

NATIONAL ARCHIVES AND RECORDS SERVICE
WITHDRAWAL SHEET (NIXON PROJECT)

DOCUMENT NUMBER	DOCUMENT TYPE	SUBJECT/TITLE OR CORRESPONDENTS	DATE	RESTRICTION
1	letter	From Charles G. Wilber, Ph.D., to the Honorable Donald G. Brotzman	3/17/70	D

FILE GROUP TITLE WHSF: SM # OF Geoffrey Shepard

BOX NUMBER 2 of 3

FOLDER TITLE Guns & Ammunition [Sept. 1970 - July, 1969] [2 of 2]

Restriction Codes

- (A) Release would violate a Federal statute.
- (B) National security classified information.
- (C) Pending or approved claim that release would violate an individual's rights.
- (D) Release would constitute a clearly unwarranted invasion of privacy or a libel of a living person.

- (E) Release would disclose trade secrets or confidential commercial or financial information.
- (F) Release would disclose investigatory information compiled for law enforcement purposes.
- (G) Withdrawn and returned private and personal material.
- (H) Withdrawn and returned non-historical material.

Date

7/28/69

Referred to:

Mr. Ehrlichman

By: Mr. Hopkins' Office

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Colorado Teacher Dissects Violence Commission Report

By Charles G. Wilber, Ph. D.

The report on "Firearms and Violence" issued by the National Commission on the Causes and Prevention of Violence, which advocates outlawing 90 per cent of the nation's handguns, has created a stir in the ranks of gun-owning sportsmen and lawmakers following its release on July 28.

The following is a critique of the "Firearms and Violence" Report by Dr. Charles G. Wilber, Ph.D., chairman and professor of the Department of Zoology, Colorado State University, Fort Collins, Colo. In the critique, Dr. Wilber looks at the Violence Report from the standpoint of a professional educator and an interested gun owner. Because of the length of Dr. Wilber's comments, the critique will be serialized in future issues of Gun Week. Part one follows:

In view of the fact that the National Commission on the Causes and Prevention of Violence has made a "statement" on the relation of firearms and violence, and in view of the fact that this "statement" may be accepted uncritically, it seems important to analyze it from the factual point of view. The commission statement was published July 28, 1969. The chairman of the Commission was Dr. Milton Eisenhower, former president of the Johns Hopkins University.

This is a nefarious document because it lends itself to propaganda based on innuendo, specious argument, circular reasoning, internal contradictions, and direct mistruths. One of the first statements of the Commission with respect to firearms is contradicted later by the recommendations which the

particularly hand gun sales, must be attributed to the rising fear of violence that the United States has recently experienced." This statement cannot be supported by the facts available. The Commission completely ignores the great increase in purchases of bows and arrows. Certainly one will not attribute the rapidly increasing bow and arrow sales to a rising fear of violence. It is obvious, however, to those who have some awareness of the recreation industry that the shorter work week, more money to spend, and the ever increasing need for recreation has resulted in a phenomenal and enormous growth in the sales of all kinds of sporting goods items.

Homicide

It is difficult for the objective observer to ascertain where the Commission found evidence to support the statement made on page two to the effect that: "We find that firearms, particularly hand guns, play a major role in the commission of homicide, aggravated assault, and armed robbery, and that they are being used in greater percentages of these violent crimes." In view of the government's own figures available from the Public Health Service from the years 1910-1960, and from the Federal Bureau of Investigation, U. S. Department of Justice, from 1961-1966, the statement made by the Commission must be labeled as an untruth.

Using the government's own figures, the trend of firearms homicide rate in the United States has been consistently dropping since 1910. The firearm homicide rate (that is the number of firearm homicides per hundred thousand people) was up to about 5 per hundred thou-

at their gratuitous statement on crime rate and gun ownership.

Defense

The Commission goes on to discuss in a very strange way the problem of firearms in self defense. In an attempt to support its rather specious reasoning on firearms and self defense there is a footnote on page four (note no. 5) which states: "No data are available on how frequently robberies and burglaries are foiled by the householder's display of a gun that is not fired. Nor are data available on the use of guns by women to prevent attempted rapes: presumably this occurs extremely infrequently."

The presumption expressed reveals the bias which the writers of this report have. Moreover, the statement is not true. This footnote merely indicates that the Commission staff was either too lazy to dig out the available statistics, refused to believe them, or having seen them realized that the data would not support their preconceived notions.

Consequently, no use would be made of them. This kind of scholarly irresponsibility is hard to accept from a report issued with the approval of Dr. Milton Eisenhower. The very fact that such a questionable footnote would be used in an attempt to document statements indicates the worthlessness of the report as a whole.

Crime Rates

Apparently, the Commission on the Causes and Prevention of Violence has little respect or interest in the proceedings of the United States Congress. Very fine studies on firearms which have been reported in the Congressional Record were ignored by the Commission. For example, in January 30, 1968 issue of

the example of Switzerland is not used. In that country it is mandatory for every male citizen to own a gun and to be trained in marksmanship up to a certain age. Beyond that age he no longer is forced to engage in shooting, but he may do so if he wishes.

It is difficult to evaluate a report such as this because of the misuse of data, the actual fabrication of data, and the lack of presentation of the whole truth.

One could rephrase the statement made by the Commission, and quoted above, to read: "We believe, on the basis of all the evidence before us, that reducing the availability of the automobile will reduce automobile tragedies." No one in his right mind will deny that the violence on our highways is causing infinitely more serious damage, death, suffering, expense, disruption of society, than are firearms.

Accidents

The Commission statement implies that firearms accidents "cause thousands of deaths and injuries each year." One might point out that the same must be said of bath tubs, kitchen stools, ladders, and swinging doors.

A recent study completed by the distinguished Harvard Professor of Public Health, Dr. Ross A. McFarland, clearly shows that in 19 different countries of the world (USA included), of all accidental deaths only 1.3 per cent could be attributed to firearms. Firearms were the lowest on the scale of causes of accidental deaths; far below motor vehicles (36 per cent), falls (22 per cent), drownings (9 per cent), or poisonings (4 per cent).

The reason for the Commission's statement about firearm accidents is obscure; or is it

Finally, the recommendation with respect to the development of a non-lethal weapon is bewildering. The Commission admits that law-abiding Americans understandably and justifiably fear for their safety under certain conditions and that under these conditions it is appropriate that they have some kind of defensive weapon. However, has it ever come to their attention (or are they blind to the fact) that the anti-gun elements in the country are also anti-law-abiding citizen? For example, in various legal jurisdictions (such as New York City) where firearms are virtually outlawed completely, any kind of defensive weapon is also outlawed from the law-abiding citizen. The recommendation with respect to the production of an effective non-lethal weapon is extremely difficult to understand. Again, it makes one wonder whether the Commission members really know what the various portions of the report really said.

Under legislation they say "We conclude that the rising tide of firearms violence in this country merits further legislative action at the present time." First of all, the statement of a rising tide of firearms violence may be open to serious question on a factual basis. Again, one suggests that the Commission did not study the history of firearms legislation in the United States very clearly or very honestly.

If the various laws already on the books with respect to firearms were enforced we would have less difficulty than we do now. It should be pointed out that the murders of various public political leaders all involved the breaking of at least half a dozen existing laws. Consequently how this Commission

Every law-abiding citizen in the United States agrees on this. Hand gun and long gun enthusiasts in the United States have been begging that more severe penalties be attached to crimes committed using any type of firearm. Unfortunately, the persons who should know better do not support these moves of the gun owners. They seem to be more concerned with taking guns away from law-abiding individuals than with attacking the root of the problem which is misuse of guns by evil people.

It is most difficult to understand how a Commission of presumably honest individuals can subscribe to the details of this statement on firearms and violence. After careful examination it seems clear that the recommendations and conclusions of the Commission on Firearms and Violence are based on suppression of facts, on distortion of facts, and on the lack of factual information. Moreover, there is specious argument involved; there are statements which cannot be supported by any facts available from the various statistical agencies of our government. The statement, for example, on page two to the effect that "Other studies confirm our finding that the proportion of gun use in violence rises and falls with gun ownership" is completely contrary to what has been published in the Congressional Record itself. Repeated studies, made by objective individuals, have demonstrated that quite the contrary seems to obtain: as gun ownership by law-abiding citizens increases there is a decrease in crimes of violence involving guns.

Unfortunately, too, the Commission has used its imagination to raise great specters of fear

of some staff investigator.

It is hoped that responsible public officials, members of the Congress, and representatives in the various state legislatures will discount appropriately the recommendations and conclusions of this extremely slanted report. It is urgent that anyone concerned with the firearms problem read and note very carefully the internal contradictions which abound in this report. At the very beginning of the report it is clearly stated that "The vast majority of gun owners do not misuse firearms"; but the Commission then goes on to make recommendations which would penalize the "vast majority" of gun owners without doing anything to attack the root of the misuse problem and that includes lack of appropriate education which results in firearms accidents and the protection of criminals in their misuse of firearms for criminal purposes.

The Commission, moreover, in the preamble points out that "Firearms generally facilitate, rather than cause, violence." Later in the report the contrary is implied.

It is important to realize that in the Commission Statement there is clear-cut evidence of use of the "big-lie technique." That technique supposes that if something is said often enough by persons in positions of trust or power then anyone should and will believe it whether it is true or not. Hitler used the technique effectively. It is not American; it is not scientific; it is not objective.

Conclusion

The statement on firearms and violence issued by the National Commission on the Causes and Prevention of Violence

firearms is contradicted later by the recommendations which the Commission published. On the first page of the commission statement it is said: "We believe this (decrease in the misuse of firearms) is possible if both the advocates and the opponents of gun control legislation will put aside their suspicions and preconceptions, accept the fact of a common danger without exaggerating its dimensions, and act for the common good." In the light of the radical and incredible recommendations which the commission later makes, one questions whether this statement was made to put at ease the very real concerns and apprehensions of millions of law-abiding American citizens.

On page one, the claim is made that "with a few scattered exceptions, hand guns are not sporting arms." This statement is obviously not in keeping with the facts of American life. The evidence which could be readily gathered from firearms dealers and from the legal users of firearms themselves will indicate to any honest investigator that the majority of hand guns are used for sporting purposes.

Individuals who use hand guns for sporting purposes tend to have more than a single hand gun in their possession. As an example, the regular competitors in national and international hand gun shooting competition will of necessity have three guns which they use in any one contest. One of these is a semi-automatic pistol; the other would be a revolver; and then there would be a third gun of a different caliber from the other two. Thus it is easy to see, if one is willing to be influenced by facts and not by preconceived ideas, that 100 participants in a hand gun sporting event could account (without stretching reality whatever) for 300 hand guns validly owned and used by these responsible individuals.

Also highly questionable is the statement made again on page one of the report to the effect that "A substantial part of the rapidly increasing gun sales,

handgun and people) up to about 5 per hundred thousand in 1910. By 1940 this had dropped to 4; by 1965 this had dropped to 3 or less. If trend over a 50-year period continues we would expect that the firearm homicide rate by 1970 will be slightly over 1 per hundred thousand. The point at issue is that, as the trend of firearm homicide rate in the United States has been downward between 1910 and 1966, the ownership of firearms has trended upward, primarily as a result of increased use of firearms for sporting purposes.

In 1966 there were nearly three and a quarter million crimes in the United States. Firearms were misused in only 3.4 per cent of these crimes. This 3.4 per cent includes the so-called "gangster weapons", home-made zip guns, modified toy guns and the so-called alleged guns. The latter category involves, for example, the robbing of a store by an individual who is holding his hand in his pocket, even though there is no gun in the pocket. If the victim thinks that a gun is involved, this event is recorded as a hand gun crime.

Crime

The available data indicate, to any honest man, that if firearms were to be completely eliminated from society by mass confiscation and so on, and that if no criminal substituted any other kind of weapon for a firearm, the United States would still have 96.6 per cent of its serious crime and 99.6 per cent of its total crime. New York State and New York City are sometimes presented as models of the kind of legislation that would prevent firearm crimes.

The facts available do not support this belief. The Joint Legislative Committee on Crime, Its Causes, Control and Effects on Society of the New York State Legislature pointed out that the use of home-made zip guns exceeded the misuse of rifles and shotguns in murders, robberies and assaults in New York State during the year 1966. One wonders what type of data the Commission used to arrive

at its conclusions. For example, in January 30, 1968 issue of the Congressional Record, Volume 114, No 12, there was reported a statistical study of the relationship between firearm ownership and crime rates. The study demonstrated clearly that there is no causal relationship between gun ownership and crime.

In fact the study indicated that there is a negative relationship between firearm ownership and crime rates. The statement in the Congressional Record says: "As the proportion of the population possessing firearms goes down, crime rates go up." In other words, the contention that fewer people with guns will mean less crime finds no support from the scientific data available. The negative relationship between firearm ownership and serious crime, aggravated assault, and robbery were statistically significant using widely accepted and well designed statistical procedures.

The study in the Congressional Record goes further and says that "this means that firearm ownership by the law-abiding public could be a factor in restricting the number of these criminal acts." How then, can one have any confidence in the Commission Statement on Firearms and Violence? The ordinary citizen would like to have legislation and debate based on facts and not on fiction.

Hand guns

On page six the Commission admits that there is no sound evidence on which to base conclusion concerning the restriction of hand guns. They say "We believe, (my emphasis) on the basis of all the evidence before us, that reducing the availability of a hand gun will reduce firearm violence." The Commission presents no evidence. This "belief" of theirs really should have no part in an objective study.

The attempt to use experience in other countries such as England and Wales as an example of what would happen in the United States is absolutely incompetent. One wonders why

the Commission on the Causes and Prevention of Violence

Recommendations

Special reference should be made to the recommendations of the Commission for a national firearms policy. It is important that these be examined extremely critically because they are not in accord with our national tradition or legal system in the United States. One cannot take exception to the recommendation with respect to public education. Certainly, the aim of the National Rifle Association and law-abiding owners of firearms has always been to educate the public on the responsibility of firearm ownership. This education recommendation of the Commission is extremely important. It should do much to eradicate the unfair and vicious criticisms of the National Rifle Association. Moreover, it should do much to encourage proper firearms education in our schools. We realize that there must be a driver education program in every high school. It seems incredible that we do not have a firearms education program in every high school.

The Commission recommendation on research is one which,

on the face of it, looks honest and forthright. But when it is examined with care it is obvious that one might question the good sense and the integrity of the Commission. On page seven under "research recommendations", the Commission says that there should be further research on relationship between firearm violence and how this violence can be reduced. Despite the dogmatic statements made earlier in this report, the Commission admits that we need much more information on the relationship between firearms and violence than we have now. The recommendations clearly indicate that the Commission, despite its manifesto earlier, is not well informed and cannot be well informed with respect to many of the matters on which it has pontificated.

half a dozen existing laws. Consequently, how this Commission can naively suggest that further laws would prevent these tragedies is not clear to the reasonable man.

The Commission has revealed its emotional involvement when it refers to the hand gun as a weapon so "infrequently a sporting arm." This statement is definitely not true. The hand gun is, in the United States, primarily a sporting arm in the hands of law-abiding citizens. It is used properly as an offensive weapon and as a weapon of protection primarily by our police forces.

One should also recall that the murder of John F. Kennedy and the murder of Martin Luther King did not involve the use of hand guns.

Confiscation

The recommendations of the Commission with respect to confiscation of hand guns, except those issued to police officers and the like, just do not stand up under the light of day. For example, the Report urges that serious penalties be attached to the possession of guns by unlicensed persons; we already have serious penalties attached to possession of a variety of martial firearms but the criminal still uses them.

The only ones who will be harmed by the recommendations of this Commission, with respect to hand guns, are the law-abiding citizens. The Supreme Court already has ruled that laws may not force criminals to register their hand guns because this act would be "self-incrimination." As reported in the press, the registration law in the city of Chicago specifically excludes and excuses criminals from registering their hand guns. How then can this naive Commission say that the apprehension of law-abiding citizens will reduce the rate of violent crime in the United States?

The final conclusion of the Commission makes no sense. It merely says that the reduction of gun violence in the United States will be a good thing.

mission has used its imagination to raise great specters of fear, e.g., the comment that "A new wave of American vigilantism could result . . ." The report contains some underhanded phrasing; for example, it is stated that "Extremist groups, regardless of race, are remarkably alike in their attitudes towards firearms and their opposition to firearms control." This is a knavish assertion which implies that if one opposes firearms control he is not a good American and belongs to an extremist group. Such writing is despicable and ought to be beneath the dignity of any self-respecting commission. It is obvious that the Commission itself felt the disgusting implications of this statement because in a footnote it states: "This is not to imply that all persons who oppose additional controls are extremists." Why in the world would a forthright and objective Commission write the original sentence in the first place? This particular sentence is one example of the type of argument, the type of rhetoric which is used throughout this report. It is a shameful exhibition and should wound the consciences of the authors.

The conclusion that any honest individual must come to after reading this nefarious Commission Report is that it should be totally disregarded. The Congress of the United States, itself, should investigate this matter if it feels it essential. It is important that law-abiding gun owners be involved in looking over the staff officials of the Commission. One questions the competence of these individuals to produce such a study.

It is discouraging to a law-abiding citizen to read the many statements made by a presumably respectable Commission. In the opinion of many readers of the Commission Report, the conclusion is inescapable that the members of the Commission did not read the final draft with any understanding or critical sense. They apparently accepted without any serious evaluation the prejudices, blindnesses, and naivete

national Commission on the Causes and Prevention of Violence deserves to be scrapped as untrustworthy, irresponsible, and as an insidious attack on our Constitutional guarantees. The lack of intellectual and scholarly integrity on the part of the drafters of the statement is so apparent that four members of the Commission were impelled to refuse "to concur fully in the report of the Commission."

September 23, 1970

MEMORANDUM FOR CHUCK COLSON

SUBJECT: .22 CALIBER RIMFIRE AMMUNITION

You may have seen a copy of my memorandum to Ehrlichman on this subject. You will note that most of the reasons supporting or opposing the exemption of .22 caliber ammo lies with the Robert Kennedy assassination. My personal feeling is that while our supporting the exemption could well be used by Senator Kennedy, it's not that important in Massachusetts as he will probably win handily anyway. However, I am concerned about putting the President in a position of supporting a measure which might be interpreted as blatantly anti-Kennedy on a subject still charged somewhat with high emotion. '

On the merits, there is no question in my mind that we should support the exemption. It may well be that the political advantages in supporting our Republicans outweigh the flack we will take from Kennedy and his group.

At your convenience, I would like to discuss this with you before you contact Senator Prouty.

Bud Krogh

THE WHITE HOUSE

WASHINGTON

September 21, 1970

MEMORANDUM FOR

BUD KROGH

Attached is a copy of a letter that John has received from Senator Winston Prouty with regard to the registration of .22 caliber ammunition. I have spoken to Chuck Colson about this and advised him of our position on this issue and why we cannot, at least at this time, support this legislation.

Chuck has agreed to call Senator Prouty, who he knows quite well, and advise him informally of the President's position at this time. Before he does so, he would appreciate it if you would give him an indepth briefing of exactly what is involved here.

Would you please get together with Chuck Colson so we can get this thing taken care of.

Thank you.


KEN COLE

Attachment

cc: Chuck Colson

RALPH YARBOROUGH, TEX., CHAIRMAN
JENNINGS RANDOLPH, W. VA.
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CLAIBORNE PELL, R.I.
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JOHN S. FORSYTHE, GENERAL COUNSEL

United States Senate

COMMITTEE ON
LABOR AND PUBLIC WELFARE
WASHINGTON, D.C. 20510

September 14, 1970

SEP 18 1970

Mr. John Ehrlichman
Assistant to the President
for Domestic Affairs
The White House
Washington, D. C.

Dear John:

I understand you have before you for consideration favorable reports to the Congress by the Secretary of the Treasury and the Attorney General on S. 3724, which I co-sponsored, and companion House bills. These bills, as you know, would repeal the record keeping requirements for .22 caliber rimfire ammunition under the Gun Control Act of 1968. I know you are aware of the great support this matter has among Republicans in the Congress, particularly in the Senate.

Over 20,000,000 licensed hunters and farmers are awaiting the passage of this bill. Ammunition cannot be traced to the purchaser and cannot be manufactured so that it can be traced to the purchaser and, therefore, the record keeping requirements do not in the slightest aid in law enforcement.

About 300,000 cartons of .22 caliber rimfire ammunition were sold daily and billions annually before the enactment of the Gun Control Act of 1968. Because of the burden of the record keeping requirements many small dealers are no longer selling this ammunition and consequently farmers and sportsmen are finding it difficult to obtain such ammunition at a time when the hunting

Mr. John Ehrlichman
September 14, 1970
Page Two

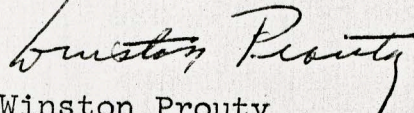
season will soon be opening in many sections of the country. The record keeping requirements are not only a burden upon small retailers, farmers and sportsmen but also upon the Government.

Last fall, the .22 caliber rimfire ammunition provision was removed from an amendment offered by Senator Bennett to repeal record keeping requirements in the gun control law. The proposal now by the Senate, sponsored by Senator McGee and myself, among others, is essential to repeal those provisions with respect to .22 caliber rimfire ammunition. This proposal cannot receive the support it needs for passage by the Senate without the favorable reports of the executive departments which I understand have been submitted to your office.

I am sure you realize the importance of this particular proposal to those of us in the Senate who are sponsors. It is particularly a pressing problem at the present time. Insofar as November is concerned, it is certainly one of the more important bills before the Senate which should be passed this session.

I hope very much that you will make the reports on the bill S. 3724 from the Department of the Treasury and the Department of Justice available to the Senate and to me at the earliest possible date.

Sincerely,



Winston Prouty
United States Senator

August 19, 1970

ACTION

MEMORANDUM FOR JOHN EHRLICHMAN

FROM: BUD KROGH

SUBJECT: .22 CALIBER AMMUNITION -
RECORDATION REQUIREMENTS

Treasury and OMB have both been requested to report on certain amendments to the Internal Revenue Code which would exempt from the recordation requirements of the Gun Control Act sales to consumers of .22 caliber ammunition.

In November, 1969, the Congress repealed those provisions of the Act which required recordation of sale transactions of shotgun ammunition and ammunition suitable for use only in rifles generally available in commerce (sporting rifles). Purchases of ammunition interchangeable between rifles and handguns, such as .22 caliber rimfire ammunition, continued to be subject to the recordkeeping requirements.

Arguments Favoring Amendments:

- (1) The .22 caliber ammunition is the favored sporting ammunition (4.3 billion rounds sold annually). Sportsmen and the millions who own .22's would favor repeal of burdensome recording requirements. (See Tab A)
- (2) This volume of transactions allegedly detracts from the law enforcement of other provisions of firearms laws, but no proof of this is available.
- (3) Since 1938, the statutory definition of ammunition excluded .22 caliber ammunition from the pistol category even though usable in pistols.
- (4) Recordation is a useless exercise as Treasury does not receive the documents and hence can put them to no use.

Arguments Opposing Amendments:

- (1) Gun control advocates, liberals, the Washington Post, et. al. would severely criticize the Administration for loosening ammunition restrictions.
- (2) Robert F. Kennedy was killed by a .22 caliber cartridge fired from a pistol.
- (3) The reason .22 caliber cartridges were not included in the November, 1969 amendments is that Senator Edward Kennedy warned Senator Bennett that if they were exempted, he would oppose passage of the remainder of the amendment.
- (4) Kleindienst, on January 23, 1970, wrote to Chairman Mills opposing the exemption of .22 caliber ammunition from the recording provisions because the cartridge can "be used for non-sporting as well as sporting purposes." Justice now wishes to defer to Treasury. Santarelli feels exemption is sound on the merits, but he fears the Kennedy/liberal attack.
- (5) Not enough time has passed to accurately assess the deterrent benefits of this provision.
- (6) We have no proof that the Administration of the provision is so burdensome as to hinder the enforcement of other firearm provisions as Treasury does not receive records from the seller.
- (7) In 1969, fifty-one percent of the 14,590 murders in the United States were committed with handguns.
- (8) Although .22 caliber bullets are used primarily for sporting, the average citizen does not understand the difference between .22 caliber bullets and any other bullet. Eliminating the recordation requirement might appear to them to be a back-down on tough law enforcement.

Comment:

On balance, I feel we should oppose exemption at this time, mostly because of the emotional issue Kennedy will make out of our position.

RECOMMENDATION

That you determine whether the Executive Branch should favor or oppose exemption of .22 caliber ammunition from the recordation requirements of the Gun Control Act.

Records on Sale of Ammunition Kept by Vendor

1. Kept in bound volume
2. Date of sale
3. Name of manufacturer
4. Caliber sold
5. Name, address, date of birth of purchaser
6. Method of purchaser identification used

These methods are maintained indefinitely by seller and are not sent to the Department of Treasury

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Egil Krogh
Deputy Assistant to the President

DATE: March 13, 1970

FROM :  Donald E. Santarelli
Associate Deputy Attorney General

SUBJECT: Ehrlichman's Pistol Packing

the availability of
I gave you my views on the telephone.

We should stick to the approach that he was talking entirely about cheap, easily available "Saturday Night Specials" ~~about~~ which this Administration has objected before. Any legislation proposed would be to define such a category of cheap, unsafe, and non-sporting handguns for proscription. Nothing was implied with respect to honest, law-abiding citizens' right to own firearms for sporting or self-protection purposes.

