilt of the suspect, he may find that prosecution is not desired "in view of such criminological factors as the personality, age and environmental background of the suspect; the nature and circumstances of the crime; and the circumstances after the offense and the possibility of rehabilitation of the suspect." A statistical survey made by the Ministry of Justice showed that in 1971, in about 30 percent of all violations of the Penal Code where public prosecutors could have gone to trial, they exercised this discretionary power.

In this connection, the Ministry of Justice has since 1948 had a "Prosecution Investigation Committee or Inquest of Prosecution", consisting of lay persons chosen by lot from among ordinary citizens, to investigate and control in an advisory capacity the discretionary power of non-prosecution by the public prosecutors.

#### ACCELERATED HANDLING OF MINOR CASES

When the prescribed fine on conviction would not exceed 200,000 yen (\$668) in either criminal or traffic violation cases, informal proceedings may be used

by the public prosecutors and the judges, provided the defendants do not object. The courts will consider and decide these minor cases on the basis of evidence submitted by the public prosecutors without holding public hearings or taking evidence from the accused. If the latter does not accept the sentence summarily imposed, he may demand formal trials within two weeks after receiving notice of the sentence. In that case, the summary sentence is set aside and the matter is prosecuted in ordinary proceedings. In 1971, 1,794,441 criminal and 5,797 traffic cases were decided through these informal proceedings. The latter cases included persons who had failed to pay the fines for traffic violations within the prescribed time limits—a criminal offense under the Road Traffic Law.

#### CONSTITUTIONAL GUARANTEES OF THE ACCUSED

Both Article 37 of the Japanese Constitution of 1946 and Article I of the New Code of Criminal Procedure guarantee a fair and speedy trial for the accused. As in the United States, the accused has the right to counsel, bail, avoidance of self-incrimination and the confrontation and examination of hostile witnesses.

Any suspect or defendant is entitled to competent counsel, and, if he is unable for financial or other reasons to secure counsel, then the court will assign one to him. On arrest, the suspect must be notified of his right to counsel although he is not provided with counsel at state expense in preliminary hearings. A court cannot open a case of a defendant charged with serious offenses which carry the penalty of death, life imprisonment or imprisonment for not less than three years, without first providing competent counsel. In such a case, if no defense counsel has yet been appointed, the court must assign counsel at government expense.

Except where the law prohibits in certain circumstances, a defendant is entitled to be released on bail at his own request or at the request of certain other persons, including relatives, specified by law. A court may release a defendant on bail on its own initiative. Inasmuch as there are no provisions for bail bonds or bail bondsmen in Japanese law, the defendant must post the required security for bail before being released. Friends or relatives may post personal guaranty for a defendant along with their promise to pay should he jump bail.

As to the Japanese counterpart to the U.S. Fifth Amendment, the Ministry of Justice has these interesting comments:

"In a criminal trial no person shall be compelled to testify against himself. A defendant is incompetent as a witness, which means that he cannot be sworn as a witness even though he may be willing. He also has an absolute privilege of refusing any statement and the court may not consider his mere failure to answer some or all questions against him by invoking this privilege. The defendant may testify without taking an oath and this testimony is to be given consideration by the court. Since he is not sworn, his false statement in court does not constitute the crime of perjury. (In this connection, it may surprise Anglo-American lawyers to learn that, if, in civil actions where the parties can be sworn, they should give false testimony, it would not constitute perjury since that crime applies only to witnesses.)"

#### TRIAL

While Japan has had a provision by law since 1923 for trial by jury, practice over the years caused the juries to lapse into disuse. The law has been formally suspended since 1943. Even prior to its suspension, the right to trial by jury was waived by defendants in 99 percent of the cases. The principal reason is that under Japanese procedure, the defendant loses the right of appeal after a jury trial. Furthermore, in light of the acceptance by the public, including dependants, of the total integrity and ability of judges, defendants have tended to trust the professional judge rather than a lay jury. Trials involve one or three judges, usually one full judge and two assistant judges. If the seriousness of the case warrants, there may be three full judges. While the format of a trial in Japan generally parallels American practice, there are certain variations or differences such as:

(a) Because the defendant is entitled to confront and cross-examine those against him, hearsay evidence, including documentary evidence, is excluded with some exceptions prescribed by law. At the opening of the trial, the prosecution is prohibited from introducing as evidence the written confession of the defendant in order that the court may not be biased against him. The confession may, however, be introduced at the end of the trial before it is concluded. Nevertheless, no

person can be convicted when the only proof against him is his own confession.

(b) As in France, the judge or judges take a more active part in the investigations of a case and during the trial than is generally customary in the United States. The court may from time to time take proper evidence on its own initiative.

(c) At the close of the prosecution's presentation of evidence, the defendant may if he wishes, present evidence to refute the prosecution's case. At the end of this process the prosecution usually presents official records showing prior convictions of the defendant, if he has any criminal background. The defense counsel usually presents testimonial or documentary evidence tending to prove that the defendant is a person of good character and background, or that a settlement has been made between the defendant and his victim by making restitution or reparation. The court also interrogates the defendant about pertinent facts and circumstances. Much weight is given to restitution or reparation by the defendant.

#### BATTING AVERAGE OF THE PUBLIC PROSECUTORS

It is obvious that as a people the Japanese attach far more importance to an arrest than they do to the subsequent process of justice. Accordingly, the public prosecutors seem to go to trial only with those cases in which they believe they have a good chance of securing convictions. The Ministry of Justice reported that "in 1970 only 589 (0.82 percent) out of 71,748 defendants tried and adjudicated in the courts of the first instance were found 'not guilty'." The Ministry adds "This extremely low rate of 'not guilty' cases is one of the characteristics of criminal justice in Japan" and is indicative of the quality and integrity inherent in their system. Of interest is the compensation paid to defendants who are judged 'not guilty'. Their compensation, usually about 2,200 yen (\$7.36) per day of detention, is fixed by the judge. Compensation, at the decision of the public prosecutor, is also paid to those arrested and/or detained but subsequently released because the prosecutor decided not to prosecute.

#### APPEALS

The public prosecutor can take an appeal to a higher court when he finds the judgment of the trial court too lenient, too severe or when the defendant has been found not guilty. A defendant is also at liberty to take an appeal, as may his relatives under certain circumstances. In 1970, only 12.6 percent of all cases were appealed to the High Courts—9,581 appeals from about 75,850 defendants. In the same year, the appeals to the Supreme Court from the High Courts ran about 34.3 percent—3,019 appeals from decisions imposed upon 8,797 defendants.

#### PROBATION

In Japan, "probation" is the equivalent of the American "suspended sentence." It is used extensively when the courts, consistent with Japanese penal psychology, believe that there is a good likelihood of rehabilitation of the offender.

Under the law, probationary supervision is discretionary for the judge when granting probation under the following conditions:

(1) When the sentence which the court is going to impose upon the defendant is imprisonment (or imprisonment with hard labor) for not more than three years or a fine of not more than 200,000 yen (\$668.)

(2) When there exist circumstances favorable to the defendant.

(3) When the defendant has not previously been sentenced to imprisonment or a graver penalty, or

(4) When the defendant, though being previously sentenced to imprisonment or a graver penalty, has not again been sentenced to imprisonment or a graver penalty within five years from the day when execution of the former penalty was completed or remitted.

Probationary supervision is mandatory when the defendant has been previously sentenced to imprisonment for a graver penalty and granted a suspended sentence, and is now sentenced to imprisonment (or imprisonment with hard labor) for not more than one year, and there exist circumstances favorable to him.

As a matter of fact, the court often advises the defendant to make restitution of money stolen or to make other reparation to the victim before it makes up its mind to place him on probation. In granting probation, the court must fix the period during which the defendant is required to remain on good behavior. That

period must be not less than one and not more than five years. Violation of probation reactivates the suspended sentence.

The Ministry of Justice claims that "Among other defects of the Japanese probation system, the shortage of probation officers and the lack of pre-sentence investigation system in adult probation should primarily be noted."

#### TRIALS AND APPEALS BACKLOG

The Constitution attempts to assure the accused in Japan of a fair and speedy trial; there is no question about the fairness of trials but there is about the speediness. As will be seen from the following quote from the "Summary of the White Paper on Crime, 1973", the Ministry of Justice is far from satisfied with the progress made in the final determination of cases before the courts:

"A long time has passed since speedy trial and the promotion of public hearing were first advocated and efforts have been made to realize them in Japan . . . However, it is difficult to state that the present situation in respect to public trial is good enough to cause satisfaction . . . The problem of delayed justice has attracted the attention of the people. . ."

The Ministry has some grounds for concern. The time taken from the institution of prosecution to its disposition has lengthened steadily, if moderately, at all court levels. In the District Courts, the percentage of those disposed of within six months has declined from 81.8 percent in 1967 to 73.8 percent in 1971, and the percentage of cases that took more than a year escalated from 6.7 percent to 9.1 percent. (The average settlement time is 6.5 months.) The record in the Summary Courts was better, but not satisfactory to the Ministry. Similar delays have shown up in the statistics of the High Courts and the Supreme Court. In the latter, 73.8 percent of cases took more than one year; in 14.6 percent of the total cases, the time for settlement exceeded 3 years.

Further, there were more accused individuals awaiting trial and judgment in 1971 than in the previous year, at all court levels. The numbers awaiting trial for more than 2 years has gone up annually (to 19.6 percent in the District Courts), and a significant percentage have been waiting for more than 5 years. Some cases are still unsettled after 20 years.

These statistics need examination before generalizations can be drawn. In the long-standing cases, almost one-half of the delays resulted from the "escape" of the accused to "uncertainty" of his residence. While this is a questionable recommendation for the police, it bears little relation to the kind of "backlog" we deplore in the United States. Other reasons, however, are more pertinent—"the complexity of the case", "entanglement of the trial proceedings", and "busy schedule of defense counsel." Less frequent reasons noted included "transfer of judges" and "illness of the accused." The concern of the Ministry centers on the fact that "reasons such as the complexity of the case show an increasing trend", and that "especially with District Courts, the number as well as the percentage of the accused awaiting trial and judgment for such reasons have increased since 1968."

Some congestion undoubtedly exists in the Japanese Court System, but there is no evidence that the situation in any way parallels America's hopelessly overcrowded urban courts. Despite an apparent shortage of judges (as one American observer notes, "2,500 judges try 3,000,000 cases a year . . . and he is required to write an opinion in every case!"), most knowledgeable Japanese interviewed do not seem to consider the problem critical. A Japanese jurist commented that one of the principal problems was excess politeness in granting delays to busy lawyers, all of whom had the same Alma Mater as the Judge!

To counter the concern, there is a fear that any considerable expansion of the courts might result in the lowering of quality in a system that is working well, if not perfectly.

### CHAPTER VI

#### CRIMINAL CORRECTION IN JAPAN

Whatever may be the cause of Japan's relatively low crime rate, it is certainly not severity of punishment. As has been noted in Chapter 1, sentences are comparatively light, a high proportion are suspended, and, in addition, there's a very broad use of probation. On the other hand, as we've also seen, there's an extremely high certainty of punishment, with convictions achieved in 99.9 percent of cases brought to trial in 1972.

In proportion to the population, there are less than one-half the number of Japanese under confinement than are citizens of our own country but the American "major" crime rate is almost four times higher. Although it is difficult to compute exactly, there is no doubt that a larger percentage of Japanese criminals are behind bars at any given time than are their counterparts in the United States. (For every 100 crimes committed in Japan, there are approximately 5 criminals in confinement; for every 100 U.S. crimes, about 2.5 convicted felons are in prison.) There is, furthermore, undoubtedly more effective post-sentence follow-up in Japan; their relatively slim staff of professional probation officers gets major help from a long-established and large volunteer probation organization.

Unlike the United States with its Federal, state and local prisons, the entire Japanese prison system is under centralized national control administered by the Correction Bureau of the Ministry of Justice. This makes possible far more standardized prison procedures and training of prison personnel than is current in the U.S., where each State or smaller governmental authority has its own system and standards or none at all. The Japanese system includes "detention houses" in all major centers of population, comparable to our jails, and a network of larger and more specialized prisons and "training schools", which might be more comparable to our Federal and State Penitentiaries. The total system is administered through eight regional correction headquarters.

The prison system was admittedly overcrowded in the early fifties, when the prison population was sharply higher, but there seems little evidence of overcrowding problems now. The Japanese prison population in 1972 was just short of 49,000 (46 per 100,000 population); of these, 8,000 were temporarily confined suspects and defendants, while the balance were convicted prisoners serving varying terms. There were 17,000 personnel assigned to these institutions, a ratio of about 1 to each 2.9 inmates. Of these, a majority are guards (1 to each 3.5 prisoners), but there are about 500 medical and psychological consultants and more than 700 vocational instructors and teachers. The latest available tabulation in the U.S. shows 1 guard to each 6.5 inmates, and this ratio is far from general. Comparing the latest years available, there were almost twice as many teachers per prison inmate in Japan as in the United States.

The number of prisoners, admitted annually to a Japanese prison has declined gradually from a high of almost 70,000 in 1949 to 28,423 in 1972 (of whom almost 90 percent were sentenced to less than 3 years). Despite this decline in the post-war crime peak and partly from an increasing use of suspended sentences, there is no evidence that the Japanese prison system has succeeded in eliminating a class of habitual offenders. Of the new admissions in 1972, only 48 percent were first-termers, with the rest from 2-to-5 time losers; of the first-termers, more than 46 percent had a previous conviction of one kind or another which did not result in a jail sentence.

Despite this large proportion of hardened criminals, there seems to be little evidence of serious unrest within the prison system. During 1972, there were 32,000 incidences of disciplinary action, but many of them were minor; only 231 prisoners were indicted for offenses committed while in prison, and there were only 13 escapees. Prison regime, which appears to be carefully controlled from the top, does not appear to be harsh, with food, medical care, and recreational activity generally adequate, and punishments confined to suspension of physical exercise, reduction of diet, and "minor solitary confinement." There exists an additional punishment of "first degree solitary confinement" but it is no longer in use. Inmates in penal institutions are entitled to submit petitions or complaints, orally or in writing, about their treatment to either the Minister of Justice or to inspecting officers.

#### PRISONER CLASSIFICATION

The relative lack of prison unrest can logically be related to a complicated and careful initial classification of prisoners, to a "progressive system" which allows individuals to achieve better treatment as they acclimate themselves to prison life, and a well thought out plan of suitable work, training, or education.

Initial classification is apparently considered an important step toward realization of the prison's role as a "correctional institution", a term applied to all penal installations in Japan. In 1972, a completely revised classification system was instituted to place greater stress upon specific categories for the treatment of

different kinds of prisoners, as opposed to a simple allocation of prisoners to various types of institutions.

The classification process can take place either at a specially established classification center or at one of the institutions where prisoners awaiting trial are held. The screening can take as long as two months before the inmate is finally transferred to the institution considered most suitable for him.

While there is a variety of routine discrimination between prisoners on the basis of sex, age and length of term, the prime purpose of the process is: (a) to segregate those inmates considered "advanced in criminal inclination" from those who are not, and, (b) to decide what specific need for training, basic education, "living guidance", therapeutic treatment or special protection and care each prisoner needs.

There are specific classifications for the feeble-minded, those with psychopathic traits, those with less serious mental diseases, those with dependence on drugs or alcohol and those who are physically sick or defective (either through a current illness, a long-standing defect or because of age or general weakness.)

Once the classification is completed, prisoners are sent only to specific prisons equipped to give them proper treatment.

#### PRISON LABOR AND EDUCATION

Virtually all Japanese prisoners work, even those given a "without labor" sentence. Prison industries include agriculture, metal-working, wood-working, printing and tailoring; products are marketed at a profit, and the prisoners are paid a small remuneration, which is made available to them on their dismissal.

But the routine eight-hours-a-day labor is not necessarily the most important part of the prison life and the work schedule is often amended to make room for what the Japanese consider more important activities.

Various kinds of education are offered. Principal among these is vocational training, which is offered to adults as well as to youthful and juvenile offenders. This training is offered in a variety of skills not involved in routine prison labor (welding, auto repairing, boiler operation, appliance repairing, barbering and beautician's work, dressmaking, plastering and laundering.) The courses are designed to enable the prisoners to pass national examinations in these occupations and secure licenses that will enable them to work at their skills when they are released. In 1972, 3.5 percent of inmates received such certificates.

