DOCUMENT WITHDRAWAL RECORD [NIXON PROJECT]

DOCUMENT NUMBER	DOCUMENT TYPE	SUBJECT/TITLE OR CORRESPONDENTS	DATE	RESTRICTION
N-1	Memo	~~Colson to Krogh re: [Gun Lobby]~~ Reintegrated from Contested Files 8-1-01	10/7/71	C (Nixon)

FILE GROUP TITLE: WHSF: SHEPARD

BOX NUMBER: 3

FOLDER TITLE: Saturday Night Specials

RESTRICTION CODES

A. Release would violate a Federal statute or Agency Policy.
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Presidential Materials Review Board

Review on Contested Documents

Collection: Geoffrey C. Shepard
Box Number: 3

Folder: Saturday Night Specials

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January 21, 1972

ACTION

MEMORANDUM FOR JOHN D. EHRLICHMAN

SUBJECT: GATT PROBLEM IN GUN LEGISLATION

You asked for more information on the GATT violation problem in our handgun legislation.

When pushed to cite examples of foreign manufactured firearms which might well pass our interim standards, the Department of Justice was unable to develop a persuasive case. The fear of flooding our country with such handguns was apparently based more on imagination then on hard information.

Although Dick Allen felt the Special Representative for Trade Negotiations had also overstated his case, I recommend we go with their recommendations and subject both imported and domestically manufactured firearms to the interim and permanent standards.

Approve _____ Disapprove _____

Bud Krogh

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January 17, 1972

ACTION

MEMORANDUM FOR JOHN D. EHRLICHMAN

SUBJECT: "SATURDAY NIGHT SPECIAL" GUN LEGISLATION

If we decide to introduce gun legislation, there are three undecided issues in our "Saturday Night Special" project:

I. Introduction of Legislation: In my memo of November 16, 1971, I noted that in the process of developing our "Saturday Night Special" legislation we had lost the support of most segments of the gun lobby, including the NRA. As instructed, we sought their support by changing the proposed bill to be prospective only and with the National Bureau of Standards doing the standard setting. Although the NRA and others have been in on the drafting of the bill since the beginning, they still feel they cannot openly endorse any gun legislation. Editorially, they will say the legislation has some good points and some not so good points, but will not endorse it.

Both Kleindienst for Justice and Rossides for Treasury promised "Saturday Night Special" legislation would be introduced before the end of the last session. The calming of the Congressional outcry on the gun control issue over the past several months has been based on the premise of introduction of an Administration bill. Our present strategy is to have the bill introduced (probably by Hruska in the Senate and Burns in the House) and then not push it. This will protect our flank as a law and order Administration, while still introducing a bill which Santarelli and Liddy assure me can be defended before the gun lobby.

RECOMMENDATION: Overt gun lobby support is impossible for any gun legislation, and some objection might be advantageous. I recommend we introduce our "Saturday Night Special" legislation at the opening of the Second Session of Congress.

Approve _____ Disapprove _____ See Me _____

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II. GATT Violation: Since 1968, the U. S. has been in violation of the General Agreement on Trade and Tariffs by discriminating between imported and domestic handguns. The imports must pass a "suitability for sporting purpose" test which gives points for handguns being of a certain caliber and size. This has severely restricted foreign imports of handguns. There is no equivalent for domestic handguns.

Our legislation provides for interim standards while we develop permanent standards of safety and reliability for handguns of both domestic and foreign manufacture. Since it is politically imperative that the interim standards be developed quickly, they will be a stopgap measure aimed at stopping the domestic manufacture of several cheap, junk handguns. The permanent standards will apply equally, and so must be carefully prepared. During that time (one to two years) we cannot chance the flooding of our country with cheap, foreign handguns which might well pass our quickly compiled interim standards. Our legislation thus would continue the present discrimination against imports by requiring that they continue to pass the "suitability for sporting purpose" test until the establishment of permanent standards for all handguns.

The Department of State and the Special Representative for Trade Negotiations feels strongly that such discrimination cannot be allowed to continue (Tab A).

RECOMMENDATION: Many foreign handguns have been kept out of the United States since 1968. Politically, we cannot chance these handguns passing our interim standards and flooding our country immediately after passage of the legislation. I recommend we remain in violation of GATT for another year, since we will have proposed legislation which will end that violation upon promulgation of permanent standards -- the light at the end of the tunnel being an improvement over the present clear violation.

Approve _____ Disapprove _____

III. Industry Standard Setting: Our Consumer Products Safety Act, already before Congress, provides for representative private groups to first be given the opportunity to set their own standards before resorting to

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government regulation. Our gun legislation, although providing for representation on an Advisory Committee which will help set the standards, does not provide an option for self-regulation first.

Neither position is concerned with the merits of the gun legislation: Commerce feels strongly that the gun legislation (without this opportunity for self-regulation of industry) will undermine their argument for self-regulation in their Consumer Products Safety Act and may adversely effect other industries. Justice and Treasury want government set standards (although with the advice of industry) for handguns immediately. They argue the fourteen pages of boiler plate in the Consumer Products Safety Act will only (1) open us up to accusations of delay by the anti-gun lobby and (2) confuse the gun lobby which will not understand the rather technical provisions and will fear that the standards will be set by the private groups of anti-gun people. Commerce's position is attached at Tab B.

RECOMMENDATION: The Consumer Products Safety Act is really a HEW bill, already before Congress and with hearings already held. Our gun legislation will go before different committees and is an arguably separate and individual case. Flanigan's staff (Jim Loken) was not persuaded by the Commerce arguments and suggested we use our own discretion. For clarity and predictability, I recommend we omit the delay and confusion which would be occasioned by requiring private groups to first attempt to set handgun quality standards themselves.

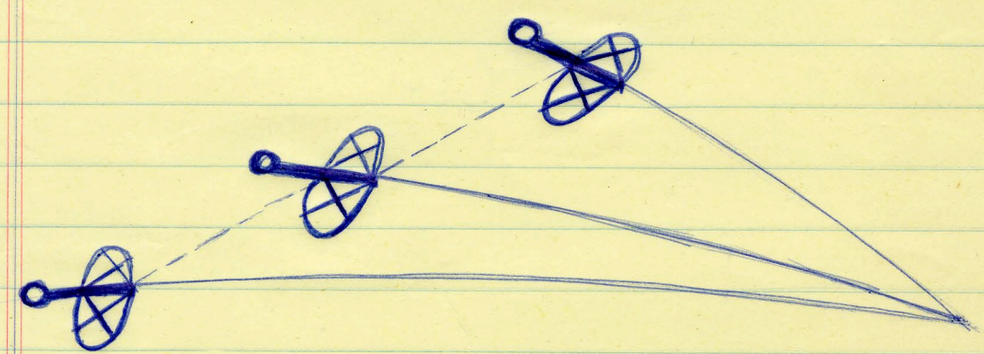
Approve _____ Disapprove _____

Bud Krogh

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Treasury - Lead agency; implementing fg.
Commerce - technical, standard setting function - Hill/work.
Justice - Congress, contacts - Committee work,
Interest groups.

Tax Control



Congress

oversight - Wally Johnson
Treasury - Ways & Means
Senate Finance
. Commerce Stus, Polkah, Mosher.
- NBS - tech. Overlay
Santarelli

Outside group.

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JUSTICE DEPARTMENT
DEC 30 1971
LIBRARY

Slip Opinion

NOTE: Where it is deemed desirable, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES *v.* BASS

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 70–71. Argued October 19, 1971—Decided December 20, 1971

Appellee was convicted for possessing firearms in violation of § 1202 (a)(1) of the Omnibus Crime Control and Safe Streets Act, which provides that a person convicted of a felony "who receives possesses, or transports in interstate commerce or affecting commerce . . . any firearm . . ." shall be punished as prescribed therein. The indictment did not allege and no attempt was made to show that the firearms involved had been possessed "in commerce or affecting commerce," the Government contending that the statute does not require proof of a connection with interstate commerce in individual cases involving possession or receipt. Doubting its constitutionality if the statute were thus construed, the Court of Appeals reversed. *Held:* It is not clear from the language and legislative history of § 1202 (a)(1) whether or not receipt or possession of a firearm by a convicted felon has to be shown in an individual prosecution to have been connected with interstate commerce. The ambiguity of this provision (which is not only a criminal statute but one whose broad construction would define as a federal offense conduct readily proscribed by the States), must therefore be resolved in favor of the narrower reading that a nexus with interstate commerce must be shown with respect to all three offenses embraced by the provision. Pp. 3–15.