*See
gun. Control file.*

The Secretary shall not, under this or any other provision of law require any such importer, manufacturer, or dealer in firearms and ammunition to keep records concerning persons who purchase shotgun shells, metallic ammunition suitable for use only in rifles, or any .22 calibre rimfire ammunition.

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET

WASHINGTON, D.C. 20503

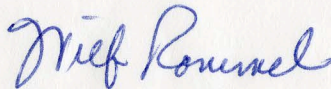
July 14, 1969

MEMORANDUM FOR MR. KROGH

Subject: Treasury's draft bill on ammunition

As promised, I am attaching a copy of Treasury's proposed draft bill to exclude handgun and rifle ammunition from regulation. You were going to discuss the bill with Paul Eggers.

We will not take action to clear the draft bill until we hear from you.



Wilf Rommel
Assistant Director for
Legislative Reference

Attachment

Dear Mr. Speaker:

There is transmitted herewith a draft of a proposed bill,
"To change the definition of ammunition for purposes of chapter
44 of title 18 of the United States Code."

Under existing law, the term ammunition is defined to mean
all ammunition and components of ammunition for all firearms.
The proposed bill would eliminate all controls over ammunition,
except with respect to ammunition for destructive devices.
Experience has shown that it is difficult to control effectively
interstate and foreign commerce in conventional firearms ammuni-
tion used for sporting, recreational and other lawful purposes.
Strict controls can be effectively exercised over the interstate
movement of ammunition for destructive devices and, because of
the inherent danger of such ammunition, it should be exercised.

There is enclosed an analysis which explains in more detail
the provisions of the bill. There is also enclosed for your
convenient reference a comparative print showing the changes in
existing law that would be made by the proposed legislation.

It would be appreciated if you would lay the proposed
legislation before the House of Representatives. An identical
bill has been transmitted to the President of the Senate.

Sincerely yours,

The Honorable
John W. McCormack
Speaker of the House
of Representatives
Washington, D. C. 20515

Enclosures - 3

A BILL

To change the definition of ammunition for
purposes of chapter 44 of title 18 of the
United States Code.

1 Be it enacted by the Senate and House of Representatives
2 of the United States of America in Congress assembled, That
3 section 921(a)(17) of title 18 of the United States Code is
4 amended to read as follows:

5 "(17) The term 'ammunition' means ammuni-
6 tion for a destructive device; it shall not
7 include shotgun shells or any other ammunition
8 designed for use in a firearm other than a
9 destructive device."

10 SEC. 2. Section 921(a)(16) of title 18 of the United
11 States Code is amended by striking from subparagraph (B)
12 "rimfire or conventional centerfire fixed ammunition" and
13 inserting in lieu thereof "a rimfire or conventional center-
14 fire fixed shell or cartridge".

15 SEC. 3. Section 922(a) of title 18 of the United States
16 Code is amended by--

17 (a) inserting in paragraph (3) "or ammunition" after
18 "firearm" where it first appears in the paragraph;

1 (b) inserting in paragraph (4) "ammunition,"

2 after "destructive device,"; and

3 (c) inserting in paragraph (5) "or ammunition"

4 after "firearm" where it first appears in the paragraph.

5 SEC. 4. Section 922(b) of title 18 of the United States

6 Code is amended by--

7 (a) striking paragraph (1) and inserting in lieu

8 thereof the following:

9 "(1) any firearm to any individual who the

10 licensee knows or has reasonable cause to believe

11 is less than eighteen years of age, and, if the

12 firearm is other than a shotgun or rifle, to any

13 individual who the licensee knows or has reasonable

14 cause to believe is less than twenty-one years of

15 age, or any ammunition to any individual who the

16 licensee knows or has reasonable cause to believe

17 is less than twenty-one years of age.";

18 (b) inserting in paragraph (3) "or ammunition" after

19 "firearm" where it first appears in the paragraph; and

20 (c) inserting in paragraph (4) "ammunition," after

21 "destructive device,".

1 SEC. 5. Section 923(a) of title 18 of the United
2 States Code is amended as follows:

3 (a) Paragraph (1) is amended by striking from subparagraph
4 (A) "for destructive devices" and adding "or" after the
5 semicolon; by striking from subparagraph (B) the semicolon
6 and the word "or" and inserting in lieu thereof a period;
7 and by striking subparagraph (C).

8 (b) Paragraph (2) is amended by striking from subpara-
9 graph (A) "for destructive devices"; and by striking from
10 subparagraph (B) "or ammunition for firearms other than
11 destructive devices".

12 (c) Paragraph (3) is amended by striking from sub-
13 paragraph (A) "for destructive devices"; by striking from
14 subparagraph (B) "for firearms other than destructive devices";
15 and by inserting in subparagraph (C) "or ammunition," after
16 "destructive devices".

17 SEC. 6. Section 923(j) of title 18 of the United States
18 Code is repealed.

19 SEC. 7. Section 925(a) of title 18 of the United States
20 Code is amended by striking from paragraphs (2), (3), and
21 (4) "or ammunition" each place it appears in the paragraphs.

COMPARATIVE PRINT

Title 18 -- United States Code
Chapter 44 -- Firearms

* * * * *

"§ 921. Definitions

"(a) As used in this chapter --

* * * * *

"(16) The term 'antique firearm' means --

* * * * *

"(B) any replica of any firearm described in
subparagraph (A) if such replica --

"(i) is not designed or redesigned for
using [rimfire or conventional centerfire fixed
ammunition] a rimfire or conventional centerfire
fixed shell or cartridge, or

"(ii) uses [rimfire or conventional centerfire
fixed ammunition] a rimfire or conventional center-
fire fixed shell or cartridge which is no longer
manufactured in the United States and which is not
readily available in the ordinary channels of
commercial trade.

"(17) The term 'ammunition' means ammunition [or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm] for a destructive device; it shall not include shotgun shells or any other ammunition designed for use in a firearm other than a destructive device.

* * * * *

"§ 922. Unlawful acts

"(a) It shall be unlawful --

* * * * *

"(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm or ammunition purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a rifle or shotgun

obtained in conformity with the provisions of subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

"(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, ammunition, machinegun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity;

"(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm or ammunition to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe resides in any State other than that in which the transferor resides (or other than that in which its place of business is located if the transferor is a corporation or other business entity); except that this paragraph shall not

apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes; and

* * * * *

"(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver --

"(1) any firearm [or ammunition] to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm [, or ammunition] is other than a shotgun or rifle, [or ammunition for a shotgun or rifle,] to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age [.] ,or any ammunition to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.

* * * * *

"(3) any firearm or ammunition to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (a) shall not apply to the sale or delivery of a rifle or shotgun to a resident of a State contiguous to the State in which the licensee's place of business is located if the purchaser's State of residence permits such sale or delivery by law, the sale fully complies with the legal conditions of sale in both such contiguous States, and the purchaser and the licensee have, prior to the sale, or delivery for sale, of the rifle or shotgun, complied with all of the requirements of section 922(c) applicable to intrastate transactions other than at the licensee's business premises, (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful

sporting purposes, and (C) shall not preclude any person who is participating in any organized rifle or shotgun match or contest, or is engaged in hunting, in a State other than his State of residence and whose rifle or shotgun has been lost or stolen or has become inoperative in such other State, from purchasing a rifle or shotgun in such other State from a licensed dealer if such person presents to such dealer a sworn statement (i) that his rifle or shotgun was lost or stolen or became inoperative while participating in such a match or contest, or while engaged in hunting, in such other State, and (ii) identifying the chief law enforcement officer of the locality in which such person resides, to whom such licensed dealer shall forward such statement by registered mail;

"(4) to any person any destructive device, ammunition, machinegun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity; and

* * * * *

"§ 923. Licensing

"(a) No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from, the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

"(1) If the applicant is a manufacturer --

"(A) of destructive devices or ammunition
[for destructive devices], a fee of \$1,000 per
year; or

"(B) of firearms other than destructive
devices, a fee of \$50 per year [; or] .

["(C) of ammunition for firearms other than
destructive devices, a fee of \$10 per year.]

"(2) If the applicant is an importer --

"(A) of destructive devices or ammunition [for destructive devices], a fee of \$1,000 per year; or

"(B) of firearms other than destructive devices [or ammunition for firearms other than destructive devices], a fee of \$50 per year.

"(3) If the applicant is a dealer --

"(A) in destructive devices or ammunition [for destructive devices], a fee of \$1,000 per year;

"(B) who is a pawnbroker dealing in firearms other than destructive devices or ammunition [for firearms other than destructive devices], a fee of \$25 per year; or

"(C) who is not a dealer in destructive devices or ammunition, or a pawnbroker, a fee of \$10 per year.

* * * * *

["(j) This section shall not apply to anyone who engages only in hand loading, reloading, or custom loading ammunition for his own firearm, and who does not hand load, reload, or custom load ammunition for others.]

* * * * *

§ 925. Exceptions: Relief from disabilities

"(a) * * *

"(2) The provisions of this chapter shall not apply with respect to (A) the shipment or receipt of firearms [or ammunition] when sold or issued by the Secretary of the Army pursuant to section 4308 of title 10, and (B) the transportation of any such firearm [or ammunition] carried out to enable a person, who lawfully received such firearm [or ammunition] from the Secretary of the Army, to engage in military training or in competitions.

"(3) Unless otherwise prohibited by this chapter or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm [or ammunition] determined by the Secretary of the Treasury to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club.

"(4) When established to the satisfaction of the Secretary to be consistent with the provisions of this chapter and other applicable Federal and State laws and published ordinances, the Secretary may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the sixty day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm [or ammunition] which is (A) determined by the Secretary to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (B) intended for the personal use of such member.

* * * * *

ANALYSIS

The proposed bill would amend the provisions of chapter 44 of title 18 of the United States Code to eliminate all controls over ammunition except with respect to ammunition for destructive devices. Under existing law the term ammunition is defined to mean all ammunition and components of ammunition for all firearms. The proposed definition of ammunition would adopt the definition as it appeared in Title IV of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351) prior to its amendment by the Gun Control Act of 1968 (Public Law 90-618).

Experience under the Federal Firearms Act (enacted in 1938 and repealed in 1968) and Title I of the Gun Control Act of 1968 has shown that it is almost impossible to control effectively interstate and foreign commerce in conventional firearms ammunition used for sporting, recreational and other lawful purposes. Strict controls can be effectively exercised over the interstate movement of ammunition for destructive devices (large caliber weapons, bombs, mortars, etc.) and, because of the inherent danger of such ammunition, it should be exercised.

Ammunition is not serially numbered and it would not be practical to require each round or box of ammunition to be serially numbered. Thus, after such a commodity leaves the premises of a licensee it is practically impossible to identify it so that it could be traced to a consumer or to establish that a given consumer purchased specific ammunition from a particular licensee.

The number of transactions in ammunition that occur in this country each day further complicates the problem. It is apparent that a licensee who handles both firearms and ammunition will have many times the volume of sales in ammunition than in firearms. In addition, a great number of merchants handle only ammunition. The tremendous number of record entries made in any given period hampers the meaningful or practical retrieval of any information pertaining to a specific transaction.

The Internal Revenue Service, which administers the provisions of Chapter 44, has estimated that at least 25,000 persons in the country have applied for licenses to deal only in ammunition. These applicants did not need or hold licenses

under the repealed Federal Firearms Act. Processing such applications is time consuming and because of our limited enforcement manpower, the sheer volume of ammunition dealer applications has hindered the effective administration of the firearms controls of the law.

As a law enforcement tool, the Department knows of no instance where any of the provisions relating to ammunition has been helpful in controlling the interstate flow of firearms or in law enforcement (whether pistol and revolver ammunition which has been controlled since 1938 under the repealed Federal Firearms Act or the Chapter 44 controls over all ammunition). Meanwhile, available investigative manpower is finding the statutory controls over firearms exceedingly productive, and many meaningful cases are being made.

In short, the manpower effort and other expenses necessary to enforce the controls over all ammunition are not justified by the results that may reasonably be expected through enforcement of these controls. These controls simply are not effective as a law enforcement tool. They do, however, generate criticism of all controls of Chapter 44.

It should be noted that the amendment to the definition of ammunition will necessitate amending the provisions of section 922(b)(1) concerning the restriction on sales of ammunition to juveniles and the provisions of section 923(a) relating to licensing. It is also believed that because of the proposed change in the definition of ammunition the use of the term "centerfire fixed ammunition" in section 921(a)(16), in defining a replica of an antique firearm, requires clarification. With respect to section 922(b)(1), it is suggested that the sale or delivery of ammunition to individuals should be subject to controls comparable to those on handguns, and provision is accordingly made that the sale or delivery of ammunition to persons who are less than 21 years of age be prohibited.

Since controls under the proposed definition of ammunition would be limited to destructive device ammunition, the Department recommends that sections 922(a)(3), 922(a)(4), 922(a)(5), 922(b)(3) and 922(b)(4) be amended to include ammunition, and that section 923(j) relating to hand loading, reloading, or custom loading ammunition be repealed since the provisions would no longer be necessary. In general, under the existing provisions of section 922(a)(3) a non-licensee is prohibited from transporting into or receiving

in his State of residence any firearm purchased or otherwise obtained by him outside that State and under section 922(a)(5) an unlicensed person is prohibited from transferring a firearm to another unlicensed person who resides in another State. Similarly, under section 922(b)(3), it is unlawful for a licensee to sell or deliver a firearm to an unlicensed person who resides in another State. The inclusion of ammunition in these sections would implement the strict controls over the interstate movement of destructive device ammunition in section 922(a)(2). It would also prevent the avoidance of State and local laws controlling destructive device ammunition by the simple expediency of crossing a State line to purchase such ammunition.

The existing provisions of section 922(a)(4) prohibit transportation of destructive devices and National Firearms Act weapons (gangster-type) in interstate or foreign commerce by unlicensed persons, except as authorized by the Secretary consistent with public safety and necessity. Likewise, under existing section 922(b)(4) a licensee is prohibited from disposing of a destructive device or a National Firearms Act weapon to any unlicensed person except as specifically

authorized by the Secretary consistent with public safety and necessity. Our proposal to amend these sections to include ammunition would be consistent with controls over destructive devices.

Finally, since ammunition would be defined to include only destructive device ammunition, the ammunition provisions of sections 925(a)(2), 925(a)(3), and 925(a)(4) would no longer be necessary since they relate to ammunition for sporting purposes.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

Congressmen Poff - [Sooner we move the better. Poff's instinct,
political dynamite.]

- Gun situation

- Important to do something before hearing
on gun registration in Senate. July 24th hearing.

- Clark Mearns. (author of arms bill in House)
useful to him in the House. Poff prepared to
issue bill, too.

- On the industry, bill already well-known. If
we don't send, this, too, will be a story.

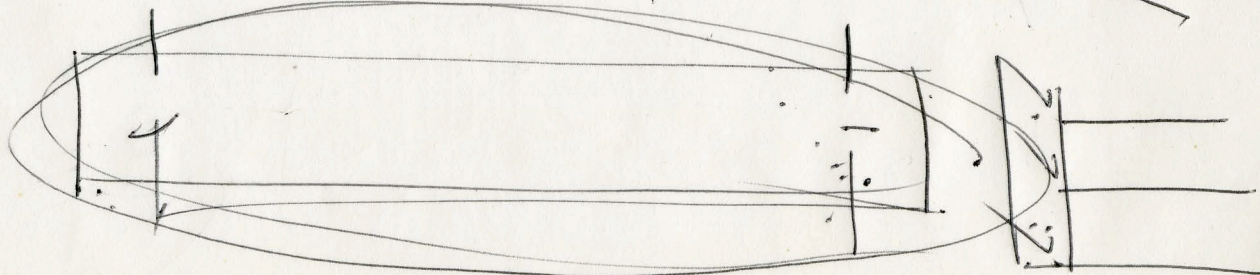
Gene

Randy Thorne, Rossides,

①

Ellen, record-checking

②



UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Miss Martha Carbone
State Department

DATE: April 20, 1970

FROM : Donald E. Santarelli
Associate Deputy Attorney General

SUBJECT: Consultation on Firearms with EC

I submit herewith a very slightly revised draft of our position.

For various reasons, I have sought some slightly different
nuances.

*Firearms
file*

STATE - A.I.D. - USIA
ROUTING SLIP

DATE

4/30/70

TO:	Name or Title	Organ. Symbol	Room No.	Bldg.	Initials	Date
1.	Donald E Santarelli		4208			
2.	Dept. of Justice					
3.						
4.						
5.						

Approval	For Your Information	Note and Return
As Requested	Initial for Clearance	Per Conversation
Comment	Investigate	Prepare Reply
File	Justify	See Me
For Correction	Necessary Action	Signature

REMARKS OR ADDITIONAL ROUTING

I hope I have not gone beyond our conversations, particularly in use of word "early" in paragraph D.

Please have your secretary call me on this.

FROM: (Name and Org. Symbol)

ROOM NO. & BLDG.

PHONE NO.

Martha Carby

3535

23019

FORM 3-68 JF-29 (Formerly Forms DS-10, AID-5-50 & IA-68)

* GPO : 1968 O - 305-218 (136)

CBS Aired Special Report On ATFD's Gun Act Movie

Donald E. Santarelli

Associate Deputy Attorney General

"That's What It's All About," is the name of the movie made last year by the Alcohol, Tobacco & Firearms Division for the stated purpose of explaining the Gun Control Act of 1968. But many informed observers say the film misses the point and actually refers to the old Federal Firearms Act, rather than the new act, which went into effect on Dec. 16, 1968.

Despite attempts by the Treasury Department to withdraw the film from public view — until it has been corrected technically, one Treasury official said — the CBS Television Network stirred up the controversy again Feb. 17 when it devoted a segment of its program, "Sixty Minutes," to the debate over the merits of the movie.

The leading critic of the film is Rep. John D. Dingell (Mich.), an NRA director and long-time foe of gun control legislation,

who described the film as a "monster" and "a waste of taxpayers' money."

During the "Sixty Minutes" report, CBS commentator Mike Wallace interviewed several persons who are involved in the debate over the film. The program also featured an abbreviated version of the controversial film (Feb. 13, Gun Week).

Following the showing of the cut-down ATFD film, Rep. Dingell made the following statement:

"My position is that this movie falls a long way short of informing the people of what the Firearms Control Act of 1968 actually does. It doesn't talk about the new law, it talks about the old law. And in that, I find it deficient. I also pointed out to you, Mike, that it involves a great deal of violence and sex, something which isn't necessary, and I also pointed out that a thoroughly in-

formative, highly useful film on the same point, which I would support, and which most of the sportsmen would support, could have been done for about \$5,000 or \$10,000, approximately one-sixth to one-third of what the Treasury Department squandered on this particular monster.

Sen. Thomas Dodd (Conn.), a long-time proponent of gun control laws, answered: "I think the people who bitterly opposed the Gun Control law, some members of Congress who fought it, bitterly, some gun-runners, some gun producers, who fought it bitterly, some who have lied about it, were in a frenzy, I think, because they were afraid that if this film got out, and the people really knew the facts, that their campaign against the Gun Control Law would be shot to pieces."

Wallace then explained that

(Continued On Page 2)

ATFD Movie Shown On CBS . . .

FROM PAGE 1

"the head of Internal Revenue declined to comment" on the film. He said Harold A. Serr, director, Alcohol, Tobacco & Firearms Division, also declined to comment.

Rep. Dingell then explained how he managed to have the film withdrawn. He said:

"I had first a fairly lengthy discussion with Mr. Serr on the telephone. I suggested that the movie should be drawn back for further technical changes, to make it more informative on the new law, to make it give better information on what the law was, to eliminate some of the violence, and to make it a better and now informative movie."

"Mr Serr said this could not

and would not be done, at which time I then informed him that he had made it unfortunately necessary to proceed by contacting his superiors and by working with those above him in the department."

Wallace then asked Rep. Dingell if he went to Charles Walker, the undersecretary of the Treasury.

Rep. Dingell replied he went to a "number of people in the Treasury Department."

In an attempt to pinpoint who had ordered the film withdrawn, Wallace asked whether the Michigan lawmaker had contacted Randolph Thrower, head of the IRS, or Charles Walker.

Rep. Dingell said, "I don't believe I discussed the matter with those gentlemen, but I did discuss it with higher officials in the Treasury Department who

"Secretary Kennedy?" Wallace interrupted.

"I discussed it with a number of officials in the Treasury Department, higher up, so many, and in so many different times and places that I must say that I'm not fully clear on what discussions transpired where, but I had many discussions with higher officials in the Treasury Department, including some of the very top officials."

Wallace then switched to an interview with Charles Walker, Treasury undersecretary, who, Wallace said, gave the order to "pull back" the film. Walker stated:

"I do not know Congressman Dingell. I have never met him. If a member of the gun lobby came in here and sat down in your lap I wouldn't know him. My past record before coming to Treasury was one of personal strong support for adequate gun legislation as executive vice president of the American Bankers Association."

"The film doesn't pass muster from a technical standpoint — that's all there is to it, from my standpoint."

Wallace asked: "Is the film inaccurate in anything it says about the gun laws?"

Walker replied: "It's inaccurate in certain implications. There are strong implications that certain types of weapons were outlawed by the '68 Act, and they've been outlawed since the 1930's — sawed-off shotguns and things of that type. The point is that in an official government film, put out by a department that is very proud of its security and its forthrightness, we want it to be absolutely accurate all the way. Both in terms of the facts, and in terms of the realistic life situation of law enforcement."

The program then cut to an interview with Bob O'Donnell, the film's director, who stressed that the film was produced with the technical advice of the ATFD.

Wallace then returned to Undersecretary Walker with the comment: "You know your own enforcement would like to see the film out, would like to see it played . . ."

"Not the enforcement people in the office of the Secretary of the Treasury. They are unanimous of the opinion that the film is not qualified from a

technical standpoint," Walker responded.

"I'm talking about the enforcement people at IRS at the Alcohol, Tobacco & Firearms Control," Wallace said.

"We have a difference of opinion," Walker said. "And Treasury is ultimately responsible to the people of the country as to how the decisions are made."

Returning to Rep. Dingell, the Michigan lawmaker said:

"I have told you, Mike, that I think the film has absolutely no value whatsoever, insofar as informing people about what the new gun law does."

"Isn't that your judgment, Congressman, against the judgment of the people who are charged with enforcing the gun control law?" Wallace asked.

Rep Dingell replied: "Now let me make one thing very clear to you; a member of Congress is elected to make these judgments. The Congress is supposed to be the policy-making body in this government. And I intend, so long as my people will afford me their trust, and their support, to try and see that I carry out that responsibility of making these judgments and making these voices and my judgments heard on matters of importance to the American people. And I don't intend to abdicate to the bureaucracy. Now it may perhaps be your theory that a member of Congress is supposed to supinely roll over, lay down and play dead for the benefit of the bureaucrats and to allow them, who hold no election certificates, and no direct responsibility on answering to the people, but it is not mine, and I don't intend to practice that kind of responsibility to the people that I serve in the Congress of the United States."

Wallace then returned for a statement from Sen. Dodd, who said:

"I think I know a little bit about this gun law; that it's not right to prevent the distribution of a truthful film about the Gun Control law. The firearms lobby, or the gun lobby, is a very powerful, very effective lobby on Capitol Hill. It exercises a lot of muscle. It throws its weight around and with great effect and it has for years. It spends a lot of money. It doesn't want any reasonable gun control legislation passed, on any level, but particularly not in the Congress of the United States."

In his summary, Wallace said: "Sen. Dodd has told 60 Minutes that tomorrow he will ask his Juvenile Delinquency Subcommittee to investigate the gun lobby's role in forcing the Treasury to withdraw the film from public distribution. The National Commission on Violence says there are close to 100 million weapons in the hands of America's civilian population. Some estimates would double that number. It seems sensible then that Americans have available to them the kind of information they need about who can and cannot have those guns, which weapons are permissible and which are not, what weapons must be registered, and with whom. The film, though it's no prize winner, tries to provide that information. The question is: Was the film withdrawn, as Congressman Dingell argues, because it fails to tell the gun

Memorandum

TO : Egil Krogh
Deputy Assistant to the President

DATE: May 22, 1970

FROM : Donald E. Santarelli
Associate Deputy Attorney General

SUBJECT:

Since we apparently do not possess the capacity to do our own evaluation of the Violence Commission Report, we may have to rely on such outside sources as Dr. Wilber. This is just one more example of how the liberal element has captured the lion's share of the publication world.

File - Krogh
Firearms

NIXON PRESIDENTIAL MATERIALS PROJECT
DOCUMENT CONTROL RECORD

ITEM REMOVED FROM THIS FILE FOLDER

Restricted document has been removed. See document entry number 1 on Document Withdrawal Record (GSA Form 7279) or NARS Withdrawal Sheet (GSA Form 7122), located in the front of this folder, for a description of the item and an explanation for its removal.

January 21, 1970

MEMORANDUM FOR EUGENE ROSSIDES

SUBJECT: TREASURY FILM RE FIREARMS

Would it be possible to arrange for a quiet, confidential showing of your "sexy, violent movie" which, according to this morning's Post, was "gunned down on the Hill."

As you know, I have been working with this government's firearms control policy for some time, but somehow missed the fact that this film was to be shown. Firearms control is an exceedingly important issue for us, and I'd much appreciate being kept informed of all public efforts to depict this Administration's position.

If it can be done in the near future, I'll arrange for a time and the place will probably be the little theatre in the East Wing.

Thanks, Gene.

Enclosure

ADMINISTRATIVELY CONFIDENTIAL

January 17, 1970

MEMORANDUM FOR DON SANTARELLI

FROM: BUD KROGH

SUBJECT: FIREARMS CONTROL

You will note from the attached that I have been discussing with Wilf Rommel the Administration's position on firearms.