Despite Japan's system of compulsory education through secondary school, some prisoners are found deficient in routine subjects. Special courses are held for them, whether juveniles or adults and for the former a complete municipal junior high school was set up in one of the prefectures to which juveniles are assigned from all over the country.

About 10 percent of all prisoners take correspondence courses, ranging from junior and senior high school curricula to those on a university level and some vocational courses complementing the prison training programs.

Initial classification is followed by what the Japanese call "prisoners' progressive treatment." There are four grades in the system through which prisoners can grow, gaining privileges and greater rights of self-government. Prisoners graduate from community confinement to private cells, and, finally to open-type "living in" camps—a step usually taken toward the end of their terms.

Rehabilitation efforts begin almost as soon as the prisoner is admitted. Contact is maintained with the prisoner's family, and a probation officer serves as liaison between them and the prisoner. Elaborate cultural education, including a special short-wave broadcasting band for correctional institutions, is used to improve the inmates' cultural background and prepare them for future life in society. As the time of release approaches, special guidance and assistance in finding employment are given.

#### TREATMENT OF JUVENILE OFFENDERS

While a small percentage of juvenile offenders find their way into the general penal system, and are classified and segregated accordingly, the vast majority are handled in a series of juvenile training schools. Graded as primary, middle, advanced and medical, these schools are primarily concerned with correctional education for juvenile delinquents under twenty, although in certain cases "juvenile offenders" may be kept up to the age of 26. These schools are not catch-alls, but are specialized to supply specific kinds of education.

In addition to education, there is heavy use of guidance "to cultivate the habit of handling things carefully and leading an orderly life and to be harmonious with one another and cultivate the spirit of responsibility." These schools, which also operate on the progressive system, are more lenient than the penal institutions. First-grade inmates are allowed home-leave privileges, and other inmates are allowed to visit home in case of emergencies.

#### AFTER-CARE, PROBATION AND PAROLE

The Japanese Ministry of Justice states that "In terms of social defense, the responsibility of government should not end when it has committed an offender to prison." The state assumes a major responsibility for after-care of offenders and relies heavily on non-institutional treatment to substitute for or supplement prison terms. In Japan, after-care of offenders is still complicated by the fact that both families and communities tend to ostracize an erring member, which, in turn, encourages him to drift back into vagrant and criminal life. In the United States, this might be comparable to the criminal who literally has no home to which to return.

As has been stated previously, the Japanese make heavy use of the suspended sentence, both because of their general distrust of prison as a cure for crime and because of a desire to keep their prison population down for practical reasons. In 1972, more than 70 percent of all prison sentences were suspended, and a large number of these suspensions were accompanied by formal probation and other supervision.

Parole is also heavily used. Of all prisoners discharged in 1972, almost 60 percent were released on parole. An even higher percentage of juveniles assigned to training schools are paroled prior to the completion of their sentences.

Suspended sentences stem from a decision of the judges, and paroles are granted by a system of parole boards upon recommendation of the head of the institution in which the parolee is confined. An individual inmate has no right to request a parole. The decisions are not always correct. Seven and six-tenths percent of suspended sentences in 1972 had to be revoked; experience indicates that the erring citizen usually commits his additional offense within a year. Parole also has its hazards. In 1972, 23 percent of prison parolees "absconded." It is, however, encouraging to find that, within the same year of their release, only 3.9 percent of parolees committed another crime, compared with 10.7 percent full-termers. About 30 percent transgressed again within five years, as compared with 60 percent of those who served a full term.

Japanese parole officers, under direct control of the Ministry of Justice, are required to take uniform and comprehensive training courses not only initially but throughout their careers. There are relatively few of them, and they have case-loads that are generally admitted to be much too heavy. However, they are assisted by a unique voluntary force who, also appointed by the Ministry of Justice, are unpaid but hold a respected place in their communities. These 50,000 volunteer probation/parole officers, working directly under a professional, normally are assigned one or two probationers or parolees to whom they give careful and intensive supervision.

Their occupations range from fishermen and farmers to teachers and attorneys. Only 2 percent of them are under forty, and some have passed their 80th birthday.

Despite the community participation stimulated by this system heavily dependent upon volunteers, there has been considerable concern about the limited extent to which regular probation officers engage in actual field work and their degree of dependence upon relatively untrained in-ymen.

In response, several new systems are being tried experimentally. In the latest, groups of selected juveniles and young adults have been put under the personal supervision of a professional probation officer for two months prior to their release to volunteer supervision; this is presumably for the purpose of expert diagnosis and treatment. In another approach, there has been an attempt to differentiate probationers and parolees into two groups, depending on their degree of need for intensive treatment and attention; this is an effort to concentrate limited professional expertise upon those that have demonstrated financial instability, family conflict, unemployment, lack of a fixed residence, a repitious criminal record, affiliation with organized crime or a generally poor attitude.

Not only have more local parole offices been opened, but a "day office" program has been established which brings a professional probation officer to small local communities to be available for counselling on the spot.

During the past few years, a large number of young people have been put on probation for violation of a traffic law. Experiments have been made in working with these offenders in groups, but the program is still in an early stage.

In pre-war years, family ostracism drove many ex-convicts to solutions as extreme as suicide. One such instance stimulated a philanthropist in 1888 to found a private after-care hostel to give shelter, employment and guidance to discharged offenders who had no place else to go. By 1972, this beginning had grown into 111 Rehabilitation Aid Hostels operated by private societies but established with the approval of the Ministry of Justice. These "halfway" houses provide room, board and guidance for probationers and parolees at government expense. Generally, the halfway house resident goes out every day to work, but some houses provide their own workshops for persons unfit for outside employment. These private institutions often have the most difficult cases to deal with and are inadequately financed; despite government subsidy, they have to depend largely on private funds.

They are part of an after-care system that, while relatively small in Japan, does not exist in any consistently organized form in the United States. Aftercare services must be delivered within six months of discharge and consist of half-fare transportation, money for meals and authorized travel expenses, clothing, and arranging for immediate medical care.

Despite this elaborate program, it is clear that the Japanese, themselves, are far from satisfied with its results. The official bulletin of the Rehabilitation Bureau of the Ministry of Justice points out that "the present appropriation of funds is far from sufficient for insuring effective treatment in probation and parole." Its own evaluation shows a rising number of "success" cases especially among juvenile offenders on probation, but a considerably less sanguine picture in regard to both adults and juveniles who are paroled from training schools. In both cases, the "failures" run in the 25-to-31 percent range. There are considerably fewer failures in the case of adult parolees, but this is largely because parolees in these more serious cases are more sparingly granted.

Probation and parole supervision in Japan lasts only for the term of the suspended sentence or the original penal sentence. Experts in the Ministry wonder whether that's long enough—whether supervision should not be maintained for a lengthier period, particularly in the case of those with repeated offenses. They admit that there is no overall research available in this area, but report a private study of a sample of 688 juvenile probationers, covering a period 2½ years after their official probation ended. The study showed that 23 percent had committed offenses after probation, and that 7 percent of the total were involved in major crimes.

The Japanese penal system is, on the face of it, fair and humane. It is obviously directed toward rehabilitation. There is no evidence of serious prison riots. The post-war approach has been modern and intelligent from the standpoint of prison experts. The ratio of personnel to prisoners within the institutions seems adequate, although suspension during the post-prison period is skimpy. Considerable community involvement is evident. Yet, all this has obviously not succeeded in eliminating the habitual criminal as the relatively high rate of recidivists indicates. On the other hand, however, the high rate of successful rehabilitation of first offenders would indicate that efforts to reduce a penal institution's potential as a school for crime has at least been partially successful.

## CHAPTER VII

### THE PROBLEM CRIMES

Although they have necessarily been mentioned in other sections of this report, there are certain criminal problems—either because of their high current interest, their immediate relation to the concerns of U.S. police and judicial forces, or special treatment accorded them in Japan—that demand more complete coverage. Among them are juvenile crimes, drug abuse, riot control, shoplifting, and alcoholism.

#### JUVENILE CRIMES

As mentioned previously, it is extremely difficult to draw specific statistical comparisons between juvenile crime rates in Japan and in the United States, principally because reporting methods as to age and definition of juveniles differ sharply. Some generalizations are, however, possible and can be considered sufficiently valid for the purpose of this report.

The incidence of juvenile crime in Japan is, by any known measure, sharply lower than that in the United States. Juveniles constitute a significantly lower percentage of all Japanese criminals than they do in the U.S. The Japanese are justified in making cautious statements, as they do, that juvenile crime, after increasing between 1952 and 1966, has shown a modest decrease since then. However, that decrease has neither been consistent nor very substantial; for instance, the rate of all juvenile penal code offenders in the last decade has varied only between 13.9 and 16.3 per 1,000.

Although the percentage of juveniles to total offenders has dropped 16 percent among non-traffic offenders, the crime rate per 1,000 among juveniles has shown no appreciable decrease in the last decade while that among adults has dropped a satisfying 25 percent. Accordingly, the 1973 White Paper on Crime comments "It would therefore be concluded that the decrease in the number and the rate of juvenile suspects should not allow for overly optimistic projections of future delinquency trends." Other, non-official observers of the Japanese scene agree that juvenile delinquency in their country must still be considered a front-burner problem.

Such observers are also concerned that, while larceny accounts for the majority of juvenile crime in all age groups through 19, the incidence of serious crimes increases noticeably as the juveniles get older. There is also the uncomfortable fact that juveniles accounted for more than one-third of total offenders in larceny, extortion, rape and robbery. Furthermore, in 1971, 24.4 percent of all juvenile penal code offenders had previous records, as did approximately 40 percent of those charged with robbery, homicide, and rape. The existence of juvenile gangs in Japan is attested to by the fact that almost 34 percent of non-traffic offenders had co-defendants, as against only 14 percent of adults.

In delving into the reasons for juvenile delinquency in Japan, the conclusions strike Americans as startlingly familiar. While the Japanese family structure remains considerably more stable than that in the U.S., research has shown that the incidence of juvenile delinquency increases in broken homes and in homes where both parents work. The delinquency rate of juveniles from fatherless homes is remarkably high. With rising prosperity, the Ministry of Justice reports that "The hedonistic trends of citizens and increasing opportunity for juveniles to get employment in large cities, as well as the rise in the wages of young workers, and so forth, may often lead them astray and tempt them to quit or change their jobs repeatedly or play truant from school."

The Ministry of Justice concludes that: "The economic prosperity of the nation created such social and environmental factors as urbanization, undesirable mass communication media, and pleasure-seeking attitude among the public, all of which were apt to be a contributing force to juvenile delinquency, and, furthermore, it contributed to fostering the feeling of relative deprivation among juveniles. It is further pointed out that confusion among the people relating to the concept of value, misconceptions regarding protection and liberty and *laissez-faire* in education led the teachers and parents to make light of 'discipline for children' at home and school as well as in society, which made the juveniles become incontinent and insensible of rules and lose self-control." As the economy grew more prosperous, adult offenses declined, while juvenile offenses first climbed and have since resisted significant decline.

With almost full employment prevailing from the end of World War II until early 1975, there seems to be little reason to blame juvenile delinquency on lack of economic opportunity, nor does school attendance or educational level bear any definitive relationship to the delinquency rate. There is understandably more juvenile crime in cities than in rural areas, except that "The percentage of rape is rather small in urban areas, because it is apparent that amusement and recreational facilities are well-developed, which satisfies to some extent what the juveniles want, and their desires are being dissipated or satisfied through unsound companionship between boys and girls at a pre-offense state . . ."

There is a distinct correlation between juvenile crime and automobiles. Obviously, theft and the infliction of bodily injury have a sharp correlation, but the crime with the closest connection with the automobile is rape, with automobiles involved in almost 40 percent of the cases. The Ministry of Justice Report on "Trends of Juvenile Delinquency" ends one of its chapters with a wry comment that will strike a chord with police officers in this country: "To all juveniles, automobiles are of great interest, in that they can enjoy high speed and expand the sphere of their activity. Therefore, the increase of automobiles is likely to incite those juveniles who can hardly control themselves to get automobiles by

illegal means or use them as a means of committing crimes, and it seems to remain unsolved what counter-measures should be taken in the future."

Whereas Japan still faces a juvenile delinquency rate that resists major decreases, it is also undoubtedly true that they have avoided the fantastic increase in juvenile delinquency that characterizes the U.S. The FBI reports that juvenile arrests have climbed 144 percent since 1960, and the trend has been consistently upward. It is therefore highly pertinent to examine the special and far-reaching procedures that the Japanese have adopted to keep juvenile crime within limits that are hard to match elsewhere.

In Japan, persons under 20 years of age are categorized as juveniles (as opposed to the usual 18 in the U.S.), and are "subject to special procedures under the Juvenile Law aimed at their protection, education, and treatment." They are classified into three distinct categories. A "juvenile offender" is one between 14 and 20 years of age, who has committed an offense against the penal code or "special laws." Those between 16 and 20 are subject to criminal punishments, carrying the same penalties as adults.

A "law-breaking child" is one who, under 14 years of age, has violated a criminal law; he is not "criminally liable" in the same sense as his elders.

There's a third category called "pre-offense" juveniles"; these are individuals under 20 years of age who haven't done anything yet but are deemed likely to. They are defined as "Those who habitually do not subject themselves to the reasonable control of their parents or guardians or stay away from home without due reason or associate with persons of criminal propensity or immoral persons or frequent places of evil reputation or have the propensity to commit acts harmful to the moral character of their own or of others and 'who are prone to commit offenses or acts breaking criminal law or ordinance, in light of their character or environment.'"

At the heart of juvenile delinquency control in Japan is the Family Court, described in some detail in a previous chapter. The decision to place both family and juvenile problems under one jurisdiction stemmed from the conviction that adjustment of the family situation is an absolute prerequisite for the protection of children and the prevention of delinquency. All cases involving juvenile delinquency go through the Family Court at one stage or another, with the exception of some pre-offense juveniles who, in cases of minor transgression, can be referred by police directly to a child guidance center. This is an administrative organ authorized to provide temporary shelter for children under 18 years of age, including their placement with foster parents or in various welfare institutions. The chief of the Child Guidance Center is one of those empowered to refer cases, which he feels have gotten out of hand, to the Family Court.

It should be emphasized that the control of pre-offense juveniles is considered an extremely important factor in the overall program. In 1972, the police "gave guidance" to more than 36,000 children under 14 who would have been packed off either to the Family Court or the public prosecutor had they been more than 14 years old. In addition, several hundred thousand more pre-offense juveniles (including hippies and "hootens")—who were indulging in smoking, drinking, immoral companionship, loitering in amusement centers, truancy or using paint-thinner and sleeping drugs—were given direction by the police. Of these, almost 7,000 were actually referred to the Child Guidance Center or Family Court. It is estimated that between 45-to-50-per-thousand inhabitants receive this preventive treatment annually.

Beginning in 1967, the abuse of paint-thinner or chemical glue, through inhalation, became prevalent. It reached a peak in 1971, causing as many as 113 deaths (including those of 40 adults.) In 1972, the law was amended to increase the severity of this "crime." As a result, the number of juveniles involved between August and December of 1972 declined to 8,800 as compared with almost 24,000 during the same period in 1971.

The other two categories—juvenile offenders and law-breaking children—are routinely directed to the Family Court, either by the police, the public prosecutor, the Prefectural Governor, a Family Court probation officer, one "charged with the protection of the juvenile" such as a school teacher, or any other interested party. Unlike in adult cases, the public prosecutor, once he has received a juvenile case from the police is not empowered to determine whether or not to institute prosecution; only the Family Court has this power.

Once a case is filed in a Family Court, the family probation officer is assigned to complete investigation into the child's personality, life history, family back-

ground and environment. If a medical or psychological examination is necessary, the juvenile is placed in the temporary custody of a juvenile detention and classification home. Armed with this report, the assigned judge conducts a closed hearing attended only by the court clerk, the probation officer, the juvenile and his guardian and other persons specially concerned.

The judge has a number of options. He can turn the case back to the Prefectural Governor or the chief of the child guidance center, if he feels that the minor should be dealt with under the child welfare law. He can dismiss the case when he feels that no particular protective control is necessary. He can refer serious cases to the public prosecutor for action under normal criminal procedure.