434 F. 2d 1296, affirmed.

MARSHALL, J., delivered the opinion of the Court, in which DOUGLAS, BRENNAN (except for Part III), STEWART, and WHITE, JJ., joined. BLACKMUN, J., filed a dissenting opinion, in which BURGER, C. J., joined.

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SUPREME COURT OF THE UNITED STATES

No. 70–71

United States, Petitioner, v. Denneth Bass.	On Writ of Certiorari to the United States Court of Appeals for the Second Circuit.

[December 20, 1971]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

The defendant was convicted in the Southern District of New York of possessing firearms in violation of Title VII of the Omnibus Crime Control and Safe Streets Act, 18 U. S. C. App. § 1202 (a). In pertinent part, that statute reads:

> "Any person who—(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony . . . and who receives, possesses, or transports in interstate commerce or affecting commerce . . . any firearm shall be fined not more than $10,000 or imprisoned for not more than two years, or both." [1]

[1] Section 1202 (a) reads in full:

"Any person who—

"(1) has been convicted by a court of the United States or of a State or any political subdivision thereof of a felony, or

"(2) has been discharged from the Armed Forces under dishonorable conditions, or

"(3) has been adjudged by a court of the United States or of a State or any political subdivision thereof of being mentally incompetent, or

"(4) having been a citizen of the United States has renounced his citizenship, or

"(5) being an alien is illegally or unlawfully in the United States, and who receives, possesses, or transports in commerce or affecting

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The evidence showed that defendant, who had previously been convicted of a felony in New York State, possessed on separate occasions a pistol and then a shotgun. There was no allegation in the indictment and no attempt by the prosecution to show that either firearm had been possessed "in commerce or affecting commerce." The Government proceeded on the assumption that § 1202 (a)(1) banned all possessions and receipts of firearms by convicted felons, and that no connection with interstate commerce had to be demonstrated in individual cases.

After his conviction,[2] defendant unsuccessfully moved for arrest of judgment on two primary grounds: that the statute did not reach possession of a firearm not shown to have been "in commerce or affecting commerce," and that, if it did, Congress had overstepped its constitutional powers under the Commerce Clause. 308 F. Supp. 1385. The Court of Appeals reversed the conviction, being of the view that if the Government's construction of the statute were accepted, there would be substantial doubts about the statute's constitutionality. 434 F. 2d 1296. We granted certiorari to resolve a conflict among lower courts over the proper reach of the statute.[3] We affirm the judgment of the court below,

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commerce, after the date of enactment of this Act, any firearm shall be fined not more than $10,000 or imprisoned for not more than two years, or both."

[2] Defendant was acquitted on another count charging him with carrying a firearm during the commission of a felony (the sale of a narcotic drug), a federal offense under 18 U. S. C. § 924 (c)(2).

[3] At this date, five Circuits and numerous District Courts have decided the issue. The Government's view was adopted in *United States* v. *Cabbler*, 429 F. 2d 577 (CA4), cert. denied, 400 U. S. 901; *Stevens* v. *United States*, 440 F. 2d 144 (CA6 1971) (one judge dissenting); *United States* v. *Synnes*, 438 F. 2d 764 (CA8 1971). *United States* v. *Daniels*, 431 F. 2d 697 (CA9 1970). The result reached by the Second Circuit in this case has also been reached in *United States* v. *Harbin*, 313 F. Supp. 50 (ND Ind. 1970); *United*

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but for substantially different reasons.[4] We conclude that § 1202 is ambiguous in the critical respect. Because its sanctions are criminal and because, under the Government's broader reading, the statute would mark a major inroad into a domain traditionally left to the States, we refuse to adopt the broad reading in the absence of a clearer direction from Congress.

I

Not wishing "to give point to the quip that only when legislative history is doubtful do you go to the statute," [5] we begin by looking to the text itself. The critical textual question is whether the statutory phrase "in commerce or affecting commerce" applies to "possesses" and "receives" as well as to "transports." If it does, then the Government must prove as an essential element of the offense that a possession, receipt or transportation was "in commerce or affecting commerce"—a burden not undertaken in this prosecution for possession.

While the statute does not read well under either view, "the natural construction of the language" suggests that the clause "in commerce or affecting commerce" qualifies all three antecedents in the list. *Porto Ry. Light & Power Co.* v. *Mor,* 253 U. S. 345, 348 (1920). Since "in commerce or affecting commerce" undeniably applies to

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States v. *Steed,* No. CR 70–57 (WD Tenn. 1970); *United States* v. *Phelps,* No. CR–14465 (MD Tenn. 1970); *United States* v. *Francis,* No. CR 12,684 (ED Tenn. 1969).

[4] In light of our disposition of the case, we do not reach the question whether, upon appropriate findings, Congress can constitutionally punish the "mere possession" of firearms; thus, we need not consider the relevance, in that connection, of our recent decision in *Perez* v. *United States,* 402 U. S. 146 (1971). The question whether the definition of "felony" in § 1202 (c)(2) creates a classification violating the Fifth Amendment was not raised in the Government's Petition for Certiorari, and is also not considered here.

[5] Frankfurter, Some Reflections on the Reading of Statutes, 47 Col. L. Rev. 527, 543.

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at least one antecedent, and since it makes sense with all three, the more plausible construction here is that it in fact applies to all three. But although this is a beginning, the argument is certainly neither overwhelming nor decisive.[6]

In a more significant respect, however, the language of the statute does provide support for defendant's reading. Undeniably, the phrase "in commerce or affecting commerce" is part of the "transports" offense. But if that phrase applies *only* to "transports," the statute would have a curious reach. While permitting transportation of a firearm unless it is transported "in commerce or affecting commerce," the statute would prohibit all possessions of firearms, and both interstate and intrastate receipts. Since virtually all transportations, whether interstate or intrastate, involve an accompanying possession or receipt, it is odd indeed to argue that on the one hand the statute reaches all possessions and

[6] Compare *United States* v. *Standard Brewery, Inc.*, 251 U. S. 210, 218 (1920), with *Federal Trade Commission* v. *Mandel Brothers, Inc.*, 359 U. S. 385, 389–390 (1959); see also 2 Sutherland, Statutory Construction, § 4921 (3d ed. 1953); K. Llewellyn, The Common Law Tradition 527 (1960).

The Government, noting that there is no comma after "transports," argues that the punctuation indicates a congressional intent to limit the qualifying phrase to the last antecedent. But many leading grammarians, while sometimes noting that commas at the end of series can avoid ambiguity, concede that use of such commas is discretionary. See, *e. g.*, B. Evans & C. Evans, A Dictionary of Contemporary American Usage 103 (1957); Nicholson, American-English Usage 94 (1957); Copperud, A Dictionary of Usage and Style 94–95 (1964); cf. W. Strunk & E. B. White, The Elements of Style 1–2 (1959). When grammarians are divided, and surely where they are cheerfully tolerant, we will not attach significance to an omitted comma. It is enough to say that the statute's punctuation is fully consistent with the defendant's interpretation, and that in this case grammatical expertise will not help to clarify the statute's meaning.

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receipts, and on the other hand outlaws only interstate transportations. Even assuming that a person can "transport" a firearm under the statute without possessing or receiving it, there is no reason consistent with any discernible purpose of the statute to apply an interstate commerce requirement to the "transports" offense alone.[7] In short, the Government has no convincing explanation for the inclusion of the clause "in commerce or affecting commerce" if that phrase only applies to the word "transports." It is far more likely that the phrase was meant to apply to "possesses" and "receives" as well as "transports." As the court below noted, the inclusion of such a phrase "mirror[s] the approach to federal criminal jurisdiction reflected in many other federal statutes." [8]

Nevertheless, the Government argues that its reading is to be preferred because the defendant's narrower interpretation would make Title VII redundant with Title IV of the same Act. Title IV, *inter alia,* makes it a

[7] The Government urges that "transports" includes the act of "causing a firearm to be transported," and therefore would connote an offense separate in some cases from "receives" or "possesses." From this, the Government argues that "Congress might have felt that the broader scope of the term 'transports,' as compared to the terms 'receives' or 'possesses,' justified its qualification by the interstate commerce requirement." Govt. Brief, at 14–15. The Government's view about the comparative breadth of the various offenses certainly does not follow from its definition of "transports." But beyond that, its argument about what Congress "might have felt" is purely speculative, and finds no support in any arguable purpose of the statute. There is certainly no basis for concluding that Congress was less concerned about the transporting and supplying of guns than their acquisition.