As we report on Representative Celler's bill, I am inclined to tighten up the Treasury's report to correspond with your statement last July.

I would appreciate your reviewing the attached material, and giving me your confidential view as to the appropriateness of taking out a lot of the loose language from the Treasury report and making it coincide with your report.

Thanks, Don.

P.S. It shouldn't take much time, I'll need it back by Monday night.

7
BK
NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE

726 JACKSON PL., N.W.
WASHINGTON, D.C. 20506

DR. MILTON S. EISENHOWER
CHAIRMAN

July 28, 1969

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EXECUTIVE DIRECTOR

4
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GENERAL COUNSEL

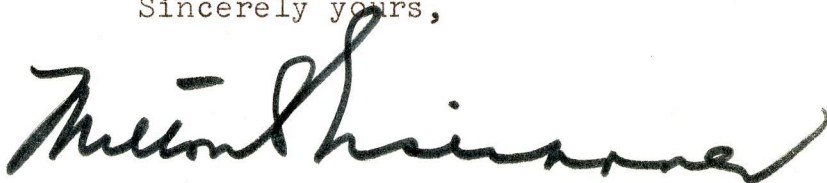
WILLIAM G. McDONALD
ADMINISTRATIVE OFFICER

Dear Mr. President:

I submit herewith this Commission's findings on the relationship of firearms to violence in the United States, and our recommendations for a system of restrictive licensing which would reduce substantially the number of handguns now in the possession of Americans. This statement is being released to the press today with the permission of your staff.

I also enclose the research report on which this Commission's findings are based.

Sincerely yours,



2 Enclosures / 3

The President

The White House

NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE

Federal Office Building #7
17th Street, between Pennsylvania Avenue at H Street, N.W.
Washington, D.C. 20506

NOTE: This statement is for immediate release after the press conference of Monday, July 28, 1969, at 3:00 pm, of the Commission, which is scheduled for 3:00 pm, EDT, Monday, July 28, in Room 2008, Federal Office Building No. 7, on 17th between Pennsylvania and H Streets. For further information, phone 395-3390.

FOR FURTHER INFORMATION:

PHONE: 395-3390

The National Commission on the Causes and Prevention of Violence has authorized for release, without comment, a task force report submitted to it on firearms and violence in American life.

The 268-page study is entitled, "Firearms and Violence in American Life." It was submitted to the Commission by George D. Newton, Jr., Director of the Task Force, and Franklin E. Zimring, Director of Research, and is the result of a year-long investigation of the relationship between firearms and violence.

The Task Force report concludes that the United States must break "the vicious circle of Americans arming to protect themselves from other armed Americans," and has recommended a national firearms control law designed to reduce substantially the number of handguns in the United States.

It further reports that:

- * There are about 90 million firearms in the hands of civilians in the United States--about 24 million handguns, 35 million rifles, and 31 million shotguns.
- * Since 1962, sales of rifles and shotguns have doubled; in the same period, sales of handguns have quadrupled.
- * Firearms were involved in 2,900 fatal gun accidents in 1967.
- * Firearms were used in 7,000 homicides in 1967. Gun attacks are five times as likely to cause death as knife attacks.
- * Home owners may seriously overrate firearms as a method of self-defense against crime. The loaded gun in the home creates more danger than security.
- * The increased number of guns in civilian hands has led to increased gun violence. Since 1964, homicide

involving guns has increased more than 50 percent, a rate of increase four times greater than homicide with other weapons.

- * Handguns are the principle firearm used in crime. Although only about one-quarter of all guns, handguns are used in three-fourths of all gun homicides.

The Task Force concludes that the most effective way to reduce gun violence would be a nationwide system that would eliminate 90 percent or more of the 24 million privately held handguns in the United States by allowing such guns to be possessed only by persons who need them. Under the system proposed, rifles and shotguns would be available to all persons except high-risk groups, such as felons, drug addicts, and minors under 18. Owners of rifles and shotguns would only be required to obtain identification cards.

A chapter-by-chapter summary of the report is attached.

Copies of the report will be available from the Superintendent of Documents, U. S. Government Printing Office.

BIOGRAPHY

George D. Newton, Jr., is a partner in the Chicago Law Firm of Kirkland, Ellis, Hodson, Chaffetz & Masters.

Franklin E. Zimring is Associate Professor of Law at the University of Chicago.

FIREARMS AND VIOLENCE IN AMERICAN LIFE

A Report to the National Commission on the Causes and Prevention of Violence

by

George D. Newton, Jr. and Franklin E. Zimring

CHAPTER SUMMARIES

1. The Number of Firearms in Civilian Hands

Of the estimated 90 million firearms in civilian hands in the United States, 24 million are handguns, 35 million are rifles, and 31 million are shotguns.

2. Patterns of Firearms Ownership

About half of all American homes have a firearm, and many have more than one. Firearms ownership is highest in the South and lowest in the East. Ownership of rifles and shotguns is higher in rural areas and towns than in large cities, but handgun ownership is highest in towns and large cities.

3. How Firearms are Acquired

Almost half of all long guns, and more than half of all handguns, are acquired secondhand. New firearms and a large number of used firearms are purchased from sporting goods stores, hardware stores, or other firearms dealers. But, about half of secondhand firearms are acquired from friends or other private parties.

4. Recent Trends in Firearms Sales

Sales of long guns doubled from 1962 to 1968; in the same period sales of handguns quadrupled. In the last decade, about 10 million handguns were sold in this country, more than one third of all handguns produced or imported for the civilian market since the turn of the century.

Growing interest in shooting sports may explain much of the increase in long gun sales, but it does not account for the dramatic increase in handgun sales. Fear of crime, violence, and civil disorder, and perhaps the anticipation of stricter firearms laws, appear to have stimulated sales of handguns in recent years.

5. Firearms and Accidents

Americans are currently dying from firearms accidents at a rate of about 2,900 per year; another 20,000 persons suffer

accidental injuries each year from firearms. Firearms accident rates follow the pattern of firearms ownership; they are highest in the South and lowest in the East. Over half of all fatal firearms accidents occur in or around the home, and about 40 percent of accident victims are children and teenagers.

6. Firearms and Suicide

For persons who seek to end their lives, firearms are a speedy and effective method. There is some evidence that, if persons who now use firearms were forced to resort to other means where there is a higher chance of intervention and rescue, some would not die. But there is little reason to expect that reducing the availability of firearms would cause a significant reduction in suicides. A person who really wants to die will find a way of doing so.

7. Firearms and Crime

Homicide is seldom the result of a single-minded intent to kill. Fatal injuries most often occur from an attack growing out of an altercation and committed in a rage. Firearms were used in 65 percent of homicides in this country in 1968. When a gun is used, the chances of death are about five times as great as when a knife is used. In the last 5 years the number of firearms homicides has increased by almost 50 percent.

Aggravated assault differs from homicide only in its outcome--the victim survives. Although the knife is still the No. 1 weapon used in aggravated assault, the share of gun attacks is increasing, and in 1968 nearly one in four aggravated assaults involved firearms.

One third of all robberies are committed with guns. The chances of the victim's being killed increase substantially if the robber uses a gun.

8. The Firearms Used in Crime

The criminal's primary firearm is the handgun. Although only about one quarter of all firearms in this country are handguns, they are used in three quarters of the homicides

involving firearms. Of the handguns used in crime in the District of Columbia, nearly half are imported. Samples of firearms manufactured in this country and used in crime reveal that a surprising number are more than 50 years old and one in six is a military weapon. Many of the handguns used in crime were owned by legitimate users at one time but appear to have been sold privately or to have been stolen without the theft having been reported.

9. Firearms and Collective Violence

The availability of firearms at relatively low cost makes it easy for extremist groups and individuals to obtain such weapons; the possession of firearms by some groups encourages opposition groups and individuals likewise to arm themselves; and possession of firearms by any group invites quicker and deadlier response on the part of rival armed groups and law enforcement agencies.

10. Firearms and Self-Defense

Owning a gun for self-defense and protection of homes and businesses is deeply rooted in American tradition. Guns may be of some utility in defending businesses, but householders may seriously overrate the effectiveness of guns in protection of their homes. In our urbanized society the gun is rarely an effective means of protecting the home against either the burglar or the robber; the former avoids confrontation, the latter confronts too swiftly. Possession of a gun undoubtedly provides a measure of comfort to a great many Americans, but, for the homeowner, this comfort is largely an illusion bought at the high price of increased accidents, homicides, and more widespread illegal use of guns.

11. More Firearms--More Firearms Violence

Data from three sources document that the proportion of gun use in violence rises and falls with gun ownership. Statistics from Detroit show that firearms violence increased after an increase in handgun acquisitions. Regional comparisons show that the percentage of gun use in violent attacks parallels rates of gun ownership. A study of guns used in homicides, robberies, and assaults in eight major cities shows that cities with a high proportion of gun use in one crime tend to have high proportions of gun use in the other crimes.

12. Strategies of Firearms Control

Different strategies of firearms control--regulation of the place and manner in which firearms can be used, regulation of who may possess firearms, permissive and restrictive licensing, registration and transfer notice--can be combined in a variety of ways to produce a comprehensive system of control. Since handguns and long guns do not contribute equally to firearms misuse, it may be appropriate to use different strategies for different types of firearms.

13. State and Local Firearms Laws

State and local firearms regulation in the United States is a patchwork quilt of more than 20,000 laws, many of them obsolete, unenforced, or unenforceable. Serious efforts at state and local regulation have consistently been frustrated by the flow of firearms from one state to another. Attempts to establish uniform state and local firearms laws have failed.

14. Federal Firearms Laws

Public opinion in this country has favored regulation of firearms since the 1930s. Yet, from the enactment of the first federal firearms possession law in 1934, federal gun laws have been passed in this country only after sensational episodes of gun violence. The Gun Control Act of 1968, which followed the assassinations of Dr. Martin Luther King, Jr., and Senator Robert F. Kennedy, commits the federal government to support state and city gun control laws by reducing the interstate flow of firearms which has long frustrated local control efforts. Proposals for a federal system of screening firearms owners have not been enacted.

15. Firearms Control and the Constitution

The second amendment raises no legal barrier to federal or state firearms legislation. The fifth amendment, however, could be invoked against enforcement of such laws. Fifth amendment problems might be minimized by exempting from licensing, registration, or transfer notice requirements all persons in those categories prohibited by law from possessing firearms. This exemption of illegal possessors would not decrease the effectiveness of firearms control because other parts of the control system could allow prosecution of such

persons without requiring them to incriminate themselves.

16. Foreign Firearms Laws

Most countries have passed national firearms control laws. The great majority of these laws appear to be more stringent than the laws of most states in the United States, although many of the foreign laws may not be effectively enforced. Many countries regulate handguns more stringently than long guns, and rough estimates of handgun ownership in 10 countries are all far below the rate of handgun ownership in the United States.

17. Can We Reduce Firearms Violence?

The gun control controversy has often involved comparisons of crime statistics from states with firearms control laws with statistics from states with no such laws and comparisons of the United States to foreign countries. These comparisons are never wholly satisfactory, but when care is exercised to focus not upon the number of crimes committed but solely upon the proportion of crimes involving guns, an inference can be drawn that control systems that substantially reduce the number of guns are effective in reducing the level of gun violence. Since handguns are the major problem, a nationwide restrictive licensing system for handguns promises a more certain and more substantial reduction of gun violence in this country than a permissive system.

18. The Costs of Firearms Control

The costs of any firearms control system include both the funds needed to administer the system and the effect on the use of guns by their owners. The monetary cost of an efficiently administered permissive or restrictive licensing system would not be excessive. Restrictive licensing of handguns, however, would significantly reduce their legitimate use.

19. Technology and Firearms Control

Technological advancements in tracing of firearms to owners, in detecting firearms in public places, and in development of nonlethal weapons or ammunition would help reduce firearms misuse by making firearms control systems more

effective. Government and private industry should engage in a concerted program of scientific research and development to promote such technological advancements.



ASSISTANT SECRETARY

THE DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

OCT 3 1969

MEMORANDUM FOR THE HONORABLE EGIL KROGH, JR.
DEPUTY COUNSEL TO THE PRESIDENT

Attached is a copy of the Secretary's letter of October 2, 1969 to Senator Bennett correcting an inaccuracy discovered in the Secretary's letter to Senator Bennett of September 26, copy also attached.

In connection with the same matter, the Secretary has received a letter from Senator Dodd, copy attached. A reply to Senator Dodd is being drafted and you will continue to be kept advised.

Eugene T. Rossides

Attachments - 3

In the absence of Mr. Rossides:

[Signature]
G. Gordon Liddy

OCT 2- 1969

Dear Senator Bennett:

In my letter to you of September 26, 1969, recommending the enactment of the amendment to H.R. 12829, I set forth the reasons therefor, and noted in passing that the amendment discussed does not affect the recordkeeping requirements concerning pistol and revolver ammunition.

I have been advised that the aforesaid observation is not entirely accurate. An exception has been called to my attention in that one of the types of ammunition proposed to be excluded from the recordkeeping requirement, .22 caliber rimfire, is usable in handguns as well as shoulder arms. Although my letter to you of September 26 should be read with this clarification in mind, the position of the Department on the amendment to H.R. 12829 remains the same, for the reasons stated therein.

With best wishes,

Sincerely yours,

/s/ David M. Kennedy

David M. Kennedy

The Honorable
Wallace Bennett
United States Senate
Washington, D.C. 20510

GGLiddy: fbb 10-2-69



THE SECRETARY OF THE TREASURY
WASHINGTON, D. C. 20520

Bennett
USS
W. SEP 26 1969

Dear Senator Bennett:

This is in response to your request for the views of the Treasury Department on the enactment of the ammunition records amendment to H.R. 12829. The amendment was made by the Finance Committee and includes the text of S. 2718. The latter bill would modify the recordkeeping requirements now imposed by Chapter 44 of Title 18, United States Code, for sporting type ammunition. This would be done by amending section 4182 of the Internal Revenue Code.

The Department has found that the records required of transactions in sporting type ammunition, i.e., shotgun, rifle, and .22 caliber rimfire ammunition, is of little value in law enforcement.

Indeed, the Department knows of no instance where any of the recordkeeping provisions relating to sporting type ammunition has been helpful in law enforcement.

In short, the recordkeeping controls are not effective as a law enforcement tool. They do, however, because of the volume of transactions in sporting ammunition tend to generate criticism from sportsmen and others and detract from the effective enforcement of other provisions of the firearms laws.

You should note that the amendment discussed here does not affect the recordkeeping requirements concerning pistol and revolver ammunition nor does the amendment affect the existing controls over interstate shipment and sales by licensees to prohibited persons.

The Department recommends the enactment of the amendment to H.R. 12829 which would eliminate the recordkeeping requirements of certain sporting type ammunition.

With best wishes,

Sincerely yours,

** By Mr. Knarr's
office*

The Honorable
Wallace Bennett
United States Senate
Washington, D.C. 20510
CC: Sen. Scott

737 David M. Kennedy

David M. Kennedy

Real special

9-26-69

*Checked by J. J. [unclear]
David
Real special 5-30 9/16*

JAMES O. EASTLAND, MISS. RMAN
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ROBERT C. BYRD, W. VA.

JOHN H. HOLLOMAN III
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

October 2, 1969

Honorable David M. Kennedy
Secretary of the Treasury
Washington, D.C.

02653

Dear Mr. Secretary:

While I have not yet seen a copy of the letter itself, I understand that you have written to Senator Wallace Bennett informing him that the Treasury Department supports Senator Bennett's efforts to repeal the ammunition controls of the Gun Control Act of 1968.

According to a statement releasing the contents of your letter, you stated:

"Indeed, the Department knows of no instance where any of the recordkeeping provisions relating to sporting type ammunition has been helpful in law enforcement. In short, the recordkeeping controls are not effective as a law enforcement tool. . . ."

I am at a loss to understand this position, because it conflicts with and contradicts statements which were made on July 23, 1969, before the Subcommittee to Investigate Juvenile Delinquency by Assistant Secretary of the Treasury Eugene T. Rossides and Commissioner of Internal Revenue Randolph Thrower.

Mr. Rossides told the Subcommittee:

". . . It is the view of the Department that, . . . the Gun Control Act of 1968 is working reasonably well and is providing the needed support for state and local controls for which it was designed. We respectfully request that the controls of the Gun Control Act of 1968 be given a full opportunity to prove their worth."

Commissioner Thrower told the Subcommittee:

" . . . I strongly believe the new gun law is an effective law enforcement tool which will go a long way in assisting local law enforcement authorities in coping with the crime problem within their own borders."

Furthermore, according to the release, your letter states that the amendment:

" . . . in no way affects the recordkeeping requirements concerning pistol and revolver ammunition, nor does the amendment affect the existing controls over interstate shipment and sales by licensees to prohibited persons."

May I respectfully point out that this statement appears to be inaccurate. As you know, Senator Bennett's bill would repeal controls over .22 caliber ammunition. This particular ammunition is used in the so-called "Saturday Night Specials," the inexpensive revolvers that have plagued law enforcement officers throughout the nation for the last ten years. In fact, in 30 percent of the handgun murders each year, a .22 caliber handgun is used.

In view of the apparent contradiction between the contents of your letter and the testimony of Mr. Rossides and Commissioner Thrower, I can only assume that you have received new information on this matter within the last two months. If you have such new information, the Subcommittee on Juvenile Delinquency would like to have it. We would certainly like to have it before the Senate considers any attempt to repeal ammunition controls.

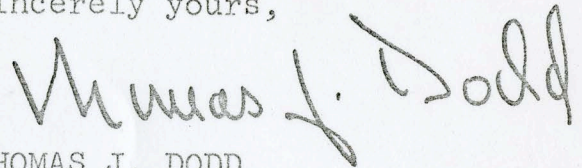
In view of the apparent inaccuracy of the contents of your letter regarding the use of .22 caliber ammunition in handguns, it seems to me that new hearings on this subject are essential in order that the facts may be recorded. The facts must be recorded if the Senate hopes to act intelligently on legislation of this magnitude.

I take this opportunity to request, therefore, that the Treasury Department go on record to insist that hearings be held on the amendment to repeal ammunition controls.

I look forward to hearing from you about this matter which is of such great concern to so many of us.

With all best wishes.

Sincerely yours,

A handwritten signature in dark ink, reading "Thomas J. Dodd". The signature is written in a cursive, slightly slanted style. The first name "Thomas" is written with a large, looped 'T'. The middle initial "J." is small and follows the first name. The last name "Dodd" is written with a large, looped 'D' and a trailing flourish.

THOMAS J. DODD

Enclosure

P.S. Knowing of your interest in the early enactment of the Interest Equalization Tax Extension Act, may I call your attention to a statement made by the distinguished Chairman of the House Judiciary Committee on the Floor of the House yesterday. It can be found on page H 8817 of the Congressional Record for October 1, a copy of which is enclosed.

INTEREST EQUALIZATION
EXTENSION ACT

(Mr. CELLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CELLER. Mr. Speaker, in the other body, the Finance Committee has added a totally nongermane and regressive amendment to the Interest Equalization Tax Extension Act—H.R. 12829. The amendment repeals the ammunition recordkeeping requirements of the Gun Control Act of 1968.

The Senate committee amendment eliminates recordkeeping in sales of, first, shotgun ammunition; second, rifle ammunition; third, .22 caliber rimfire ammunition, and component parts thereof.

The 1968 act prohibits the sale of ammunition to certain juveniles, mental incompetents, known felons, drug addicts, and other irresponsible persons. Requiring a prospective purchaser to give his name, address and substantiate his age is not a nuisance. Clearly, enforcement of the act's prohibitions would be impossible without requiring dealers to keep records of ammunition transactions.

Under the Senate committee rider, ammunition recordkeeping for approximately 90 percent of all firearms would be eliminated.

Recordkeeping will deter those who cannot legally buy ammunition.

Recordkeeping will insure that dealers will exercise a higher degree of care in determining whether the buyer is barred under the statute from buying ammunition.

Availability of ammunition records will aid in the investigation of firearms crimes.

The only way of affecting the 90 million firearms already privately owned is by regulating the flow of ammunition.

According to Senate Juvenile Delinquency Subcommittee studies: .22 caliber pistols and revolvers were involved in 30 percent of the handgun murders committed last year; .22 caliber rifles were involved in 60 percent of the rifle murders last year; .22 caliber rimfire bullets accounted for 37 percent of the homicides committed in this country last year; that is, 3,300 Americans were murdered by these bullets.

The weapon used to kill Robert Kennedy was a .22 caliber revolver which fired a .22 caliber rimfire bullet.

Mr. Speaker, the Gun Control Act of 1968 represented one of the outstanding accomplishments of the 90th Congress. It marked the beginning toward reducing the level of gun violence in this country. Now, without any hearings and only 10 months after the act has become effective, a Senate committee has moved to strike an essential element from the act's regulatory fabric.

No examination of the need or consequences of repealing ammunition controls has been made. It is unwise and regressive to cut back the scope of the act of 1968. Should the other body nevertheless adopt this ammunition rider, it will encounter sustained opposition on the floor of the House. The resulting delay may well jeopardize the enactment of the Interest Equalization Tax Extension Act. The ammunition amendment should be defeated.

NOTE: This statement is for use after the press conference of Dr. Milton S. Eisenhower, Chairman of the Commission, which is scheduled for 3:00 pm, EDT, Monday, July 28, in Room 2008, Federal Office Building No. 7, on 17th between Pennsylvania and H Streets. For further information, phone 395-3390.

COMMISSION STATEMENT ON FIREARMS & VIOLENCE

DR. MILTON S. EISENHOWER

CHAIRMAN



July 28, 1969

**NATIONAL COMMISSION ON
THE CAUSES AND PREVENTION OF VIOLENCE**

**NATIONAL COMMISSION
ON THE CAUSES AND PREVENTION OF VIOLENCE**

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CHAIRMAN

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DIRECTOR OF INFORMATION

RONALD WOLK
SPECIAL ASST. TO THE CHAIRMAN

FIREARMS AND VIOLENCE

Whether guns cause violence, contribute to it, or are merely coincidental to it has long been debated. After extensive study we find that the availability of guns contributes substantially to violence in American society. Firearms, particularly handguns, facilitate the commission and increase the danger of the most violent crimes—assassination, murder, robbery and assault. The widespread availability of guns can also increase the level of violence associated with civil disorder. Firearms accidents, while they account for only a small percentage of all accidents, cause thousands of deaths and injuries each year.

This relationship between firearms and violence tends to obscure two other important facts bearing on the firearms question. First, the vast majority of gun owners do not misuse firearms. Millions of Americans are hunters, target shooters, and collectors, who use their guns safely and responsibly and who, perhaps more than many of their fellow citizens, deplore the criminal use of firearms. Second, in attending to the firearms problem, we must not forget that the root causes of American violence go much deeper than widespread gun ownership. Firearms generally facilitate, rather than cause, violence.

The challenge for this Commission—and for the nation as a whole—is to find ways to cope with illegitimate uses of guns without at the same time placing undue restrictions on legitimate uses. We believe this is possible if both the advocates and the opponents of gun control legislation will put aside their suspicions and preconceptions, accept the fact of a common danger without exaggerating its dimensions, and act for the common good.

1. THE DOMESTIC ARMS BUILDUP

**WE FIND THAT THE UNITED STATES IS IN THE MIDST OF
A PERIOD OF INCREASING FIREARMS OWNERSHIP.**

Our Task Force on Firearms estimates that there are now about ninety million firearms in the United States. Half of the nation's sixty million households possess at least one gun, and the number of guns owned by private citizens is rising rapidly.

During the first half of this century, about ten million firearms on the average were added to the civilian firearms supply in each decade. In the decade since 1958, however, nearly thirty million guns have been added to the civilian stockpile. Moreover, the sharpest increases have occurred in the last five years—a period of urban riots and sharply rising crime rates. Annual rifle and shotgun sales have doubled since 1963. Annual handgun sales have quadrupled.

Some of the increased gun sales in recent years have resulted from an increase in hunting and sport shooting, a fact consistent with the rising amount of money being spent on leisure time activities. But these predictable increases in sales of sporting arms cannot explain the much larger increases in the sales of handguns. With a few scattered exceptions, handguns are not sporting guns.

A substantial part of the rapidly increasing gun sales, particularly handgun sales, must be attributed to the rising fear of violence that the United States has recently experienced. Studies by our Task Force on Firearms, as well as by the Stanford Research Institute and the Senate

Subcommittee on Juvenile Delinquency, show that gun sales in a particular area tend to increase sharply during and after a period of disorder. After the 1967 Detroit riot, for example, gun sales skyrocketed: Detroit issued four times as many handgun permits in 1968 as it did in 1965, and a nearby, predominantly white suburb issued five times as many permits.

Lending impetus to the arms buildup are the exhortations of extremist groups, both black and white. In their speeches and publications, leaders of these groups urge their members to buy firearms and be prepared to use them against "the enemy." Neighborhood protective associations have proliferated and have sometimes come to share the fears of the right-wing paramilitary groups, with the result that firearms are now being stockpiled in homes as well as "in the hills." A new wave of American vigilantism could result from these activities. Further, black extremist organizations urge their members to obtain firearms for neighborhood and home defense, and sometimes for guerrilla warfare and terrorist activities as well. Ironically, extremist groups, regardless of race, are remarkably alike in their attitudes toward firearms and their opposition to firearms control.¹

Quite apart from civil disorders, the urban arms buildup has increased the role of firearms in accidents and violent crime. Our Task Force has found that in Detroit accidental firearms deaths were three times greater in 1968, the year after the riot, than in 1966, the year before the riot. Between 1965 and 1968, homicides in Detroit committed with firearms increased 400 percent while homicides committed with other weapons increased only 30 percent; firearms robberies increased twice as fast as robberies committed without firearms. (These rates of increase are much higher than for the nation as a whole.)