He also can place the juvenile under protective control. This can consist of simple supervision by the probation/parole supervision office, as described in Chapter VI. The juvenile can be placed in a child education and training home or a home for dependent children. The former is designed for delinquents and pre-delinquents, while the latter has been set up to care for dependent, abused and neglected children. As a third alternative, the juvenile may be placed in a reform and training school, apparently the next step to prison. The reform and training schools are divided into four groups: primary, to care for juveniles between 14 and 16; middle, to care for juveniles over 16 who are not advanced in criminal tendencies; senior, to care for those who are; and medical, to care for juveniles over 14 who are physically or mentally defective.

As a further option, the judge may delay decision by placing the juvenile under supervision of a family court probation officer; he may live at home but under strict restrictions.

While officially losing jurisdiction, the family court is in a position to keep an eye on the course of individual cases. The juvenile, or his parent or guardian, has a right of appeal but, in actuality, appeals are extremely rare.

A good idea of the way these decisions are made can be had from the official report for 1970, 1971, and 1972, as reproduced here. (The wide disparity in the total cases between 1970 and 1971 is a result of change in Japan's basic traffic laws, which tended to keep minor cases out of the courts entirely.)

		1970	1971	1972
• Minors placed under the supervision of a Family Court Probation Officer.		80,246	83,762	88,284
1. Decision to conclude the case without a hearing.		336,892	120,062	109,297
2. Decision to dismiss the case without placing him under protective control.		250,729	200,293	199,958
3. Decision to transfer the case to another Family Court.			39,936	36,416
4. Decision to turn the case over to the Prefectural Governor or the Chief of a Child Guidance Center.		337	346	313
Final Determinations Determinations to Place the Juvenile under Protective Control* (if Multiple Measures)	5. Decision to place to the juvenile under the supervision of a Probation-Parole Supervision Office.	27,632	25,489	24,120
	6. Decision to place the juvenile in a Child Education and Training Home or a Home for Dependent Children.	208	184	195
	7. Decision to place the juvenile in a Reform and Training School:	3,970	3,321	2,954
	a) to a Primary Reform and Training School for those between 14 and 16;	325	255	281
	b) to a Middle Reform and Training School for those over 16;	2,783	2,343	2,017
	c) to a Senior Reform and Training School for those over 16 with advanced criminal tendencies;	565	469	414
	d) to a medical Reform and Training School for treatment.	297	254	242
	8. Decision to send the case to the Public Prosecutor:	82,903	76,345	66,356
	a) due to the nature, etc. of offense;	78,619	72,603	62,631
	b) due to over-age.	4,284	3,742	3,725
9. Others.	31,500	23,657	22,438	
Total Number of Final Determinations.		797,418	490,433	462,037

Note: \*Intermediate Determination

The effort to classify juvenile prisoners, largely based on the theory that bad habits should not be allowed to be transmitted, is carried over to that small percentage of juvenile offenders who wind up in ordinary prisons. At the end of 1972, for instance, there were only 464 juvenile prisoners in all of Japan. No earlier than 1968, there were four times as many. They are all in special juvenile prisons, with the exception of the girls who are in special quarters designed for them within adult female prisons.

The climate of a juvenile training school is heavily academic and vocational, with wide facilities for medical treatment and cultural and recreational activities. During 1972, certificates for completion of compulsory education were awarded to 87 percent of those who had not completed it in society. In addition, more than 4,000 boys and girls obtained working qualifications in various trades. The average length of stay in a training school in 1972 was only a little over a year. The number of inmates in the various schools can be seen from the chart reproduced below.

Number of Inmates in Training Schools, as of December 31, 1970-1972:

Year	Primary	Middle	Advanced	Medical	Total
1970.....	454	3,252	757	397	4,860
1971.....	382	2,712	600	354	4,048
1972.....	387	2,327	519	347	3,580

Tokyo, itself, has a highly developed juvenile delinquency prevention system superimposed upon this legal mechanism. It maintains four juvenile centers as bases for operations by local organizations and volunteers. These include 1,100 volunteer juvenile guidance agents, commissioned by the Chief of the Crime Prevention Division of the Tokyo Metropolitan Police Department, from among "those citizens who are virtuous, intelligent, and popular among local dwellers." They are actively engaged in guidance in the street and in various amusement centers.

These agents are supplemented by something called the "Hello, Dear Movement," explained as follows in a booklet issued by the Crime Prevention Police: "It is very important for us to say 'Hello, Boy (Girl)!' when we see him or her doing a good thing or a bad thing by way of encouragement or admonition respectively." There are approximately 9,000 "Hello, Dearers," selected by the Chief of the local police station, practicing this movement in Tokyo.

Each police station area has its own "Mothers Association," whose members total 330,000 and whose responsibility is to conduct anti-delinquency educational activities. The police are also backed up by a school/police liaison council to combat delinquency among students, and a business/police liaison council with similar responsibilities in regard to working juveniles. Virtually all schools are involved with the former, and more than 8,000 business firms and shops with the latter.

There are large numbers of juvenile gangs in Tokyo, but they seem to operate with the assistance of youth guidance members and, behind the scenes, the police. Individual youths, themselves, have access not only to the Kobans, or local police stations, but to a "youth telephone corner" where youths can call police about their problems; there are approximately 30 calls a day.

What is important to remember is that all of these activities—from police through family court through volunteer groups—are highly centralized and meticulously organized. They all have government cognizance and government assistance, and a seemingly single objective and philosophy. They are a far cry from the independently operated, uncoordinated, and often haphazard anti-delinquency organizations in the United States, which often espouse widely varying philosophies and have sharply different objectives. It may also be repeated that the Japanese system, for all its rigid single-mindedness, is keeping this single most distressing criminal phenomenon in today's world under control, while it runs wild in most other industrialized countries.

#### NARCOTICS

Japanese police and Japanese society have been forced to conduct a constant battle against various types of drug abuse ever since the end of World War II. Excessive use of a variety of drugs has come in waves, each one to be attacked and brought under substantial control. This battle is not over. At the present

time, it can be fairly said that the use of hard drugs (such as heroin, LSD, and opium) is minimal, but that the use of the softer varieties (like amphetamines and marijuana) is still on the rise.

The first wave of drug use, coming directly after World War II, involved "stimulant drugs," which we know as 'pep pills'. Right after the war, when the economic situation in Japan was poor, the entire population had to work extremely hard to survive. Stimulants were sold with such advertising phrases as "Get rid of slumber and be full of energy." As the economic situation improved and stimulants became more and more popular, the trade came into the hands of gangsters. The abuse spread to workers in the new factories, largely on the night shift. From there it became in vogue with students, entertainers and finally, with juvenile delinquents. When its circulation was entirely taken over by gangs, Professor Takemitsu Hemmi of the Mental Health Department of Tokyo University estimates the number of users to have reached 2 million. A peak of stimulant drug offenses was reached in 1954, at which point a concerted effort was made against this abuse. The changes involved direct action from the Prime Minister's office, a stringent revision of the Stimulant Drug Control Law, a nationwide public crusade and a severe crackdown on gang involvement.

Stimulant drug offenses dropped from 53,000 in 1954 to 265 in 1958, when it "seemed these offenses were almost eradicated." They were for a time.

In the meantime, a new plague appeared—this time of more serious narcotics, with particular reference to heroin and methaqualon. According to Professor Hemmi, "Heroin abusers consisted of former users of central stimulants and some Bohemians, most of whom were jazz musicians. Methaqualon abusers were descendants of the so-called 'sunny youngsters', who are like beatniks in the U.S. and showed up in Japan around 1956." These drugs, unlike the stimulants, were used for what the Japanese call "the elimination of unmanageable time." At that time, most heroin users were found in the slums of big cities; drug usage had not yet moved into the middle class. LSD was defined as a narcotic in 1970 and has since been under strict control, but the use of hallucinogenic drugs has not caught on in Japan except for the sniffing of lacquer thinner reported in the previous section on juvenile delinquency.

Narcotics offenses (except stimulant drugs) hit a peak in 1962 and 1963, at which point the government struck again, with greater efforts to bar these drugs from the country, more stringent penalties for their traffic and use, a second crackdown on the gangs, and the inevitable public campaign. Drug offenses fell from 3,689 in 1963 to 1,113 in 1969, a decline of 72 percent. By 1973 they had risen to 1,526, still 59 percent below the peak. However, the Tokyo Police report that "There are few, if any, narcotic syndicates operating in Japan at present. Practically no organized heroin cases have been detected during the last few years, and it is hard to find a new narcotic addict today." They add that they have on record about 1,600 persons in Tokyo who had once experienced heroin addiction and that "some of them are relieving their needs by using substitute drugs."

Of the 1,526 drug offenses referred to above, only 504 involved heroin-like narcotics and 240 opium, the use of which has also declined sharply since its peak. The rest related to the increased use of marijuana, although with only 782 cases in all Japan in 1973, it can hardly be called widespread. The Tokyo Police, who recorded 118 marijuana arrests in 1973, "have good reason to believe that there will be a big increase in the use of this drug because cannabis (marijuana) smoking is now a worldwide fad.

The use of marijuana, as in the U.S., seems to concentrate "among young people who had grown impatient with mass society." They are described by Professor Hemmi in phrases which would be just as pertinent in the U.S., and he ascribes much of the opposition to university authorities and to government policies to these groups of "delinquent youth and modern drop-outs." As in the case of the hard drugs, marijuana use concentrates in places with easy access to the seacoast; accordingly, the police are cracking down on smuggling operations, a device which has proved extremely successful in the control of harder drugs and of guns.

Another phenomenon has occurred, roughly coincident with the drop in hard drug usage. Stimulant drugs have once again appeared in volume, and cases have risen from the 265 recorded in 1958 to more than 12,000 in 1973. From the record, it certainly appears that a new drive is predictable.

While Japan has had its drug problems, one after the other, it is clear that the police have faced them head-on and have been supported not only by necessary legislation and stricter court action, but also by widespread public approval. Added to these, the police have made every effort to seal off their island from the drug traffic so prevalent in Southeast Asia, and apparently have largely succeeded. According to all reports, furthermore, they have taken the known gangs entirely out of the drug business, leaving their criminal tendencies to be exercised in considerably less dangerous areas.

#### RIOT CONTROL

Riots represent one area of "crime" in which Japanese statistics are far higher than those recorded in the U.S. Japanese riots, to quote Judge Robert Y. Thornton of the Oregon Court of Appeals (to whom we are indebted for much of the material in this section), are "king-sized" by American standards.

(Judge Thornton, a former State Attorney General, while in Japan as guest professor at Kokusai Shoka Daigaku, did an in-depth study of the tactics and techniques of the Japanese Anti-Riot Police. They were published in a recent issue of *The Police Chief*).

Major riots and demonstrations commonly involve more than 100,000 participants. In 1968, radical students clashed with police on 1,500 separate occasions. Three thousand were arrested in 1969, after rampaging students fire-bombed Tokyo's finest shopping area. During the June, 1970 Anti-Mutual Security Treaty demonstrations, total participation throughout Japan was 1,347,811 man days, with a total of more than 3,500 separate incidents participated in by more than a million protestors, the bulk of whom were Socialists, trade union members, and Communists.

As a result, perhaps, of the high incidence, "Japanese Police", according to Dr. S. I. Hayakawa, an American college president who has had substantial experience in the area, "are better trained for dealing with students than the American Police. They simply have more experience." Judge Thornton concludes that "The tactics, techniques, vehicles and equipment developed by Japan's Anti-Riot Police, and their handling of some of the largest and most violent civil disturbances anywhere in the world with remarkably low casualties, all without firearms, justify rating them among the most skillful anywhere."

Most Japanese riots stem from two sources: (1) largely leftist-inspired protests against various Japanese and American political policies and (2) student disorders on campus. The former were stimulated by the Occupation inspired democratization of Japan when old laws prohibiting unlawful assembly were repealed and citizens were urged to participate in politics. The latter result largely from the enormous increase in university enrollments, with complaints such as overcrowding, increased fees, large classes, and demand for control of administration—all exploited by ultra-radical elements. Japan's racial minority, the approximately 600,000 Koreans, are alleged to have contributed disproportionately to the crime rate, but have not figured in civil disorders.

The rioters are highly sophisticated and extremely well-organized. The student revolutionary movement is more leftist and much older than that in the U.S.

Rioters conduct secret training sessions, practice close-order drill, and wear plastic helmets, identifying their organization. Their weapons have progressed from ordinary sticks and bamboo spears or lances to pipes, Molotov cocktails, various acids, homemade explosives and zip guns. They have adopted specific and identifiable military tactics. Some foreign observers believe that there is an unwritten "code of fair play" between rioters and riot police to avoid killing one another, but Judge Thornton's observation of the "savagery of the attacks" and personal inspection of weapons inspires him to express considerable skepticism. Riots have moderated in recent years, but this could be attributed to the fact that student rioters have lost all of their recent skirmishes and have become pretty well convinced that they have met their match in the riot police.

Riots are seldom unexpected. The Tokyo Metropolitan Police Department states flatly that its Intelligence Unit has never failed to obtain advance information of the time and place of any major demonstration, intelligence activities are conducted openly and efficiently.

The growing inferiority complex of the rioters is understandable, in view of the extensive organization that has been set up to control them. Its sophisticated operation is particularly remarkable in view of a national distaste in

Japan for the use of military force in domestic disturbances. The equivalent of Japan's National Guard cannot be called in unless the Prime Minister determines that "indirect invasion" is occurring. The Mobile Riot Police, according to the Director of the Security Bureau of the National Police Agency, "must always be aware that their handling of a particular disturbance may have grave political consequences. For this reason, equipment and tactics are always more defensive than offensive in nature."

The "Kidotai", best translated as "Mobile Task Forces", is divided into regular and regional forces. There are 9,700 members of the regular force, of which 5,300 are in Tokyo. They are supported by mobile forces totalling 4,200 members. All Kidotai are volunteers, selected from twice as many applicants as there are positions. After service for two or three years, they customarily return to their former units with their Kidotai service, usually leading to more rapid promotion. One man in seven is a college graduate. While they receive the same basic pay and allowances as other police, they are, indeed considered elite forces.

They are organized on a military basis, with companies, platoons and squads. Their personal equipment includes a Navy Blue plastic riot helmet, movable plexiglass face masks, neck protector, gloves and elbow-length gauntlets, shin guards and protective shoes with metal toe caps. Their most important "weapon" is a convex duraluminum body shield, 4½ feet high and 2½ feet wide, slant at one end to allow observation. They carry no guns, their only other personal weapon being a standard police night-stick, which is not drawn or used except on command. Tear gas is employed.

The "Kidotai" is highly mechanized, with specialized and imaginative vehicles largely designed and built in Japan. They include reinforced personnel carriers of various types. One doubles as a street barricade. Another has been designed so that a number of them can be placed end-to-end to form a protective tunnel, through which the "Kidotai" can enter a barricaded building. They have water-cannon-equipped trucks, which may be used with water, mixed with either marking dye or tear gas. Some trucks have retractable snorkels, which can be raised to permit delivery at high elevations and variable angles.

The "Kidotai" are equipped with special floodlighting trucks, with a light panel that can be rotated to a full 360 degrees. Special identification vehicles are equipped to take live TV pictures, which are transmitted instantaneously to headquarters. In addition, they are commanded from a mobile headquarters truck, and have available such novelties as a barricade removing "scoopmobile", mobile rest rooms and kitchens and a foam generator for use against disorders at military bases. More routine vehicles include jeeps, diesel powered guard cars (harder to set fire to than gasoline powered vehicles), public address trucks and special wrecking cars.

The individual platoons employ a variety of tactical formations. There is, for instance, "the turtle back", wherein the group huddles in a small compact unit with their shields over their bodies when it is temporarily surrounded. Another is "the flying squad", which sounds very much like early American football's flying wedge and is used to rescue a "Kidotai" member who has been captured. Their parade control technique involves having a single column of riot police marching directly alongside the demonstrators to their side of the street. When "snake-dancers" try to break out of formation, they are "assisted" back into line with the body shields.

Generally speaking, the "Kidotai" allow the demonstrators to take the initiative. The "Kidotai" are basically counter-punchers. They wish to avoid any action that could be construed as offensive, in respect for Japanese public opinion and for the much respected quality of "gaman" (self-control). They make every effort to separate the spectators from the rioters. Their first objective is to capture the leaders at the point of the attacking force, having learned that the strongest element of the group is in the front line. In summary, they seem to have developed a tactic to counter every possible eventuality.