[8] 434 F. 2d, at 1298. See, *e. g.,* 18 U. S. C. § 2421 (prostitution); 18 U. S. C. § 1952 (Travel Act); 18 U. S. C. § 1951 (robbery and extortion); 18 U. S. C. § 1231 (strikebreaking); 18 U. S. C. § 1201 (kidnaping); 18 U. S. C. § 1084 (gambling); 18 U. S. C. A. § 842i (1971 Supp.) (explosives); 15 U. S. C. §§ 1 *et seq.* (antitrust); 15 U. S. C. § 77e (securities fraud).

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crime for four categories of people—including those convicted of a crime punishable for a term exceeding one year—"to ship or transport any firearm or ammunition in interstate or foreign commerce . . . [or] to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce." 18 U. S. C. §§ 922 (g) and (h). As Senator Long, the sponsor of Title VII, represented to Senator Dodd, the sponsor of Title IV, Title VII indeed does complement Title IV. 114 Cong. Rec. 14774; see also 114 Cong. Rec. 16286. Defendant's reading of Title VII is fully consistent with this view. First, although subsections of the two Titles do address their prohibitions to some of the same people, each statute also reaches substantial groups of people not reached by the other.[9] Secondly, Title VII complements Title IV by punishing a broader class of behavior. Even under defendant's view, a Title VII offense is made out if the firearm was possessed or received "in commerce or affecting commerce"; however, Title IV apparently does not reach possessions or intrastate transactions at all, even those with an interstate commerce nexus, but is

[9] Title VII limits the firearm-related activity of convicted felons, dishonorable dischargees from the Armed Services, persons adjudged "mentally incompetent," aliens illegally in the country, and former citizens who have renounced their citizenship. See n. 1, *supra*. A felony is defined as "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 . . . ." 18 U. S. C. App. § 1202 (c). Title IV reaches persons "under indictment for, or . . . convicted in any court of, a crime punishable by imprisonment for a term exceeding one year"; fugitives from justice; users or addicts of various drugs; persons adjudicated as 'mental defective[s] or . . . committed" to a mental institution. 18 U. S. C. §§ 922 (g) and (h).

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limited to the sending or receiving of firearms as part of an interstate transportation.[10]

In addition, whatever reading is adopted, Title VII and Title IV are, in part, redundant. The interstate commerce requirement in Title VII minimally applies to transportation. Since Title IV also prohibits convicted criminals from transporting firearms in interstate commerce, the two Titles overlap under both readings. The Government's broader reading of Title VII does not eliminate the redundancy, but simply creates a larger area in which there is no overlap. While the Government would be on stronger ground if its reading were necessary to give Title VII some unique and independent thrust, this is not the case here. In any event, circumstances surrounding the passage of Title VII make plain that Title VII was not carefully molded to complement Title IV. Title VII was a last-minute Senate amendment to

[10] Title IV, 18 U. S. C. §§ 922 (g) and (h), is a modified and recodified version of 15 U. S. C. §§ 902 (e), 902 (f), 75 Stat. 757 (1961), which in turn amended the original statute passed in 1938, 52 Stat. 1250, 1251. Each amendment enlarged the group of people coming within the Act's substantive prohibitions against transportation or receipt of firearms in interstate commerce. The wording of the substantive offense has remained identical, although the original Act had a provision that possession of a firearm "shall be presumptive evidence that such firearm or ammunition was shipped or transported or received [in interstate or foreign commerce]." That presumption was struck down in *Tot* v. *United States*, 319 U. S. 463 (1942), and the Court there noted:

"[T]he Act is confined to the receipt of firearms or ammunition as a part of interstate transportation and does not extend to the receipt, in an intrastate transaction, of such articles which, at some prior time, have been transported interstate." *Id.*, at 466.

While the reach of Title IV itself is a question to be decided finally some other day, the Government has presented here no learning or other evidence indicating that the 1968 Act changed the prior approach to the "receipt" offense. See, *e. g.*, S. Rep. No. 1097, 90th Cong., 2d Sess., p. 115.

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the Omnibus Crime Control and Safe Streets Act. The Amendment was hastily passed, with little discussion, no hearings, and no report.[11] The notion that it was enacted to dovetail neatly with Title IV rests perhaps on a conception of the model legislative process; but we cannot pretend that all statutes are model statutes. While courts should interpret a statute with an eye to the surrounding statutory landscape and an ear for harmonizing potentially discordant provisions, these guiding principles are not substitutes for congressional lawmaking. In our view, no conclusion can be drawn from Title IV concerning the correct interpretation of Title VII.

Other aspects of the meager legislative history, however, do provide some significant support for the Government's interpretation. On the Senate floor, Senator

[11] The Omnibus Crime Control and Safe Streets Act of 1968 started its life as a measure designed to aid state and local governments in law enforcement by means of financial and administrative assistance. See H. R. Rep. No. 488, 90th Cong., 1st Sess. (July 17, 1967). This bill passed the House on August 8, 1967, and went to the Senate. A similar bill was introduced in the Senate (S. 917) and went to the Committee on the Judiciary, which rewrote it completely. See S. Rep. No. 1097, 90th Cong., 2d Sess. (April 29, 1968). The amendments included the much debated provisions regarding the admissibility of confessions, wiretapping, and state firearms control.

On May 17, 1968, Senator Long introduced on the floor his amendment to S. 917, which he designated Title VII. His introductory remarks set forth the purpose of the amendment. 114 Cong. Rec. 13867–13869. About a week later he explained his amendment once again. There was a brief debate; the reaction was favorable but cautious, with "further thought" and "study" being suggested by several favorably inclined Senators who observed some problems with the bill as drafted. Unexpectedly, however, there was a call for a vote and Title VII passed without modification. See 114 Cong. Rec. 14772–14775. The amendment received only passing mention in the House discussion of the bill, 114 Cong. Rec. 16286, 16298, and never received committee consideration or study in the House either.

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Long, who introduced § 1202, described various evils which prompted his statute. These evils included assassinations of public figures and threats to the operation of businesses significant enough in the aggregate to affect commerce.[12] Such evils, we note, would be most thoroughly mitigated by forbidding every possession of any firearm by specified classes of especially risky people, regardless of whether the gun was possessed, received, or transported "in commerce or affecting commerce." In addition, specific remarks of the Senator can be read to state that the amendment reaches the mere possession of guns without any showing of an interstate commerce nexus.[13] But Senator Long never specifically says that no connection with commerce need be shown in the individual case. And nothing in his statements explains why, if an interstate commerce nexus is irrelevant in individual cases, the phrase "in commerce or affecting commerce" is in the statute at all.[14] But even if Senator

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[12] See 114 Cong. Rec. 13868–13871, 14772–14775.

[13] For example, Senator Long began his floor statement by announcing:

"I have prepared an amendment which I will offer at the appropriate time, simply setting forth the fact that anybody who has been convicted of a felony [or comes within certain other categories] . . . is not permitted to possess a firearm . . . ." 114 Cong. Rec. 13868.

[14] For the same, and additional, reasons, § 1201, which contains the congressional "findings" applicable to § 1202 (a), is not decisive support for the Government. That section reports that:

"The Congress hereby finds and declares that the receipt, possession, or transportation of a firearm by felons, veterans who are discharged under dishonorable conditions, mental incompetents, aliens who are illegally in the country, and former citizens who have renounced their citizenship, constitutes—

"(1) a burden on commerce or threat affecting the free flow of commerce,

"(2) a threat to the safety of the President of the United States and Vice President of the United States,

"(3) an impediment or a threat to the exercise of free speech and

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Long's remarks were crystal clear to us, they were apparently not crystal clear to his Congressional colleagues. Meager as the discussion of Title VII was, one of the few Congressmen who discussed the amendment summarized Title VII as "mak[ing] it a Federal crime to take, possess, or receive a firearm across State lines . . . ." 114 Cong. Rec. 16298 (statement of Representative Pollock).