Other studies confirm our finding that the proportion of gun use in violence rises and falls with gun ownership. The urban arms buildup threatens not only to escalate future civil disorders, but also to bring with it greater misuse of firearms in crimes and accidents.

2. FIREARMS AND VIOLENT CRIME

WE FIND THAT FIREARMS, PARTICULARLY HANDGUNS, PLAY A MAJOR ROLE IN THE COMMISSION OF HOMICIDE, AGGRAVATED ASSAULT, AND ARMED ROBBERY, AND THAT THEY ARE BEING USED IN GREATER PERCENTAGES OF THESE VIOLENT CRIMES.

Many Americans are alarmed by the rise of violent crime in the United States, and not without reason. Personal injury and death from crime occur more often in the United States than in any other industrial nation of the world.

Firearms are a primary instrument of injury and death in American crime. Two out of every three homicides are committed with guns. Since 1963 the number of homicides involving firearms has increased 48 percent in the United States while the number of homicides committed with other weapons has risen only 10 percent.

The circumstances of most homicides suggest that a person without ready access to a gun would not inevitably kill with another weapon. Studies show that most persons who commit homicide are not relentless, determined killers, but rather are persons likely to act on impulse in a moment of rage or passion and without a plan or determined intent to kill. There is no hard evidence to prove or disprove the thesis that lacking a gun, an enraged person will resort to a knife or other weapon. But there is evidence demonstrating that the fatality rate of firearms attacks is more than four times greater than the fatality rate of knife attacks (knives being the

¹This is not to imply that all persons who oppose additional controls are extremists.

next most frequent and lethal weapon used in homicides). Thus, even if the number of violent attacks did not go down, the number of fatalities resulting from violent attacks would be substantially reduced if the attackers did not have guns.

The deadliness of firearms is perhaps best illustrated by the fact that they are virtually the only weapons used in killing police officers. Policemen are armed. They are trained in the skills of self-defense. They expect trouble and are prepared for it. Yet, from 1960 through 1967, 411 police officers were killed in the course of their official duties—76 of them in 1967 alone. Guns were used in 96 percent of these fatal attacks on police.

In assassinations, guns play a crucial role because they extend the deadliness and the effectiveness of the assassin. Of the nine assassination attempts on American presidents or presidential candidates, all involved firearms. All, except the assassination of President Kennedy, involved handguns.

Guns also play an increasingly deadly role in aggravated assault and robbery. In 1968, 23 percent of all aggravated assaults were committed with guns, as opposed to only 13 percent in 1963. One out of every three robberies (two out of every three armed robberies) is committed with a gun, and the fatality rate for victims of firearms robberies is almost four times as great as for victims of other armed robberies.

In all these violent crimes, handguns are the weapon predominantly used. Although only slightly more than one-fourth (or 24 million) of the firearms in the nation are handguns, they account for about half of all homicides and three-fourths of all firearms homicides. When firearms are involved in aggravated assaults and robberies in large cities, the handgun is almost invariably the weapon used.

3. FIREARMS AND SELF-DEFENSE

WE FIND THAT FIREARMS IN THE HOME ARE PROBABLY OF LESS VALUE THAN COMMONLY THOUGHT IN DEFENDING THE HOUSEHOLDER'S LIFE AGAINST INTRUDERS, BUT THAT FIREARMS IN BUSINESS ESTABLISHMENTS MAY SOMETIMES BE EFFECTIVE IN DEFENDING AGAINST ROBBERIES.

It may seem incongruous that in our advanced and civilized society individual citizens should feel the need to keep a gun for self-protection. Yet a 1966 public opinion survey, conducted for the President's Commission on Law Enforcement and the Administration of Justice, disclosed that more than 22 million households (37 percent of the total and 66 percent of the households with guns) included self-defense as one reason, among others, for owning a firearm. Since many owners keep their guns in the home for protection against intruders, it is important to assess, to the extent possible, the nature of the threat from intruders and the chances of gun owners to defend themselves successfully with their weapons.

What is the nature of the threat in the home? The number of killings in the home by burglars and robbers² is not large relative to the total number of homicides. Burglars usually try to avoid contact with the homeowner: they rely on stealth and are more likely to flee than fight when discovered. The robber poses a much greater threat to the personal safety of the occupant of the house, but robberies occur in the home far less often than in other places.³ Because of these

²Robbery involves taking property by force; burglary involves illegal entry without force against the person.

³The 17-city victim-offender survey conducted by our Task Force on Individual Acts of Violence shows an average of 6 percent of armed robberies occurring in the home.

factors, studies in several cities indicate that killings in the home by robbers and burglars account for no more than 2 percent or 3 percent of all criminal homicides.⁴

What are the householder's chances of successfully defending himself with a gun? In only a relatively small number of instances do home robberies or burglaries result in the death of the victim. Examination shows that in the great majority of the cases, the householder had no warning and thus no chance to arm himself with a gun. Studies in Los Angeles and Detroit indicate that only about two percent of home robberies, and two-tenths of one percent of home burglaries, result in the firearms death or injury of the intruder at the hands of the householder.⁵ Moreover, in considering the value of handguns, or firearms generally, for self-defense in the home, one must also take into account the risks associated with home possession of a gun. A substantial number of the 23,000 annual firearms accidents occur in the home. Of the 8,000 annual firearms homicides, a large percentage occur among family members or acquaintances, and many of these also occur in the home.

From the standpoint of the individual householder, then, the self-defense firearm appears to be a dangerous investment. The existence of guns in one-half of America's homes may deter intruders. One may assume a robber is reluctant to ply his trade in homes rather than on the street because of the possibility that he may encounter an alert, armed householder. Our Task Force made an effort to study the extent of this deterrence, but was unable to arrive at any firm conclusion. The evidence is convincing, however, that the home robber most often has the advantage of surprise, and the armed segment of our population is paying a heavy price in accidents and in the shooting of family members, friends and acquaintances for whatever deterrent effect their possession of self-defense firearms may be providing. In a more rational world, home intrusion would be deterred by other means—such as non-lethal weapons, alarm systems, and other security arrangements—that are less dangerous to the occupants of the home.

Burglars and robbers also threaten businesses, and firearms are frequently kept in places of business for protection. Such firearms are useful primarily against robbers, since burglars usually break and enter after the business has closed. Research to date does not permit us to draw firm conclusions as to the net usefulness of self-defense firearms possessed by storeowners and other businessmen. We do know, however, that business self-defense firearms do **not** cause the great number of accidents caused by home firearms or involve the same risk of homicide to family members and friends. Thus, the home and the business establishment must be clearly distinguished from each other when considering the usefulness of firearms for self-defense.

4. FIREARMS CONTROL IN THE UNITED STATES

A NATIONAL FIREARMS POLICY WHICH SIGNIFICANTLY REDUCES THE AVAILABILITY OF HANDGUNS WILL RE- DUCE THE AMOUNT OF FIREARMS VIOLENCE

The United States still does not have an effective national firearms policy. Federal gun laws have been passed largely in response to sensational episodes of gun violence. In general the

⁴Home intrusions resulting in sexual attacks are also a threat, but they occur much less frequently than commonly believed. Our victim-offender survey suggests that substantially less than one fourth of the 27,000 rapes or rape attempts reported in the United States each year are committed by intruding strangers in the home. Since about 20,000 robberies (armed and unarmed) and 800,000 burglaries occur annually in the home, not more than three-quarters of one percent of home intrusions result in an attempted rape.

⁵No data are available on how frequently robberies and burglaries are foiled by the householder's display of a gun that is not fired. Nor are data available on use of guns by women to prevent attempted rapes; presumably this occurs extremely infrequently.

approach of these laws has been to use federal power merely to curtail interstate movements of firearms, leaving each of the states free to adopt the degree and kind of internal control it wished. Moreover, even this limited policy objective was not effectively implemented. It was perfectly legal, until the passage of the Gun Control Act of 1968, to sell or ship weapons from a state which had little or no firearms control to persons in a state with a stricter system. Since attempts to establish uniform state and local firearms laws never succeeded, the few serious efforts at state and local regulation (as in Massachusetts and New York) have been consistently frustrated by the flow of firearms from jurisdictions with looser or no controls.

Under this patchwork statutory regime, our firearms population has grown to the point where guns are readily available to everyone—legally in most cases, illegally in the rest. The Gun Control Act of 1968 does curtail imports of cheap foreign firearms; it significantly restricts mail order and interstate gun shipments to individuals; and it forbids the possession of handguns by convicted felons and other dangerous classes. But the 1968 Act is not designed to affect either the overall size of the tremendous United States gun population which is the legacy of past firearms policies, or the hand-to-hand or "street" sales of second-hand guns. Yet such sales appear to be the major source of the firearms used in crime. We have learned that almost half of all rifles and shotguns and more than half of all handguns are acquired second-hand—usually from a friend or other private party.

Our lack of an effective national firearms policy is primarily the result of our culture's casual attitude toward firearms and its heritage of the armed, self-reliant citizen. These are the factors that have prevented passage of effective gun regulation legislation in the United States. Guns are routinely carried in pockets and left in closets, corners, and bureau drawers. In many parts of the country, they are standard equipment in pickup trucks and small businesses. Nearly 15 million licensed hunters make extensive use of firearms for sporting purposes. The hero of American movies and television is the man with a gun—the soldier, cowboy, spy, sheriff, or criminal—and our children accumulate an arsenal of toy guns. Accustomed to firearms, convinced that they are household necessities, entertained by fiction and drama that portray the gun as a glamorous instrument of personal justice, many Americans underestimate the consequences of widespread firearms availability.

Despite the acceptance of guns as a common part of everyday American life, there is also a growing realization in the United States of the social costs of ineffective gun control. On the one hand, firearms manufacturers are on record favoring the requirement of an identification card for firearms owners and denying gun ownership to felons and mental and physical incompetents. On the other hand, advocates of strict gun control are increasingly inclined to acknowledge the legitimate use of guns by sportsmen. Both the President's Commission on Law Enforcement and the Administration of Justice in 1967 and the National Advisory Commission on Civil Disorders in 1968 recommended that the federal government and the states should act to strengthen the presently inadequate firearms control laws.

In determining what our national firearms policy should be, it is necessary to keep clearly in mind that just as the term "firearms" includes different kinds of weapons which contribute unequally to violence, so also does the phrase "gun control" comprise a number of quite separate ideas. Four different strategies of gun control can be identified, though in legislative measures the strategies are often found in various combinations.

1. **Registration of firearms.** Registration is designed to provide a record of all persons who own firearms as well as the firearms they own. Proponents point out that registration would help police trace weapons and thus deter a registered owner from criminal use or illegal transfer of his firearm. Opponents of registration reply that criminals will not register firearms and that the registration process is costly.

2. **Prohibition of gun ownership by certain classes of persons (felons, addicts, etc.).** This type of control is put forward as making it more difficult for poor gun risks to obtain firearms from legitimate sources. Licensing and investigation of applicants are often utilized as part of this strategy. Opponents argue that the prohibited class can still obtain guns by theft or in the hand-to-hand market, while legitimate users are caused added inconvenience.

3. **Increased criminal penalties for the use of guns in crime.** Increased penalties are urged as a means to deter criminals from using firearms. Opponents point out that existing penalties for violent crime are already severe and that an extra measure of punishment will have little additional deterrent effect.

4. **Restrictive licensing.** This method requires all persons seeking to buy a particular type of firearm, typically a handgun, to demonstrate to the authorities an affirmative need to own the firearm. Its proponents urge that alone among the four control strategies, restrictive licensing is designed to reduce substantially the number of handguns in circulation. Its opponents note that restrictive licensing systems require the surrender of many previously lawful firearms, and amount to "confiscation."

Can any of these systems of firearms control be expected to reduce firearms violence? Some argue that with 90 million firearms in our country, no system of control will prevent persons from obtaining guns and using them illegally. The criminal, they declare, can always get a gun. The argument is not without merit, for it points the way to the steps which must be taken.

Our studies have convinced us that the heart of any effective national firearms policy for the United States must be to reduce the availability of the firearm that contributes the most to violence. **This means restrictive licensing of the handgun.** We believe, on the basis of all the evidence before us, that reducing the availability of the handgun **will** reduce firearms violence.

Although no other nation in history has ever attempted to institute firearms control with so many guns already dispersed throughout all segments of the population, foreign crime statistics provide some encouraging insights into the possible results of stricter control of the handgun in the United States. Thus in England and Wales, with restrictive licensing systems and with much lower rates of violent crime than the United States, only 18 percent of homicides in 1967 were committed with firearms weapons compared to 64 percent in the United States. Only six percent of all robberies in England and Wales in 1967 involved guns, as compared to 36 percent in the United States. These lower rates of homicides and armed robberies and more importantly of firearms usage in such crimes suggest that a system which makes it substantially more difficult to obtain firearms can reduce the use of firearms in violent behavior and consequently can reduce both the frequency and the dangerousness of such behavior. In England and Wales the criminal cannot—or at least does not—always get a gun, and the public safety is much improved as a result.⁶

5. RECOMMENDATIONS FOR A NATIONAL FIREARMS POLICY

The Commission offers the following recommendations to reduce the role which firearms play in violence in the United States.

⁶Comparison of firearms crimes in cities within the United States, although complicated by the problem of "leakage" across state lines, also shows that rates of firearm use in violence are lowest in the Northeast where firearms possession rates are the lowest.

Public Education

- We urge a public education campaign, aided by the National Rifle Association and other private organizations devoted to hunting and sport shooting, to stress the duties and responsibilities of firearms ownership so that a new awareness of the proper role of firearms in American life can prevail in the more than 30 million homes which possess firearms. In particular, we urge the nation's gun manufacturers to issue safety booklets with each gun that they sell and to administer safety tests by mail to purchasers based upon these booklets.

- We urge individual citizens—particularly on the basis of the statistics on firearms accidents—to reflect carefully before deciding that loaded firearms are necessary or desirable for self-defense in their homes.

Research

- We urge that further research be undertaken on the relationships between firearms and violence and on the measures that can reduce firearms violence. Further work should especially be done on how firearms accidents occur and can be prevented and on the psychological impact of guns on criminals.

- Further research is also needed as part of the effort to design firearm control systems that are no more restrictive than necessary and which minimize costs to firearms users and to the community as a whole.

- Scientific research should be intensified on devices to assist law enforcement personnel in detecting the presence of concealed firearms on the person.

- The Federal Government should join with private industry to speed the development of an effective non-lethal weapon. We consider this recommendation to be of the utmost importance. So long as crime rates mount in this nation and civil disorders threaten, law-abiding Americans understandably fear for their safety. An effective non-lethal weapon could serve defensive needs without risk to human life.

Legislation

We conclude that the rising tide of firearms violence in this country merits further legislative action at the present time.

It is the ready availability of the handgun, so often a weapon of crime and so infrequently a sporting arm, that is the most serious part of the current firearms problem in this country. The time has come to bring the handgun under reasonable control.

A restrictive licensing system for handguns is needed. State governments should be given the first opportunity to establish such systems in conformity with minimum federal standards that afford considerable discretion to each state to adopt a system suitable to its own needs. Accordingly—

- We recommend federal legislation to encourage the establishment of state licensing systems for handguns. The federal legislation would introduce a federal system of handgun licensing, applicable only to those states which within a four-year period fail to enact a state law that (1) establishes a standard for determining an individual's need for a handgun and for the licensing of an individual who shows such a need and (2) prohibits all others from possessing handguns or buying handgun ammunition.

We propose that the states be permitted to determine for themselves what constitutes "need" to own a handgun. For the federal system applicable to states which fail to enact their own

licensing systems, we recommend that determinations of need be limited to police officers and security guards, small businesses in high crime areas, and others with a special need for self-protection. At least in major metropolitan areas, the federal system should **not** consider normal household self-protection a sufficient showing of need to have a handgun.

We also recommend that a system of federal administrative or judicial review be established to assure that each state system is administered fairly and does not discriminate on the basis of race, religion, national origin, or other unconstitutional grounds.

We note that it will be necessary to compensate those handgun owners who are required to give up previously lawful firearms; this cost, which should be borne by the federal government, could amount to \$500 million.

Finally, we emphasize that laws controlling handguns should provide serious penalties for the possession of such guns by unlicensed persons. The apprehension of such persons should in time greatly reduce the rate of violent crime in the United States.

Shotguns and rifles are far less of a threat than handguns, particularly in the area of violent crime. At the same time, legitimate use of the long gun is widespread. The significant differences between handguns and long guns call for substantially different control strategies. We can make substantial inroads on firearms violence without imposing major inconveniences on hunters and skeet and trap shooters, and without impeding other legitimate activities of millions of long gun owners. Accordingly—

- We recommend federal legislation to establish minimum standards for **state** regulation of long guns under which (1) an identification card would be required for long gun owners and purchasers of long gun ammunition (a system similar to that recommended by gun manufacturers) and (2) any person 18 and over would be entitled to such a card, except certain classes of criminals and adjudicated incompetents. For states which do not adopt such regulations within four years, a federal regulatory system would be established.

- We do **not** recommend federal legislation to require nationwide registration of existing long guns. Substantially the same benefits could be obtained from less costly and burdensome control strategies.

- We **do** recommend that persons who **transfer** long guns be required to fill out a single card giving the serial number, type, make, and model of the weapon, the transferee's social security and firearms identification card numbers, the transferor's name and social security number, and the date of the transaction.

Supplementary Measures

Restrictive licensing of handguns and the simple identification card system for long guns represent the key legislative recommendations of this Commission in the area of gun control. There are, however, a number of other important goals which uniform and effective gun control legislation should accomplish. We urge the nation's lawmakers to consider them.

First, the Gun Control Act of 1968, which is intended to curtail the import of firearms unsuitable for sporting use, should be extended to prohibit domestic production and sale of "junk guns." Second, a federal firearms information center should be established to accumulate and store information on firearms and owners received from state agencies; this information would be available to state and federal law enforcement agencies. Third, licensed gun dealers should be required by federal statute to adopt and maintain security procedures to minimize theft of firearms.

6. CONCLUSION

An effective national firearms policy would help to reduce gun violence in the United States. It would also have a significance beyond the question of firearms. In comparison with most of the causes of violence in America, the firearms problem is concrete and manageable. But it is also complex and emotion-laden. For the United States to move effectively toward its solution would signify a new ability to transcend our violent past.

SEPARATE STATEMENT

Four members of the Commission (Senator Roman L. Hruska, Judge Ernest W. McFarland, Congressman Hale Boggs, and Leon Jaworski) state that there is a great deal with which they agree in the report on "Firearms and Violence." They feel, however, that the needs are not the same in the various States, or, for that matter, in all parts of a State. It is their opinion that each State should be permitted to determine for itself without additional restrictions from the Federal Government the system which best meets its needs to control the use of both the handguns and the long guns. They are unable, therefore, to concur fully in the report of the Commission.

STATISTICAL APPENDIX

1. Total number of firearms in civilian hands (U.S., 1968):

RIFLES: 35 million.
SHOTGUNS: 31 million.
HANDGUNS: 24 million.
TOTAL: 90 million.

2. Annual increase in number of firearms in civilian hands (U.S., 1962 vs. 1968):

RIFLES: 1962, 0.7 million 1968, 1.4 million.
SHOTGUNS: 1962, 0.7 million 1968, 1.4 million.
HANDGUNS: 1962, 0.6 million 1968, 2.5 million.
TOTAL: 1962, 2.1 million 1968, 5.3 million.

3. Mode of acquisition of firearms (U.S., 1968):

RIFLES: New, 56% Used, 44%.
SHOTGUNS: New, 54% Used, 46%.
HANDGUNS: New, 46% Used, 54%.

Note: More than 50% of all acquisitions of used firearms are from private parties, rather than from stores.

4. Accidental deaths of civilians from firearms and other causes (U.S., 1967):

MOTOR VEHICLES: 53,100
FALLS: 19,800
FIRES: 7,700
DROWNING: 6,800
FIREARMS: 2,800
POISONS: 2,400
MACHINERY: 2,100

5. Total number of major violent offenses (U.S., 1964 vs. 1967):

HOMICIDES: 1964, 9,250 1967, 12,100.
AGGRAVATED ASSAULTS: 1964, 200,000 1967, 253,300.
ROBBERIES: 1964, 129,830 1967, 202,050.

6. Criminal uses of firearms (U.S., 1964 vs. 1967):

HOMICIDES: 1964, 55% with firearms 1967, 63% with firearms.
AGGRAVATED ASSAULTS: 1964, 15% with firearms 1967, 21% with firearms.
ROBBERIES: 1964, not available 1967, 37% with firearms.

7. Deadliness of firearms attacks vs. knife attacks (U.S., 1967):

Percentage of firearms attacks resulting in death: 12.8.
Percentage of knife attacks resulting in death: 2.9.

(Firearms attacks are thus 4.4 times as deadly as knife attacks.)

8. Type of gun used in crimes committed with firearms (large U.S. cities, 1967):

HOMICIDE: Long guns, 8% Handguns, 92%.
AGGRAVATED ASSAULT: Long guns, 14% Handguns, 86%.
ROBBERY: Long guns, 4% Handguns, 96%.

Note: Handguns were used in 76% of gun homicides throughout the United States in 1967.

Source: Task Force Report, Firearms and Violence in American Life (National Commission on the Causes and Prevention of Violence. July, 1969).

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Egil Krogh
Deputy Assistant to the President

DATE: Feb. 9, 1970

FROM : Donald E. Santarelli
DS Associate Deputy Attorney General

SUBJECT: Alcohol, Tobacco Tax & Firearms Division of IRS

Here is a classic example of insensitivity to sportsmen by ATFD agents. It is not surprising, however, in view of the greatly expanded enforcement agent syndrome. Nevertheless, greater sensitivity is required in dealing with the sportsmen crowd than is apparently the present policy.

*Firearms
file*

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accompanied by return postage and self-addressed envelope.

ATFD Agents Flunk Test

Some more of the boys who are enforcing the Gun Control Act of 1968 haven't been doing their homework — AGAIN! No matter how many directives the Alcohol, Tobacco and Firearms Division of the Treasury Department puts out to its local agents explaining the law, there are still some who don't know what the gun law contains.

Recently, an ATFD agent spoke to a group of Maine Conservation Department officials, prefacing his remarks with the assurance that nothing in the new law was "intended" to harass the legitimate sportsman. He went on to "explain" the procedure required to move guns when changing residence from one state to another.

The ATFD agent told the conservation officials it is illegal for a gun owner to personally transport his guns across the state line when moving to a new state of residence. He said the "legal" way to move them is to consign them to a common carrier moving the owner's household goods. However, some commercial carriers will not accept guns and ammo.

Obviously, this agent should be given a refresher course in what the Gun Control Act DOES prohibit. It does NOT prohibit a law-abiding citizen from moving his personal firearms across state lines — whether for a permanent or temporary residence change. In fact, the ATFD late last year published a 132-page booklet containing an explanation of this very question. The booklet ("Published Ordinances Firearms," IRS Publication 603, available for \$1.25 from Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402) said:

"May a person changing his place of residence from one State to another move his firearms as part of his household goods into the State where he is establishing his new residency?" The ATFD answer: "Yes, provided he is not prohibited otherwise by the Gun Control Act or Title VII of the Omnibus Crime Control and Safe Streets Act from transporting or shipping firearms. Of course, if any common or contract carrier is used to transport or ship the household goods, the carrier must be notified, in writing, that such firearms are being transported or shipped."

The booklet goes on to enumerate the categories of individuals who may not transport firearms in interstate commerce. These are: Fugitives, felons, drug addicts, mental incompetents, persons who have been dishonorably discharged from the Armed Forces, those who have renounced their U.S. citizenship, and aliens who are in the U.S. illegally.

This is not the first time regional agents of ATFD have been caught giving out erroneous information — and it probably won't be the last time. Frequently in the last year local agents have been guilty of misinterpreting the Gun Control Act, which, if continued, will lead to a situation where gun owners won't know whether or not to believe ANY local ATFD agent on ANY question.

Therefore, in order to preserve what little credibility the ATFD has left at the local level, the agency's Washington Headquarters should take immediate steps to indoctrinate its local agents in the workings of ALL Federal gun laws. In too many cases local agents have added to the credibility gap, and it will not be bridged as long as conflicting interpretations are forthcoming from the various levels of ATFD.

May we suggest all ATFD agents be issued a copy of Publication 603 "Published Ordinances Firearms," and be required to learn what it contains. This would be a step in the right direction. — A.J.

THE WHITE HOUSE

WASHINGTON

August 25, 1970

MEMORANDUM FOR

BUD KROGH

This is to advise you that John agrees with your recommendation that we should oppose an amendment to the Internal Revenue Code which would exempt from the recordation requirements of the Gun Control Act sales to consumers of .22 caliber ammunition.

In your absence, I communicated this decision to Jeff Donfeld who will notify all appropriate parties.


KEN COLE

cc: Ron Ziegler

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Egil Krogh
Deputy Assistant to the President

DATE: March 16, 1970

FROM : Donald E. Santarelli
Associate Deputy Attorney General

SUBJECT: Gun Control

Here is a good example of how strong the sportsmen anti gun control interest runs in some areas. For Scott to admit that his 1968 support for gun control was a "mistake" really tells the story.