The Riot Control Police are particularly sensitive to student rioting, because of the tendency of the public to take the side of the student underdogs. This has changed somewhat due to excessive violence and property destruction. Judge Thornton reports one instance in which fleeing students ran through private homes without first removing their shoes. "This gross breach of traditional etiquette caused as much loss of public sympathy as the rising level of violence."

Considering the magnitude of the riots, casualties are remarkably low. While more than 6,000 police were injured in 1967 and 1968, only two officers had been

killed in the previous decade and 228 injured seriously enough to lose more than one month's time from duty. Three students have been killed, but all by accidental behavior on the part of fellow-demonstrators.

Japanese rioters may be arrested on any of the following grounds: Unlawful assembly, unlawful assembly with a dangerous weapon, interfering with a police officer in the performance of his duties, unlawful entry or occupation of a building, trespass, blocking traffic, assault or causing bodily injury and interference with the rights of others. It is not uncommon for thousands to be arrested in large demonstrations, but for the most part sentences imposed by the courts have been light—to the point that some citizens complain of kid-glove treatment.

Various efforts have been made toward riot prevention. Personal letters are sent to parents, asking cooperation in directing their young to refrain from active violence. A policy of treating students kindly after arrest has apparently been successful in reforming some campus radicals. In any event, it is apparent that the riots are diminishing in size and violence.

Judge Thornton, who may have made the most complete study of Japanese anti-riot procedures of any American, vigorously recommends that American law enforcement officers be sent to Japan "to take advantage of their enormous experience and learn the highly sophisticated techniques they have so painstakingly developed, during nearly twenty years of trial and error, in dealing with some of the largest and most violent riots in anywhere in the world."

#### SHOPLIFTING

In its January, 1974, *International Economic Review*, the *New York Times*, in discussing crime in relation to business, stated that although Tokyo's crime in general has been decreasing, "There is an increase in crime among women, in juvenile delinquency and in petty pilferages." While Japanese crime statistics available here do not break out shoplifting specifically, this report is confirmed by police opinion; they estimate that shoplifting increased 20 percent last year.

It is also believed in official circles that this particular variety of crime is under-reported. They feel that a certain amount of shoplifting is unnoticed because of the sheer volume of goods for sale and that many Tokyo stores, because of such affluence, do not report the stolen goods to the police to avoid being bothered by police procedures.

In interviews with the chiefs of security of two large Tokyo department stores in September of 1974, the amount of store theft was estimated at 0.2 percent to 0.4 percent of gross sales. They believe that this is virtually all shoplifting, because they have discovered very little employee theft. In a book published in the same year by the National Retail Merchants Association, it was reported that department store shrinkage in the U.S. peaked in 1969 at 2.34 percent and has since moved moderately downward to level off at just below 2 percent. As this book is written, the trend upward in shoplifting in American stores again is rising steadily.

Despite Japanese fascination with electronic gadgets, there is as yet relatively little use of such devices in shoplifting protection. Available reports indicate that most stores depend upon a system of security guards, most of whom are retired police officers and firemen. The employment of the latter category is explained by the fact that fire is of far greater concern to department stores than shoplifting.

These security guards operate with extreme delicacy. No one is apprehended until after he or she leaves the store. Even then, they are politely reminded that they have failed to go through the cashier and if they do so, all is forgiven, unless the offender is recognized as a professional. Such careful handling not only avoids "an embarrassing scene" but makes suits for false arrest virtually unknown.

As might be expected, most of the offenders, particularly in better stores, are women: one security officer reported that "about 80 percent of shoplifters are women between 20 and 35." The most attractive shoplifting target is ladies' wear. In recent years, however, while the amount of shoplifting has apparently about stabilized, a larger percentage of offenders have been juveniles.

Some special establishments, such as banks and jewelry stores, are beginning to use closed-circuit television, partly for the psychological effect on potential shoplifters. (Television is also used by the police to cover the streets in five Tokyo high-traffic locations.)

According to the Security Chief of Tokyo's largest department store, first offenders aren't usually arrested. Second offenders, or those who hint that they

might sue the store, are routinely turned over to the police. While first offenders are fined, second offender shoplifters are usually given prison terms.

As far as can be observed, there is nothing particularly extraordinary about either the crime or its prevention in Japan, except that it will be noted that the rate, like all other Tokyo crime, is significantly lower than that in the U.S. One thing is sure—any American retail store would gladly settle for the minimal Japanese averages.

#### ALCOHOLISM

Probably because much of Tokyo's social life for men is conducted in bars and nightclubs which have as regular customers one or more of Japan's unique entity, the formal "group", drunkenness has long been prevalent. The police are generally tolerant toward the homeward-bound drunk. They do not normally arrest for common drunkenness but take the person in custody to the local police station or police box. Usually, the drunk is held informally overnight and allowed merely to "sleep it off" in a drying-out room usually set aside for those who have drunk too much, and, then, sent on his way in the morning. If he was a noisy drunk, he is made to listen to tape recordings of his drunken meanderings of the night before.

In the event that the drunk becomes violent (a relatively common characteristic of the normally placid Japanese), he is taken to one of three special detention centers throughout Tokyo where there are padded cells and police equipped to handle them. Incidentally, violent drunks are the principal cause of injuries to TMPD personnel. Efforts are made to get these alcoholic individuals to see a doctor or go to a medical center when they have a chronic alcoholic problem.

If there is a serious crime and the offender is drunk, he is sent directly to a main detention center. The police tolerance toward drunkenness does not extend to drunken driving, for which prompt action is taken and the courts show no leniency whatsoever. Sentencing to jail is mandatory under the law for the offense, with the result that people who drink do not drive!

### CHAPTER VIII

#### A SUMMARY OF DIFFERENCES

This final chapter, short of some specific recommendations to follow, is an attempt to summarize the principal differences—in either environment, tradition, law, method, or procedure—between Japan and a Western World country like the United States that might, on one way or another, relate Japan's infinitely more successful effort to control crime in the decades since World War II.

Some of these differences are built into the character and traditions of the people or even in the geography of the nation; some are not. Accordingly, some of the Japanese experience is relevant to our crime problems, and some isn't. The listing of differences is not intended to constitute a value judgment—whether what the Japanese are doing is more or less effective than what we are doing. Many of them have been cited by the Japanese who were interviewed; some have risen out of the study, itself.

For the sake of brevity, they will be stated here in general terms, on the assumption that the supporting statistics and evidence are to be found in the pertinent sections of this report.

(1) Japan is an almost totally homogeneous nation compared with either the U.S. or most other industrialized countries. They have a unified racial background, a single set of traditions and ethics, and virtually no racial conflict, and even their religions, though varied, tend to have similar concepts. Their only large foreign infusion has been the recent injection of about 600,000 Koreans into a nation of more than 107,000,000 people. Even this, it should be noted, is reported to have led to increased criminal problems, but of a relatively minor nature.

(2) Japan is an island nation, which has not only contributed to its homogeneity, but has enabled it, in some degree, to seal itself off from alien and destructive influences. Its visa system makes it possible to exert a greater than average control over the exclusion of undesirable aliens. Its relative ability to control smuggling has contributed to its success in enforcing strict narcotics and drug control laws. This is not to say that the existence of these two sets of laws are not differences in themselves, to be noted later in this list.

(3) The household unit is a much more important element in Japanese society. While eroding somewhat, the influence of the elders and respect for them, tends not only to help control crime, but also to prevent it in the first place. This sense of immediate household is further extended in Japan into a consciousness of the group and into the desire on the part of most Japanese to conform to their group and not be excluded from it through a loss of face stemming from criminal activity. For any man who cannot support his family, committing hara-kiri is condoned—rather than stealing or resorting to any other illegal means of obtaining money or its equivalent.

(4) The average Japanese has developed a high sense of self-discipline which is regarded as a virtue and helps to make law-and-order a way of life. The old traditions of "bushido" and of the "samurai", in which it is better to die than to fail to provide for oneself or to commit crime, still have influence.

(5) The religions of the Japanese—Shintoism, Buddhism and Confucianism—are all meditative at their base and tend to stress proper conduct more than theological variations of heavenly reward. The old-time religion is undoubtedly in decline in Japan, but its influence toward passivity rather than violence is still greater than any counterpart that exists in the U.S.

(6) Japan has a literacy rate on the order of 99 percent. While high literacy rates are also prevalent in other industrialized countries, Japan's education system is highly centralized as to content and method and tends to stress not only basic essentials but discipline and the traditional conformity which has long characterized Japanese society. That this influence is not universally effective can be seen from the reports of increasing student unrest in the upper secondary and the university level, but it does equip a broad segment of the population not only with a set of standards but also with skills which allow them to take advantage of a full-employment economy.

(7) Japan's brand of "full employment" has apparently accommodated more of the unskilled and low-skilled than has ours. This reflects either the country's greater literacy rate and additional stress on vocational education or the fact that the Japanese industrial system offers more unskilled jobs. In any event, observers note that there are more work opportunities for young people and fewer idle hands to get into trouble.

(8) The entire Japanese crime control system—from police through prosecution to judiciary and institutionalized detention—is nationalized. This single source of control and a single set of standards is in contrast to a United States system fragmented among 50 States, thousands of governmental units and the Federal Government, itself, with widely varying standards and no single point of control.

(9) All Japanese lawyers are trained in a single judicial institute and pass identical tests to qualify. There are far fewer of them per thousand population in Japan. The Japanese legal system keeps many civil suits and most lesser criminal action out of the courts, through the use of arbitrating, conciliating and counseling.

(10) Japan's national police system leads to more uniform recruitment, more intensive training and much better overall organization. While some American police forces are superbly equipped, the entire Japanese force has available to it the last word in computerization, the most sophisticated equipment to be used where needed and excellent research and training facilities; all standardized.

(11) There is virtually no evidence of bribery or corruption among Japanese police, prosecutors or judiciary. Politics is confined to the very highest places in the Ministry of Justice and only Supreme Court Judges are selected out of the trained hierarchy. Police are well paid by Japanese standards, and enjoy splendid fringe benefits.

(12) The police have established a much closer relationship to the community. This is accomplished partially through twice-yearly visits to homes, the numerous small police posts located in every neighborhood and wide police participation in various training and "public relations" programs. From the top there is an obvious effort to cooperate as fully as possible with the Japanese media, as well as with numerous public and semi-public crime related organizations.

(13) There is far more public participation in all areas of crime prevention and control. Each police unit has its citizens' crime-prevention counterpart. Volunteers are used for arbitration, counseling and conciliation. The probation system is heavily volunteer. The family and the community are involved in the handling of individual criminals and potential ones in every manner possible.

(14) Organized crime, which admittedly exists in Japan, is kept under acknowledged and rigid control. It is unofficially allowed to exist and to deal in criminal activities of a minor nature such as gambling, prostitution, loan-sharking and the like. They are not allowed to possess guns or deal in narcotics. These unwritten rules apparently are effective virtually throughout Japan. The police know who this "Mafia" is and where to lay their hands on them.

(15) Hand-guns are virtually absent from Japanese life, and a clear effort is made to control other offensive weapons of crime including swords. Hunting equipment is permitted but strictly licensed and supervised.

(16) Narcotics are under far better control in Japan. This is accomplished by extreme vigilance at the sea and air frontiers, strict control of local manufacture and distribution for legitimate use and tougher laws whenever a particular drug seems to be making illegal inroads.

(17) Under a single national administration, Japan's prosecutors are uniformly trained, are entirely nonpolitical and have considerably more leeway in deciding whether to prosecute a case or to settle it otherwise, often through the family itself, through the wide network of community involvement or through arbitration or conciliation.

(18) Under the single national administration of the Supreme Court, all judges are uniformly trained and serve a long apprenticeship before assuming full judicial responsibility. Their personnel consists of the cream of the crop of each year's judicial institute class, through which all prosecutors and lawyers also pass. They have virtually automatic tenure until retirement age.

(19) Punishment of serious crime is far more certain in Japan. Not only is the police clearance rate significantly higher, but conviction in the courts in those cases which are prosecuted is almost certain.

(20) Justice is quicker in Japan. There is no right of trial by jury, and virtually all cases are judge-decided. Appeals are far rarer, and the appeal system is far simpler and rapid. There are court delays, which the Japanese admit as undesirable, but they are far less extensive than in the U.S.

(21) Japan has a highly developed family court system, which recognizes the clear connection between juvenile crime and family domestic problems. These courts have wide leeway in disposition of cases and stand at the heart of the Japanese system of juvenile delinquency control.

(22) The Japanese system of juvenile delinquency control is far more sophisticated. It begins with concern for pre-offense juveniles under 14 years of age and includes an extensive child welfare system and segregated correctional institutions for a number of graduations of juvenile wrongdoing, as well as wide non-institutional and surveillance procedures.

(23) Criminal sentences are shorter, and classification of prisoners into various categories is more detailed and exact. Under the theory that prisons can be—and generally are—crime schools, probation, suspended sentence and parole are extremely common, as well as are post-prison facilities for aid and rehabilitation. Under the Japanese ethic, the shame of arrest, itself, is considered a major part of the punishment.

(24) Civil and student disturbances, which can assume large proportions in Japan, are controlled by carefully trained, special riot police, who operate with a maximum self-discipline and whose training effectively prevents over-reaction to provocation.

There are those who insist that Japan's excellent record of crime control can be explained entirely by the more favorable environmental conditions that exist and the admittedly more law-abiding nature of the people. The above list of substantive differences in method, personnel and technique, however, should demonstrate, conclusively that, while environment contributes, there are specific steps that any comparably industrialized nation could take to materially improve the sad record that most of them have. This is especially applicable to the U.S.A.

Nor is it enough to say that non-Japanese would not submit to whatever abrogation of civil rights is involved. In poll after poll, Americans, for instance, have asked for more effective crime control. Large majorities have been reported as favoring gun control. Other majorities have indicated impatience with the delay of justice and the uncertainties of punishment. And, despite the widely publicized stories of the individual's unwillingness to involve himself in witnessed crime, it is notable that when the American Institute of Public Opinion asked a substantial sample of Americans in 1968 whether they "would be willing to work with local police in a community anti-crime operation and report on

any suspicious activity (in their neighborhood)", 87 percent answered "yes", and no educational, income, occupational or other category fell below a 76 percent affirmative.

#### CONCLUSIONS

As indicated throughout this report, it was hoped that by studying the methods used in Japan much could be learned as to the factors involved in making Tokyo the one metropolitan area in the world with the lowest crime rate, as well as to identify ideas and programs that could be introduced in the United States to aid in our fight against crime. Listed below are a number of recommendations regarding programs that the authors believe in some form or other should be explored by criminal justice agencies in this country, some of these innovative undertakings have been in process for some time. Also, in some instances, a good start has been made at the federal level, however, acceleration is required. This list is by no means exhaustive, nor is it intended to be all inclusive. Hopefully, the reader might, in studying this book, discover still other approaches that could have applicability in the United States and meet with success in improving one of the most serious problems confronting the country at present. Worthy of consideration are:

(1) Prompt action on the recommendations of a number of recent presidential commissions to increase efforts toward the education, training and professionalization of all those involved in law enforcement and criminal justice, with special emphasis on police.

(2) Current programs now in operation throughout this country involving volunteers in correctional activities, should be greatly expanded. This is especially true in the fields of probation and parole.

(3) There must be rigid and comprehensive gun control at the federal level designed to eliminate handguns from the private sector and to provide stricter controls over all other types of firearms.

(4) We recommend continued streamlining of the judicial process with appropriate legislative changes where required, leading to the elimination of the indicting grand jury and trial by jury, while providing the right of appeal of sentence by the prosecution.

(5) Each state not now utilizing such a plan, should establish a unified court system subject to administrative supervision and direction by its Supreme Court. In addition, courts should all be subject to uniform rules, practices and procedure promulgated by the same agency. State and local governments should adopt some type of merit plan for selecting judges of impeccable character whereby qualified candidates would be appointed by the chief executive. Judges so chosen should stand for retention in office requiring only voter approval or disapproval at the end of each term.

(6) We urge the early development of a program in each state to expand and intensify the training of judges and to eliminate gradually those not learned in the law, or who in other ways do not measure up to the highest standards.