In short, "the legislative history of [the] Act hardly speaks with that clarity of purpose which Congress supposedly furnishes courts in order to enable them to enforce its true will." *Universal Camera Corp.* v. *NLRB*, 340 U. S. 474, 483 (1951). Here, as in other cases, the various remarks by legislators "are sufficiently ambiguous insofar as this narrow issue is concerned . . . to invite mutually destructive dialectic," and not much more. *FCC* v. *Columbia Broadcasting System*, 311 U. S. 132, 136 (1940). Taken together, the statutory materials are inconclusive on the central issue of whether or not the statutory phrase "in commerce or affecting commerce" applies to "possesses" and "receives" as well as "trans-

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the free exercise of a religion guaranteed by the first amendment to the Constitution of the United States, and

"(4) a threat to the continued and effective operation of the Government of the United States and of the government of each State guaranteed by article IV of the Constitution."

The Government argues that these findings would have been "wholly unnecessary" unless Congress intended to prohibit all receipts and possessions of firearms by felons. But these findings of "burdens" and "threats" simply state Congress' view of the constitutional basis for its power to act; the findings do not tell us how much of Congress' perceived power was in fact invoked. That the findings in fact support a statute broader than the one actually passed is suggested by the fact that "in commerce or affecting commerce" does not appear at all in the introductory clause to the "findings," even though § 1202 (a) contains the phrase and concededly reaches only transportations "in commerce or affecting commerce."

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ports." While standing alone, the legislative history might tip in the Government's favor, the defendant explains far better the presence of critical language in the statute. The Government concedes that "the statute is not a model of logic or clarity." Pet. for Cert., at 5. After "seizing everything from which aid can be derived," *Fisher* v. *Blight,* 2 Cranch (6 U. S.) 358, 386 (1805) (Marshall, C. J.), we are left with an ambiguous statute.

II

Given this ambiguity, we adopt the narrower reading: the phrase "in commerce or affecting commerce" is part of all three offenses, and the present conviction must be set aside because the Government has failed to show the requisite nexus with interstate commerce. This result is dictated by two wise principles this Court has long followed.

First, as we have recently reaffirmed, "ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity." *Rewis* v. *United States,* 401 U. S. 808, 812 (1971). See also *Ladner* v. *United States,* 358 U. S. 169, 177 (1958); *Bell* v. *United States,* 349 U. S. 81 (1955); *United States* v. *Five Gambling Devices,* 346 U. S. 441 (1953) (plurality opinion). In various ways over the years, we have stated that "when choice has to be made between two readings of what conduct Congress has made a crime, it is appropriate, before we choose the harsher alternative, to require that Congress should have spoken in language that is clear and definite." *United States* v. *Universal C. I. T. Credit Corp.,* 344 U. S. 218, 221–222 (1952). This principle is founded on two policies which have long been part of our tradition. First, "a fair warning should be given to the world in language that the common world will understand, of what the law intends to do if a certain line is passed.

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To make the warning fair, so far as possible the line should be clear." *McBoyle* v. *United States,* 283 U. S. 25, 27 (1931) (Holmes, J.).[15] See also *United States* v. *Cardiff,* 344 U. S. 174 (1952). Second, because of the seriousness of criminal penalties, and because criminal punishment usually represents the moral condemnation of the community, legislatures and not courts should define criminal activity. This policy embodies "the instinctive distaste against men languishing in prison unless the lawmaker has clearly said they should." Friendly, Mr. Justice Frankfurter and the Reading of Statutes, in Benchmarks 196, 209. Thus, where there is ambiguity in a criminal statute, doubts are resolved in favor of the defendant. Here, we conclude that Congress has not "plainly and unmistakably," *United States* v. *Gradwell,* 243 U. S. 476, 485, made it a federal crime for a convicted felon simply to possess a gun absent some demonstrated nexus with interstate commerce.

There is a second principle supporting today's result: unless Congress conveys its purpose clearly, it will not be deemed to have significantly changed the Federal-State

[15] Holmes prefaced his much-quoted statement with the observation that "it is not likely that a criminal will carefully consider the text of the law before he murders or steals . . . ." But in the case of gun acquisition and possession it is not unreasonable to imagine a citizen attempting to "[steer] a careful course between violation of the statute [and lawful conduct]," *United States* v. *Hood,* 343 U. S. 148, 151 (1952). Of course, where there is a state law prohibiting felons from possessing firearms, as in New York State, N. Y., Penal Law § 265.05 (McKinney ed. 1967) (1971–1972 Supp.), it may be unreal to argue that there are notice problems under the federal law. There are many States, however, which do not have their own laws prohibiting felons from possessing firearms. See Geisel, Roll & Wettick, The Effectiveness of State and Local Regulation of Handguns: A Statistical Analysis, 1969 Duke L. J. 647, 652–653. Since ex-offenders in these States are limited only by the federal gun control laws, the notice problem of that law may be quite real.

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balance.[16] Congress has traditionally been reluctant to define as a federal crime conduct readily denounced as criminal by the States.[17] This congressional policy is rooted in the same concepts of American federalism which have provided the basis for judge-made doctrines. See, *e. g., Younger* v. *Harris,* 401 U. S. 37. As this Court emphasized only last Term in *Rewis* v. *United States, supra,* we will not be quick to assume that Congress has meant to effect a significant change in the sensitive relation between federal and state criminal jurisdiction. In traditionally sensitive areas, such as legislation affecting the federal balance, the requirement of clear statement assures that the legislature has in fact faced, and intended to bring into issue, the critical matters involved in the judicial decision. In *Rewis,* we declined to accept an expansive interpretation of the Travel Act. To do so, we said then, "would alter sensitive federal-state relationships [and] could overextend limited federal police resources." While we noted there that "[i]t is not for us to weigh the merits of these factors," we went on to conclude that "the fact that they are not even discussed in the legislative history . . . strongly suggests that Congress did not intend that [the statute have the broad reach]." *Id.,* at 812. In the instant case, the broad construction urged by the Government renders traditionally local criminal conduct a matter for federal enforcement and would also involve

---

[16] *Apex Hosiery Co.* v. *Leader,* 310 U. S. 469, 513 (1940); *United States* v. *Five Gambling Devices,* 346 U. S. 441, 449–450 (1953) (plurality opinion); *FTC* v. *Bunte Bros., Inc.,* 312 U. S. 349, 351, 354–355; Frankfurter, Some Reflections on the Reading of Statutes, 47 Col. L. Rev. 527, 539–540. Cf., *Auto Workers* v. *Wisconsin Board,* 351 U. S. 266, 274–275; *Palmer* v. *Massachusetts,* 308 U. S. 79, 83–84; *Leiter Minerals, Inc.* v. *United States,* 352 U. S. 220, 225–226.

[17] H. Hart & A. Sacks, The Legal Process: Problems in the Making and Application of Law, p. 1241 (tent. ed. 1958).

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a substantial extension of federal police resources. Absent proof of some interstate commerce nexus in each case, § 1202 (a) dramatically intrudes upon traditional state criminal jurisdiction. As in *Rewis,* the legislative history provides scanty basis for concluding that Congress faced these serious questions and meant to affect the federal-state balance in the way now claimed by the Government. Absent a clearer statement of intention from Congress than is present here, we do not interpret § 1202 (a) to reach the "mere possession" of firearms.

III

Having concluded that the commerce requirement in § 1202 (a) must be read as part of the "possesses" and "receives" offenses, we add a final word about the nexus with interstate commerce which must be shown in individual cases. The Government can obviously meet its burden in a variety of ways. We note only some of these. For example, a person "possesses . . . in commerce or affecting commerce" if at the time of the offense the gun was moving interstate or on an interstate facility, or if the possession affects commerce. Significantly broader in reach, however, is the offense of "receiv[ing] . . . in commerce or affecting commerce," for we conclude that the Government meets its burden here if it demonstrates that the firearm received has previously traveled in interstate commerce.[18] This is not the narrowest possible reading of the statute, but canons of clear statement and strict construction do "not mean that every criminal statute must be given the narrowest possible meaning in complete disregard of the purpose of the legislature." *United States* v. *Bramblett,* 348 U. S. 503, 510 (1955). We have resolved

[18] This reading preserves a significant difference between the "receipt" offenses under Title IV and Title VII. See pp. 6–7, *supra.*

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the basic uncertainty about the statute in favor of the narrow reading, concluding that "in commerce or affecting commerce" is part of the offense of possessing or receiving a firearm. But given the evils which prompted the statute and the basic legislative purpose of restricting the firearm-related activity of convicted felons, the readings we give to the commerce requirement, although not all narrow, are appropriate. And consistent with our regard for the sensitive relation between federal and state criminal jurisdiction, our reading preserves as an element of all the offenses a requirement suited to federal criminal jurisdiction alone.