Especially since he was a leading agent for hBT- Clubs on the issue and led the Republican deflection to support the act he's now "mistaken" about.

*De
Gun Control
jck*

Scott Admits Gun Act 'Mistake'; Challenges Gun Week's Editorial

Sen. Hugh Scott (Pa.), who is up for re-election next year, has admitted that he made a mistake in voting for the Gun Control Act of 1968 and promises to attempt to rectify the mistake.

In a Nov. 10 letter to Gun Week, Sen. Scott said he voted for the Gun Control Act "in the heat of a very discouraging and violent summer," but later realized the law "would not have the crime fighting effects that I had in mind, but rather would merely harass the law-abiding sportsmen."

"I saw the mistake and vowed to rectify it," he added.

Because of Sen. Scott's anti-gun stand in 1968, several sportsmen's groups in Pennsylvania have gone on record opposing his re-election, despite the fact that he has been wooing sportsmen's votes and mending fences since early this year.

The complete text of Sen. Scott's letter to Gun Week follows:

The October 10th editorial in your fine newspaper entitled "Lest We Forgive and Forget" deals honestly and straightforwardly with the issues in the important firearms legislation area. I am therefore going to comment on this editorial in the same manner — no shooting from the hip, just the straight story.

Before the summer of 1968, my voting record on all matters of interest to sportsmen was an extremely good one. I have strenuously supported major conservation and wildlife preservation legislation since my election to Congress in 1940. My action in 1968 to which your editorial refers was my support of the Gun Control Act of 1968. I voted for and supported this legislation in the heat of a very discouraging and violent summer. The tragic slayings of Dr. Martin Luther King and Senator Robert F. Kennedy, one of my colleagues, had a great impact on the Senate and the country as a whole.

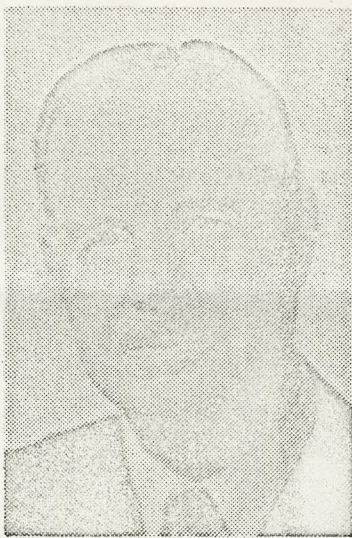
The main reason for my support of the Gun Control Act of 1968 was because of the crime fighting arguments made by many, including FBI Director J. Edgar Hoover, and the argument by the arms manufacturers themselves that a bill was needed to cut down the traffic in cheap and unsound foreign firearms of no use to legitimate sportsmen, but often used by street gangs.

Regardless of the motives that other Senators and Congressmen may have had in supporting this legislation, mine were to attack the vicious increase in law breaking of which we are all aware, and to help give the police another tool to fight the wave of crime that has developed in this country in the last several years.

My view was that in light of some recent court decisions, the police needed every tool that Congress could give them. I absolutely did not intend to support any first step toward confiscation. As my record shows, I have always defended the right-to-bear-arms provision of the Second Amendment. I have a gun in my own home and I certainly intend to keep it.

As I traveled across Pennsylvania last fall campaigning for Dick Schweiker, I saw the real effects of the Gun Control Act on the Commonwealth's hunters. In town after town, sincere sportsmen told me that they were just as concerned about controlling crime as I was but that they were the ones who were being treated like criminals instead of the real criminals roaming the streets. I saw that Congress passed a provision that perhaps would not have the crime fighting effects that I had in mind, but rather would merely harass the law-abiding sportsmen. I saw the mistake and vowed to rectify it.

Accordingly, I have co-sponsored and worked for the



Sen. Hugh Scott

Bennett-Scott bill which removes the sporting ammunition sales registration requirements. As it worked out, such requirements make no sense. No law enforcement purpose is served. It is impossible to trace a criminal's bullet back to the place of purchase.

As you know, this Bennett provision was passed by the Senate on October 9th. As Senator from Pennsylvania and as Minority Leader, I worked long hours with Senator Bennett in planning legislative strategy that led to passage. In fact, one of my first acts as Minority Leader was to work to get floor action on the proposal. This effort was not just "lip service" as you stated.

But I did more than just work on the Bennett bill. In addition:

(1) I have a bill, S-2311, before the Senate which would channel Federal taxes collected from the sale of handguns into the Wildlife Restoration Fund.

Approximately \$5 million a year would be added to the fund by my measure. This money now goes into general revenues, where it is of no direct benefit to Pennsylvania sportsmen and all other Pennsylvanians. This bill is similar to the Metcalf bill, S-670, except that my bill would give Pennsylvania about 7

percent of these funds instead of 3 percent under the Metcalf provision.

(2) I have co-sponsored and testified in support of S-849, Senator Mansfield's bill to provide tough mandatory penalties for criminals who use firearms to commit Federal felonies. This bill I hope will place the focus on the criminal element, where it belongs.

(3) I testified in opposition to Senator Tydings' bill, S-977, to establish a national system of firearms registration, and against the Dodd Certificate Bill, S-2433, which would require every gun-owner to procure a "certificate" from the Secretary of the Treasury. I have pledged to vote against these bills in the Judiciary Committee and on the Senate floor, and I will. Watch me.

(4) I strongly oppose those recommendations of the Violence Commission which would, in effect, confiscate 90 per cent of the handguns in this country. Such a provision, I believe, is clearly unconstitutional.

These things, I think you will agree, are more than mere "lip service."

In a recent speech before the members of the Pennsylvania Rifle and Pistol Association, I acknowledged Congress' mistake, a mistake in which I participated, in passing all of the provisions of the Gun Control Act of 1968. In dealing with an enormously complex group of legislative problems, mistakes are often inevitable. We all make mistakes, but I have tried to work and I will continue to work to correct it.

As a man and as a Senator, I ask only to be judged by my entire record. That record goes far beyond one month or two and the votes on one measure.

My total record is one which sportsmen can support with enthusiasm.

Signed: Hugh Scott

MENTION "GUN WEEK" IN ANSWERING ANY AD!



The Department of the Interior seal, left, as it replaced the buffalo result of Department return to the tradition.

Department Returns

Secretary of the Interior J. Hickel has Department to return its traditional buffalo official seal.

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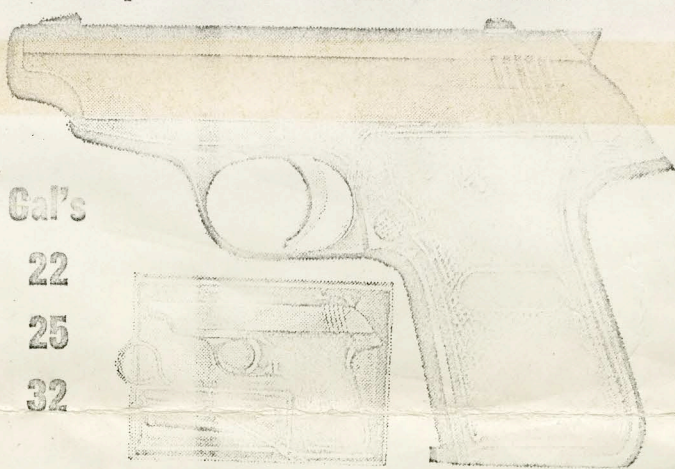
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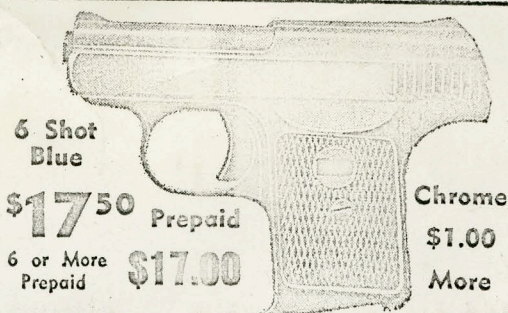
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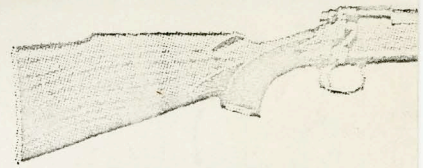
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SUBJECT: Consultations on Firearms with EC

REF: STATE 057568

1. Mission should use TSC-D 52/69 Rev 2 and data on imports as needed in talks with EC on firearms.

2. In addition, Mission may state:

a) US Government is actively working to remove unintended discrimination on imported firearms. We prefer to do this by developing objective standards which would be applicable both domestic and imported firearms. US officials currently working with both government and private technicians in order to develop objective standards which would effectively remove cheap handguns from circulation. European governments and gun manufacturers will be invited to submit views on development of these standards at a later date.

b) If objective standards can be developed, Administration would plan to introduce legislation applying these standards both to domestic production and imported guns, withdrawing at the same time the present import prohibition of guns not suitable for sporting purposes.

c) If, however, development of such standards proves impossible, US Government is prepared to introduce legislation which would apply present subjective standards (i.e., prohibition of firearms not suitable for sporting purposes) to US production.

d) USG expects to introduce proposed legislation early in next session of Congress. In the meantime it is not possible from a practical standpoint to remove present restrictions on firearms.

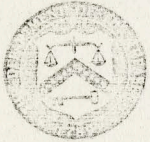
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a) U.S. Government is actively working to rectify present improper discrimination against imported firearms. The present standard prohibiting imports (firearms not suitable for sporting purposes) are subjective. We would prefer an objective standard (qualitative) which could then be applied both to domestic manufacture and importation. U.S. officials currently ^{are} working with both government and private technical experts in order to develop an objective standard (qualitative) which could then be applied to both domestic and foreign sources across the board. The purpose is to prohibit the continued production and circulation of unsafe and undesirable firearms. European governments and gun manufacturers will be invited to submit views on development of these standards at a later date.

b) If objective (qualitative) standards can be developed, the Administration would plan to seek legislation that would apply these standards to domestic production and imported firearms, thus repealing the present import prohibition ^{subjective} standard and replacing it with the more objective standard.

c) If, however, development of such objective standards prove impossible, U.S. Government is then prepared to support legislation that would bring the same standards and same prohibition against domestic production ^{and commerce} as against foreign imports.

d) U.S. Government would expect to propose such legislation as soon as it is properly developed, probably not before the next session of Congress. In view of the present statutory provisions, in the meantime, it would not be possible to remove the present restrictions on imported firearms.



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

Dear Mr. Chairman:

This is in response to your requests for the views of the Treasury Department on H.R. 17864, H.R. 17920 and H.R. 17921, 91st Congress, Second Session, each of which is entitled "A BILL TO amend section 4182 of the Internal Revenue Code of 1954".

H.R. 17920 and H.R. 17921 would amend section 4182, which relates to exemptions from the excise tax imposed on firearms and ammunition, by adding to subsection (c) after the word "commerce" the following: ".22 caliber rimfire ammunition". H.R. 17864 would add the same phrase less the word "rimfire". Each of the proposed additions in H.R. 17920 and H.R. 17921 would relieve licensees under Chapter 44, Title 18, United States Code, of the requirement of recording the name, address or other information concerning the purchaser of .22 caliber rimfire ammunition. H.R. 17864 would relieve licensees of such requirements with respect to all .22 caliber ammunition.

The provisions of 18 U.S.C. 922(b)(5) make it unlawful for a licensee to dispose of a firearm or ammunition without making a record, kept pursuant to section 923(g), showing the name, age and residence of the purchaser. In general, section 923(g) requires all licensees to maintain records of "importation, production, shipment, receipt, and sale or other disposition" of firearms and ammunition as the Secretary may by regulations prescribe. Further, upon request, the Secretary will make available to State and local authorities information from such records including identification of purchasers and a description of the ammunition purchased.

During the First Session of the 91st Congress, Public Law 91-128 (83 Stat. 269) was enacted. Section 5 of that Act added a new subsection, subsection (c), to section 4182 of the Internal Revenue Code which, in effect, repealed the above requirements in the Gun Control Act with respect

to sales of shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, or component parts therefor. Purchasers of ammunition interchangeable between rifles and handguns, such as .22 caliber rimfire ammunition, continued to be subject to the recordkeeping requirements.

In reporting on the ammunition records amendment to H.R. 12829 (which became Public Law 91-128), the Department expressed the view that the records required of transactions in sporting-type ammunition, i.e., shotgun, rifle, and .22 caliber rimfire ammunition, were of little value in law enforcement. Indeed, the Department stated that it knew of no instance where any of the recordkeeping provisions relating to sporting-type ammunition had been helpful in law enforcement.

Although .22 caliber rimfire ammunition is usable in handguns as well as in shoulder arms, as early as 1938, under the repealed Federal Firearms Act, the statutory definition of ammunition specifically excluded .22 caliber rimfire ammunition from ammunition in the pistol and revolver category. Also, in the case of .22 caliber rimfire ammunition, the age restriction in the Gun Control Act is practically impossible to administer since a licensee must determine whether each person between 18 and 21 years of age who purchases such ammunition which is usable in pistols, revolvers, and rifles, is in fact going to use it in a rifle. Moreover, .22 caliber rimfire ammunition has become by far the most popular sporting ammunition in use in the United States with some 4.3 billion rounds sold annually. Because of the volume of transactions in this ammunition, the recordkeeping requirements tend to generate continued criticism from sportsmen and others and detract from the enforcement of other provisions of the firearms laws.

As indicated above, .22 caliber rimfire ammunition has, since 1938, been considered rifle ammunition even though usable in pistols and revolvers. Moreover, H.R. 17864, H.R. 17920 and H.R. 17921 would not affect existing controls over interstate shipments and sales of

ammunition of all types by licensees to certain classes of people such as juveniles, drug addicts, felons and others subject to the proscriptions of Chapter 44, Title 18, United States Code.

In view of the above, the Treasury Department favors enactment of any of the bills, H.R. 17864, H.R. 17920 or H.R. 17921. As we noted, H.R. 17864 would apply to all .22 caliber ammunition; however, we believe that our comments concerning .22 caliber rimfire ammunition are equally valid with respect to other .22 caliber ammunition.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

General Counsel

The Honorable
Wilbur D. Mills, Chairman
Committee on Ways and Means
House of Representatives
Washington, D. C. 20515

DEPARTMENT OF JUSTICE

ROUTING SLIP

TO :	NAME	DIVISION	BUILDING	ROOM
1.	Kuogh			
2.				
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4.				

☐ SIGNATURE	☐ COMMENT	☐ PER CONVERSATION
☐ APPROVAL	☐ NECESSARY ACTION	☐ AS REQUESTED
☐ SEE ME	☒ NOTE AND RETURN	☐ NOTE AND FILE
☐ RECOMMENDATION	☐ CALL ME	☐ YOUR INFORMATION
☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE _____		
☐ PREPARE REPLY FOR THE SIGNATURE OF _____		

REMARKS

FROM :	NAME	BUILDING & ROOM	EXT.	DATE
	Santank.	4-1-70		

NATIONAL RIFLE ASSOCIATION OF AMERICA

Publishers of THE AMERICAN RIFLEMAN

1600 Rhode Island Avenue, N.W.

• Washington, D. C. 20036



783-6505

March 31, 1970

Mr. Donald Santarelli
Associate Deputy Attorney General
Room 4208
Department of Justice
Washington, D.C. 20530

Dear Don:

Please see page two of the enclosed press release for an interesting, although probably inaccurate, interpretation of John Ehrlichman's statement.

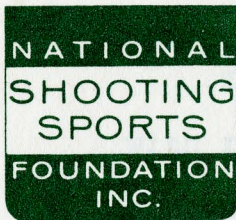
Also enclosed is a tearsheet on subject from our April issue.

Cordially,

Ashley Halsey, Jr.
Editor
THE AMERICAN RIFLEMAN

AH: jm

Enclosures



NATIONAL SHOOTING SPORTS FOUNDATION, INC.

1075 Post Road • Riverside, Connecticut 06878

Code: 203 637-3618

TO: OUTDOOR WRITERS AND SPORTSCASTERS.

March-April 1970

Release at convenience.

Bob Delfay

ANTI-GUN FORCES

REVEAL TRUE MOTIVES

The anti-gun forces move more and more into the open and reveal their true motives. From 1963 through 1968, they were saying, "We don't want to do anything to hurt the sportsman." Now they are introducing legislation to abolish private ownership of certain firearms.

Rep. Abner Mikva, Chicago, recently introduced H. R. 16250 in Congress which would, "Prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, in any manner affecting interstate or foreign commerce, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and pistol clubs."

The anti-gun organizations, which recently flooded the mails with requests for funds to start anti-gun clubs on college campuses, have stated that their first strategy is to abolish handgun ownership and then do the same for rifles and shotguns.

Even the Administration in Washington recently floated a trial balloon to see what the reaction would be to a proposal to abolish private ownership of handguns in the District of Columbia.

There are more than 20 million hunters and shooters in America. They will not be fooled by the anti-gun faction's obvious moves. These sportsmen know that if handguns go, so finally do rifles and shotguns.

ANOTHER DROP IN HUNTING ACCIDENTS

New York is another state reporting a decrease in the number of hunting accidents in 1969.

Hunting accidents in New York declined for the fourth year in a row during 1969, according to a report issued by the N. Y. Conservation Department.

There were eight fatal and 95 non-fatal accidents in 1969, a decrease of 26 accidents from 1968.

H. R. 16005 WILL AID WILDLIFE

To provide additional funds for certain wildlife restoration projects and other purposes, Congressmen John D. Dingell and George A. Goodling have introduced a bill (H. R. 16005) that would extend the present 10 per cent tax on handguns to archery equipment and dedicate the proceeds to the Federal Aid in Wildlife Restoration program.

SENATORS MOVE TO EASE LAW ON SPORTING ARMS

Change in shipping rules asked; handgun ban sought in House

By NRA STAFF

WHILE a group of Western and Southern Senators proposed a measure to ease Federal shipping restrictions on sporting arms and ammunition, an anti-gun Congressman from Chicago introduced a bill which would virtually end much private handgun ownership.

S. 3714, by Sen. Gale W. McGee (Wyo.), would permit Federal firearms licensees to make interstate shipments of sporting guns and ammunition directly to eligible non-licensees solely for their personal use. It would amend the 1968 Gun Control Act to that effect, but would leave in force the present ban on gun shipments to felons, drug addicts, adjudged mental incompetents, fugitives and ineligible minors. The Treasury Department would define "sporting arms."

Sen. McGee said his bill was intended to eliminate some of the provisions of the 1968 act "which have their most serious impact" on law-abiding citizens "who wish only to pursue legitimate hobbies or sports."

S. 3714 has as co-sponsors Senate Majority Leader Mike Mansfield (Mont.) and Sens. Wallace F. Bennett (Utah), Bob Dole (Kans.), James O. Eastland (Miss.), Paul J. Fannin (Ariz.), Frank E. Moss (Utah), Ted Stevens (Alaska), Strom Thurmond (S.C.), and Ralph Yarborough (Tex.). It was referred to the Senate Judiciary Committee, of which Sen. Eastland is chairman. Having the committee chairman as a co-sponsor was regarded in Washington as helping the chances of moving the bill out of committee and toward Senate action.

Rep. Abner J. Mikva (2nd Dist., Ill.), a Chicagoan who has endorsed the anti-handgun proposals of the National Commission on the Causes and Prevention of Violence, embodied much of this commission's firearms staff in his **H.R. 16250**. This bill, introduced in March and referred to the House Judiciary Committee, would "prohibit the importation, manufacture, sale, purchase, transfer, receipt or transportation of handguns"

in interstate commerce or in any way affecting interstate or foreign commerce.

H.R. 16250 would except from its provisions only law enforcement officers, military personnel, or "as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and pistol clubs." Mikva amplified: "The only kinds of nongovernmental groups which can qualify for handgun licenses are sporting and recreational pistol clubs approved by the Secretary. To be approved, these pistol clubs must have no members who are themselves disqualified from handgun ownership under Federal or State law . . ."

Further, the Congressman said, Federally-licensed pistol clubs would be required under his bill to have "facilities and procedures for storing the Club's handguns when they are not being used for sporting or recreational purposes"

As a special measure for the District of Columbia only, the White House has been considering a law that would ban handguns in the national capital.

John D. Ehrlichman, chief adviser on domestic affairs to President Nixon, told newsmen that while it would be difficult to prohibit handgun ownership on a State or national basis, "the District of Columbia offers a manageable dimension and we are nibbling at the outer edges of the idea."

A White House spokesman confirmed for THE AMERICAN RIFLEMAN that any handgun ban in Washington, D.C., would be directed "at the special, specific problem created by so-called Saturday Night Special pistols in the District of Columbia, an emergency situation that does not even apply outside the District." The spokesman described Mr. Ehrlichman and others at the White House as "alarmed" at the frequent use of pistols in Washington in senseless crimes.

While the spokesman confirmed that the White House has given consideration to recommendations of the National Commission on the Causes and Prevention of Violence, a Johnson-appointed body whose staff urged virtual confiscation of privately-owned handguns, Mr. Ehrlichman was represented as declining to accept a commission conclusion that handguns in themselves are a direct cause of crime. ■

and all club operations "must be conducted in conformity with Treasury regulations." Mikva said his bill would not "specifically ban" private handgun ownership. But he said it included a provision for surrendering handguns at value or \$25.

In line with a claim of the violence commission staff that spokesmen for firearms owners have termed utterly mistaken and misleading, the Chicago Congressman asserted: "There is little sporting or recreational use for handguns."

Meanwhile the 14th bill to repeal the 1968 Gun Control Act entirely was introduced in the House by Rep. John O. Marsh, Jr. (7th Dist., Va.). This bill, **H.R. 16122**, was sent to the House Judiciary Committee, where the 13 others remain "pending." Chairman of this committee is Rep. Emanuel Celler (10th Dist., N.Y.), a staunch supporter of strict gun controls. **H.R. 16122** would scrap the entire 1968 act but would reenact as law the Federal Firearms Act of 1938 with its provisions against ownership of firearms by undesirables.

Two bills which would increase the legal severity of armed crime were introduced and referred to the House Judiciary Committee. These are **H.R. 15785**, by Rep. John Melcher (2nd Dist., Mont.), which would impose a mandatory penalty for the commission of a Federal felony when armed, and **H.R. 16067**, by Rep. Daniel E. Button (29th Dist., N.Y.), which would make the armed robbery of gasoline stations a Federal felony.

H.R. 16005, by Reps. John D. Dingell (16th Dist., Mich.) and George A. Goodling (19th Dist., Pa.), would impose a manufacturers' excise tax on certain kinds of archery gear and equipment. Proceeds would be deposited in a special U.S. Treasury account in support of the purposes of Federal Aid in Wildlife Restoration Act of 1937. Referred to the House Committee on Merchant Marine and Fisheries. Rep. Goodling said the bill provides that purchasers of sporting archery equipment contribute "to this excellent Federal aid program" as do purchasers of sporting firearms and ammunition at present.

The Democratic Policy Council reported on Feb. 9, 1970 that "we need major efforts in . . . strict gun control legislation . . ." Council Chairman is former Vice President Hubert H. Humphrey. Vice Chairmen are Senators Fred R. Harris (Okla.) and Edmund S. Muskie (Maine).

ALASKA

Senate Bill 459, by Robert R. Blodgett, would prohibit the possession or discharge of a loaded firearm within one mile of

either side of a primary system highway, and the possession of a loaded firearm in a motor vehicle. To Committees on State Affairs, Resources and Judiciary.

CALIFORNIA

Assembly Bill 639, by Floyd L. Wakefield, would prohibit persons convicted of certain crimes, rather than any felony, from possessing concealable firearms, and would apply such prohibition to illegal aliens, rather than all aliens. This measure also would provide that a driver's license or identification card (provided for in the Vehicle Code) contain information with respect to a person's being prohibited from possessing any firearm, and would impose liability upon those who transfer a firearm to such person. To Committee on Criminal Procedure.

FLORIDA

Pre-filed **House Bill 3341**, by J. K. Tillman, would prohibit the discharge of firearms on any public road, highway or street rather than on any paved public road, highway or street.

IOWA

Senate Bill 1047, by Lee Gaudineer, would make the State Commissioner of Public Safety, rather than the county sheriff, the issuing authority for a concealed handgun permit; would revise the method of issuing permits; and would impose a ten-dollar fee for each permit. To Committee on Law Enforcement.

Senate Bill 1137, by Don S. McGill, would require that any hunter must receive permission of the owner or occupant of any occupied building or structure in which animals are confined before discharging a firearm within 100 yds. of such building or structure. Reported with an additional provision to prohibit the discharge of any shotgun over any public roadway.

House File 1053, by Ed Skinner, would permit county boards of supervisors to regulate the use of firearms in any town-

A constitutional provision to guarantee the right to bear arms will be placed before the State convention updating the 1870 Illinois Constitution.

That was assured recently when the State Constitutional Bill-of-Rights Committee voted 11-2 to submit to the convention an amendment: "Subject only to the police powers of the State, the right of the individual citizen to bear arms shall not be infringed."

The proposal approved by the committee was one of several on the subject considered at a public meeting attended by two NRA Executive Committeemen, Robert J. Kukla, Park Ridge, Ill., and Wilbur L. Withrow, Springfield, Ill. Kukla spoke for the Illinois State Rifle Association, Inc.

Illinois is one of 15 States whose Constitutions contain no right-to-bear-arms clause. ■

ship with a population of more than 4,000 persons. To Committee on Law Enforcement.

KANSAS

Senate Bill 565, by Committee on Conservation, would permit residents to purchase rifles and shotguns in contiguous states. Passed Senate. Referred to House Committee on Natural Resources.