(7) The federal government should vastly upgrade its campaign against illicit drugs and narcotics by the adoption of a program which would better control smuggling of such items into the United States, and by enforcing already existing legislation providing lengthy prison penalties for buyers or sellers engaged in these types of contraband.

(8) Police deployment at the local level should be designed so as to provide the greatest opportunity for citizens to relate closely to their activities while at the same time not sacrificing efficiency. Consideration should be given to utilizing the Tokyo Police Department decentralization plan by creating small police sub-stations operating at the neighborhood level. Officers in each location should be required at least once a year to contact personally each family in the area served, and maintain a close rapport with them.

(9) Local county and city governments should increase their efforts to involve more citizens in the criminal justice process and crime prevention efforts. Citizen crime commissions or other types of independent citizen-sponsored undertakings should be instituted in every major city in the United States. In addition, police in all municipalities should be required to work closely with such groups in implementing programs to protect communities against criminal attack. This total involvement has proven enormously valuable throughout Tokyo and Japan.

In this same connection, the communications between the police and the public is excellent in Tokyo—not just when the news is good or bad—but on a regular basis so the public is kept aware of the need for continued vigilance and cooperation.

1976 will mark the 200th year since the Founding Fathers created this great Democracy in which we are privileged to live. To accomplish this, great differences had to be resolved—requiring the close cooperation of many people who had fundamentally different philosophies and beliefs on many subjects.

Fortunately, they got on with the job; still and now the American form of government, with all its weaknesses, has done more for more people than any form of government. However, once again we find ourselves confronted with very serious problems—but the most serious is CRIME, since it is impossible for businesses or individuals to prosper or thrive in an atmosphere of crime and constant fear.

Certainly, our Japanese friends have not discovered all of the answers, but there is much to be learned from them. Such overall changes as the United States will have to make, will take time and be difficult to accomplish—but it will be well worth the effort. Our present methods and approaches are NOT doing the job—so we cannot afford to be negative. These necessary changes will be brought about only through strong national and local leadership. We have too many “splinter” organizations, each attempting in an inadequate way to cope with just one fragment of the problem. All of our agencies must be coordinated under the leadership of dedicated people who will demonstrate the same pioneering instincts as the Founders of our Democracy. Time is running out. CRIME must receive top priority and be recognized as the number one problem of ALL people—not simply those who are in uniform or serve in a paid capacity in any facet of our criminal justice system.

#### BIBLIOGRAPHY

“An Outline of Narcotic and Stimulant Drug Control in Japan,” The Ministry of Justice, Japan.

“Bulletin of the Criminological Research Department, 1972-1973,” The Research and Training Institute, Ministry of Justice, Japan, 1972.

“Combatting Shoplifting” by Arthur C. Kaufmann, National Retail Merchants Assn., 1974.

“Court Organization Law and Public Prosecutors Office Law”, Ministry of Justice, Japan.

“Crime in the United States—1973,” Federal Bureau of Investigation, 1973.

“Crime Prevention Police,” Crime Prevention Division, Metropolitan Police Department, Tokyo.

“Crimes Under the Penal Code—Offenses and Clearance in Tokyo, 1973,” Metropolitan Police Department, Public Relations Section.

“Criminal Justice in Japan,” The Ministry of Justice, Japan.

“Criminal Statistics in 1973,” National Police Agency.

“Criminal Statutes I and II,” Ministry of Justice, Japan.

“Current State of Police Activities,” Summary White Paper on Police, National Police Agency, Japan.

“Guide to the Family Court of Japan,” General Secretariat, Supreme Court, Japan, 1974.

“Japan” by Edward Seidensticker and the Editors of Life, pub. Time, Inc., New York, N.Y., 1962.

“Japanese Society” by Chie Nakane, pub. Penguin Books, England, 1973.

“Keischicho,” Metropolitan Police Department, Tokyo.

“Legal Education in Japan” by Margaret Mary McMahon, American Bar Assn. Journal, November, 1974.

“Non-Institutional Treatment of Offenders in Japan,” Rehabilitation Bureau, Ministry of Justice, Japan, 1974.

“Outline of Japanese Judicial System,” Supreme Court of Japan, 1972.

“Report on Citizen Attitudes Toward Police,” Metropolitan Police Department, Tokyo.

“Social Psychiatric Study of Drug Abuse in Japan” by Takemitsu Hemmi, Associate Professor, Mental Health, Faculty of Medicine, Tokyo University, Tokyo, Japan, 1971.

“Source Book of Criminal Justice Statistics, 1973,” U.S. Dept. of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service.

“Statistical Report, 1972,” Police Department, City of Philadelphia.

“Summary of the White Paper on Crime—1965-1973,” The Research and Training Institute of the Ministry of Justice, Japan.

“The Constitution of Japan,” The Ministry of Justice, Japan.

“The Dispute Over Japan's Police Law” (article) D.C.S. Sissons, Pacific Affairs XXXII, March, 1959.

"The Improvement of Criminal Justice in Philadelphia," Phila. Regional Planning Council Governor's Justice Commission, 1974.

"The Japanese Police Establishment" by Ralph J. Rinalducci, pub., Charles C. Thomas, Springfield, Illinois, 1972.

"The Japanese Police System" by Shuichi Sugai, in Robert E. Ward, ed., Five Studies in Japanese Politics, pub. University of Michigan Press, Ann Arbor, Michigan, 1957.

"The Kidotai—Mobile Task Forces of Japan" by R. Y. Thornton, The Police Chief, July, 1971.

"The Police of Japan," National Police Agency.

"The Trends of Juvenile Delinquency and Procedures for Handling Delinquents in Japan," Ministry of Justice, Japan, 1970.

"Training Lawyers and Judges in New Japan" by Robert Y. Thornton, Judicature, October, 1974.

"Twenty-Four Years of the Family Courts of Japan," General Secretariat, Supreme Court, of Japan, 1974.

#### LIST OF INDIVIDUALS INTERVIEWED

Mr. Akimoto, Security Office, Isetan Dept. Store.

Sadakatsu Araki, Superintendent Supervisor, Director of Safety Division, National Police Agency.

Professor Atsumi, Chuo University, Professor of Criminal Law and Procedure.

Thomas Blakemore, Esq., Blakemore and Mitsuki, Tokyo, Japan.

Mr. J. M. Dinken, Dinken Sangyo KK, Tokyo, Japan.

M. R. Gould, Foreign Correspondent, National Broadcasting Co.

John Haley, Esq., Blakemore and Mitsuki, Tokyo, Japan.

Hitoshi Hamasaki, Chief Police Superintendent, Director, Crime Prevention Division.

Mr. Hangai, Security Office, Isetan Dept. Store.

Talzo Iwaya, Police Superintendent, Deputy Chief of Patrol Administration Section, Patrol Division, MPD.

Hiroshi Kamura, Program Officer, Research & Documentation, Japan Center for International Exchange.

Koji Sasahara, Managing Director, National Federation of Crime Prevention Associations.

Yoshihiko Kawamoto, Public Information and Foreign Liaison Office, Ministry of Justice.

E. Kimura, Director, Research Department, Public Prosecutor.

Assistant Judge Junichi Koide, Tokyo District Court, Criminal Division.

Ryohachi Kusuaba, Judge of Tokyo District Court, Chief of Secretary of Public Information Section, Administrative Office, Supreme Court.

Isamu Makino, Superintendent General, Tokyo Metropolitan Police Dept.

Hideo Masamoto, Court Secretary, Chief Interpreter, Supreme Court of Japan.

Mr. Matsumoto, Chief Security Officer, Mitsukoshi Dept. Store.

Kiyotaru Matsura, Police Superintendent, Administrator & Deputy Chief, Crime Prevention Section.

Mr. John J. McSweeney, Vice President, The Fidelity Bank, Tokyo, Japan.

Kazuyuki Mikami, Senior Superintendent, Crime Prevention Section.

Masao Mimatsu, Chief Police Superintendent, Director, Patrol Division.

Hayashi Momose, Police Superintendent, Administrator & Deputy Chief, Public Relations Section.

T. Murai, General Affairs Section, National Police Agency.

Telji Nishizawa, Police Superintendent, Chief Administrator Patrol Division, Metropolitan Police Dept.

Isamu Nitta, First Secretary, Japanese Embassy.

Iwajiro Noda, Chairman, Hotel Okura.

Takeshi Okamura, Senior Police Superintendent, Chief, Crime Prevention Administrative Section, Crime Prevention Division.

Richard W. Petree, Political Counselor, Embassy of the USA, Tokyo, Japan.

Colonel Ralph J. Rinalducci, Retired, U.S. Army, Author and Consultant to Tokyo Metropolitan Police Dept.

Hon. Takeso Shimada, Justice of the Supreme Court, Supreme Court of Japan.

Mikio Takahashi, Director General, National Police Agency.

Usuo Takeda, Chief, General Affairs Division Secretariat, National Police Agency.

Toshio G. Toukahlra, Acting Political Counselor, Embassy of the U.S.A., Tokyo, Japan.  
 Eljiro Toyoshima, Chief, Secretarial Section, Secretarial Division, Ministry of Justice.  
 Shinichi Tsuchiya, Research and Training Institute, Ministry of Justice.  
 Hiroshi Yoda, Foreign Liaison Officer, Public Relations Section, Administrative Division.  
 Rokuro Yoshida, Chief, General Affairs Division Secretariat, National Police Agency.

---

 APPENDIX 6

BILL'S GUN SHOP,  
 Leesport, Pa.

DEAR SIR: I am writing to you, because I do not know who else to get in contact with in connection with gun laws.

The only new laws that I can think of that may help is that each person, show the dealer, dept. store or whatever that he or she has a permit for the certain type hand gun that they wish to buy ammo for and that under no circumstances can they acquire ammo unless they have a permit for proof of ownership, and a permit for carrying said fire arm.

I also feel #2 that during regular deer, turkey, groundhog season that each hunter be required to use a scoped rifle. This would eliminate accidental shooting of humans. In this way the person shooting said rifle would be able to distinguish between animal & human before pulling that trigger.

Would appreciate your views about this, matter.

Thank you.

WILLIAM I. KEBSCHNER.

---

PORTLAND, MAINE, *May 15, 1975.*

Rep. JOHN CONYERS,  
 U.S. Congress,  
 Washington, D.C.

DEAR SIR: I am writing in regards to gun control. In my opinion, I think that guns should be allowed, except they should be licensed and recorded. People should be tested like automobile drivers. They should have sight, hearing, and reflex tests.

My reason for thinking this way about guns, is because of Deer hunting, a very popular sport here in Maine.

Sincerely yours,

ROBERT WILLETTE.

---

BOSTON POLICE,  
 OFFICE OF THE COMMISSIONER,  
 Boston, Mass., *June 16, 1975.*

Hon. JOHN CONYERS,  
 House Judiciary Member,  
 House Office Building,  
 Washington, D.C.

DEAR CONGRESSMAN CONYERS: Yesterday morning when I picked up the Boston Globe I learned that the Gallup Poll found 67 percent of the public in support of gun registration; a majority of people in urban areas favor an end to private ownership of handguns. That, as you know, is no great surprise. The polls have shown essentially the same thing since gun control became a major public issue in the mid Sixties.

Two pages later, I read the following item: "Ruby Kennedy, 19, . . . was shot last night as he sat in a car at the Columbia Point Housing Project . . . he was sitting in a car on Brandon Avenue at 10:00 p.m. when a late model car pulled alongside of his parked car. Kennedy said a man got out of the car and walked to side of the car, pulled a small-size gun and fired three shots at him without any explanation." The irony was striking and cruel, and not a day passes when I am not reminded of it.

The Conyers Subcommittee is now considering hand gun control legislation and I know that all members of the Judiciary Committee are receiving large numbers of letters from those who oppose all gun control. I am writing to you to say that although I know you have been attentive to those appeals in the past, I hope that this year you will consider the other side.

As Commissioner of a major police department, I have become a committed

advocate of strong gun control. (And by strong I mean legislation which prohibits the sale and possession of handguns.) I have reached that position simply because I see the carnage which results from promiscuous ownership of handguns. Alone in the civilized world, America allows virtually anyone to own a handgun; and alone in the civilized world, America has a major problem with homicide, assault with a deadly weapon, and robbery.

This is something that only Congress can end. It is no longer possible for anyone to believe that guns are not the problem; the problem is criminals. The problem is that everyone, whether criminal or not, has access to a gun. Guns are indeed the problem. They are more than a passive instrument of violence and crime. Their easy availability makes them a cause of violence and crime.

I am not suggesting that society without handguns would have no assaults and robberies. Husbands and wives would continue to fight, and occasionally one might die. But a handgun makes killing so easy and convenient, and nearly certain. Robberies too would continue, but they would be more difficult; and the timid would be more reluctant to rob if they didn't have "the great equalizer" in their pockets.

There simply is no justification for inaction in the Congress. No citizen, however deep his fear, has a just claim to own a handgun. In a civilized society people turn over the responsibility for self-protection to the state. This is part of the definition of a "developed society." It is curious that in the most developed of all societies, people are insisting on reclaiming that power.

I hope that during this session, the Conyers Subcommittee and the full Judiciary Committee will report out a bill which embodies the principle which I believe is essential and inevitable: an end to private ownership of handguns in America.

Sincerely,

ROBERT J. DI GRAZIA, *Police Commissioner.*

---

WESTPORT CONN., April 29, 1975.

HON. JOHN CONYERS, JR.,  
*Chairman, Crime Subcommittee, House Judiciary Committee, House Office Building, Washington, D.C.*

DEAR MR. CONYERS: We are writing this letter to express our support for passage of National Gun Legislation. It is our belief that current gun laws are overly permissive and have been the cause of many deaths and injuries that would not have occurred had the possession of small guns been outlawed previously.

The "Saturday Night Special" is one small hand gun in particular that should be banned as soon as possible. Its easy availability has sparked many crimes of violence in urban areas, particularly muggings and robberies which have frequently ended with serious injury to the victim. The destruction caused by this weapon is well documented.

The passage of this bill we hope will be rigorous and free of loopholes so the criminal cannot circumvent the law. If the bill passes and is an effective deterrent towards crime, this, hopefully, will encourage law-abiding citizens to turn in their hand guns.

Eliminating the possession of hand guns by lawful citizens should be another important consideration in the passage of this bill. Police Officers throughout the country will verify that citizens possessing guns are a danger both to themselves and their families and very seldom will a gun prevent serious crime from occurring.

We sincerely hope your committee will give careful consideration to all aspects of the gun control bill now under consideration. For if it fails, the crime rate will continue to rise to even more tragic levels.

Sincerely yours,

JACQUELINE P. HENEAGE, *First Selectman.*

---

NEW JERSEY STATE ASSOCIATION OF CHIEFS OF POLICE,  
March 14, 1975.

Representative JOHN CONYERS, JR.,  
*Chairman, Subcommittee on Crime, House Judiciary Committee, U.S. House of Representatives, Washington, D.C.*

DEAR REPRESENTATIVE CONYERS: Due to the increase in Crime and the shooting of many Police Officers, the New Jersey State Association of Chiefs of Police are appealing to you to implement a stronger Federal Control Law on Hand Guns.

Your consideration on the above matter, will be greatly appreciated. Thanking you, I remain,  
Yours truly,

FRANK S. BILOTTA, *Executive Secretary.*

---

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,  
*Trenton, March 6, 1975.*

Re: Saturday Night Specials.

Representative JOHN CONYERS, Jr.,  
*Chairman, House Judiciary Subcommittee, Rayburn House Office Building,  
Washington, D.C.*

DEAR CONGRESSMAN CONYERS: I am writing to express support for your attempts to initiate Federal Legislation to regulate and restrict the traffic in cheap hand guns from Southern States to Northern Cities.

The enactment of this legislation is vital, since it will help to reduce the number of gun related violent crimes, such as armed robbery, assault with a deadly weapon, and murder, which have been increasing in recent years especially throughout inner city Trenton and the inner cities of other large urban areas.  
Cordially,

ALBERT M. ROBINSON,  
*NAACP President, Trenton Branch.*

---

LITITZ CHURCH OF THE BRETHREN,  
*Lititz, Pa., May 1, 1975.*

Hon. PETER RODINO, Jr.,  
*House of Representatives,  
Washington, D.C.*

DEAR MR. RODINO: Please include me among the concerned and thoughtful United States citizens who strongly support the control or banning of hand guns. I trust that meaningful legislation will soon be passed.