The judgment is

Affirmed.

MR. JUSTICE BRENNAN joins the judgment of the Court and the opinion except for Part III. No question of the quantum of evidence necessary to establish the Government's prima facie case is before us and I would await a case properly presenting that question before deciding it.

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SUPREME COURT OF THE UNITED STATES

No. 70–71

United States, Petitioner, v. Denneth Bass.	On Writ of Certiorari to the United States Court of Appeals for the Second Circuit.

[December 20, 1971]

MR. JUSTICE BLACKMUN, with whom THE CHIEF JUSTICE joins, dissenting.

I cannot join the Court's opinion and judgment. Four of the five United States courts of appeals that have passed upon the issue presented by this case have decided it adversely to the position urged by the respondents here. *United States* v. *Cabbler*, 429 F. 2d 577 (CA4 1970), cert. denied, 400 U. S. 901; *United States* v. *Mullins*, 432 F. 2d 1003 (CA4 1970); *Stevens* v. *United States*, 440 F. 2d 144 (CA6 1971) (one judge dissenting); *United States* v. *Synnes*, 438 F. 2d 764 (CA8 1971); *United States* v. *Wiley*, 438 F. 2d 773 (CA8 1971); *United States* v. *Taylor*, 438 F. 2d 774 (CA8 1971); *United States* v. *Daniels*, 431 F. 2d 697 (CA9 1970); *United States* v. *Crow*, 439 F. 2d 1193 (CA9 1971). Only the Second Circuit stands opposed.[1]

1. The statute, 18 U. S. C. App. § 1202 (a)(1), when it speaks of one "who receives, possesses, or transports

[1] Unappealed district court decisions are in conflict. Those upholding the Government's position include *United States* v. *Davis*, 314 F. Supp. 1161 (ND Miss. 1970); *United States* v. *Vicary* (No. 44,207) (ED Mich., June 29, 1970) (*en banc*); *United States* v. *Childress* (No. 8039–R) (ED Va., January 6, 1969); *United States* v. *Boggs* (No. 8138) (Wyo., June 17, 1970). Those opposed include *United States* v. *Harbin*, 313 F. Supp. 50 (ND Ind. 1970); *United States* v. *Steed* (No. Cr. 70–57) (WD Tenn., May 11, 1970); *United States* v. *Phelps* (No. 14,465) (MD Tenn., February 10, 1970); *United States* v. *Francis* (No. 12,684) (ED Tenn., December 12, 1969).

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in commerce or affecting commerce," although arguably ambiguous and, as the Government concedes, "not a model of logic or clarity," [2] is clear enough. The structure of the vital language and its punctuation make it refer to one who receives, to one who possesses, and to one who transports in commerce. If one wished to say that he would welcome a cat, would welcome a dog, or would welcome a cow that jumps over the moon, he would likely say "I would like to have a cat, a dog, or a cow that jumps over the moon." So it is here.

2. The meaning the Court implants on the statute is justified only by the addition and interposition of a comma after the word "transports." I perceive no warrant for this judicial transfiguration.

3. In the very same statute the phrase "after the date of enactment of this Act" is separated by commas and undeniably modifies each of the preceding words, "receives," "possesses," and "transports." Obviously, then, the draftsman—and the Congress—knew the use of commas for phrase modification. We should give effect to the only meaning attendant upon that use.

4. The specific finding in 18 U. S. C. App. § 1201 [3] clearly demonstrates that Congress was attempting to reach and prohibit every possession of a firearm by a felon; that Congress found that such possession, whether interstate or intrastate, affected interstate commerce; and that Congress did not conclude that intrastate possession was a matter of less concern to it than interstate possession. That finding was unnecessary if Congress

[2] Petition for certiorari 5.

[3] "§ 1201. Congressional findings and declaration

"The Congress hereby finds and declares that the receipt, possession, or transportation of a firearm by felons . . . constitutes—

"(1) a burden on commerce or threat affecting the free flow of commerce, ..."

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also required proof that each receipt or possession of a firearm was in or affected interstate or foreign commerce.

5. Senator Long's explanatory comments reveal clearly the purpose, the intent, and the extent of the legislation:

> "I have prepared an amendment which I will offer at an appropriate time, simply setting forth the fact that anybody who has been convicted of a felony . . . is not permitted to *possess* a firearm, ...
>
> "It might be well to analyze, for a moment, the logic involved. When a man has been convicted of a felony, unless—as this bill sets forth—he has been expressly pardoned by the President and the pardon states that the person is to be permitted to *possess* firearms in the future, that man would have no right to *possess* firearms. He would be punished criminally if he is found in *possession* of them." 114 Cong. Rec. 13868 (1968) (emphasis supplied).
>
> "So Congress simply finds that the *possession* of these weapons by the wrong kind of people is either a burden on commerce or a threat that affects the free flow of commerce.
>
> "You cannot do business in an area, and you certainly cannot do as much of it and do it as well as you would like, if in order to do business you have to go through a street where there are burglars, murderers, and arsonists armed to the teeth against innocent citizens. So the threat certainly affects the free flow of commerce." 114 Cong. Rec. 13869 (1968) (emphasis supplied).
>
> "What the amendment seeks to do is to make it unlawful for a firearm—be it a handgun, a machine-gun, a long-range rifle, or any kind of firearm—to be in the *possession* of a convicted felon who has

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not been pardoned and who has therefore lost his right to *possess* firearms. . . . It also relates to the transportation of firearms.

. . . . . .

"Clauses 1–5 describe persons who, by their actions, have demonstrated that they are dangerous, or that they may become dangerous. Stated simply, they may not be trusted to *possess* a firearm without becoming a threat to society. This title would apply both to hand guns and to long guns.

. . . . . .

"All of these murderers had shown violent tendencies before they committed the crime for which they are most infamous. They should not have been permitted to *possess* a gun. Yet, there is no Federal law which would deny *possession* to these undesirables.

"The killer of Medgar Evers, the murderers of the three civil rights workers in Mississippi, the defendants who shot Captain Lemuel Penn (on a highway while he was driving back to Washington after completion of reserve Military duty) would all be free under present Federal law to acquire another gun and repeat those same sorts of crimes in the future.

. . . . . .

"So, under Title VII, every citizen could *possess* a gun until the commission of his first felony. Upon his conviction, however, Title VII would deny every assassin, murderer, thief and burglar of *the right to possess* a firearm in the future except where he has been pardoned by the President or a State Governor and has been expressly authorized by his pardon to possess a firearm.

"It has been said that Congress lacks the power to outlaw *mere possession* of weapons. . . .

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". . . . The important point is that this legislation demonstrates that *possession* of a deadly weapon by the wrong people can be controlled by Congress, without regard to where the police power resides under the Constitution.

"Without question, the Federal Government does have power to control *possession* of weapons where such *possession* could become a threat to interstate commerce, ...

"State gun control laws where they exist have proven inadequate to bar *possession* of firearms from those most likely to use them for unlawful purposes. . . .

. . . . .

"Nor would Title VII impinge upon the rights of citizens generally to *possess* firearms for legitimate and lawful purposes. It deals solely with those who have demonstrated that they cannot be trusted to *possess* a firearm—those whose prior acts—mostly voluntary—have placed them outside of our society. . . .

". . . . I am convinced that we have enough constitutional power to prohibit these categories of people from *possessing,* receiving, or transporting a firearm. . . .

. . . . .

"This amendment would provide that a convicted felon who participates in one of these marches and *is carrying a firearm* would be violating the law. . . ." 114 Cong. Rec. 14773–14774 (1968) (emphasis supplied).

One cannot detect in these remarks any purpose to restrict or limit the type of possession that was being considered for proscription.

6. The Court's construction of § 1202 (a), limiting its application to interstate possession and receipt, shrinks

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the statute into something little more than a duplication of 18 U. S. C. § 922 (g) and (h). I cannot ascribe to Congress such a gesture of nonaccomplishment.

