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Brady DV [Domestic Violence] Extension

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06/10/97

Capital Notebook

Gun Ban Exemption Ricochets in the Struggle

By Guy Gugliotta

Washington Post Staff Writer

The Barr amendment lies in the House Judiciary subcommittee on crime like road kill on a sunny day. Maybe someone should do something about it. On the other hand, maybe it will just go away if it stays there long enough.

Rep. Robert L. Barr Jr. (R-Ga.), author of this malodorous legislation, wants to repair the damage from last year's Domestic Violence Offender Gun Ban, which prohibits anyone convicted of misdemeanor domestic violence from purchasing or owning a gun.

In September, someone in the dark of night managed to strengthen the ban by excising the historic exemption for police and other law officers. In other words, cops with a distant history of child or spouse abuse can also lose their guns.

Today Barr, a big law-and-order guy and former prosecutor, wants to put the exemption back in by amending the ban to exempt *everyone*, including cops, convicted of abuse prior to Sept. 30, 1996, the date the ban became law.

Given his views, Barr's move appears to make sense, except domestic violence activists, police and the Democrats who wrote the bill insist it was Barr himself who first proposed eliminating the exemption.

"I wasn't instrumental in anything," Barr said, but acknowledged that he had "no problem taking the exemption out." Law officers should be subject to the laws they enforce, he said, so the fix is an exemption for all. Otherwise the ban would be applied retroactively, which is unconstitutional, he added.

Barr tried but failed in May to hook his amendment to another piece of legislation, so he has taken it back to the subcommittee on crime in hopes of bringing it to the floor on its own.

Good luck. Potential co-sponsors will wonder how arguments about constitutionality will compete with a banner on the Capitol steps reading: "Congress wants to put guns back in the hands of wife-beaters and child-abusers!" Anyway, it turns out that no one bows—or at least will admit bowing—how the gun ban affair actually inspired. The only thing they agree on is that it included the "official use exemption," when it went to conferees touting the gigantic Omnibus

Consolidated Appropriations Act at the end of September last year.

"I wanted to attach it to anything that would bring it through," said the ban's author, Sen. Frank R. Lautenberg (D-N.J.). So he pinned it to the Appropriations Act, the must-pass bill to fund the government for fiscal 1997.

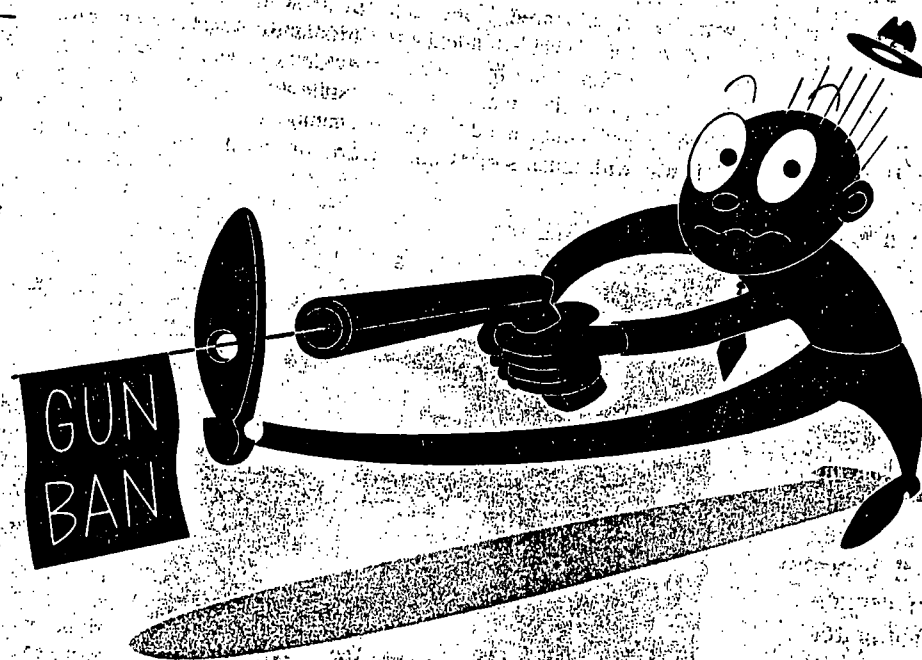
Virtually all lawmakers practice this tactic, known as "the Christmas Tree." Every big bill conceals little gifts, so who's going to shut down the federal government just to stop Lautenberg?

No one. But enemies of the ban—lawmakers who oppose any curbs on guns—offered many "proposals for change." One of these, Lautenberg and Barr agreed, was to get rid of the law enforcement exemption—an automatic feature of every gun law passed in the last 30 years.