Sincerely yours,

W. CLEMENS ROSENBERGER.

MURRAY CORSON,  
*New York, N.Y., March 10, 1975.*

Mr. JOHN CONYERS, Jr.,  
*House of Representatives,  
Washington, D.C.*

DEAR CONGRESSMAN: I hope, as Chairman of the committee that is looking into a mandatory law regarding the illegal possession of weapons, that you will be successful in your attempts to make a very, very strong law. However, I do not think we should have a law limited to hand guns or guns per se. I think we should have a weapons law making mandatory sentence for illegal possession of what should be defined as a weapon. Not only should this include all forms of guns, but such items as chains, brass knuckles, knives (which should be described in detail), acids and whatever items can be determined as a weapon.

The second approach should be a mandatory sentence, which no judge can change, such as a minimum five years for possession of a gun without a permit; if used in a hold-up ten years; if used in a hold-up and shooting is involved—20 years; and if death occurs as a result of the shooting—life. The same should apply to any other weapon.

We have found in this City that there are lenient judges that use their own discretion, and many young murderers are freed because of their age and only go out in the streets and do their act over again. I am glad to see that you, as well as many others, are beginning to battle the N.R.A. lobby, whose only interest is in the manufacture of these weapons rather than thinking of the safety of the American citizens.

I notice that despite the opposition of the Rockefeller Mandatory Narcotics Law in this State, the sale of narcotics seems to have diminished. I think the same thing will happen if we have a mandatory weapons law.

Regarding hunting rifles, since these are supposed to be used during the Hunting Season, which is very infrequent during the year, why can't we have these

rifles, after the permit is given, stored with the Police Department, without ammunition of course, and when the Hunting Season begins they can claim their rifles for that period and then return them. Of course, there would have to be a slight fee to cover the expense of handling and storage. When permits are issued, it should be on a very strict basis so that weapons will be given to the right people.

Recently in this City there was a voluntary request to hand in guns without being penalized. I believe you may have seen the statistics, which indicated a very small, insignificant fraction of weapons were turned in. Once again, it proves the need for a mandatory weapons law which should be all inclusive and should be adjusted as the need arises.

I wish you as Chairman, and all the members of your committee, great success in fighting hard to eliminate a cancer and blight on our Country. If successful perhaps people will breathe easier and feel free to come and go as they please.

Good luck!

Sincerely yours,

MURRAY CORSON.

---

C. C. HANCOCK MEMORIAL UNITED METHODIST CHURCH,  
*Springfield, Pa., April 15, 1975.*

Mr. JOHN CONYERS, Jr.,  
*Chairman, Subcommittee on Crime,*  
*House of Representatives*  
*Washington, D.C.*

DEAR MR. CONYERS: I am asking you to vote for H.R. 2313, introduced by Walter Fauntroy of the District of Columbia. This bill would make it illegal "To import, manufacture, sell, buy, transport, receive, transfer any handgun or handgun ammunition."

It seems to me that the way to reduce the mounting crime in our nation is to do something about the easy access to guns.

Sincerely,

PAUL M. HARRIS.

---

MAMARONECK, N.Y., *June 30, 1975.*

Congressman JOHN CONYERS, Jr.,  
*House Office Building, Washington, D.C.*

DEAR CONGRESSMAN CONYERS: Since you are Chairman of the House Subcommittee on Crime I am taking the liberty of sending you a copy of a letter I recently wrote President Ford on the subject of gun control.

Although my stepson survived being shot on April 20, his life more than figuratively ended that night. It is atrocious that the arms manufacturers, the powder makers, the fear merchants be allowed to profit from catastrophes such as this

Your determined effort to get federal legislation that will ban manufacture, distribution and sale of handguns except to peace officers and defense forces will be in the interests of the greatest part of the law abiding citizens of this country. Although I am reluctant to advocate mandatory sentences for anything, I do feel that such a provision should be part of any law relating to handgun use when such use results in irreparable harm to someone else.

Very truly yours,

LAWRENCE AUERRACH.

MAMARONECK, N.Y., *May 11, 1975.*

President GERALD FORD,  
*The White House,*  
*Washington, D.C.*

DEAR PRESIDENT FORD: Early in the morning of April 20, my 21 year old stepson, was shot. He is now almost totally paralyzed, and will probably remain so for the rest of his life. His "friend" who shot him had an illegal handgun, not a so called Saturday night special, but a Smith and Wesson .38.

I could go on for pages detailing the horror and pain of the last three weeks, but I doubt that my eloquence can bring home to you, or anyone, the real agony of my boy and the rest of our family. You have children about this age. Imagine the police at the door at 3 A.M.; think of your son saying to you, "Dad, I'm

so afraid that someone is just going to leave me on a street corner in the middle of a big city in a wheelchair with a cap in my lap, someday.”; try to conceive of Mrs. Ford's pain if she knew your son, bright, talented, active, would never walk again, would never play his guitar and music again, would never be able again to do the painting and drawing at which he was so accomplished. We have a younger son who was looking forward to going away to college in the fall. What of him? I have worked hard and almost continuously for 27 years. We were looking forward to be able to slack up a little in the next few years. What now? My stepson is 21. He has a lifetime of complete dependency, of no family life, of few friends, to look forward to. He is 21 years old, and in continuous pain.

Obviously I am not writing this letter to elicit sympathy. I am writing in hopes that somehow you, and others with the power to do something, will be moved to fight effectively to control the manufacture, and distribution of all handguns, and to increase substantially the penalties for those caught with them in their possession so there would be a much stronger deterrent than at present. The National Rifle Association has millions of dollars to protect its vested interest, and couldn't care less about the protection of the individual citizen. The president of Smith and Wesson isn't in the least concerned about the life of one 21 year old boy, the future of one American family, if it's going to affect the profits of his company. I beseech you, for your own sake, if not for the sake of hundreds of thousands of other potential victims, to take prompt vigorous action to prevent the manufacture of handguns and ammunition, except under the most stringent of controls.

I have for years heard the specious, self serving arguments about the constitutional rights to bear arms. Even the people who advance it must know how fallacious it is. It does not serve the common good to have handguns indiscriminately available. I have heard the ridiculous argument that more people are killed by autos than handguns. Aside from the obvious stupidity of such an argument, it is a fact of life that the auto is virtually an essential part of our existence today—how in heaven's name can this be said of a handgun?

As long as handguns can be manufactured and sold they will be subject to theft and illegal distribution. Licensing, therefore, is not an effective means of solving this problem. The only effective control is banning manufacture of both handguns and ammunition except for use by military and police officers, and making sure that such manufacture is as tightly guarded as is the manufacture of radioactive material. The production of vinyl chloride is halted because of apparent cancer connected deaths of a relatively few workers, but nothing is done about the manufacture of handguns and ammunition which result in the death and maiming of many, many more citizens. This growing epidemic of deaths and lives made barren, must be halted, just as any other public health hazard would be, and profits and economics of a few vocal, wealthy small arms manufacturers and pseudo "sportsmen", must give way to the general welfare.

A strong, committed fight by your staff and administration to control this problem will greatly benefit all the peaceful citizens of this country.

Very truly yours,

LAWRENCE AUERRACH.

NEWARK, N.J., March 8, 1975.

Representative PETER RODINO, Jr.,  
House of Representatives,  
Washington, D.C.

DEAR MR. RODINO: I am writing to strongly urge you to enter into legislation the repeal or at least altering of the 2nd Amendment. My rights and those of millions of Americans are being violated every second of every day as a result of this rather ambiguous amendment. "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed."

Too many people are being deprived of being free, free not to call Gerald Ford an idiot, but free to walk down a street with no fears and smile to passersby. By consistently defending the rights of those who wish to bear arms, the rights of tens of millions who want to be free are cast aside.

A couple of summers ago I delivered Parcel Post packages for the U.S. Mail and it was really pathetic to see many people in the state of siege, unwilling to answer their doors out of fear for their safety. When God said "Thou shalt not

kill," he made no qualifying remarks concerning U.S. citizens, therefore guns must be removed from our society today. The only purpose of a gun is to kill, I see no need for guns in mine or anyone's world.

It would take a courageous act to remove the weaponry from the people of our country, an act which would, (1) immediately halt manufacture of firearms, (2) subsequent collection of present day firearms, (3) eventual removal from society of all weaponry (a few sportsmen must suffer for the good of the whole). If you don't believe in the evil of guns, nor their disgusting sickening purpose, then: ban the bullet—bullets have no purpose but to kill. An immediate production halt on bullet manufacture must be legislated, bullets must be regulated and strictly controlled. It is easier to get a gun in Newark than it is to get firecrackers—which are illegal in the State and guns aren't.

Thank you,

ANGELO C. MORREY.

---

DEPARTMENT OF SOCIAL ACTION,  
DIOCESE OF PATERSON,  
Paterson, N.J., April 10, 1975.

Congressman JOHN CONYERS, Jr.,  
Chairman, House Judiciary Subcommittee on Crime, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CONYERS: As a member of the Roman Catholic diocese of Paterson, New Jersey, I am writing you to strongly urge your support of immediate and strict handgun legislation.

Many of our constituents feel that this action is needed to benefit our society by stopping the proliferation of handguns in this country.

I hope you will recognize the importance of this issue and take positive action on it immediately.

Sincerely,

(Rcv.) KEVIN DUNAGAN, S.J.

---

OLD BRIDGE, N.J., April 24, 1975.

DEAR CONGRESSMAN: It has been brought to my attention that you are involved with a committee now on gun control, and I feel the time has come for me to write and express my desire to win the fight for a strong and enforceable gun control law.

This society has far outgrown the need for guns. The right to have arms has outlived its usefulness and original purpose, and this violent society we live in has abused and misused this right. It is up to Congress to change this law.

How many more armed robberies, rapes, desperate or crazed shootings need there be before we realize that arming ourselves to protect ourselves from armed people, is only a violent cycle which will lead to more killing. A gun is a weapon, and a weapon's purpose is to harm or kill. Do we need this kind of a right?

I have heard the argument that it is unfair to take the guns away from "honest citizens" who don't use them to kill, but there is no way to be sure that everyone who has a gun is honest, sane, or even knows how to handle one. Just having them can turn into using them.

I am sure that a strong gun control would cut down on crime and save lives, so isn't it worth it?

By a strong gun control, I really mean the elimination of guns; closing down the factories that make guns and ammunition, and having a strong penalty for possession of them.

Here is a chance to pass laws that will benefit society and help start to make this country one of peace.

Can any argument for guns outweigh the lives we've lost in the past, or the saving of lives in the future?

Very truly yours,

Mrs. JANE NUGENT.

---

MATAWAN, N.J., June 10, 1975.

Hon. PETER J. RODINO, Jr.,  
Senate Office Building, Washington, D.C.

DEAR CONGRESSMAN RODINO: We are enclosing copy of a letter addressed to the Hon. Frank Thompson, Jr. dealing with gun control which is presently under

study by your sub-committee. Your kind cooperation in forwarding it to your committee for consideration would be very much appreciated.

Very truly yours,

WILLIAM D. WINSLOW.  
DONNA F. WINSLOW.

Enclosure.

MATAWAN, N.J., June 10, 1975.

HON. FRANK THOMPSON, JR.,  
Rayburn Office Building, Washington, D.C.

DEAR CONGRESSMAN THOMPSON: In response to the question concerning hand-gun sales, we would like to answer in more detail, and on a broader scope, than space permits on the questionnaire. As a preface let us state that we do not belong to the NRA or any other organization which lobbies against gun controls nor have we joined or supported any group or committee which favors greater regulation.

The complexity of this issue could easily allow for numerous pages of opinion and facts but in the interest of brevity we shall endeavor to convey our beliefs in a concise manner, as follows:

1. The sale of all firearms, whether handguns, rifles or shotguns should be limited to responsible, educated adults.

(a) In New Jersey the application for a "permit to purchase" or a "firearms identification card" is checked by both local and state authorities. This safeguards against the purchase of firearms by mentally unbalanced individuals, known criminals, alcoholics, drug addicts, or other such persons as may be mentally or physically unfit to own a gun.

(b) At the present time, however, there exists no way in which to determine a person's knowledge of firearms. Reasonable proficiency should be ensured by requiring all first-time applicants to take instruction in firearms use and safety. Such a course would not have to be either long or expensive. It could be supervised by local police or by recognized, licensed gun clubs. Its sole objective would be to promote safety of the gun owner and those he comes in contact with. It would not be a school for turning out expert marksmen.

2. Target shooting, hunting, skeet shooting and gun collecting provide enjoyment and recreation for many people. It is unfair to arbitrarily deny these privileges, whether by prohibition of hand-gun sales, confiscation of firearms, or storage of privately owned firearms by police authorities so that they may be admired (collections) or used (sport) only at prescribed, planned times.

3. Severe restriction of sales, confiscation, or any other requirements which have these as their objectives amount to one thing—Prohibition. This country has already experimented with a prohibition and found it created greater evils than the ones it was meant to eliminate. Rather than following this ominous path again, government should restrict its legislation to only two basic areas.

First, a program should be developed which will create both the opportunity and obligation for gun owners to be instructed in the safe handling, use and storage of firearms.

Second, *mandatory*, lengthy imprisonment should be the sentence for anyone found guilty of using a firearm in the commission of a crime.

By following these guidelines, legislators will ensure the greater safety of the public and at the same time not infringe upon the rights of those who wish to legally own guns—whether for sport, collection, or the protection of their families in these times of increased crime and reduced police services.

In conclusion, we request that after you have read this letter that you forward it to the House Sub-committee that is currently holding hearings on gun control.

Thank you for your consideration.

Very truly yours,

WILLIAM D. WINSLOW.  
DONNA F. WINSLOW.

---

NEW YORK STATE CONSERVATION COUNCIL, INC.,

July 8, 1975.

HON. JOHN CONYERS, JR.,  
Rayburn House Office Bldg.,  
Washington, D.C.

DEAR CONGRESSMAN CONYERS: The undersigned is the duly elected delegate of the Lewis County Federation of Sportsmens' Clubs and also, as indicated by the

letterhead, is a Regional Director of the New York State Conservation Council representing Herkimer, Lewis, Jefferson, Franklin and St. Lawrence Counties in the State of New York.

This letter is written on behalf of the organized sportsmen's groups in the above noted counties in New York State.

It is understood that you are currently accepting statements concerning firearms controls and registration in your capacity as Chairman of the Sub Committee on Crime of the Committee on the Judiciary.

It is the overwhelming opinion of the sportsmen in my area that there currently exists sufficient regulation of the ownership of firearms by private citizens. It is the considered opinion of the groups that I represent that rather than additional laws, we need better enforcement of existing laws, primarily by the Courts. It does no good for the police to "pick up" a violator when the Courts do not enforce the law because of "guilty plea" bargaining which is utilized in order to try to reduce the backlog of court cases.

It has been evident over the years that laws requiring the registration of firearms are obeyed only by law-abiding citizens and are constantly flouted by the criminal.

Once again, it is our recommendation that your Sub Committee concern itself with proper enforcement rather than attempting to design another registration law which will have no effect on the criminal abuse of firearms.

Sincerely yours,

JOHN SZIJARTO.

---

PORTLAND, MAINE, *May 16, 1975.*

Representative JOHN CONYERS, JR.,  
U.S. Congress,  
Washington, D.C.

DEAR CONGRESSMAN: I am a junior member of the National Rifle Association. I joined because I'm against further gun control laws, because I feel that even if there were stricter gun controls the criminals would still be able to get guns, at the expense of law-abiding citizens, on the black market, for example: Despite very strict gun controls there are an estimated 8 to 10 million hunting rifles hidden away in private hands. And there is a black market dealing in all kinds of firearms, in the Soviet Union.

Secondly there are many gun collectors who own guns for pleasure shooting and display. To these collectors many guns are pieces of art. Many have inlaid gold or silver and fancy engraving.

It is wrong to take people's guns away, they are used for protection of private property and the second amendment guarantees the right to keep and bear arms, so that a militia may be ready at all times. Many of the gun controls would be direct violations of the constitution. If some of these laws had been in effect 200 years ago the "shot heard around the world" would not even have been fired and we would probably still be under British rule.