I thus conclude that § 1202 (a) was intended to and does reach all possessions and receipts of firearms by convicted felons, and that the Court should move on and decide the constitutional issue present in this case.

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BOB SIKES
FIRST DISTRICT
FLORIDA

MISS ALMA D. BUTLER
ADMINISTRATIVE ASSISTANT

COMMITTEE ON
APPROPRIATIONS

SECRETARY
MRS. NELLA A. CHRISTIE

Congress of the United States
House of Representatives
Washington, D.C. 20515

January 3, 1972

Honorable John D. Dingell
Room 2210 Rayburn Building
Washington, D. C. 20515

Dear John:

We want to be sure that the "Saturday night specials" bill now being drafted by the Department of Justice is not introduced until we have talked with the Speaker about referring it to the proper committee.

With all good wishes, I am

Sincerely,

COPY

Bob Sikes

S/ja

cc: Honorable Donald E. Santarelli

ATTORNEY GENERAL
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JOHN D. DINGELL
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House of Representatives
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CHAIRMAN, SUBCOMMITTEE ON
FISHERIES AND WILDLIFE CONSERVATION
SELECT COMMITTEE ON SMALL
BUSINESS
CHAIRMAN, SUBCOMMITTEE ON
REGULATORY AND ENFORCEMENT AGENCIES
MIGRATORY BIRD
CONSERVATION COMMISSION

December 23, 1971

P E R S O N A L A N D C O N F I D E N T I A L

Honorable Donald E. Santarelli
Associate Deputy Attorney General
Department of Justice
Washington, D. C.

Dear Don:

I have looked over the draft of the Saturday Night Special bill and several things occur to me which I should like to pass on to you.

First, while the elimination of retroactive coverage and the switch to Department of Commerce are both substantial improvements over previous drafts, I think some revision is still needed to clarify the definitions of safety and reliability and the guidelines for testing, so as to avoid excessive discretionary powers being vested in the administrators. It is my understanding that the bill is presently being reworked in this regard, and I will be most anxious to see what is done.

Second, I note that, unlike previous drafts, the present draft contains language (subsection (j) on imports) that explicitly perpetuates the surplus military prohibition, and prevents the new safety and reliability criteria from being applied across-the-board to imported firearms.

Such an exclusion would be even more inconsistent with the findings in the draft bill than it is already with the preamble of the Gun Control Act of 1968. Extending the surplus military ban to new legislation means that the Administration is ratifying what I feel (and I think you share my feeling) was a most unwise and patently ridiculous provision when it was enacted in 1968.

If the purpose of this new legislation is to establish objective standards for imports, then it ought to be applied uniformly, instead of perpetuating a second--and wholly arbitrary--criterion for exclusion of imported handguns.

I know I need not stress to you that there are many very desirable and high-quality former military arms that would have no difficulty passing safety and reliability standards, and that there is no logical reason not to include them in this new regulatory format.

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This easily can be accomplished without extra language in the bill, simply by deleting the specific exclusion of surplus military firearms from the "notwithstanding" clause which overrides 925(d)(3) of the Gun Control Act.

Frankly, what really ought to be done is to unobtrusively substitute the word "firearm" for "handgun" in subsection (j). Done quietly in the drafting stage, it may not even be noticed, and would eliminate this military surplus problem entirely.

Even if it is noticed, the door is not opened any wider than it is already to charges of amending the Gun Control Act; that door is opened with the elimination of "suitability for sporting purposes" as a criterion for handguns.

I note further that since section 925(d) of the Gun Control Act applies to "firearms" generally and not particularly to handguns, the effect of overriding 925(d) only with respect to handguns would create the absurd situation of having three standards of firearms importation: suitability for sporting purposes for long guns, safety and reliability for handguns, and prohibition of military surplus for one or both.

Inasmuch as the Administration so far has been getting a bad press from both sides on this issue, you might want to give some thought to this as a way of showing the sportsmen that the bill does contain something clearly beneficial to help offset the present sourness. This, of course, is your concern--not mine--but I suggest it to you anyway as our interest on this matter happens to coincide.

With warmest personal regards and best wishes,

Sincerely,

John D. Dingell
Member of Congress

c

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JOHN D. DINGELL
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BOB SIKES
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ADMINISTRATIVE ASSISTANT

COMMITTEE ON
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SECRETARY
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Congress of the United States
House of Representatives
Washington, D.C. 20515

January 3, 1972

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S/ja

cc: Honorable Donald E. Santarelli

ATTORNEY GENERAL
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Krogh

THE WHITE HOUSE

WASHINGTON

October 19, 1971

MEMORANDUM FOR KEN COLE

SUBJECT: SATURDAY NIGHT SPECIAL LEGISLATION

We had a meeting on Friday, October 15, 1971, with representatives from Justice, Treasury, and OMB to review the H. P. White Laboratory report on handguns and to establish a drafting team for legislation. This morning we reviewed the first drafts of that legislation and are aiming for a meeting tomorrow afternoon to resolve the final policy questions.

We hope to obtain Justice and Treasury Secretarial approval on Thursday and have a clean bill to discuss with all interested parties during next week. Henry Cashen will be handling those discussions in coordination with the Department of the Treasury.

We anticipate introducing our Saturday Night Special legislation the following Monday, October 31, 1971.

Geoff Shepard

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THE WHITE HOUSE

WASHINGTON

October 7, 1971

MEMORANDUM FOR

GEOFF SHEPARD

I notice from yesterday's papers that we are still getting fairly beaten about the head for the Administration's position on gun control and Saturday night specials. The papers quote Don Santarelli as saying that we ought to have a position on this 45 days from now. This is where we were 45 days ago, and public pressure is continuing to build and we are continually getting clobbered. Is there any hope that we will be able to take some action before the President has lost all of his opportunity to co-op the issue?

KEN COLE

cc: Bud Krogh

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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

November 18, 1971

MEMORANDUM FOR BUD KROGH

SUBJECT: "SATURDAY NIGHT SPECIAL" GUN LEGISLATION

Although we have been working with the National Rifle Association in the development of our "Saturday Night Special" gun legislation, my impression is that the NRA is not prepared to support us on any gun legislation. We have excellent rapport with both their Executive Vice President, General Maxwell Rich, and their Editor, Ashley Halsey. However reasonable these two gentlemen have been in our previous meetings, apparently when they took our bill out to their Board of Directors, the reaction was to oppose all gun control legislation. Although Halsey suggested the flat excise tax as a preferable alternative to our legislation, he in no way indicated they could support that publicly either. If the decision is that it is crucial to have NRA support for our "Saturday Night Special" legislation, work should begin now with the NRA Board of Directors, rather than their agents Rich and Halsey.

There are two changes in the legislation which might enable us to sell this package to the NRA: If our standards are prospective only (so they do not affect existing handguns) and if the standards are set by the National Bureau of Standards (as opposed to the Alcohol, Firearms, and Tobacco Division of the Treasury), we would have legislation which: (1) fulfilled this Administration's promise of gun control legislation; (2) solved the existing GATT problem internationally; and (3) would have the very best chance of support (or minimum opposition) from the gun lobby. It would, however, be totally cosmetic legislation which would have no real affect in helping reduce street crime or availability of "Saturday Night Specials" for many years to come.

Personnel Problems: In the past this Administration's relationships with the gun lobby have been handled by Gordon Liddy at Treasury and Don Santarelli at Justice. Liddy's falling out at Treasury and subsequent re-employment here has effectively removed him from any public role in gun legislation. Santarelli has been ordered by the Attorney General to keep the Department of Justice out of gun control legislation and has been

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thereby rendered ineffective. Our only agency support is from Bill Dickey, Deputy Assistant Secretary of the Treasury for Enforcement and Operations, who is not only new to the subject but is placed in the difficult position of inheriting all of the previous poor relationships between ATF and the gun lobby. This makes any sales job on gun control legislation very difficult from the White House's point of view. The agency work will be mediocre at best, and any direct White House intervention may not provide sufficient flexibility for later disassociation should the problem become too hot to handle.

Whether the Department of Commerce is better situated to handle the legislation and the administration of the standards has not yet been ascertained, but one of the very complicating problems in this area is the lack of a public leader to "carry the water" for us on this issue.