"It was mischievous as all get-out," Lautenberg said. His theory is that Barr, one of the ban's leading opponents, eliminated the exemption as a "poison pill" that would make the ban so unpalatable that he could kill it altogether.

Not so, said Barr. "A number of members had come to me and said, 'This thing is being rammed through. Isn't there anything we can do to make it more reasonable?' Getting rid of the exemption was one idea."

Barr wasn't in the conference, an



BY GUS D'ANGELO FOR THE WASHINGTON POST

enormous, exhausting affair that ran through Friday night and into Saturday morning Sept. 28. Lautenberg was. He sat up late fending off attacks on the ban, then left.

"It happened during sleep time," said Lautenberg, who awakened to discover he had a far stronger law. Not surprisingly, he has decided to embrace it and hold the line against Barr's latest attacks.

When domestic violence activists awakened, they were pleasantly amazed: "We had supported the basic legislation," said Donna Edwards, executive director of the National Network to End Domestic Violence. "We didn't know the change was going to happen, but we certainly noticed when it did."

Some police groups, however, felt betrayed. Robert Scully, executive director of the National Association of Police Organizations, said many in the ranks thought Barr was socking it to them as "payback" for their support of Clinton administration gun control measures. "We were ambushed," he said.

Barr is confident that the subcommittee on crime will pass his amendment and send it to the House floor. Lautenberg thinks not: "He tried to kill the whole bill," Lautenberg said. "Instead it came around to kick him in the pants."



U. S. Department of Justice

Washington, D.C. 20530

FAX NOTE

TO: Rahm Emanuel
Dennis Burke
Christa Robinson

FROM: Nicholas M. Gess, Director
Office of Intergovernmental Affairs
Department of Justice
(202) 514-3465 (office)
(202) 514-2504 (facsimile)

SUBJECT: Lautenberg

PAGES: 1 (including this page)

MESSAGE: Rahm, Dennis, Christa - Attached is from our Leg. staff person handling domestic violence. Update on the Lautenberg situation. Looks to me as though cops and women's groups are more polarized. Nick

Date: Thursday, February 27, 1997 4:10 pm
From: SMO02(SMITHPAM)
Subject: Lautenberg hrg

Ann & Nick: The hearing on the Barr and Stupak amendments to Lautenberg is set for next Wed (don't know what time yet). David Loesch of the FBI's Criminal Justice Information Services Division will be testifying. (Comm staff said they also planned to invite Treasury, but I haven't connected with anyone over there to know if they've been invited/have accepted). I know FBI testimony has been drafted, but I have yet to see it -- most CJIS folks are in Nevada for a conference. I think we need to pull together a meeting for Monday with DOJ and FBI folks to make sure everyone is on the same page going into the hearing. I imagine the members intend to grill FBI about the state of d.v. misdemeanor records in order to illustrate how burdensome this provision is to administer, and use that to make the case for prospective application only. (more)

FYI, I went up to the press conference Lautenberg had with the d.v. groups yesterday. There was a fairly wide representation of groups, all of whom spoke out very strongly against any changes to Lautenberg; they even went out of their way to slam Wellstone (who's offered a prospective only bill). NOW quote was that anyone who supports any changes to Lautenberg can't be in any way considered a friend of domestic violence victims. Just thought this might clear up any uncertainty about where the women's groups are!



NATIONAL TROOPERS COALITION

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HEARING

February 26, 1997

Before the United States House of Representatives Judiciary
Subcommittee on Crime and Criminal Justice.

Chaired by Congressman Bill McCollum

Omnibus Consolidated Appropriations Act of 1997

Misdemeanor Domestic Violence

Speaking on behalf of the National Troopers Coalition

James A. Rhinebarger, Chairman



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February 17, 1997

Dear Chairman McCollum and Judiciary Committee Members

Thank you for allowing me to provide input on this very important issue that is before your committee concerning Domestic Violence and the potential effect this law has on Law Enforcement Officers. As you know the National Troopers Coalition, NTC, represents approximately 45,000 State Police and Highway Patrol Officers nationwide.

The first statement I would like to make is that **WE DO NOT CONDONE VIOLENCE WHETHER IT BE DOMESTIC OR OTHERWISE BY ANYONE.**

We believe that, since this Bill was passed in the last hours of the 104 th Congress it did not receive a proper hearing and testimony by the effected groups either pro or con. Our position is, reinstate the "Official Use" exemption for Law Enforcement and repeal the retroactive part of the Bill. Prior to September 30, 1996 there were already laws, administrative disciplinary procedures and penalties in place to adequately handle these cases.

We believe there are three issues in this Law: the retroactive part of the Law, guns and the prospective part of the Law.