I share this view with many other law-abiding Americans, who also don't believe in stricter gun controls. If the laws we have now would be enforced we wouldn't need new ones.

Sincerely Yours,

MICHELLE A. COTÉ.

---

LAKE ARIEL, PA., *March 10, 1975.*

GENTLEMEN: Mr. Chairman, Please read this to your committee. Again I write to you in the name of sanity, and safety to ourselves and our country. Please, please do not listen to all the bleeding hearts, and liberals who are in favor of passing these stupid gun laws.

Guns have been here with our forefathers, and our fathers, and us. They were for protection, and for pleasure, then as well as now.

Any man who was in service knows how important a gun is to him, and his family, and the protection of our country. The proper use of guns should be explained and taught to all young people in our schools, as well as by competent individuals.

I have instructed many young people, as well as my own children over the years in the use of hand guns. I am proud to say that not one have had any bad experiences, in fact, many of their children have been taught by me in the proper use of hand guns, and the joy that they bring to them is very rewarding.

Gentlemen, again I plead with you, please do not pass these stupid gun laws. The whole future of our country depends on your voting NO to these proposed laws. Think of your grandchildren living under the iron hand of communism. This is sure to happen, as it did in Europe. No one can fight tanks with rocks and sticks.

Gentlemen, please again do not vote for these proposed laws.

Thank you.

Sincerely,

LESTER ROGERS.

---

BOWCRAFT SPORT SHOP,  
Scotch Plains, N.J., April 5, 1975.

Rep. PETER RODINO, Jr.,  
House of Representatives,  
Washington, D.C.

DEAR CONGRESSMAN: We implore you to do your utmost to defeat H.R. 1087 and all of the twenty Handgun Confiscation bills. We feel certain that you realize that any bills passed will not keep those who would be criminals from retaining and obtaining firearms as they need them. We are sure that you are aware of the high crime rate in New York and the ineffective Sullivan Law that has existed there as far back as I can remember.

As far as the claim of accidental deaths by guns, this too is a farce as the number is well down on the list of causes of such deaths, with alcohol influenced driving responsible for more than 15 times that caused by guns. There has been no move to stop this destruction of human life by severe penalties for the offenders.

We feel certain that you must know that the C.F.R. plans to merge our country with the U.S.S.R. first requires that the constitutional rights of our people to own and bear arms be abolished. We love this Country, as you do with the God given rights of freedom as individuals as established in our Constitution by our founding fathers. Please help us to keep it that way.

Many thanks.

TED AND ISABEL MILLER.

---

LANCASTER, PA., April 5, 1975.

HON. JOHN CONYERS, Jr.,  
House of Representatives,  
Washington, D.C.

DEAR MR. CONYERS: As a member of the House Subcommittee on Crime, I am writing to express my views on gun control.

I will not bother to quote statistics. You probably have more in front of you than even a computer could digest. Gun control laws are proposed to control three basic areas: Crime, accidental shootings and to calm those suffering from hoplophobia—these people generally align themselves with the first two so I won't even consider that category.

Nowhere in the entire world can you find evidence of any gun control law, no matter how strict, reducing crime. That should be enough to stop any gun control law right there, but the truth of that statement gets clouded by comparing statistics for our nation to those of others. Foreign statistics must be ruled out from the onset—the culture differences between nations are too great. Gun control laws aimed at crime effect only the law-abiding citizens—never the criminal. To affect the criminal, a law must be first aimed at him and be of a deterrent nature. Gun laws don't affect him. He will ignore them the same way he does any other law that stands in his way! Jail is a deterrent but look at your statistics on arrests vs. convictions.

Accidental shootings are tragic. Any accident is tragic. Yet, there are surprisingly few when you consider the number of firearms in the United States. In fact, the percentage of involvement does not justify any consideration. There will always be accidents with firearms, but the rate could be reduced if the Federal Government would spend one-fourth of the amount it spends on aircraft accident prevention. Less people die of air accidents than firearms.

May I recommend the following be incorporated into any bill your Committee drafts.

Gun Control: A ban on any and all forms of gun control, to include licensing (except for carrying a concealed weapon) registration, permits, etc. Including control thru quality. A three-working day delay between purchase and delivery

of any firearm. A form, similar to that presently required by the Federal Gun Control Act, 1968, sent to the local law enforcement agency for approval of sale. Denial may only be on the grounds laid out in FGCA 68 and must be stated to the purchaser. Purchaser's right to an appeal hearing board. The board should be bound by Federal guidelines and consist of unbiased members (not connected to law enforcement)—city officials would be permitted. No record of the sale, other than normal sales records may be kept. Resale by private individual must also follow this law, the burden for conforming to Federal guidelines falling on the seller.

Ban on any and all laws regarding transportation of firearms in public or private transportation. Guidelines should provide for transportation to a place of firing that will not place undue hardship on the owner. Some current laws require the gun to be unloaded, disassembled, locked in a box, locked in the trunk of an auto. I own a Jeep, I don't have a trunk. I cannot legally transport my pistol to the range to practice. This law should require that all states be given one year to conform their laws to the Federal law; in any case, no state or local law or ordinance may exceed the provisions of the Federal law.

The purpose of the aforementioned law is to *prevent gun control*. Now to combat crime. Pass a law requiring all states to conform, making a mandatory jail term of two years for possession of a firearm during the commission of any crime and five years for the use of a firearm in the commission of any crime. Sentence to be mandatory, with no provision for parole or probation and must be cumulative, cannot run concurrently with other sentences. This law will put a dent in crime that no one would have ever thought possible, yet in no way does it burden or harass the gun owner or any other law-abiding citizen. It only affects the criminal.

For firearms safety, what has the Government done? Nothing—absolutely nothing! The NRA and local sportsman clubs are the only ones who spend a penny on firearms safety. The solution is to educate the public on the safety required for firearms. It should cost little money if you use what you have. No new bureau need be created. The Director of Civilian Marksmanship should coordinate the activities. The FBI and BATF can put on demonstrations at schools and clubs. Urge the major television networks to donate "spots" for messages, even produce their own specials on firearms safety. I'm sure a little thought can produce a simple program to reduce the accidents that occur with firearms.

Sincerely,

JAMES E. HARDIN.

---

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, D.C., March 28, 1975.

Hon. JOHN CONYERS, Jr.,  
Subcommittee on Crime,  
House Judiciary Committee,  
Rayburn Building, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of a letter I have received from one of my constituents, Mr. Alan C. Gates, 5051 Flourtown Road, Lafayette Hill, Pennsylvania 19444.

As you will note, Mr. Gates is opposed to confiscatory gun control legislation. I would appreciate it if his letter could be brought to the attention of the other members of the Subcommittee on Crime and, if possible, included in the hearing record on gun control.

With all best wishes,

Cordially,

LAWRENCE COUGHLIN.

Enclosure.

---

LAFAYETTE HILL, PA., February 26, 1975.

Hon. JOHN CONYERS, Jr.,  
Subcommittee on Crime, House Judiciary Committee,  
Rayburn Building, Washington, D.C.

DEAR SIR: I am writing this after spending the entire afternoon telephoning the offices of several senators, a congressman and the House Judiciary Committee. My calls were in regard to the several bills, now before the House

Judiciary and subcommittee on crime, concerning handgun control. I was left with a feeling of helplessness and discouragement. My feeling of helplessness stems from being told that 535 men and women (senators and congressmen) are deciding on an issue that will affect me personally; and apparently there is nothing I can do to affect the outcome. I am very upset over this matter and would enjoy speaking to any of our elected officials who have an active interest in this bill; apparently this is not easily done.

I find it difficult to believe that my government is considering confiscation of private property of law-abiding citizens. I would like to hear the reasoning of each proponent of this bill and write (or preferably call) those individuals about my personal refutations and arguments; but this also seems impossible. Am I to sit idly by and just wait to see what the government decides is safe for me to do or what is safe for me to own?

It appears to me that we have reached a point where the public is considered too dangerous to allow to run loose. The House and Senate are telling us that they have to take steps to see that we don't hurt ourselves. Has anyone considered just which weapons it will be feasible to confiscate? I submit that the only weapons the government can locate are the registered weapons; and by virtue of that registration, the people who own them have proven to be substantially law-abiding. They have complied with the laws of registration and have even been checked for police records. I do not wish to ramble on and on with cliches; I know you have heard these many times before. As a concerned citizen I was eager to let you know that I have never felt more strongly opposed to a single idea. In my opinion, the people of this country would commit a serious error in allowing such a bill to ever take form.

Yours truly,

ALAN C. GATES.

---

SCHENECTADY, N.Y., May 5, 1975.

DEAR CONGRESSMAN CONYERS: As chairman of the House Subcommittee on Crime I realize that you hold both an important and influential position in Congress. Therefore as a law abiding and concerned citizen I would like to ask your support of H.R. bill 1077 and also of Senate bills 141 and 142. I feel that these are fine bills and are in line with the keeping of our constitutional right to keep and bear arms. I feel that there are more than enough laws and regulations on the books now and to add more would just add more bureaucracy and burdens on the law abiding gun owners of this country. I think the main problem is too liberal judges who most of the time refuse to prosecute criminals on related firearms violations. If they did so I am sure more criminals would be more hesitant about using firearms in the commission of crimes.

As I have already said, it is our constitutional right to keep and bear arms and if many of our members of Congress who are obsessed with the idea of abolishing this right are successful, I will then shudder to think what will be ahead of us. Socialism will almost then be a certainty as that is the first rule of Socialism, disarm the populace. As a freedom-loving American I just don't think that I could live under a Socialistic government and I'm sure that you couldn't either. Some may say that this theory is just nonsense but I do not agree. All we have to do is look at Europe and Asia and see what has happened to them since they've been disarmed or have had total registration of all firearms. It wasn't long before some anti-democratic faction has taken over and the people were defenseless to stop them. I think our founding fathers had very great intelligence and foresight by putting in the 2nd Amendment to the Constitution and if we're to do away with this Amendment it will only show our contempt for them and also our ineptness.

I am enclosing a copy of a letter and a petition containing 384 names which I sent to the Consumer Products Safety Commission concerning the proposed ban on handgun ammunition. I am sure that these people also share my views as many told me that they thought we have more than enough gun laws and many also told me that they signed the petition not as gun owners but for the simple reason that they are sick of the government telling people what they can and can't do in just about every conceivable matter.

I would like to add that I am not a handgun owner as New York State gun laws are very strict and it's almost impossible to obtain a pistol permit, especially in Albany County where I reside. But yet the crime rate in New York is very high. Doesn't that say something in itself about strict gun laws?

I thank you for your attention in this matter and I do hope it will help you to make a decision on this important matter. Keep up the good work.

Sincerely yours,

ERNEST MANN.

NEWARK, OHIO, April 10, 1975.

Hon. JOHN CONYERS, Jr.,  
Representative—Michigan,  
House Office Building,  
Washington, D.C.

DEAR SIR: The purported purpose of so-called Gun Control (Fire Arms Confiscation) is to reduce the incidence of crime and death by making such weapons unavailable to the criminal, the hot-tempered, and the careless. Yet any cool appraisal of the facts will show that guns are such a small part of the total picture as to be of very little if any significance when compared to the overall objections to such laws. Let us examine some of these objections. We will include registration as an integral part of the confiscation picture as most advocates of registration have as their ultimate goal the complete disarming of all law abiding citizens.

The futility of confiscation is clearly demonstrated by the construction of a completely workable firearm and the matching ammunition, by a convict while within the confines of a penal institution. In as much as we will not be able to eliminate the manufacture and sale of arms throughout the remainder of the world we will again be setting the stage for another "Noble Experiment."

Even were there no ulterior motives to registration there are many practical objections to registration. Probably the greatest one is that registration has never helped in any way toward the solution of a crime other than theft and is of doubtful value there. Another is the cost to the taxpayer for the personnel and paper work involved. Again remember how captured registration lists were used by the invading armies of WWII in order to disarm the local inhabitants. We spent millions of dollars and countless lives replacing these in the hands of the Partisans. Who would supply us in similar circumstances? Not only the invaders but the local subversives used these lists. Remember also how Britain, who had and did again disarm her citizens, begged for gifts of our civilian and sporting arms so that she could arm the local population against the expected invasion.

It is expected and would be the case that the ATFD would have charge of the lists and administer the laws on a National Level. But let us examine this for a moment. Already the ATFD has sold so-called mailing lists of all registered dealers and dealer-collectors to whom so ever wished to buy. WHO wished to buy??? What better way to pinpoint targets for theft? A bonus in addition to the guns would also be the dealers records of local sales. A plus for the disarm-all-law-abiding-citizens group was also the clouds placed on private security of privately held arms. This act was perpetrated while Ramsey Clark was Attorney General of the United States and at least nominally boss of the ATFD, altho indirectly. The conflicting, vacillating, and in disregard of Legislative Intent interpretations which the ATFD has practiced in the past is not a good recommendation for that body as administrator of anything.

Probably the most significant point in the whole array of arguments and objections to the anti-firearms laws as pertain to their purported purpose is this: Dr. Michael M. Baden gives us a report which the so-called Crime Commissions appear to ignore. (Do not take this as evidence that I am a Prohibitionist for I emphatically am not.) Dr. Baden, deputy medical examiner for New York City, tells us that in each and every category of violent death, regardless of the mechanical means, alcohol is involved in over fifty percent of the cases. One of our most fanatical anti-firearms advocates has proven that all that is necessary is a little (?) alcohol, a little gasoline, and a little tidewater. Dr. Baden's contention is supported by the New York City Coroner's Office and by an independent study at Columbia University. We have long been told by Safety Statisticians that this is true with reference to the upwards of fifty thousand annual automobile deaths. I believe the figure quoted by the Confiscation advocates for firearms deaths is in the neighborhood of seven thousand including self-defense, accidental, spur-of-the-moment, premeditated, and law enforcement.

Does it not then seem that anyone claiming, *claiming*, crime reduction and the saving of lives as his motive, must also amend his bill to include the elimination of alcohol? We know that such a prohibition would be futile as would the pro-

hibition of firearms. Yet for that individual not to so do would demonstrate a complete lack of moral integrity and infer serious doubt as to the purity of his motive. Even a random study of history shows that the disarm-all-law-abiding-citizens syndrome has been prompted by either stupidity or cupidity.

"Banning the Bullet" is just an underhanded way of attempting to circumvent the Constitution and the Right of the People which is a basic right in spite of any Constitutional guarantee.

What we do need is some control for soft-headed-judges and win-at-any-price lawyers who use the courts strictly for social-experiment, self-aggrandizement, and non-legislated rules and regulations. Any deterrent effect which our police forces might have is being steadily undermined by such actions. There are presently more than enough laws in this area if they were enforced impartially and the penalty applied.

Yours truly,

EDWIN L. MILAM.

MORRISTOWN, N.J., March 26, 1975.

JOHN CONYERS, Jr.,

*Chairman, Judiciary Subcommittee No. 6, House of Representatives, Washington, D.C.*

SIR: Your committee will shortly be hearing testimony regarding potential legislation concerning handguns. Reports in the media indicate that many committee members, yourself included, have a preconceived notion that if all handguns are banned then their use in violent crimes will cease. I believe that this reasoning is faulty and that such a ban will result only in the deprivation of the rights of those with no criminal intent at all.

Many states in the Union have strict licensing procedures regarding the purchasing and use of handguns. My native state of New Jersey has among the strictest but they are to no avail in stopping a determined criminal from obtaining a weapon for illegal purposes. Neither, in my opinion, would a total ban on handgun ownership. The only people affected by such a law would be the honest, law abiding, hunters, target shooters and sportsmen who would be forced to give up their private property for government confiscation. Criminals, on the other hand would have an ample supply of weapons, either manufactured clandestinely in this country or smuggled in from abroad. We face the same problem today with respect to narcotics which are illegal but readily obtainable in any city. Almost immediately a black market operation would spring up, run by organized crime, ready to provide illegal weapons to whoever wanted them. This is exactly what happened in the country during prohibition when organized crime satisfied a market created for them by Congress. Obviously, the law would have no control over such a situation. At that point the reaction would probably be to stiffen penalties for illegal possession or use of a handgun. I feel that as a practical matter these harsher penalties, should be imposed now rather than a ban on the instrument. This approach is in line with the spirit of our criminal law which has always held that the individual is responsible for his deeds and punishable for his misdeed. A blanket ban on handguns would take the opposite view by punishing one group of citizens for the criminal action of another group.