Geoff Shepard

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November 16, 1971

ACTION

MEMORANDUM FOR JOHN D. EHRLICHMAN

SUBJECT: "SATURDAY NIGHT SPECIAL" GUN LEGISLATION

Our original objective was gun legislation which would outlaw cheap junk handguns which figure prominently in violent street crime. We assumed that narrowly drawn legislation could please the right by removing the main source of agitation for gun control legislation without affecting legitimate gun ownership, and mollify the left by having the Administration propose some sort of gun control legislation. With this in mind, two years ago we first discussed "Saturday Night Special" legislation. Last month Rossides and Kleindienst promised legislation this session, and Santarelli got blasted for taking the blame for delay.

This legislation is rapidly becoming a no-win proposition for the President, because we are dealing with an issue which generates incredibly strong emotions on both sides, neither of which can be fully satisfied.

Our developing position (Tab A) envisions a regulatory function by the Secretary of the Treasury involving testing handgun models for reliability and safety. Although the testing standards are designed to be objective, some discretion is necessarily left in the Secretary. The unstated assumption behind the entire legislation is that quality changes necessitated by the tests will substantially increase the price of cheap handguns and keep them out of the hands of young hoodlums who won't be able to afford them.

The gun lobby, although not yet united, still fears any change in the gun laws. Their experience with Treasury in the past has resulted in their wanting no discretion in the Secretary. The NRA, speaking for gun enthusiasts, for instance, readily admits our bill is "the best of the batch" but would rather oppose all bills than be identified with one which may be expanded on the Hill or may turn sour in practice. The gun manufacturers are apparently more realistic and are prepared to go with our legislation.

The anti-gun lobby will argue that we clearly have not gone far enough no matter what legislation we propose. We will never please Kennedy, Lindsay, and WMAL.

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It is conceivable a new manufacturer (either domestic or foreign) could produce a very simple handgun which could pass our objective tests with flying colors and still retail for under $20. This would obviously render our regulatory scheme ineffective.

Five possible options are open to us:

(1) No bill at all: This would be seen as a total victory for the gun lobby and an impossible situation for Administration.

(2) Prospective: We could ban only the manufacture and import (not sale) of certain handguns under the same testing criteria. This would please sportsmen because there would be no discussion whatsoever of existing handguns. It would, however, be totally cosmetic, have absolutely no effect on pawn shops selling used handguns (our main problem), and be torn apart by the anti-gun nuts.

(3) Present bill: This represents the middle ground and is defensible. It will be greeted by opposition from both sides, and we will have to undergo a substantial sales effort merely to explain its provisions and stop existing rumors as to its scope.

(4) Minimum excise tax: Informally the NRA has suggested we end discussion of gun testing and merely establish a flat $20 excise tax on all handguns. The present excise tax is 11% of the sales price. This is indirectly what we are trying to accomplish, but there is no justification other then that rich people can own handguns and poor people cannot.

(5) Discretion in Secretary: Placing more discretion in the Secretary of the Treasury would make our bill less complex but would leave too much flexibility for future administrations. This would assure massive opposition by the gun lobby who would envision eventual outlawing of handguns.

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RECOMMENDATION

The present bill makes the best of a bad situation. It is at best another chapter in this continuing controversy. I believe our hands are tied, and we must produce legislation of this sort as soon as possible. I recommend you approve transmission of our legislation as outlined in Option 3 and Tab A.

Approve _____ Disapprove _____

Bud Krogh

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November 16, 1971

ACTION

MEMORANDUM FOR JOHN D. EHRLICHMAN

SUBJECT: "SATURDAY NIGHT SPECIAL" GUN LEGISLATION

Our original objective was gun legislation which would outlaw cheap junk handguns which figure prominently in violent street crime. We assumed that narrowly drawn legislation could please the right by removing the main source of agitation for gun control legislation without affecting legitimate gun ownership, and mollify the left by having the Administration propose some sort of gun control legislation. With this in mind, two years ago we first discussed "Saturday Night Special" legislation. Last month Rossides and Kleindienst promised legislation this session, and Santarelli got blasted for taking the blame for delay.

This legislation is rapidly becoming a no-win proposition for the President, because we are dealing with an issue which generates incredibly strong emotions on both sides, neither of which can be fully satisfied.

Our developing position (Tab A) envisions a regulatory function by the Secretary of the Treasury involving testing handgun models for reliability and safety. Although the testing standards are designed to be objective, some discretion is necessarily left in the Secretary. The unstated assumption behind the entire legislation is that quality changes necessitated by the tests will substantially increase the price of cheap handguns and keep them out of the hands of young hoodlums who won't be able to afford them.

The gun lobby, although not yet united, still fears any change in the gun laws. Their experience with Treasury in the past has resulted in their wanting no discretion in the Secretary. The NRA, speaking for gun enthusiasts, for instance, readily admits our bill is "the best of the batch" but would rather oppose all bills than be identified with one which may be expanded on the Hill or may turn sour in practice. The gun manufacturers are apparently more realistic and are prepared to go with our legislation.

The anti-gun lobby will argue that we clearly have not gone far enough no matter what legislation we propose. We will never please Kennedy, Lindsay, and WMAL.

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It is conceivable a new manufacturer (either domestic or foreign) could produce a very simple handgun which could pass our objective tests with flying colors and still retail for under $20. This would obviously render our regulatory scheme ineffective.

Five possible options are open to us:

(1) No bill at all: This would be seen as a total victory for the gun lobby and an impossible situation for Administration.

(2) Prospective: We could ban only the manufacture and import (not sale) of certain handguns under the same testing criteria. This would please sportsmen because there would be no discussion whatsoever of existing handguns. It would, however, be totally cosmetic, have absolutely no effect on pawn shops selling used handguns (our main problem), and be torn apart by the anti-gun nuts.

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Approve _____ Disapprove _____

Bud Krogh

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Pending

October 28, 1971

MEMORANDUM FOR BILL TIMMONS

SUBJECT: "SATURDAY NIGHT SPECIAL" GUN LEGISLATION

As you are well aware, we are taking a lot of heat on the Hill for our lack of legislation on "Saturday Night Specials." We are in the process of drafting that legislation and expect to introduce it the second week of November, but I think it very important for us to discuss Congressional strategy as soon as possible.

I would greatly appreciate your convening a meeting in your office of the following people, in addition to yourself:

Jim Smith - Treasury
Wally Johnson - Justice
Henry Cashen
Bud Krogh
Geoff Shepard

Treasury has the lead on this legislation, but we are having a great deal of trouble getting a Treasury position and being sure that Treasury is ready to follow through. They apparently have not felt the same heat we have on this issue or are being cautious because they are unsure of their Secretary's own feeling. In either event, it is vitally important to have Jim Smith personally present at this meeting and not one of his associates.

Wally Johnson has assured me that he will use best efforts to make such a meeting.

We think we can get a very good position on this legislation, but need to avoid the emotionalism experienced for the 1968 Act. Accomplishing that is going to take careful planning and clearly indicates why I will need your help.

Thanks, Bill.

Bud Krogh

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THE WHITE HOUSE

WASHINGTON

Date 10/30

For Bud Krogh

From Tod Hullin

As signed and sent....

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Saundra - set up anytime but 3:30, & invite Cashen

THE WHITE HOUSE

WASHINGTON

10:30 Monday

From		To		For	
____	Krogh	____		____	Your information
____	Clapp	____		____	Action
____	Shepard	____		____	Your Recommendation
____	Payton	____		____	File
____	Nordahl	____		____	Other:
____	Liddy	____			
____	Minnick	____			

Mr. Reinke (your Eastern Airlines friend) would like to stop by the office on Friday afternoon and bring with him General Maxwell Rich (Mr. Reinke's secretary thinks Gen. Rich is President of the National Rifle Association). Originally, you were invited to lunch on Friday -- you already are committed -- so hence the afternoon suggestion by Reinke's secretary.

Ask Shepard to talk to Cashen about this - Ed rather not.

Yes_____ NO_____

466-8070

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ASSOCIATE DEPUTY ATTORNEY GENERAL
WASHINGTON

Bud —

Should we want to respond or not at all — my inclination is to ignore + splash big with the bill when it's ready for public view —

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THE WHITE HOUSE
WASHINGTON

Mtg. scheduled
for Monday
at 2:00

A Waters
Nixon

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THE WHITE HOUSE
WASHINGTON

5 –

Set up meeting over there
w/ Walters only, for BK • me to
brief him on Sun legislation
re his letter (attached)

H.