KENTUCKY

House Bill 391, by Peter D. Conn and others, would require that U.S. Internal Revenue Service Form 4473 for intrastate and contiguous-State sales be sent by registered or certified mail within two working days after purchase of any firearm to the chief law enforcement officer of the local jurisdiction in which the purchaser resides. To Committees on Business and State Government.

House Bill 524, by E. Bruce Blythe, would require a license for the ownership, possession, acquisition or purchase of any firearm or part of such firearm. To Committee on State Government.

MICHIGAN

Senate Bill 1235, by Gordon Rockwell, would prohibit hunting with firearms by persons under 17 and would permit persons under 12 to hunt without a license while under the immediate supervision of a licensed father or legal guardian. To Committee on Conservation.

MISSISSIPPI

Senate Bill 2203, by Marion Smith and others, and **House Bill 527**, by J. Walter Brown, would prohibit the transportation of a loaded rifle or shotgun in a vehicle. Senate bill to Committee on Judiciary B; House bill to Judiciary A.

NEW YORK

Assembly Bill 2907, by John T. Gallagher, would enable certain persons, residents, and non-residents to possess and transport firearms through the State. **Assembly Bill 3225**, by Edwyn E. Mason, would exempt from provisions on unlawful possession firearms discovered as a result of use in self defense or protection of property. **Assembly Bill 3981**, by Emeel S. Betros, would prohibit the sale of ammunition manufactured exclusively for use in a handgun. **Assembly Bill 4434**, by William R. Sears, would permit residents to purchase rifles and shotguns in contiguous States. **Assembly Bill 4459**, by Leonard P. Stavisky, would require an I.D. card for the possession or ownership of a rifle or shotgun. **Assembly Bill 4460**, by Stavisky, would prohibit disposal of ammunition to a person not holding a handgun license or rifle-shotgun I.D. card, and would require a dealer in ammunition to be a licensed firearms dealer. **Assembly Bill 4461**, by Stavisky, would establish a central registration bureau with the State Police for rifles and shotguns. **Assembly Bill 4462**, by Stavisky, would make the Superintendent of State Police the firearms licensing officer outside of New York City and Nassau County. **Assembly Bill 4724**, by Stephen C. Hansen, would revise the existing State firearms laws. **Assembly**

NRA Affiliated In Every State

ESTABLISHMENT of the Delaware State Sportsmen's Association in March was a historic milestone for the NRA.

For the first time in its history, the NRA now has an NRA-affiliated State Association in every U.S. State, plus Puerto Rico.

Representing the NRA at the Delaware organizing meeting were NRA Executive Director Fred M. Hakenjos, Wilmington, Del.; Field Representative John K. Lee, Jr., and Charles E. Giesey, Acting Director of the NRA Membership Division.

Some 120 Delaware members of NRA participated, electing a 15-man board of directors which in turn will elect State officers.

A resolution was passed at the session expressing strong endorsement of the NRA Junior Program and indicating good support of it in Delaware.

Key figures in the development of the new association were Charles A. Thuet, acting secretary, and G. R. Lewis, acting chairman, working in cooperation with Mr. Hakenjos.

The March meeting resulted from an NRA Membership mailing to Delaware's 2,500 NRA Members, 500 of whom have already joined the new State association. ■

Bill 5662, by Stavisky, would require a dealer in rifles and shotguns to be licensed.

Assembly Bill 5887, by John E. Kingston, would exempt antique handguns from the licensing provisions of the State law. All to Committee on Codes.

Assembly Bill 5086, by Glenn H. Harris and others, would extend the prohibition against carrying a loaded firearm in a motor vehicle to snowmobiles and snow-travelers. To Committee on Conservation.

Senate Bill 8249, Tarky Lombardi, Jr., would allow an executor or administrator of an estate to possess firearms of the estate without regard to the State law for a period not exceeding 15 days. To Committee on Codes.

Assembly Bill 2341, by John H. Terry, is a concurrent resolution to provide for a constitutional affirmation of the right of the people to possess firearms for protection and recreational purposes. To Committee on Judiciary.

VIRGINIA

House Bill 411, by Thomas W. Moss, Jr., would authorize police officers to stop, question and search suspicious persons for weapons. To Committee on Courts of Justice.

House Bill 1026, by Charles W. Gunn, Jr., would make hunters liable for damage caused to property. To Committee on Conservation. ■

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 19, 1969

TO: BUD KROGH

FROM: EDWARD L. MORGAN 

SUBJECT: Firearms and Federal Criminal Law

Thought this particular Section might be of interest to you.

NATIONAL COMMISSION ON REFORM OF FEDERAL CRIMINAL LAWS

FIREARMS AND
FEDERAL CRIMINAL
LAW

PRELIMINARY STUDY

July 28, 1969

- I. Introductory Memorandum from Louis B. Schwartz
- II. Consultant's Report by Professor Frank Zimring,
University of Chicago Law School
- III. Appendix: Gun Control Act of 1968

DETERMINED TO BE AN
ADMINISTRATIVE MARKING
E.O. 12065, Section 6-102
By MJS NARS, Date 10/23/79

THIS DRAFT IS PRIVATE AND CONFIDENTIAL. IT HAS NOT BEEN APPROVED
BY THE COMMISSION. PUBLIC DISCLOSURE IS PROHIBITED

NATIONAL COMMISSION ON REFORM
OF FEDERAL CRIMINAL LAWS

M E M O R A N D U M

July 28, 1969

TO: Commission and Advisory Committee

FROM: Louis B. Schwartz
Director

Re: Firearms and the Federal Criminal Law
(Consultant's Report of Professor Frank Zimring,
University of Chicago Law School)

Transmitted herewith are Professor Zimring's report and a copy of the recently published Staff Report of the Violence Commission which summarizes available knowledge on the relation between guns and crime. Choice of legislative goals in this field and allocation of responsibility between the federal and state governments are difficult, controversial questions. As in the case of the sentencing system and the narcotics law, we believe it appropriate to submit a factual review and a range of policy choices before endeavoring to draft specific provisions. The major issues presented are as follows:

1. Should the federal government adopt the goal of drastically reducing the number of privately possessed handguns in this country? Should license to have a non-sporting gun be restricted to those who can show a special need, or in contrast should such a weapon be available to any person "of good character" or who is not within specified categories, e.g., felons, minors, persons under indictment, mentally ill, illegal alien residents, dishonorably discharged veterans?

2. Should the federal role be essentially auxiliary to state efforts in this field? If so, the federal offenses would be trafficking into a state in violation of its gun controls (dealers being federally licensed); selling to a non-resident; and the like. If not, the federal offenses might extend to sale to or possession by improper persons. At the outermost, this would make it a federal offense to possess a gun without a federal license, issuable only for

demonstrated need. Note the relation between such a program and enforcement considerations: illegal possession typically comes to light in the course of ordinary police patrol, street searches, etc.

3. In what way should the 1968 federal legislation providing mandatory minima where firearms are used or carried in the course of a federal felony be fitted into the new Code? The Consultant's Report suggests that our general sentencing scheme requires no special adaptation in this regard since the upper reaches of our felony sentences provide adequate deterrence for armed felonies. Another possible position might be to modify proposed Sections 303.01 (d) and 303.02 (b) in our sentencing chapters (Comm. Doc. No. 25) so that a gun would automatically justify imposition of a minimum and fixing of a long maximum prison term.

4. Assuming continuance of existing federal penal suppression of civilian access to machine guns, sawed off shotguns, silencers, etc., can we dispense with the registration and tax facade, relying for jurisdictional basis on more generalized need for national regulation because of danger to public figures and civil rights, intermingling of local and interstate commerce, and increased danger of commission of other serious federal offenses, e.g., bank robbery?

5. Should it be a federal offense to provide a firearm to one who intends to use it in committing a state offense? Cf. 18 USC 924(b) (Gun Control Act of 1968). Note that providing a weapon to commit a federal offense would make the provider guilty either as an accomplice or of criminal "facilitation" under the general provisions of the new Code. It is hard to see why the facilitator of a state offense should be subject to federal prosecution when the armed principal is not.

6. Should our Code include a "local" gun law for the District of Columbia or other federal enclaves? See Consultant's Report, p. 17. A sharply restricted "need"

licensing law might be appropriate for the District of Columbia and serve as a model for the states. On the other hand, the ease with which guns can be brought into the District from states with loose regulation might render the legislation unenforceable, absent tight federal controls, perhaps with a tendency to disarm only the law-abiding. Notwithstanding some astonishing statistics indicating that guns defensively possessed by the law-abiding constitute a greater mortal threat to them than a protection from violence, people seem willing and even eager to provide themselves with this dangerous kind of "security".

We strongly urge members of the Commission and Advisory Committee to write us soon indicating any strongly-held views on the above questions. With the help of such written comments, we may be able to narrow the alternatives before you at the next meeting.

CONSULTANT'S REPORT
ON
FIREARMS AND FEDERAL CRIMINAL LAW

Professor Frank Zimring
Consultant
University of Chicago
Law School

July 2, 1969

FIREARMS AND FEDERAL CRIMINAL LAW

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FIREARMS AND FEDERAL CRIMINAL LAW

The most basic distinction in any discussion of present or proposed federal criminal laws dealing with firearms is between (I) the questions raised by conduct that might be prohibited by federal law only because guns are involved and (II) the cluster of issues that involve gun use in conduct that would be considered criminal if guns were not used. Laws and proposals covered in the first category are those that attempt specifically to deal with the possession, manufacture, sale, or carrying of guns as an area deserving regulation. This category of laws can be considered "regulatory" only in the sense that federal narcotics laws, as well as the pure food and drug laws, are considered in the category of regulation, because the conduct prohibited by drug and gun controls is considered to be seriously antisocial and the punishments that accompany conviction for regulatory offenses in this area may, accordingly, be severe. Crimes in the second category include all federal crimes of violence.

I. The Federal Role in Firearms Regulation

A. Federal Firearms Control Laws 1927-1969

Federal regulation of firearms has been the subject of Congressional action on five occasions over the past forty^{five} years. In 1927 Congress closed the mail to handguns.¹ Seven years later the National Firearms Act of 1934 imposed a fairly comprehensive federal regulation of machine guns, short-barreled or sawed-off rifles and shotguns, silencers, and other unconventional concealable firearms.² That law imposed a heavy tax on the transfer of most such weapons and an occupational tax on the manufacturers, importers and dealers of weapons covered by the act. All manufacturers, importers and dealers were required to register under this act, as were all people who acquired covered weapons, unless their acquisition met with the other requirements of the act, which meant that they would have to pay the transfer tax. In 1968, in Haines v. United States,³ the Supreme Court ruled that the Fifth Amendment privilege against self-incrimination invalidated prosecution for failure to register or for possession of an unregistered gun under the National Firearms Act of 1934 because the registration provision compelled an individual to incriminate

¹ 18 U.S.C. §1715 (1967).

² 72 Stat. 1428

³ 390 U.S. 86 (1968)

himself by admitting unlawful possession. Later in 1968, the 1934 act was amended to provide that information submitted in registrations could not be used in any prosecution against the registrant and the act's coverage was extended to require that everyone, not just the illegal possessor, is required to register covered firearms.⁴

The number of firearms in civilian hands in the United States covered by the National Firearms Act of 1934 is quite small; in some measure this is a tribute to the success of that law in taking machine guns out of general circulation and probably reducing the production of short-barreled and sawed-off shotguns and rifles.

The Federal Firearms Act of 1938⁵ covered all firearms but superimposed only a thin veneer of federal regulation on the sale and possession of firearms in the United States. As enacted in 1938, this law required firearms manufacturers, importers and dealers to obtain a federal license before shipping firearms in interstate commerce. The annual fee for such license was \$25 for manufacturers and importers and \$1 for dealers. Additional provisions barred dealers and manufacturers from knowingly shipping a firearm in interstate commerce to a felon, fugitive from justice, person under indictment, or anyone

⁴ 82 Stat. 1227.

⁵ 52 Stat. 1250 (1938), repealed, 82 Stat. 234 (1968).

not having a license to purchase a particular form of firearm, if such a license was required by local law. Felons and others who were considered prohibited classes were also forbidden from shipping or receiving the firearms that were or had been in interstate commerce. The act also prohibited knowingly shipping or receiving in interstate commerce any stolen firearms, or any firearms with altered serial numbers. In addition, licensed dealers under the Federal Firearms Act were required to maintain permanent records of firearms received and sold.

For thirty years this was the master plan of federal regulation of firearms in the civilian market. By almost any criterion, the act was a dismal failure. Only a minority of the states have laws requiring firearm licenses, so that the attempt to use federal standards to strengthen state regulation could only be, even in theory and with maximum enforcement, a partial success.⁶ Even where local law required licenses for firearm purchases, any person who paid \$1 for a federal firearm dealer's license could be shipped a firearm without regard to such a state law. Even more important, the requirement that criminal liability under the statute should be based on the knowing shipment of a firearm to a prohibited person was not

⁶ See Newton and Zimring, Firearms and Violence in American Life (1969), at ch. 14.

accompanied by a duty to inquire so that the effect of the law dissolved in its own mens rea requirement.

The only provision in the Federal Firearms Act of 1938 that was drafted in a manner that could have provided for effective regulation--the requirement that dealers keep records on firearms received and sold--also proved less than an unqualified success. Most records were sloppy, rarely used, and with respect to firearms such as 22-caliber weapons, for which serial numbers did not have to be provided, of no use in the detection of crime. In 1957 the Treasury Department dropped its requirement that records be kept on ammunition sales.⁷

In 1968, Congress passed two major pieces of firearm legislation. The first installment of recent Congressional firearms control law was a section of the Omnibus Crime Control and Safe Streets Act of 1968,⁸ which provided that the receipt, possession, transportation in commerce, "or affecting commerce," of firearms other than shotguns and rifles by "felons, veterans who are other than honorably discharged, mental incompetents, aliens who are illegally in the country, and former citizens who have renounced their citizenship" is a federal crime.⁹

⁷ 23 F.R. 343 (Jan. 18, 1958).

⁸ 82 Stat. 236-37

⁹ Ibid.

In October of 1968, the Gun Control Act of 1968¹⁰ was passed, revising the Omnibus Crime Bill firearms provision to extend the coverage of federal regulations to all firearms and further providing that no person except licensed federal dealers could ship, transport, or receive any firearm or ammunition in interstate commerce. Other provisions of this new law include a tightening of the standards and a raising of the fees for federal firearm licenses, a provision that federal firearm licensees may not sell rifles or shotguns or ammunition therefor to anyone they know or have reason to believe is under 18, or handguns or ammunition therefor to anyone under 21, the requirement that all firearms must have serial numbers, and a ban on the sale of firearms to any person who the seller knows or has reason to believe is a non-resident of the state in which the sale is taking place.

In addition to these and other regulations dealing principally with the transfer of firearms from one owner to another and a ban on "destructive devices," the act contains a ban on the import of firearms unless the firearms are, to the satisfaction of the Secretary of the Treasury, "particularly suitable for or readily adaptable to sporting purposes," a ban on the importation of surplus

¹⁰ 82 Stat. 1213.

military weapons, and criminal penalties for the possession, receipt, or transfer of a firearm when the transferee intends to use it in crime.

Proposals for a national system of firearms regulation or firearms ownership licensing, or to establish minimum standards of licensing and regulation to be imposed on state governments have been discussed in the last few years but have not been enacted.

The present complex of federal regulations would appear to have three objectives. With respect to machine guns and other "destructive devices," the federal role in the regulation of such weapons is primary, the objective is to remove such weapons from the civilian market, and efforts toward that objective seem to have been successful.

The theory behind the ban on interstate shipment of weapons and sales of firearms to non-residents is that of federal control as a support to state regulation. For many years, interstate movement of firearms has frustrated state efforts to enact rigorous systems of firearms control. In Massachusetts, where restrictive handgun licensing has been in effect for many years, a study showed that 87% of the firearms confiscated as a result of use in crime came from other states, and similar studies by the Task Force on Firearms of the National Violence Commission show a similar pattern to be true in New York City, with restrictive handgun licensing, and Detroit, Michigan,

with a permissive handgun licensing system and a geographic vulnerability to the inflow of weapons from Toledo, Ohio.¹¹ Because purchasers can easily misrepresent their residence, present federal provisions are far from "leak-proof." But if enforcement efforts are sufficiently energetic, this new pattern of federal laws may have some depressant effect on the movement of firearms in interstate commerce.

The provisions banning certain classes from gun ownership are (a) an attempt to bolster local licensing requirements with the threat of federal penalties for illegal receipt or possession of firearms that have been in interstate commerce and (b) an independent federal effort to ban the possession of firearms by particular classes. Because present federal law does not affect the number of most firearms in civilian hands or the generally easy accessibility of firearms, these provisions, in order to succeed in restricting rates of possession of firearms in the classes covered, must do so as a result of the deterrent effect of the law influencing decisions about gun ownership by felons and other subject groups.

¹¹ Newton and Zimring, *op. cit. supra*, at ch. 14.

B. Where Do We Go From Here?

The mix of motives and strategies apparent in the present federal regulatory scheme might be thought of as miserable or optimal, well thought-out, or the arbitrary product of the clashing of pressure groups over the years. Defining an appropriate federal role in firearms control requires a determination of what type of firearms control is desirable and a decision about what part the federal government, as only one of a number of responsible government entities, should play in the process of reducing firearm violence.

The Task Force on Firearms of the National Violence Commission, in a document submitted to its parent agency, has advocated that the most certain and most substantial diminution of firearm violence in the United States would be produced by a system that substantially reduced the number of handguns in civilian hands, defining the term "substantially" as a reduction of 90% or more of the estimated 24 million handguns privately owned by American citizens.¹² The mechanism recommended to achieve this goal is a system of restrictive handgun licensing. This position was the product of several of the Task Force's conclusions: (1) firearms make a substantial contribution to the cost of violence in the United States, (2) handguns play a disproportionate role in firearm violence, (3) handguns are but a small part of the sporting use of

¹² Newton and Zimring, op. cit. supra, Recommendations.

firearms in the United States, and (4) if handguns were controlled, we have reason to believe that long guns would not become anywhere near the social threat that handguns now constitute.

This proposal is one of many that involve governmental efforts to screen all prospective gun owners. Other proposed systems would allow all but a few disqualified groups to own guns but would impose license requirements for all owners. Any proposal to screen gun ownership raises the issue of what part the federal government should assume in this type of firearms control.

One alternative answer to this question is that the federal government should do nothing. State and local governments, under the traditionally local police power in the United States, have the primary responsibility for making decisions about the impact of firearms on violence and about appropriate countermeasures. The problem with this position is that firearms are seen by many as a national problem appropriate for a national solution. Further, the interstate leakage of firearms is so great that complete federal inaction would lead to substantial frustration of any state and local firearms control efforts.

A second possible federal role in firearms control is illustrated by the "backstop" efforts that underlie the ban on interstate firearms shipments and firearms sales to non-residents. This, it could be argued, will discharge

the federal government's primary responsibility in the area of firearms control--suppressing interstate movements of firearms so that the state and local governments charged with the primary responsibility of diminishing firearm violence can better enforce whatever systems of control they deem appropriate. A national firearms record center, existing without a national registration law, would be another type of backstop control.

One problem with the backstop approach is that, as long as some states permit large accumulations of handguns, it may be impossible to prevent the interstate leakage of firearms into states with more rigid control systems, no matter what practices are proscribed by the Federal Criminal Code. Thus a system of national licensing may be the only method of achieving the goals of backstop regulations. A second problem with assigning the federal government an exclusively secondary role in firearms regulation is that the national government may be unwilling to tolerate levels of firearm violence and firearm possession that particular state governments would allow.

A third alternative would be the establishment of minimum national standards that would allow the states a first option of implementing these standards through adequate state and local firearms control laws. Under this approach, if a state failed to enact legislation meeting these standards after a grace period, a federally enforced

system of firearms regulation would be substituted.

A fourth alternative is a national system of firearms regulation where the federal government has the primary responsibility of administering, as well as establishing, standards for firearms control. Opponents of this alternative maintain that such a policy would generate an unpleasantly large federal role in local law enforcement and might precipitate the advent of a major national police force.

Choosing among these alternatives is a matter of values and priorities. My own inclination is toward minimum national standards, with administrative responsibility vested in those states that write laws complying with the federal guidelines. Whatever one's preference, there is little doubt that any of the above possible federal roles are within the power of Congress in this area, because firearms possession constitutes a threat to the safety of the President of the United States and other federal officers and elected officials, and firearms possession policies can be viewed as an influence on interstate travel. However, the fact that the potential in this area extends all the way to a fully federalized system of standards and administration does not perforce mean it would be desirable to test this extreme.

Penalties for Gun Law Violations

Present federal firearms laws regulations provide penalties on the order of Class C felonies under the proposed Federal Criminal Code. This penalty structure is probably too high, given the thrust of the Code's other sentencing reforms. Moreover, if the federal government were to take a larger role in firearms regulation, a high penalty structure would probably impede enforcement as much as the extra measure of punishment might deter those who would otherwise violate the law.

At the same time, guns are a specially dangerous class of instruments, and gun regulation is very close to traditional concerns in crime control. On balance, it would seem wise to make unlawful possession of guns under federal law a Class A misdemeanor, and trafficking offenses, when they involve a number of guns, should retain felony status. Because of the proximity of gun control to traditional crime, Title 18 would seem an appropriate placement for any fully federalized gun regulation. However, if federal standards and state regulation are to be mixed, placement in Title 18 would seem rather awkward.

C. Federal Laws on the Place and Manner of Firearms Use

Many localities in the United States attempt to reduce firearm violence by restricting the place and manner in which firearms may be used with or without additional restrictions on possession of firearms or particular types of firearms. Thus, it is common to encounter laws prohibiting the carrying of a firearm in a motor vehicle or the carrying of concealable firearms on the person, and many laws prohibit the discharge of a gun in specified areas.¹³ The Model Penal Code provides a slight twist on the conventional pattern by distinguishing between sporting firearms and other firearms and presuming all other firearms to be "instruments of crime" unless the gun is possessed in the actor's home or place of business, or the actor is licensed or otherwise authorized to carry the weapon in the manner it was carried when the actor was apprehended.¹⁴

The intention of most "place and manner" laws is to reduce firearms violence by restricting the number of situations in which a firearm carried on the person or in a motor vehicle will be used in either impulsive or planned criminal activity. By implication, the Model Penal Code goes a step further than the standard "place

¹³ See Newton and Zimring, *Firearms and Violence in American Life* (1969), at ch. 13.

¹⁴ American Law Institute, *Model Penal Code*, §5.06.

and manner" laws by presuming a specific criminal purpose to the possession of certain firearms and by categorizing its particular place and manner regulation under the article dealing with "inchoate crimes."

This classification might indicate an assumption on the part of the draftsmen of that law that the illegal carrying of a firearm is generally accompanied by an intention to commit a crime of violence with that firearm. As a matter of statistical probability, this assumption is grossly incorrect but ingenious. In many areas, even where the carrying of a firearm on one's person or in a motor vehicle is illegal, local custom promotes the carrying of guns for defensive purposes, real or imaginary, and this is generally done without the person forming a specific intention of violating any law other than the law against carrying a firearm. The theory is ingenious, however, because it points up the risk of the presence of a mobile firearm in a tense situation leading to violent crime that would not otherwise occur.

Of all the roles federal law might play in firearms control, nationwide regulation based on laws against carrying firearms is the least appropriate. Laws regulating the place and manner in which firearms may be carried can be enforced only by street contacts with individuals and are thus more intimately related with

general police functions than any other kind of firearms regulation, because it is the ordinary policeman on the beat rather than any special enforcement official who is the first line of defense in the enforcement of such laws.

In areas where the federal government has primary responsibility for criminal law enforcement, laws prohibiting the carrying of weapons without a conspicuously lawful purpose are appropriate and will assist the police by empowering arrests earlier in the scenario of crime than would otherwise be the case and by providing a means of taking a substantial number of firearms, when discovered, out of circulation. As a matter of theoretical nicety, it is my view that the risk-generating characteristics of this behavior, rather than its presumed relationship to specific criminal intent, justify its criminalization.

D. Federal Firearms Controls and Federally Controlled Areas

The appropriate role of the federal government in firearms regulation nationally is a large and controversial question. Appropriate measures of federal firearms control in those areas where the federal government has a primary policing responsibility is a smaller question, a separate question, but to some extent related to the conclusions one reaches about the desirability of national firearms control. Where primary federal jurisdiction is exercised over large or isolated geographical areas, such as the District of Columbia or federal territories, federal laws aimed at direct regulation of firearms possession are appropriate, independent of nationwide federal gun control. In areas where the United States has a primary law-making responsibility but local agencies are in charge of law enforcement, the federal role can probably best rest in the creation of minimum standards to be administered by local authorities.

In federal enclaves, themselves geographically insignificant, that are set apart from state jurisdiction because of federal ownership, regulation of firearms possession, in the absence of a nationwide control system, might be appropriate but could easily be frustrated by state policies inconsistent with the federal possession restriction. If firearms are easily available just outside

federal enclaves, no legal provision can make it physically more difficult for individuals to obtain firearms. Requiring special federal firearm licenses in this situation can only be defended if the enclave is the residence of a significant number of people and the exercise of federal authority in that enclave can be extended in a way that would allow inspection of individuals to determine whether they possess firearms. If this type of policing is not available, laws prohibiting the carrying of firearms would have the same effectiveness in the federal enclaves as any possession laws.