Your committee and the whole Congress should consider this very carefully before recommending, such a tyrannical measure. The only acceptable solution to this problem is to impose stiff mandatory sentences for the illegal possession or use of a handgun. The media is full of reports detailing how criminals are apprehended and then let off with light sentences as a result of plea bargaining. They return to the streets and terrorize the general public with relative impunity.

The issue of "gun control" is a phony one, foisted on us by the media and many politicians in this country who refuse to face the real issue of "criminal control." They prefer to restrict the instrument rather than the individuals who misuse it. Unfortunately, in the process they also propose to deprive the wrong group of their rights.

WILLIAM R. LUKASEYK.

CALDWELL, N.J., April 11, 1975.

Hon. PETER W. RONINO, Jr.,

*Chairman, House Judiciary Committee,  
House of Representatives, Washington, D.C.*

SIR: This letter is sent to convey my deep concern over the strong anti-gun legislation being proposed for crime control. I believe the right to bear arms is guaranteed every law-abiding citizen under the Second Amendment. Certainly

the rights to self-defense and group preservation are basic to English common law. The handgun has been found most practical for this purpose by both the military and law-enforcement agencies, and can serve the private citizen with the same facility.

Here in New Jersey, I feel very real threats to the private ownership of firearms, namely:

1. Local police inform me that no Firearms I.D. applications have been returned by the State since August '74. Trenton has processed no Pistol Purchase Permits either.

2. Our Attorney General apparently dictates gun control (for black powder pistols) even though the Superior Court and New Jersey Statutes rule otherwise.

3. Handgun ownership has been "registered" here for many years—way before GCA 68. Local and State Police have serial numbers, fingerprints and security checks behind every individual transaction. Only oppressive licensing or seizure would be more severe.

4. That Senators Case and Williams support handgun confiscation is a matter of record.

5. I believe that erosion of freedom by "no-knock" law, overwhelming anti-gun propaganda by the news media and "big-city" gun round-ups are ill-founded hysteria which clouds a basic failure by governmental bodies to deal with crime.

I cannot conceive how disarming the private citizen will control crime in America. I want anyone—law officer or criminal—who considers violent entry of my home to fear he may be shot. I pray for reason and sound judgment in the difficult task before the Subcommittee on Crime hearings and subsequent proposals for legislation.

Sincerely,

OTTO H. SCHADE, Jr.

HIGHLAND PARK, N.J., July 26, 1975.

HON. JOHN CONYERS, Jr.,  
House Judiciary Subcommittee on Crime,  
U.S. Congress,  
Washington, D.C.

SIR: I cannot understand why members of the State and Federal Government waste their time and millions of dollars of taxpayers money on hearing after hearing on gun control. Then all sorts of inadequate legislation is passed, true issues are avoided, and more laws are passed to aggravate the ordinary citizen.

One of the major problems in this country today is that there are too many laws controlling the ordinary citizen, too many crooked politicians, lawyers, judges, and other office holders who feed off the carcasses of American Citizens and almost all of them using false, incomplete and self serving statistics for their own purposes. In our present "Big Brother" situation ordinary citizens are treated like criminals, and criminals are permitted to walk away from crime scott free because of ineffective judges whose only claim to fame is political connections, or the crimes were profitable enough for the criminal to buy his way out of jail.

Why isn't legislation passed that any crime, committed with any weapon, against the person of another, for gain or profit, carries a mandatory ten year sentence separate from the penalty of the crime itself. Further, the sentence should not run concurrent with any other sentence, and there should be no time off allowed for good behavior. At least this would get to the heart of the problem which is the criminal use of all or any weapon. Also, reduce the age of criminal responsibility to the age of 14, with a mandatory psychiatric confinement that is thorough and complete. A 14 year old worldly wise enough to use a weapon for gain or profit needs psychiatric care and some confinement.

I am enclosing a copy of the "New York" magazine dated August 28, 1972 with it's cover screaming "58 Killings In One Week." Of the reported 58 killings, 25 are with a gun, but 26 are with a knife, 1 with a club, 1 with a blunt instrument, and 5 physical assaults. Even these figures are incomplete. The hundreds of robberies and muggings and burglaries committed daily with a weapon, usually other than a gun, are reported under these categories rather than a weapons category, which results in false statistics.

We don't need more gun control, what we need is "Criminal Control." Perhaps this category should include politician control.

Yours very truly,

JOHN T. SANDONATO.

WILDERNESS FOR WILDLIFE,  
Waterfall, Pa., February 18, 1975.

Representative PETER RODINO, Jr.  
House Judiciary Committee,  
Washington, D.C.

DEAR MR. RODINO: No more anti-gun laws, please! We are for the second amendment.

We are for citizens owning and using guns for lawful purpose.

We are for law enforcement against criminals. Please, no more anti-gun laws.  
Respectfully,

CHRIS MORGAN HYLE,  
Director.

EUICK JOHNS RAUL,  
Assistant Director.

\_\_\_\_\_  
Director.

JOHN A. RUSSEL,

BRONX, N.Y., July 26, 1975.

SUBCOMMITTEE ON CRIME AND ARMS CONTROL,  
House of Representatives,  
Washington, D.C.

I have just read that Police Commissioner Codd and Mayor Beame of New York City testified before your committee. Let me tell you some of the facts about guns and crime in New York State.

For over 40 years the police commissioners of New York State misadministered the state law (Section 400.00 of the State Penal Code) and denied honest citizens possession of pistols in their homes and businesses. Because of that denial of a basic right to defend one's life and property, several million unregistered pistols have entered the state, and many are now circulating in criminal hands. I repeat that the problem was created by the very police commissioners. However that has now been corrected because they must now issue permits to householders and business owners for on-premises purposes.

Now as to the facts about crime and the availability of pistols. *In those 39 states which have the most liberal gun laws, the crime rates are lowest.* There is no correlation between crime and availability of pistols. If any conclusion is to be drawn from the statistics, it is that there is negative correlation between gun availability and crime. But that is not true either. There just is no relation between the two. Because Florida has the most old people per capita doesn't mean that people live longer in Florida. The old people go there to live out their last years. Guns came to New York State because they couldn't be bought here by anyone, honest or criminal. *The guns are here because the crime is here, not the reverse.*

Federal gun control legislation should be limited to registering the sales of pistols with sales of large numbers reported to the Treasury Department. Acceptable identification should be shown when purchases are made. Pistol licensing is a widely accepted idea, but since each state, each city and each region within a city is so different, no one standard for carrying arms should be set. Parts of some cities today are so dangerous that you have to carry a pistol all the time, legally or illegally.

I hope that you will not pass legislation that will limit honest citizens the right to defend their lives and property.

Thank you very much.

\_\_\_\_\_  
HAL CONDOZO.

NEW YORK, March 12, 1975.

Hon. JOHN CONYERS, Jr.,  
U.S. House of Representatives,  
Washington, D.C.

DEAR SIR: I am writing as a citizen and a responsible business man, joined by my wife, to express our mutual opposition to the misguided effort being made by certain elements in Congress and the media to abrogate our rights under the second amendment. This effort is based upon the proven fallacy that gun control means crime control. I am sure that many of the people involved in this concerted effort are well meaning people. Unfortunately, a great deal of harm is done by ill informed but well meaning people who judge too quickly on limited information and currently popular "media" prescribed "positions on issues".

I am **opposed** to any legislation which would restrict the law abiding citizens' right to own handguns in compliance with already existing laws, for the following reasons:

1. Such legislation would nullify the 2nd amendment, without amending the Constitution in the prescribed lawful manner. Thus, such legislation is ground work which must lead to the piecemeal deterioration of the entire Constitution and our form of Government and way of life. Although it is, for the most part, disclaimed at the present time the drive against handguns is the first step in a drive against long guns as well. "Anti-gun" spokesman Murphy, the former NYC Police Commissioner has arrogantly stated that "the citizen should be disarmed" and only police and military should be armed. This is Police State thinking and has no place among us.

2. Criminals are not affected by anti-gun laws and therefore crime is not abated by these laws, except that a defenseless population makes criminal activities easier to pursue. This sort of legislation will not work anymore than prohibition worked or laws against the smuggling and use of narcotics worked. In fact, on the contrary, stealing guns from armories will become more widespread and so will smuggling and illicit manufacture, as such legislation gives impetus to another profitable criminal activity.

3. Handguns are inanimate objects and comprise a fraction of the inanimate objects used in crimes. There seems to be no objection on the part of the "Anti-gunners" to knives, hammers, etc., used in crimes. In fact, those who expound "Gun Control" seem to be the ones resisting imposition of mandatory penalties for the use, not only of guns, but knives etc., in the commission of crimes. Is the omission of crime the real motive of the exponents of "Gun Control"? New York City is failing apart to a great degree because of rampant crime, most of it by repeaters, encouraged by the lenience and negligence of the City Government, the Courts and the "social engineers" in the media. Crime will diminish only with the assurance of certain arrest, trial and maximum sentences. These diminish the profit involved in crime. Paradoxically, the "pro-gunners" have been insisting for years on the imposition of harsh mandatory penalties for the use of guns in crime. The "Anti-gunners" never heard us. Emphasis must shift from protection and rehabilitation of criminals to the real function of law and courts, which is protection of the innocent citizen and his right to live unmolested.

4. The cost of confiscation and or registration by the Federal Government would be enormous; would give rise to a new bureaucracy which we do not need and can ill afford and which would fail before it started, very simply because criminals would not comply.

5. There is a vast body of sportsmen and homeowners and farmers and businessmen who own and use handguns, legitimately, for sport and protection of life and property. These law abiding people would be adversely affected and in many instances placed in jeopardy by the onerous and misplaced burden such legislation would impose, solely on us, the law abiding citizenry. There are many industries, jobs and businesses dependent upon and patronized by sportsmen which would be hurt or eliminated by this kind of legislation. Businessmen who handle cash and valuables would be deprived of the means of self-defense and so would many householders. Self-defense should still be a basic right of the citizen and not one available only to those endowed with a powerful physique and physical prowess.

I become suspicious of those (serving me?) in Government, who in the light of the foregoing, which they know to be true, "do not trust me" and seek to inflict their political and social beliefs on me and control me.

The following is excerpted from the March 5, 1975 Wall Street Journal:

"Use of the death penalty should be left up to the states to decide, the Justice Department told the Supreme Court. In a brief submitted involving a North Carolina case to be argued in the spring, the department said capital punishment deters crime, reinforces social values and "incapacitates dangerous offenders."

This is what the public is screaming for and this is what is being effectively blocked by much of the "Media" and many in Congress and government despite the public.

Respectfully,

CHARLES SALEHAUER,  
CYNTHIA SALEHAUER.

BROOKLYN, N.Y., April 18, 1975.

HON. JOHN CONYERS, JR.,  
*Chairman, Crime Subcommittee of the House Judiciary Committee,  
House of Representatives, Washington, D.C.*

DEAR CONGRESSMAN CONYERS: About ten days ago a friend—an elderly widow—returned to her apartment in the late afternoon. Less than two hours later, her body was found on the floor of her ransacked apartment, bound and strangled.

This is the risk faced by hundreds of thousands of people in this community—a fact repeatedly reported on the radio and by the press. As shown by the murder of my friend, no deadly weapon was or is usually involved. Few of us, faced by criminal intruders would have the strength necessary to protect himself or his family. I have been informed by the police that no lock or similar device can permanently prevent the entry of an intruder into one's home. It is also a fact—repeatedly shown—that the police cannot prevent the frequent occurrence of such events in this crime-ridden city.

Under these circumstances the possession of a pistol or revolver is the only means available to a law-abiding citizen to protect himself and his family from criminal intruders. Rifles or shotguns are too unwieldy for effective use at close or point-blank range.

Clearly, under these conditions the possession of a hand-gun is both a legal right and an actual necessity. The safety and protection of its citizens is not being effectively provided by the law, or those who enforce it. To leave citizens defenseless was not intended by the Constitution and is not in the public interest.

It is submitted that the need of the citizens for armed self-protection is clear beyond any dispute, and that it should be recognized and maintained inviolate by the Committee and by the Congress.

Very sincerely yours,

GEORGE M. BILLINGS.



**BD-3.6 3**

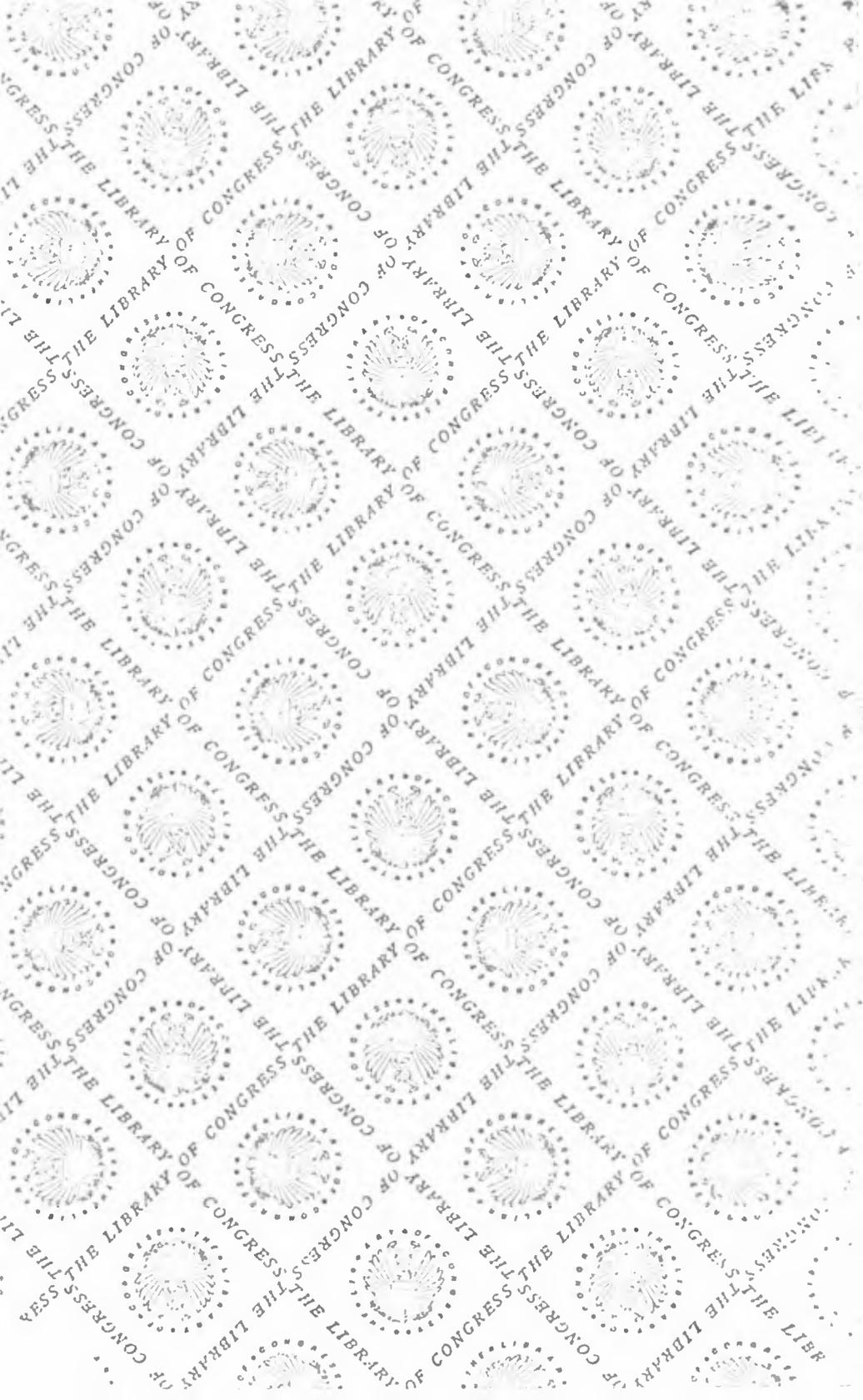














OCT 7 5

DOBBS BROTHERS LIBRARY BINDING CO.

ST. AUGUSTINE, FLORIDA

LIBRARY OF CONGRESS



0 018 385 417 3