Speaking on the retroactive part of the Law I do not understand the rationale behind this. The officers that were convicted of Misdemeanor Domestic Violence prior to September 30, 1996 had already paid a price for the crime that they committed, some many years ago. They paid a



price thru the Judicial System and probably Administratively as well. Plus any public embarrassment they caused themselves and their family. Now, in order to keep their job they must suffer the cost of going back to court to try and get their record expunged or set aside and suffer renewed embarrassment. In the case of the Franklin Police Officer, article attached, Congress has done a great disservice to him and his family. I cannot believe the sponsors of this Law or the Representatives and Senators that voted for the entire Act wanted that to happen. Enclosed is one newspaper article that talks about an officer that 14 years ago was convicted of Misdemeanor Domestic Violence. Since then he has straightened his life out. Now he is suffering again because of what Congress has done. This is not right and this is not an isolated case.

The gun issue. I don't know if the FBI or anyone else keeps accurate statistics on the number of Domestic Violence calls police go on but the information I have gotten from my area, central Indiana, is that far less than 10 % of the total domestic calls involve a gun. Why is the gun being targeted? Most of the calls involve alcohol, drugs, anger and physical abuse. Of the total number of Domestic Violence calls, how many involve police officers? It has to be a very small percentage and of those how many involve a gun? The gun is a tool of the trade for law enforcement officers and without it we cannot hold our job.

For non law enforcement people that are convicted of this crime it is doubtful that all, like us, or most of them would lose their jobs. Even for them, if their situation did not involve a gun they would still lose the privilege of owning any kind of weapon or being able to go hunting, target practicing, collecting guns, etc.. Something else to think about, would a victim lie about the individual to seek revenge? It happens.

The prospective part of this law can be just as devastating on the participants. If the officer is the sole bread winner in the family this may put pressure on the victim to not report these crimes for fear of losing their source of income and we do not want that to happen. Also the victim

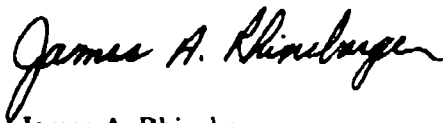
may not want to see the officer lose his/her job if there is any chance of reconciliation. We would prefer to see these participants seek assistance thru an Employee Assistance Program or counseling of some kind to solve their problem. In Indiana, as I believe in most states, if not all, a Misdemeanor is punishable by imprisonment up to one year and or a fine of up to \$ 5000.00. For us we will also face departmental disciplinary proceedings plus public embarrassment. This Bill makes it a life sentence as far as the officers career is concerned.

Please remember, prior to September 30, 1996 both criminal and administrative penalties were already in place if a law enforcement officer got himself/herself into this kind of situation. WE BELIEVE THE PENALTY DOES NOT FIT THE CRIME.

The NTC has in the past supported legislation on victims rights issues and will continue to work toward ending this scourge. If we can be of any assistance please do not hesitate to contact me.

Attachments: Newspaper article on Franklin Police Officer
Copy of Indiana Classes of Offenses and Penalties

Thank You,

A handwritten signature in cursive script that reads "James A. Rhinebarger".

James A. Rhinebarger,
Chairman

2/13/97

**Officer still to be paid
while waiting for ruling****■ FRANKLIN**

A Franklin Police officer will remain on paid suspension pending the outcome of a court hearing to expunge a 14-year-old domestic violence battery conviction from his criminal history.

The Franklin Police Merit Commission acted Monday on Police Chief Harry Furrer's recommendation that Patrolman Rick Sharp be suspended from duty with pay until the March 17 hearing in Johnson Superior Court 2.

A new federal law prohibits individuals convicted of domestic violence abuse from carrying firearms.

Sharp is among the first police officers in the state to be affected by the new law. He has not had any other blemishes on his personnel record since the 1983 incident, Furrer said.

Sharp was convicted of misdemeanor battery after the incident, which involved his wife. The couple divorced soon after that.

The chief said he took the action against Sharp to protect Franklin residents from lawsuits in the event Sharp had been forced to use his weapon.

CLASSES OF OFFENSES AND PENALTIES

(Source: I.C. 35-50; P.L. 164-1994)

Category	Fixed Term of Imprisonment	Maximum Fine
Murder	50 years (+10 or -10)	\$ 10,000
Class A felony	25 years (+20 or -10)	\$ 10,000
Class B felony	10 years (+10 or -4)	\$ 10,000
Class C felony	4 years (+4 or -2)	\$ 10,000
Class D felony	1½ years (+1½ or -1 or reduction to a Class A misdemeanor)	\$ 10,000
Class A misdemeanor	up to 1 year	\$ 5,000
Class B misdemeanor	up to 180 days	\$ 1,000
Class C misdemeanor	up to 60 days	\$ 500