II. Gun Use in Federal Crime

A. Present Federal Policy: 18 U.S.C. §924

The only federal law that distinguishes firearms use in federal crimes is 18 U.S.C. §924, passed in 1968 as part of the Gun Control Act of 1968. Section 924(c) provides:

Whoever--

(1) uses a firearm to commit any felony which may be prosecuted in a court of the United States, or
 (2) carries a firearm unlawfully during the commission of any felony which may be prosecuted in a court of the United States,
 shall be sentenced to a term of imprisonment for not less than one year nor more than 10 years. In the case of his second or subsequent conviction under this section, such person shall be sentenced to a term of imprisonment for not less than five years nor more than 25 years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence.

The two situations covered in (c) should be considered separately. (1) provides separate sentencing provisions when an individual "uses a firearm" to commit a federal felony. With the possible but unlikely exception of using a firearm to violate a federal firearms regulation, such as illegal shipment or possession of a gun,¹ the scope of this provision would seem confined to federal crimes of force, principally assault, robbery, and kidnapping,

¹ See, e.g., 18 U.S.C. §922.

where guns play an active role in criminal conduct.

The impact of this law on the sentencing of first offenders guilty of federal crimes of violence committed with firearms would be minimal if sentences imposed under §924(c)(1) are concurrent.² First offenders, under §924, remain eligible for suspended sentences and probation. The range of imprisonment options provided for first offenders is the same as those provided in 18 U.S.C. 2231 (assaulting or resisting a federal officer), 18 U.S.C. 112 (assaulting diplomatic personnel), while penalties provided for bank robbery, kidnapping and mail robbery far exceed those in §924.

The second-offender provisions of §924 may also fail to play an important role in sentence determination. Second offenders under §924(c)(1) must be sentenced to a minimum five years and cannot receive suspended sentences or probation, under one reading of the provision. It is possible, however, to construe the mandatory provisions of §924(c) as separate in effect and thus conclude that the total sentence imposed on a second offender cannot be suspended but that terms of actual imprisonment less than the five-year minimum are not prohibited. This construction would not be popular with most of the members of Congress who voted

² See §303.05(a) in the Low draft of sentencing chapters.

for §924.³

Independent of such a construction, the ban on probation and suspended sentences may not be significant because this type of sentence is probably a rare occurrence when a person is convicted of a second federal crime of violence. Even the five-year minimum may be a fairly standard restatement of federal sentencing practice with respect to second-time violent offenders.

Moreover, no discussion of (1) would be complete without speculating about the effect that plea-bargaining and other prosecutorial practices may have on the use of the separate provision when individuals can be charged with both an independent federal felony and a violation of §924(c)(1). As a matter of convenience and policy, prosecutors may proceed on the independent federal felony and drop the §924 charge in the way they are reputed to drop federal firearms charges when the same activities that led to a federal firearms charge also produce a conviction for a serious offense in a state court. Even if such unilateral charge-dropping is not a standard practice, it may be that the possibility of prosecution under §924 will function chiefly as additional leverage to help induce guilty pleas to federal crimes of violence in exchange

³ The second-offender provisions originated in the House version of the bill, where the language applied to all convictions, and the tone of discussion clearly indicated that most proponents of the bill thought the full minimum sentence was to be mandatory.

for non-prosecution under §924(c)(1).

Section 924(c)(2) makes it a federal offense if an individual "carries a firearm unlawfully" during the commission of a federal felony. The distinction between this and (1) is that (1) requires that the gun play some instrumental role in the commission of the federal felony, thus restricting its scope to crimes where force is used, while (2) speaks only of the coincidence of an unlawfully carried firearm and the commission of a crime, at the same time, chargeable to the same person. The firearm would be "unlawfully carried" under federal law if the individual is carrying the firearm in violation of local law. In addition, persons who cannot legally receive weapons (§922(h)) and persons who had received the firearm in interstate commerce with the intention of committing any offense (§924(b)) would be independently liable for a violation of §924(c)(2) if it is determined that unlawful receipt makes any subsequent "carrying" unlawful regardless of state law, a construction that is unlikely and that would be unfortunate.

Section 924(c)(2) barks much more ferociously than it bites. In order to establish that an individual carried a firearm in a situation where he did not use it, one has to catch him in the act or find a witness who observed him during the commission of the crime. Personal observations likely to produce reliable reports of the carrying of a

firearm are not common in crimes of stealth, such as larceny, car theft, interstate shipment of stolen cars, or burglary. Most apprehensions under (2) would occur when an individual is apprehended while committing a crime of long duration, such as unlawful flight, and is found to be carrying a gun.

The fact that a first offense under (2) carries no bar to probation or suspended sentence means that the minimum penalty provisions become significant when an individual is in the unfortunate position of being caught twice in the act of committing a crime for which a firearm is not used or required but nonetheless possesses such a firearm.

Section 924(c)(2) is an attempt to dissuade criminals such as burglars from carrying guns that are not ordinarily used in their crimes but that might make an apprehended burglar more dangerous to his victim or to law enforcement officers. The purpose of such a provision is honorable--to lessen the risk of gun use escalating the danger in apprehending federal criminals,⁴ but the prospects of achieving deterrent effectiveness with the law seem less than bright.

⁴ Ninety-six percent of all policemen murdered on duty are killed by gunshot wounds.

Moreover, if we assume that judges would, even without §924, consider the possession and use of firearms as aggravating circumstances in the commission of crimes, the relevant question becomes whether these provisions operate as more efficient deterrents to gun use in crime than the use of gun criteria on a more informal basis by sentencing courts.⁵ On this question no reliable data are presently available, but there is little reason to express high hopes.

Laws on the order of 18 U.S.C. §924(c) can produce costs. Such laws may add inflexibility to a sentencing structure and complicate the structure of the Federal Criminal Code by creating interplay with other federal criminal provisions and local law. More important, such laws may generate unwarranted feelings that this approach is likely to reduce firearm violence. It is when such

⁵ A second possible function of §924(c)(2) is to make evidence of possession of firearms admissible under circumstances where it may not be admissible because it has no bearing on the material elements of a crime where a firearm was not used. It is easy to conjure hypothetical situations where this issue was raised but difficult to imagine situations where the existence of a gun could not be brought to the attention of the court.

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provisions are viewed as alternatives to regulation of firearm possession that they appear to be most costly. If sterner measures along the lines of §924(c) were adopted, the costs of the policy would be much higher. It could also be argued that the possibility of achieving a deterrent effect would be increased.

Thus, the prospect of larger mandatory sentences⁶ and barriers to probation on first offenses raises questions about the potential of deterring gun crime more clearly than present federal law in this area.

However, a discussion of this issue must be framed more specifically than the terms of §924(c). We must

⁶ In 1968 Rep. Casey of Texas introduced an amendment making gun use in state felonies a federal crime. The House version of the Gun Control Act of 1968 barred suspended sentences or probation for first offenses with minimum one-year terms. Other members of Congress have indicated support for even longer minimum terms.

talk about deterring gun use in various specific crimes rather than "crime," the all-inclusive referent of present federal law.⁷ And we must do so with more care than did many of the participants in past Congressional debates.

⁷ See Zimring and Hawkins, Deterrence and Marginal Groups, Journal of Research in Crime and Delinquency, 100 (July 1968).

B. Assault

Assault is a crime where the attack is the essence of the offense. In assault, both the extent of injury intended by the attacker and the instrument used in the attack may be significant in determining the degree of crime committed or the proper sentence to be imposed upon conviction.

If we distinguish between serious bodily harm and less serious injuries, and between assaults without weapons, assaults with weapons other than guns and assaults with guns, we produce a matrix with six kinds of assault.

Intent	Weapon		
	No Weapon	Deadly Weapon*	Firearm
Nonserious Injury			
Serious Injury			

* other than firearm

Analyzing the matrix, we have anywhere from one to six distinct crimes.

How many grades of assault should the law define?

The basis for distinguishing between assaults that result in serious bodily harm and those that do not is that the former category presents a much more serious social danger. In fact, what evidence exists suggests

that there may be a greater difference in quality of attack between simple and aggravated assault than exists between aggravated assault that produces serious bodily harm and most homicide.⁸ Distinguishing further between attacks on the basis of the weapon used in aggravated assault can be defended (a) because choice of weapon has probative value in determining an attacker's intent and (b) because attacks with deadly weapons are much more likely, independent of intent, to cause death or serious injury than attacks with only personal force, and attacks with guns are more likely to cause death than attacks with other deadly weapons.

If we consider the weapon used only because choice of weapon has probative value in determining the attacker's intent, distinguishing between categories of assault on the basis of the magnitude of the injury intended while making separate distinctions in grade of crime based on weapon used appears to be redundant. To the extent that weapon choice is probative of intent, it is evidence of aggravated rather than simple assault, and perhaps evidence of sufficient magnitude to justify a conclusive presumption or classification of aggravated assault whenever deadly weapons are used. (See proposed 209.5.)

⁸ See Zimring, Is Gun Control Likely to Reduce Violent Killings, 35 U. Chi. L. Rev. 721 (1968).

An independent basis for separate treatment of attacks based on weapons used is that the use of weapons rather than personal force and the use of firearms rather than other deadly weapons create an increased risk of victim death or serious injury that appears to function independently of an attacker's intent. For example, what data we have suggest that the same kinds of people in the same kinds of situation are five times as likely to cause death when they use firearms as when they use knives.⁹

If this is the basis for distinguishing grades of assault as a result of weapons used, the principal aim of any such distinction is "differential deterrence," an attempt to increase the use of less lethal means of attack by those who are undeterred by the general legal prohibition of assault by threatening gun assault more severely than other assaults. By definition, the audience of such a threat is a self-selected group of offenders that has already displayed a rather remarkable immunity to the deterrent force of criminal sanctions in an area of behavior where the risk of apprehension is high. This immunity is manifested in two rather disheartening ways: first, this group is not dissuaded by the normal penalties imposed for aggravated assault and, second, in committing assault with a deadly weapon, an individual is risking

⁹ Id., at 728.

a far higher penalty if his victim should die than any special penalty a gun-use provision could establish.

Once these qualifications on the operation of differential deterrence are set out, we do not have data that speak in further detail to the question of whether laws that attempt to establish differential grades of deadly assault provide an extra measure of deterrence, thereby reducing the proportion of deadly assaults committed with guns.

If gun use were to be a separate grade of offense in the Draft Federal Criminal Code, this would require the creation of a Class B felony, the material elements of which would be

"intentionally or knowingly causes bodily injury to another human being with a firearm."

The arguments against such a proposal operate at a number of levels. First, since we have no data available on which to base the conclusion that such a distinction would have any effect on the rate of gun use in deadly attacks, no data are available that can provide information about the extent of any extra measure of deterrence that such a distinction could produce. Against this unknown benefit, a separately graded category of firearm assault would have certain costs. Since aggravated assault could hardly be less than a Class C felony, a separate firearm offense would substantially reduce the options of the sentencing judge in a gun-assault case and add a group

of lengthy sentences to a correctional policy whose proposed range of sanctions is already far from immodest. This may lead to extra public expense, misery and, perhaps, punishment-generated aggressions that eventually lead to further crime. Also, to the extent that the possibility of differential deterrence is important, any increase in the gap between aggravated assault and firearms assault sanctions would result in a decrease in the gap between the penalties for nonfatal firearms assault and murder. Yet, because gun use is so much more deadly than attacks with other weapons, the argument can be made that the law should distinguish between gun and other assaults even at the risk of narrowing the marginal difference between gun injury and murder penalties.

In any event, the data clearly establish a basis for considering gun use as an aggravating circumstance in sentencing decisions even if gun assault does not emerge as a separately graded offense.

C. Robbery

A typical robbery combines elements of property and personal crime because the robber uses personal force rather than stealth or trickery to unlawfully obtain the property of another. Force may be used against a victim in one of two ways: the robber can incapacitate his victim by inflicting an injury, or the robber may seek to obtain

property without injuring his victim by threatening to use force. If only the threat of force is involved and a victim proves cooperative, the offense can be committed without an attack intended to produce serious bodily injury. Thus, many robberies, particularly those that occur on the street and involve only individual victims, or small groups of victims and larger groups of robbers, can be committed without the use of weapons.¹⁰ With respect to indoor robberies, where one or a group of robbers invade businesses or homes, the robber has fewer options about the weapons he will use because he will normally be at a great disadvantage without either a knife or a gun. The great majority of indoor robberies are committed with deadly weapons, and the handgun is the deadly weapon employed in a clear majority of indoor robberies.¹¹

Because robbery will often take place without an attack intended to produce serious bodily injury, one way of taking cognizance of the difference between aggravated assault and robbery would be to design a matrix distinguishing, on the one hand, between robberies that result in attacks intended to injure and robberies where only the threat of injury is invoked and, on the

¹⁰ See Newton and Zimring, *Firearms and Violence in American Life*, ch. 7.

¹¹ *Id.*, at Appendix D, and ch. 7.

other hand, distinguishing between robberies on the basis of whether weapons were used and whether firearms were the weapons used.

	No Weapon	Weapon*	Firearm
Attack to Injure			
No attack			

* other than firearm

As with assault, we produce six possible categories of robbery. The basis for distinguishing between robberies that result in attacks intended to produce injury and robberies without attack is that the former class of robberies presents a vastly greater danger of harm to victims. The aim of such a distinction would be to encourage robbers to avoid harming victims because of the greater penalties that accompany conviction for robbery with attack intending to injure.

The basis for distinguishing between robberies committed with weapons is that, while the risk of an attack on the victim may not differ in the two types of robbery (or indeed may be higher in robbery without weapons because of the closer proximity of robber and victim), the danger that any attack that might take place during a robbery will result in the death of the victim may be substantially higher if robbery is committed with weapons. The basis for distinguishing between robbery with firearms

and all other forms of robbery may be twofold: robberies are much easier to commit with firearms than with other weapons, and gun robberies constitute a greater threat to the life of the robbery victim than other forms of robbery. In a study that covered three and one-half years of New York City experience, it was found that the death rate of victims from nonfirearm robbery was 1.5 per thousand robberies, while the death rate of victims of firearm robbery was 5.5 per thousand robberies.¹²

The aim of any criminal law distinguishing between robberies committed with firearms and those committed with other weapons would be the process of differential deterrence discussed in relation to assault and mentioned above in the discussion of distinguishing between robbery with and without an attack on the victim. The issues raised in the assault discussion are similar to the issues raised by attempts to differentially deter gun robbery because in each case the law is dealing with individuals who are undeterred by the base punishment provided for assault or robbery. However, the robbery situation is distinguishable from the assault situation in a number of ways that make the prospects for differential deterrence seem brighter. First, the robber who does not attack his victim, unlike the individual who

¹² Id., see ch. 7.

commits aggravated assault with a weapon, has not yet demonstrated an immunity from the maximum threat of punishment by risking the penalty for murder. Second, the robber, unlike the assaulter, has not demonstrated that his principal objective is to injure his victim; rather, the objective of many robbers would seem to be material gain, a goal that may indicate that potential gun robbers would be more susceptible to differential threats. Third, robbery is, to a greater extent than assault, a professional or career crime, which involves elements of planning and experience with apprehension that may contribute to a greater awareness of the law and an increased motivation to minimize risks of punishment.

However, there is little leeway in a penal structure to experiment with processes of differential deterrence in the area of robbery because even the least serious robbery, that involving personal force without an attack intended to injure, is considered a serious crime. Under the proposed Federal Criminal Code, this offense at minimum would be a Class C felony and is usually considered closer to Class B. At the same time, since the law's primary goal, once a robbery is in progress, is to avoid a victim killing, every effort should be made to leave a penalty gap between robbery murder and the next most serious robbery offense to the extent that one

subscribes to the viability of differential deterrence. It is clear, then, that the law cannot, as a definitional proposition, create six ascending categories of nonlethal robbery with ascending gradations of punishment great enough to enhance the prospects of differential deterrence yet far enough from maximum penalties to serve as an inducement away from robbery murder. If formal distinctions are to be made, two or three priority distinctions should be selected. The most important distinction would be between robbery where a deadly weapon is used in an attack intended to inflict bodily injury and all other forms of robbery. If robbery without aggravating circumstances is a Class C felony, then two ascending grades of aggravated robbery would be possible. The proposed §209.40 distinguishes the use of deadly force (Class A) and the threat of deadly force (Class B) from simple robbery. At the same time, under the proposed code, the use of a firearm rather than a knife could be considered by the court as an aggravating circumstance for sentencing purposes with the Class B penalty range.

D. Homicide and Kidnapping

Homicide and kidnapping are offenses where distinctions based on the use of a firearm would be clearly inappropriate. In the case of willful killing, the instrument of the crime is of little significance because the intention has been determined by other means, and

because the means used to kill do not affect the dangerousness or harm achieved in the great majority of homicides. Even if some basis for distinguishing gun use from other homicidal acts could be established, there is no room left in the drafting of a criminal code for ascending degrees of willful homicide because of the seriousness of the simple offense.

Kidnapping is a closer case. The case can be made for considering different types of kidnapping as different grades of offense. The most important distinction would be between kidnapping that results in injury to the victim and kidnapping without injury. The aim of such distinction is to provide some measure of protection to victims of kidnapping by deterring kidnappers from attacking them. Because the kidnapper normally has a substantial degree of control over his victim in the scenario of the crime and because kidnapping involves extensive premeditation and a long period in which the kidnapper can make decisions about the way he will treat his victim, there is reason to believe that kidnappers will be responsive to differential threats. It may be the case that kidnappings involving firearms are more dangerous than other forms of kidnapping, although there are no data available on this question. However, kidnapping in any form is a serious offense so that there is only enough leeway in a functioning system to provide, at maximum, for two grades of kidnapping. That being the case, harm to the victim rather than any distinction based on the weapons used in the offense should be the basis for distinction.

APPENDIX

GUN CONTROL ACT OF 1968

GUN CONTROL ACT OF 1968

For Legislative History of Act, see p. 6042

PUBLIC LAW 90-618; 82 STAT. 1213

[H. R. 17735]

An Act to amend title 18, United States Code, to provide for better control of the interstate traffic in firearms.

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

This Act may be cited as the "Gun Control Act of 1968".

TITLE I—STATE FIREARMS CONTROL ASSISTANCE

PURPOSE

Sec. 101. The Congress hereby declares that the purpose of this title is to provide support to Federal, State, and local law enforcement officials in their fight against crime and violence, and it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title.

Sec. 102. Chapter 44 of title 18, United States Code,⁷⁷ is amended to read as follows:

"Chapter 44.—Firearms

"Sec.

"921. Definitions.

"922. Unlawful acts.

"923. Licensing.

"924. Penalties.

"925. Exceptions: Relief from disabilities.

"926. Rules and regulations.

"927. Effect on State law.

"928. Separability clause.

"§ 921. Definitions

"(a) As used in this chapter—

"(1) the term 'person' and the term 'whoever' include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

"(2) The term 'interstate or foreign commerce' includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including

77. 18 U.S.C.A. § 921 et seq.

the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

"(3) The term 'firearm' means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

"(4) The term 'destructive device' means—

"(A) any explosive, incendiary, or poison gas—

"(i) bomb,

"(ii) grenade,

"(iii) rocket having a propellant charge of more than four ounces,

"(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

"(v) mine, or

"(vi) device similar to any of the devices described in the preceding clauses;

"(B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

"(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term 'destructive device' shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting purposes.

"(5) The term 'shotgun' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

"(6) The term 'short-barreled 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.

"(7) The term 'rifle' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

"(8) The term 'short-barreled rifle' means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

"(9) The term 'importer' means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term 'licensed importer' means any such person licensed under the provisions of this chapter.

"(10) The term 'manufacturer' means any person engaged in the manufacture of firearms or ammunition for purposes of sale or distribution; and the term 'licensed manufacturer' means any such person licensed under the provisions of this chapter.

"(11) The term 'dealer' means (A) any person engaged in the business of selling firearms or ammunition at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term 'licensed dealer' means any dealer who is licensed under the provisions of this chapter.

"(12) The term 'pawnbroker' means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money.

"(13) The term 'collector' means any person who acquires, holds, or disposes of firearms or ammunition as curios or relics, as the Secretary shall by regulation define, and the term 'licensed collector' means any such person licensed under the provisions of this chapter.

"(14) The term 'indictment' includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

"(15) The term 'fugitive from justice' means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

"(16) The term 'antique firearm' means—

"(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

“(B) any replica of any firearm described in subparagraph (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.

“(17) The term ‘ammunition’ means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

“(18) The term ‘Secretary’ or ‘Secretary of the Treasury’ means the Secretary of the Treasury or his delegate.

“(19) The term ‘published ordinance’ means a published law of any political subdivision of a State which the Secretary determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Secretary, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

“(20) The term ‘crime punishable by imprisonment for a term exceeding one year’ shall not include (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate, or (B) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

“(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

“§ 922. Unlawful acts

“(a) It shall be unlawful—

“(1) for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm or ammunition in interstate or foreign commerce;

“(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm or ammunition to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

“(A) this paragraph and subsection (b) (3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this

paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, or licensed dealer for the sole purpose of repair or customizing;

“(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

“(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

“(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a rifle or shotgun obtained in conformity with the provisions of subsection (b) (3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

“(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machine-gun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity;

“(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe resides in any State other than that in which the transferor resides (or other than that

in which its place of business is located if the transferor is a corporation or other business entity); except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes; and

“(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter.

“(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—

“(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age.

“(2) any firearm or ammunition to any person in any State where the purchase or possession by such person of such firearm or ammunition would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

“(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of a rifle or shotgun to a resident of a State contiguous to the State in which the licensee's place of business is located if the purchaser's State of residence permits such sale or delivery by law, the sale fully complies with the legal conditions of sale in both such contiguous States, and the purchaser and the licensee have, prior to the sale, or delivery for sale, of the rifle or shotgun, complied with all of the requirements of section 922(c) applicable to intrastate transactions other than at the licensee's business premises, (B) shall not apply to the loan or rental of a firearm

to any person for temporary use for lawful sporting purposes, and (C) shall not preclude any person who is participating in any organized rifle or shotgun match or contest, or is engaged in hunting, in a State other than his State of residence and whose rifle or shotgun has been lost or stolen or has become inoperative in such other State, from purchasing a rifle or shotgun in such other State from a licensed dealer if such person presents to such dealer a sworn statement (i) that his rifle or shotgun was lost or stolen or became inoperative while participating in such a match or contest, or while engaged in hunting, in such other State, and (ii) identifying the chief law enforcement officer of the locality in which such person resides, to whom such licensed dealer shall forward such statement by registered mail;

"(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary consistent with public safety and necessity; and

"(5) any firearm or ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Secretary.

"(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

"(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law en-

forcement officer of the locality to which the firearm
will be delivered are -----

Signature ----- Date -----

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

“(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Secretary, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

“(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

“(d) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

“(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

“(2) is a fugitive from justice;

“(3) is an unlawful user of or addicted to marijuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

“(4) has been adjudicated as a mental defective or has been committed to any mental institution.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

“(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons

other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter.

"(f) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

"(g) It shall be unlawful for any person—

"(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(2) who is a fugitive from justice;

"(3) who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

"(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

to ship or transport any firearm or ammunition in interstate or foreign commerce.

"(h) It shall be unlawful for any person—

"(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(2) who is a fugitive from justice;

"(3) who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

"(4) who has been adjudicated as a mental defective or who has been committed to any mental institution;

to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

"(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

"(j) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, or which constitutes, interstate or foreign commerce, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

"(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered.

"(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

"(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

"§ 923. Licensing

"(a) No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from, the Secretary. The application shall be such form and contain such information as the Secretary shall by regulation prescribe. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

"(1) If the applicant is a manufacturer—

"(A) of destructive devices or ammunition for destructive devices, a fee of \$1,000 per year;

"(B) of firearms other than destructive devices, a fee of \$50 per year; or

"(C) of ammunition for firearms other than destructive devices, a fee of \$10 per year.

"(2) If the applicant is an importer—

"(A) of destructive devices or ammunition for destructive devices, a fee of \$1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, a fee of \$50 per year.

"(3) If the applicant is a dealer—

"(A) in destructive devices or ammunition for destructive devices, a fee of \$1,000 per year;

"(B) who is a pawnbroker dealing in firearms other than destructive devices or ammunition for firearms other than destructive devices, a fee of \$25 per year; or

"(C) who is not a dealer in destructive devices or a pawnbroker, a fee of \$10 per year.

"(b) Any person desiring to be licensed as a collector shall file an application for such license with the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. The fee for such license shall be \$10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

"(c) Upon the filing of a proper application and payment of the prescribed fee, the Secretary shall issue to a qualified applicant the appropriate license which, subject to the provisions of this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license.

"(d) (1) Any application submitted under subsection (a) or (b) of this section shall be approved if—

"(A) the applicant is twenty-one years of age or over;

"(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922(g) and (h) of this chapter;

"(C) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

"(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application; and

"(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time.

"(2) The Secretary must approve or deny an application for a license within the forty-five-day period beginning on the date it is received. If the Secretary fails to act within such period, the applicant may file an action under section 1361 of title 28 to compel the Secretary to act. If the Secretary approves an applicant's application, such applicant shall be issued a license upon the payment of the prescribed fee.

"(e) The Secretary may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter. The Secre-

tary's action under this subsection may be reviewed only as provided in subsection (f) of this section.

"(f) (1) Any person whose application for a license is denied and any holder of a license which is revoked shall receive a written notice from the Secretary stating specifically the grounds upon which the application was denied or upon which the license was revoked. Any notice of a revocation of a license shall be given to the holder of such license before the effective date of the revocation.

"(2) If the Secretary denies an application for, or revokes, a license, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation of a license, the Secretary shall upon the request of the holder of the license stay the effective date of the revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

"(3) If after a hearing held under paragraph (2) the Secretary decides not to reverse his decision to deny an application or revoke a license, the Secretary shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding. If the court decides that the Secretary was not authorized to deny the application or to revoke the license, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court.

"(g) Each licensed importer, licensed manufacturer, licensed dealer, and licensed collector shall maintain such records of importation, production, shipment, receipt, sale, or other disposition, of firearms and ammunition at such place, for such period, and in such form as the Secretary may by regulations prescribe. Such importers, manufacturers, dealers, and collectors shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter during business hours the premises (including places of storage) of any firearms or ammunition importer, manufacturer, dealer, or collector for the purpose of inspecting or examining (1) any records or documents required to be kept by such importer, manufacturer, dealer, or collector under the provisions of this chapter or regulations issued under this chapter, and (2) any firearms or ammunition kept or stored by such importer, manufacturer, dealer, or collector at such premises. Upon the request of any State or any political subdivision thereof, the Secretary may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such

State or political subdivision thereof, who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition.

"(h) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

"(i) Licensed importers and licensed manufacturers shall identify, by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.

"(j) This section shall not apply to anyone who engages only in hand loading, reloading, or custom loading ammunition for his own firearm, and who does not hand load, reload, or custom load ammunition for others.

"§ 924. Penalties

"(a) Whoever violates any provision of this chapter or knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter, shall be fined not more than \$5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine.

"(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.

"(c) Whoever—

"(1) uses a firearm to commit any felony which may be prosecuted in a court of the United States, or

"(2) carries a firearm unlawfully during the commission of any felony which may be prosecuted in a court of the United States,

shall be sentenced to a term of imprisonment for not less than one year nor more than 10 years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than five years nor more than 25 years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence.

"(d) Any firearm or ammunition involved in or used or intended to be used in, any violation of the provisions of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of

1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

“§ 925. Exceptions: Relief from disabilities

“(a) (1) The provisions of this chapter shall not apply with respect to the transportation, shipment, receipt, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

“(2) The provisions of this chapter shall not apply with respect to (A) the shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4808 of title 10, and (B) the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

“(3) Unless otherwise prohibited by this chapter or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm or ammunition determined by the Secretary of the Treasury to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club.

“(4) When established to the satisfaction of the Secretary to be consistent with the provisions of this chapter and other applicable Federal and State laws and published ordinances, the Secretary may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the sixty day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is (A) determined by the Secretary to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (B) intended for the personal use of such member.

“(5) For the purpose of paragraphs (3) and (4) of this subsection, the term ‘United States’ means each of the several States and the District of Columbia.

“(b) A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provision of this chapter, continue operation pursuant to his existing license (if prior to the expiration of the term of the existing

license timely application is made for a new license) during the term of such indictment and until any conviction pursuant to the indictment becomes final.

"(c) A person who has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act) may make application to the Secretary for relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of such conviction, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector conducting operations under this chapter, who makes application for relief from the disabilities incurred under this chapter by reason of such conviction, shall not be barred by such conviction from further operations under his license pending final action on an application for relief filed pursuant to this section. Whenever the Secretary grants relief to any person pursuant to this section he shall promptly publish in the Federal Register notice of such action, together with the reasons therefor.

"(d) The Secretary may authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the person importing or bringing in the firearm or ammunition establishes to the satisfaction of the Secretary that the firearm or ammunition—

"(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10;

"(2) is an unserviceable firearm, other than a machinegun as defined in section 5845(b) of the Internal Revenue Code of 1954 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

"(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms; or

"(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition.

The Secretary may permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making of a determination as to whether the importa-

tion or bringing in of such firearm or ammunition will be allowed under this subsection.

“§ 926. Rules and regulations

“The Secretary may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter, including—

“(1) regulations providing that a person licensed under this chapter, when dealing with another person so licensed, shall provide such other licensed person a certified copy of this license; and

“(2) regulations providing for the issuance, at a reasonable cost, to a person licensed under this chapter, of certified copies of his license for use as provided under regulations issued under paragraph (1) of this subsection.

The Secretary shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

“§ 927. Effect on State law

“No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

“§ 928. Separability

“If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.”

Sec. 103. The administration and enforcement of the amendment made by this title shall be vested in the Secretary of the Treasury.

Sec. 104. Nothing in this title or the amendment made thereby shall be construed as modifying or affecting any provision of—

(a) the National Firearms Act (chapter 53 of the Internal Revenue Code of 1954);

(b) section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control; or

(c) section 1715 of title 18, United States Code, relating to non-mailable firearms.

Sec. 105. (a) Except as provided in subsection (b), the provisions of chapter 44 of title 18, United States Code, as amended by section 102 of this title, shall take effect on December 16, 1968.

(b) The following sections of chapter 44 of title 18, United States Code, as amended by section 102 of this title shall take effect on the date of the enactment of this title: Sections 921, 922(l), 925(a) (1), and 925(d).

TITLE II—MACHINE GUNS, DESTRUCTIVE DEVICES,
AND CERTAIN OTHER FIREARMS

Sec. 201. Chapter 53 of the Internal Revenue Code of 1954⁷⁸
is amended to read as follows:

“CHAPTER 53—MACHINE GUNS, DESTRUCTIVE
DEVICES, AND CERTAIN OTHER
FIREARMS

- “Subchapter A. Taxes.
- “Subchapter B. General provisions and exemptions.
- “Subchapter C. Prohibited acts.
- “Subchapter D. Penalties and forfeitures.

“Subchapter A—Taxes

- “Part I. Special (occupational) taxes.
- “Part II. Tax on transferring firearms.
- “Part III. Tax on making firearms.

“PART I—SPECIAL (OCCUPATIONAL) TAXES

- “Sec. 5801. Tax.
- “Sec. 5802. Registration of importers, manufacturers, and dealers.

“SEC. 5801. TAX.

“On first engaging in business and thereafter on or before the first day of July of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

- “(1) Importers.—\$500 a year or fraction thereof;
- “(2) Manufacturers.—\$500 a year or fraction thereof;
- “(3) Dealers.—\$200 a year or fraction thereof.

Except an importer, manufacturer, or dealer who imports, manufactures, or deals in only weapons classified as ‘any other weapon’ under section 5845(e), shall pay a special (occupational) tax for each place of business at the following rates: Importers, \$25 a year or fraction thereof; manufacturers, \$25 a year or fraction thereof; dealers, \$10 a year or fraction thereof.

“SEC. 5802. REGISTRATION OF IMPORTERS, MANUFACTURERS, AND DEALERS.

“On first engaging in business and thereafter on or before the first day of July of each year, each importer, manufacturer, and dealer in firearms shall register with the Secretary or his delegate in each internal revenue district in which such business is to be carried on, his name, including any trade name, and the address of each location in the district where he will conduct such business.

⁷⁸ 26 U.S.C.A. (I.R.C.1954) § 5801 et seq.

Where there is a change during the taxable year in the location of, or the trade name used in, such business, the importer, manufacturer, or dealer shall file an application with the Secretary or his delegate to amend his registration. Firearms operations of an importer, manufacturer, or dealer may not be commenced at the new location or under a new trade name prior to approval by the Secretary or his delegate of the application.

"PART II—TAX ON TRANSFERRING FIREARMS

"Sec. 5811. Transfer tax.

"Sec. 5812. Transfers.

"SEC. 5811. TRANSFER TAX.

"(a) Rate.—There shall be levied, collected, and paid on firearms transferred a tax at the rate of \$200 for each firearm transferred, except, the transfer tax on any firearm classified as any other weapon under section 5845(e) shall be at the rate of \$5 for each such firearm transferred.

"(b) By Whom Paid.—The tax imposed by subsection (a) of this section shall be paid by the transferor.

"(c) Payment.—The tax imposed by subsection (a) of this section shall be payable by the appropriate stamps prescribed for payment by the Secretary or his delegate.

"SEC. 5812. TRANSFERS.

"(a) Application.—A firearm shall not be transferred unless (1) the transferor of the firearm has filed with the Secretary or his delegate a written application, in duplicate, for the transfer and registration of the firearm to the transferee on the application form prescribed by the Secretary or his delegate; (2) any tax payable on the transfer is paid as evidenced by the proper stamp affixed to the original application form; (3) the transferee is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; (4) the transferor of the firearm is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe; (5) the firearm is identified in the application form in such manner as the Secretary or his delegate may by regulations prescribe; and (6) the application form shows that the Secretary or his delegate has approved the transfer and the registration of the firearm to the transferee. Applications shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.

"(b) Transfer of possession.—The transferee of a firearm shall not take possession of the firearm unless the Secretary or his delegate has approved the transfer and registration of the firearm to the transferee as required by subsection (a) of this section.

"PART III—TAX ON MAKING FIREARMS

Sec. 5821. Making tax.

Sec. 5822. Making.

"SEC. 5821. MAKING TAX.

"(a) Rate.—There shall be levied, collected, and paid upon the making of a firearm a tax at the rate of \$200 for each firearm made.

"(b) By Whom Paid.—The tax imposed by subsection (a) of this section shall be paid by the person making the firearm.

"(c) Payment.—The tax imposed by subsection (a) of this section shall be payable by the stamp prescribed for payment by the Secretary or his delegate.

"SEC. 5822. MAKING.

"No person shall make a firearm unless he has (a) filed with the Secretary or his delegate a written application, in duplicate, to make and register the firearm on the form prescribed by the Secretary or his delegate; (b) paid any tax payable on the making and such payment is evidenced by the proper stamp affixed to the original application form; (c) identified the firearm to be made in the application form in such manner as the Secretary or his delegate may by regulations prescribe; (d) identified himself in the application form in such manner as the Secretary or his delegate may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; and (e) obtained the approval of the Secretary or his delegate to make and register the firearm and the application form shows such approval. Applications shall be denied if the making or possession of the firearm would place the person making the firearm in violation of law.

"Subchapter B—General Provisions and Exemptions

"Part I. General provisions.

"Part II. Exemptions.

"PART I—GENERAL PROVISIONS

"Sec. 5841. Registration of firearms.

"Sec. 5842. Identification of firearms.

"Sec. 5843. Records and returns.

"Sec. 5844. Importation.

"Sec. 5845. Definitions.

"Sec. 5846. Other laws applicable.

"Sec. 5847. Effect on other law.

"Sec. 5848. Restrictive use of information.

"Sec. 5849. Citation of chapter.

"SEC. 5841. REGISTRATION OF FIREARMS

"(a) Central Registry.—The Secretary or his delegate shall maintain a central registry of all firearms in the United States which are not in the possession or under the control of the United States.

This registry shall be known as the National Firearms Registration and Transfer Record. The registry shall include—

“(1) identification of the firearm;

“(2) date of registration; and

“(3) identification and address of person entitled to possession of the firearm.

“(b) By Whom Registered.—Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes. Each firearm transferred shall be registered to the transferee by the transferor.

“(c) How Registered.—Each manufacturer shall notify the Secretary or his delegate of the manufacture of a firearm in such manner as may by regulations be prescribed and such notification shall effect the registration of the firearm required by this section. Each importer, maker, and transferor of a firearm shall, prior to importing, making, or transferring a firearm, obtain authorization in such manner as required by this chapter or regulations issued thereunder to import, make, or transfer the firearm, and such authorization shall effect the registration of the firearm required by this section.

“(d) Firearms Registered on Effective Date of This Act.—A person shown as possessing a firearm by the records maintained by the Secretary or his delegate pursuant to the National Firearms Act in force on the day immediately prior to the effective date of the National Firearms Act of 1968 shall be considered to have registered under this section the firearms in his possession which are disclosed by that record as being in his possession.

“(e) Proof of Registration.—A person possessing a firearm registered as required by this section shall retain proof of registration which shall be made available to the Secretary or his delegate upon request.

“SEC. 5842. IDENTIFICATION OF FIREARMS.

“(a) Identification of Firearms Other Than Destructive Devices.—Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the Secretary or his delegate may by regulations prescribe.

“(b) Firearms Without Serial Number.—Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the Secretary or his delegate and any other information the Secretary or his delegate may by regulations prescribe.

"(c) Identification of Destructive Device.—Any firearm classified as a destructive device shall be identified in such manner as the Secretary or his delegate may by regulations prescribe.

"SEC. 5843. RECORDS AND RETURNS.

"Importers, manufacturers, and dealers shall keep such records of, and render such returns in relation to, the importation, manufacture, making, receipt, and sale, or other disposition, of firearms as the Secretary or his delegate may by regulations prescribe.

"SEC. 5844. IMPORTATION.

"No firearm shall be imported or brought into the United States or any territory under its control or jurisdiction unless the importer establishes, under regulations as may be prescribed by the Secretary or his delegate, that the firearm to be imported or brought in is—

"(1) being imported or brought in for the use of the United States or any department, independent establishment, or agency thereof or any State or possession or any political subdivision thereof; or

"(2) being imported or brought in for scientific or research purposes; or

"(3) being imported or brought in solely for testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or registered dealer;

except that, the Secretary or his delegate may permit the conditional importation or bringing in of a firearm for examination and testing in connection with classifying the firearm.

"SEC. 5845. DEFINITIONS.

"For the purpose of this chapter—

"(a) Firearm.—The term 'firearm' means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) a muffler or a silencer for any firearm whether or not such firearm is included within this definition; and (8) a destructive device. The term 'firearm' shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary or his delegate finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

"(b) Machinegun.—The term 'machinegun' means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame

or receiver of any such weapon, any combination of parts designed and intended for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

“(c) Rifle.—The term ‘rifle’ means a weapon designed or redesigned; made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

“(d) Shotgun.—The term ‘shotgun’ means a weapon designed or redesigned; made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

“(e) Any Other Weapon.—The term ‘any other weapon’ means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

“(f) Destructive Device.—The term ‘destructive device’ means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary or his delegate finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term ‘destructive device’ shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army

pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; or any other device which the Secretary of the Treasury or his delegate finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

"(g) **Antique Firearm.**—The term 'antique firearm' means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

"(h) **Unserviceable Firearm.**—The term 'unserviceable firearm' means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

"(i) **Make.**—The term 'make', and the various derivatives of such word, shall include manufacturing (other than by one qualified to engage in such business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.

"(j) **Transfer.**—The term 'transfer' and the various derivatives of such word, shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

"(k) **Dealer.**—The term 'dealer' means any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

"(l) **Importer.**—The term 'importer' means any person who is engaged in the business of importing or bringing firearms into the United States.

"(m) **Manufacturer.**—The term 'manufacturer' means any person who is engaged in the business of manufacturing firearms.

"SEC. 5843. OTHER LAWS APPLICABLE.

"All provisions of law relating to special taxes imposed by chapter 51 and to engraving, issuance, sale, accountability, cancellation, and distribution of stamps for tax payment shall, insofar as not inconsistent with the provisions of this chapter, be applicable with respect to the taxes imposed by sections 5801, 5811, and 5821.

"SEC. 5847. EFFECT ON OTHER LAWS.

"Nothing in this chapter shall be construed as modifying or affecting the requirements of section 414 of the Mutual Security Act of 1954, as amended, with respect to the manufacture, exportation, and importation of arms, ammunition, and implements of war.

"SEC. 5848. RESTRICTIVE USE OF INFORMATION.

"(a) **General Rule.**—No information or evidence obtained from an application, registration, or records required to be submitted or re-

tained by a natural person in order to comply with any provision of this chapter or regulations issued thereunder, shall, except as provided in subsection (b) of this section, be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration, or the compiling of the records containing the information or evidence.

“(b) **Furnishing False Information.**—Subsection (a) of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

“SEC. 5849. **CITATION OF CHAPTER.**

“This chapter may be cited as the ‘National Firearms Act’ and any reference in any other provision of law to the ‘National Firearms Act’ shall be held to refer to the provisions of this chapter.

“PART II—EXEMPTIONS

“Sec. 5851. Special (occupational) tax exemption.

“Sec. 5852. General transfer and making exemption.

“Sec. 5853. Exemption from transfer and making tax available to certain governmental entities and officials.

“Sec. 5854. Exportation of firearms exempt from transfer tax.

“SEC. 5851. **SPECIAL (OCCUPATIONAL) TAX EXEMPTION.**

“(a) **Business With United States.**—Any person required to pay special (occupational) tax under section 5801 shall be relieved from payment of that tax if he establishes to the satisfaction of the Secretary or his delegate that his business is conducted exclusively with, or on behalf of, the United States or any department, independent establishment, or agency thereof. The Secretary or his delegate may relieve any person manufacturing firearms for, or on behalf of, the United States from compliance with any provision of this chapter in the conduct of such business.

“(b) **Application.**—The exemption provided for in subsection (a) of this section may be obtained by filing with the Secretary or his delegate an application on such form and containing such information as may by regulations be prescribed. The exemptions must thereafter be renewed on or before July 1 of each year. Approval of the application by the Secretary or his delegate shall entitle the applicant to the exemptions stated on the approved application.

“SEC. 5852. **GENERAL TRANSFER AND MAKING TAX EXEMPTION.**

“(a) **Transfer.**—Any firearm may be transferred to the United States or any department, independent establishment, or agency thereof, without payment of the transfer tax imposed by section 5811.

“(b) **Making by a Person Other Than a Qualified Manufacturer.**—Any firearm may be made by, or on behalf of, the United States, or any department, independent establishment, or agency thereof, without payment of the making tax imposed by section 5821.

"(c) Making by a Qualified Manufacturer.—A manufacturer qualified under this chapter to engage in such business may make the type of firearm which he is qualified to manufacture without payment of the making tax imposed by section 5821.

"(d) Transfers Between Special (Occupational) Taxpayers.—A firearm registered to a person qualified under this chapter to engage in business as an importer, manufacturer, or dealer may be transferred by that person without payment of the transfer tax imposed by section 5811 to any other person qualified under this chapter to manufacture, import, or deal in that type of firearm.

"(e) Unserviceable Firearm.—An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax imposed by section 5811, under such requirements as the Secretary or his delegate may by regulations prescribe.

"(f) Right to exemption.—No firearm may be transferred or made exempt from tax under the provisions of this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary or his delegate may by regulations prescribe.

**"SEC. 5853. TRANSFER AND MAKING TAX EXEMPTION
AVAILABLE TO CERTAIN GOVERNMENTAL
ENTITIES.**

"(a) Transfer.—A firearm may be transferred without the payment of the transfer tax imposed by section 5811 to any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

"(b). Making.—A firearm may be made without payment of the making tax imposed by section 5821 by, or on behalf of, any State, or possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

"(c) Right to Exemption.—No firearm may be transferred or made exempt from tax under this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary or his delegate may by regulations prescribe.

**"SEC. 5854. EXPORTATION OF FIREARMS EXEMPT FROM
TRANSFER TAX .**

"A firearm may be exported without payment of the transfer tax imposed under section 5811 provided that proof of the exportation is furnished in such form and manner as the Secretary or his delegate may by regulations prescribe.

"Subchapter C—Prohibited Acts

"SEC. 5861. PROHIBITED ACTS.

"It shall be unlawful for any person—

"(a) to engage in business as a manufacturer or importer of, or dealer in, firearms without having paid the special (occupa-

tional) tax required by section 5801 for his business or having registered as required by section 5802; or

"(b) to receive or possess a firearm transferred to him in violation of the provisions of this chapter; or

"(c) to receive or possess a firearm made in violation of the provisions of this chapter; or

"(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or

"(e) to transfer a firearm in violation of the provisions of this chapter; or

"(f) to make a firearm in violation of the provisions of this chapter; or

"(g) to obliterate, remove, change, or alter the serial number or other identification of a firearm required by this chapter; or

"(h) to receive or possess a firearm having the serial number or other identification required by this chapter obliterated, removed, changed, or altered; or

"(i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

"(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter; or

"(k) to receive or possess a firearm which has been imported or brought into the United States in violation of section 5844; or

"(l) to make, or cause the making of, a false entry on any application, return, or record required by this chapter, knowing such entry to be false.

"Subchapter D—Penalties and Forfeitures

"Sec. 5871. Penalties.

"Sec. 5872. Forfeitures.

"SEC. 5871. PENALTIES.

"Any person who violates or fails to comply with any provision of this chapter shall, upon conviction, be fined not more than \$10,000, or be imprisoned not more than ten years, or both, and shall become eligible for parole as the Board of Parole shall determine.

"SEC. 5872. FORFEITURES.

"(a) Laws Applicable.—Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and (except as provided in subsection (b)) all the provisions of internal revenue laws relating to searches, seizures, and forfeitures of unstamped articles are extended to and made to apply to the articles taxed under this chapter, and the persons to whom this chapter applies.

"(b) Disposal.—In the case of the forfeiture of any firearm by reason of a violation of this chapter, no notice of public sale shall be required; no such firearm shall be sold at public sale; if such

firearm is forfeited for a violation of this chapter and there is no remission or mitigation of forfeiture thereof, it shall be delivered by the Secretary or his delegate to the Administrator of General Services, General Services Administration, who may order such firearm destroyed or may sell it to any State, or possession, or political subdivision thereof, or at the request of the Secretary or his delegate, may authorize its retention for official use of the Treasury Department, or may transfer it without charge to any executive department or independent establishment of the Government for use by it."

Sec. 202. The amendments made by section 201 of this title shall be cited as the "National Firearms Act Amendments of 1968".

Sec. 203. (a) Section 6107 of the Internal Revenue Code of 1954⁷⁹ is repealed.

(b) The table of sections for subchapter B of chapter 61 of the Internal Revenue Code of 1954 is amended by striking out:

"Sec. 6107. List of special taxpayers for public inspection."

Sec. 204. Section 6806 of the Internal Revenue Code of 1954⁸⁰ is amended to read as follows:

"SEC. 6806. OCCUPATIONAL TAX STAMPS.

"Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax (other than a special tax under subchapter B of chapter 35, under subchapter B of chapter 36, or under subtitle E) shall place and keep conspicuously in his establishment or place of business all stamps denoting payment of such special tax."

Sec. 205. Section 7273 of the Internal Revenue Code of 1954⁸¹ is amended to read as follows:

"SEC. 7273. PENALTIES FOR OFFENSES RELATING TO SPECIAL TAXES.

"Any person who shall fail to place and keep stamps denoting the payment of the special tax as provided in section 6806 shall be liable to a penalty (not less than \$10) equal to the special tax for which his business rendered him liable, unless such failure is shown to be due to reasonable cause. If such failure to comply with section 6806 is through willful neglect or refusal, then the penalty shall be double the amount above prescribed."

Sec. 206. (a) Section 5692 of the Internal Revenue Code of 1954⁸² is repealed.

(b) The table of sections for part V of subchapter J of chapter 51 of the Internal Revenue Code of 1954 is amended by striking out:

"Sec. 5692. Penalties relating to posting of special tax stamps."

Sec. 207. (a) Section 201 of this title shall take effect on the first day of the first month following the month in which it is enacted.

(b) Notwithstanding the provisions of subsection (a) or any other provision of law, any person possessing a firearm as defined

79. 26 U.S.C.A. (I.R.C.1954) § 6107.
80. 26 U.S.C.A. (I.R.C.1954) § 6806.

81. 26 U.S.C.A. (I.R.C.1954) § 7273.
82. 26 U.S.C.A. (I.R.C.1954) § 5692.

in section 5845(a) of the Internal Revenue Code of 1954 (as amended by this title) which is not registered to him in the National Firearms Registration and Transfer Record shall register each firearm so possessed with the Secretary of the Treasury or his delegate in such form and manner as the Secretary or his delegate may require within the thirty days immediately following the effective date of section 201 of this Act. Such registrations shall become a part of the National Firearms Registration and Transfer Record required to be maintained by section 5841 of the Internal Revenue Code of 1954 (as amended by this title). No information or evidence required to be submitted or retained by a natural person to register a firearm under this section shall be used, directly or indirectly, as evidence against such person in any criminal proceeding with respect to a prior or concurrent violation of law.

(c) The amendments made by sections 202 through 206 of this title shall take effect on the date of enactment.

(d) The Secretary of the Treasury, after publication in the Federal Register of his intention to do so, is authorized to establish such periods of amnesty, not to exceed ninety days in the case of any single period, and immunity from liability during any such period, as the Secretary determines will contribute to the purposes of this title.

TITLE III—AMENDMENTS TO TITLE VII OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

Sec. 301. (a) Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351)⁸³ is amended—

(1) by striking out "other than honorably discharged" in section 1201,⁸⁴ and substituting therefor "discharged under dishonorable conditions"; and

(2) by striking out "other than honorable conditions" in subsections (a) (2) and (b) (2) of section 1202⁸⁵ and substituting therefor in each instance "dishonorable conditions".

(b) Section 1202(c) (2) of such title⁸⁶ is amended to read as follows:

"(2) 'felony' means any offense punishable by imprisonment for a term exceeding one year, but does not include any offense (other than one involving a firearm or explosive) classified as a misdemeanor under the laws of a State and punishable by a term of imprisonment of two years or less;"

Sec. 302. The amendments made by paragraphs (1) and (2) of subsection (a) of section 301 shall take effect as of June 19, 1968.

Approved October 22, 1968.

83. 18 App.U.S.C.A. § 1201 et seq.
84. 18 App.U.S.C.A. § 1201.

85. 18 App.U.S.C.A. § 1202(a) (2), (b) (2).
86. 18 App.U.S.C.A. § 1202(c) (2).