Dear Mr. [illegible]

Mailed after Pres.

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THE WHITE HOUSE
WASHINGTON

B:

See yellow copy - red underlining

Do you and Geoff want to meet with Walters etc. for discussion?

Or should this be filed away and forgotten...

S We will when we get the Gen Control report. File 'til then. K.

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THE WHITE HOUSE

WASHINGTON

October 30, 1971

INFORMATION

MEMORANDUM FOR: THE PRESIDENT

FROM: JOHN D. EHRLICHMAN

SUBJECT: "SATURDAY NIGHT SPECIAL" GUN LEGISLATION

Your Administration's position on gun control, dictated by political realities, has always emphasized that gun control is a state and local responsibility. This position is summarized at Tab A and has been distributed to our press office and to the Departments of Justice and Treasury.

Consistent with this position, legislation to outlaw cheap junk handguns, commonly referred to as "Saturday Night Specials", is being developed jointly by the Departments of Justice and Treasury. At meetings held last year with gun manufacturers and representatives of shooting sports enthusiasts, we emphasized the basis for eliminating the cheap junk handguns would be a series of objective tests.

The Treasury Department contracted with H. P. White Laboratory, an independent ballistics laboratory, to conduct extensive testing to determine the feasibility of establishing objective standards for handguns. This report was received on October 18, 1971, and has since been distributed to all interested parties for comment.

At the same time, broad outlines of such legislation (attached at Tab B) are currently being discussed with our friends on the Hill and in the shooting sports field (including Senator Hruska and Ashley Halsey, Editor of The American Rifleman, the official publication of the National Rifle Association). Continued private consultations (through the Departments of Justice and Treasury) are contemplated as we develop final legislation.

A second draft of the legislation is currently being prepared, and we look toward introduction during the second week of November.

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August 26, 1971

Dear Johnnie:

Enclosed are the two copies of the President's position paper on gun control I promised you last Tuesday. I hope this will give you some of the feel for what our position is. It is my hope that you and I can talk about this later because there are some nuisances which were not brought up in our luncheon at the Justice Department.

Geoff Shepard of my staff has been given the responsibility for preparing the President's responses in press conferences and before private groups on the subject of gun control. I would hope that the three of us could sit down together in a month or so to work out a mutually acceptable position.

It was good to see you last Tuesday; I wish you all the best in a very difficult and demanding job.

Sincerely,

Egil Krogh, Jr.
Deputy Assistant to the President
for Domestic Affairs

Honorable Johnnie M. Walters
Commissioner
Internal Revenue Service
Washington, D. C.

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INFORMATION

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October 28, 1971

MEMORANDUM FOR BILL TIMMONS

SUBJECT: "SATURDAY NIGHT SPECIAL" GUN LEGISLATION

As you are well aware, we are taking a lot of heat on the Hill for our lack of legislation on "Saturday Night Specials." We are in the process of drafting that legislation and expect to introduce it the second week of November, but I think it very important for us to discuss Congressional strategy as soon as possible.

I would greatly appreciate your convening a meeting in your office of the following people, in addition to yourself:

Jim Smith - Treasury
Wally Johnson - Justice
Henry Cashen
Bud Krogh
Geoff Shepard

Treasury has the lead on this legislation, but we are having a great deal of trouble getting a Treasury position and being sure that Treasury is ready to follow through. They apparently have not felt the same heat we have on this issue or are being cautious because they are unsure of their Secretary's own feeling. In either event, it is vitally important to have Jim Smith personally present at this meeting and not one of his associates.

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Thanks, Bill.

Bud Krogh

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THE WHITE HOUSE

WASHINGTON

From	To	For
x Krogh	_____	_____ Your information
_____ Clapp	_____	x Action
_____ Shepard	x	_____ Your Recommendation
_____ Payton	_____	
		_____ File
_____ Nordahl	_____	
		_____ Other:
_____ Liddy	_____	
_____ Minnick	_____	

First, read attached file before taking any actions.

Per our phone coversation, action on the Saturday nite specials is now up to us (you). Let me give you my proposed game plan.

This afternoon at 3 PM we meet with the major players in this area. I've asked OMB to come, because I'm convinced we need their expertise and impartiality as we sort out the clearly conflicting positions of Justice and Treasury. (Liddy is doing a private memo for me on the three Treasury "working papers.") At this meeting, I want to reach agreement on the steps to be taken in the next two weeks. All I can tell you is that better minds than mine across the street are very anxious that this legislation move as fast as possible and that we do it in a politically sophisticated way

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Here's a proposal:

(1) We spend the next week preparing an Administration draft bill on the Sat. Nite Special. (We need to determine, among other things, whether we are going to go for an objective standard in this legislation - which seems to me the only intelligent thing after the study.) This bill should be done - with our assurance that we have all players on board - by Friday next week. I think we should ask OMB to take the lead role in coordinating the drafting effort, but look to Treasury to take the lead role in drafting the language and providing technical support.

(2) We also prepare during the next week a specific PR game plan and "consultation" program which was promised in testimony on the Hill. You will remember that Santarelli and Kleindienst (and I think Rossides) promised to work with the interested parties (sportsmen and others) before we returned with our bill. This must be handled very carefully. As I told You, I do not want our bill to look as if it were "Made and Approved by the Gun Nuts." So we're going to have to "consult" with some other elements - probably law enforcement, perhaps some civil libertarians, I don't know. I'd suggest that we ask Cashen to develop this program with an assist from Santarelli. Probably Treasury should carry it out, so it can't look too much like Hawk Santarelli shoving it down Dickey's throat. We should implement this program of consultation - if possible during the drafting stage - and the following week. I'm not sure what to do with the H.P. White Report yet.

This baby is yours; it's hot; we can't make mistakes. This is not the time to obstruct now.

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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

October 19, 1971

MEMORANDUM FOR BUD KROGH

SUBJECT: SATURDAY NIGHT SPECIAL LEGISLATION

At today's OMB-sponsored legislative drafting meeting on the Saturday Night Special legislation, we resolved most of the issues remaining in the actual drafting of the legislation. We looked toward a final policy meeting in your office tomorrow afternoon, but I wanted to alert you to two issues still needing resolution before then:

(1) Whether the legislation should be drafted essentially as an amendment to the 1968 Gun Control Act, so that it ends up in the Judiciary, or whether we should make an effort to arrange for its appearance before the House Ways and Means and Senate Finance Committees. The latter is only a possibility if we change this into a revenue bill.

Although the outcome of the final legislation is less certain from the Judiciary Committee, that is where the heat is presently being generated from. If we tried to arrange a bill in Ways and Means, we would have to force it as a revenue producing measure and could not be sure when it would come forth as legislation. On the other hand, although the outcome from Judiciary is less clear, at least it provides us with an Administrative position before that Committee. As Wally Johnson observed, "I don't really care whether the legislation passes or not-it's just that it is important to have our bill before the Committee causing the trouble, so that the Administration's position is perfectly clear. If we send it to Ways and Means, it will be disguised and may end up like the legal services bill, off and bottled up apart from the center of the controversy."

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You may wish to check with Bill Timmons before tomorrow's meeting to help in resolution of this question.

(2) As you will recall, we decided at Friday's meeting that handguns presently on dealer's shelves (as opposed to those not yet manufactured, which have to pass the H. P. White recommended tests) would not be marketable until their model has been placed on a "certified" list. We decided to set up a commission to do the interim compilation of this list and the question for resolution is the actual status and membership in that commission.

Essentially, there are three options: The commission could be independent; it could advise the Secretary of the Treasury; or the entire work of the commission could be done by Treasury personnel. Mark Alger thinks that since there is no policy and this is essentially an executive function it should be done by the Treasury personnel themselves. He recognizes there may be a special political problem, but if that be the case would argue strongly for an advisory commission. Wally Johnson feels it should be an independent commission (for political purposes only) at least in the bill introduced by the Administration. He says later he would be perfectly happy for Congress to change the status of the Commission to that of an advisory commission to the Secretary of the Treasury.

This commission will be a very short term commission, and only be concerned with presently manufactured guns which have not yet been sold.

I think it might be the wisest course for us to have resolved these problems before the meeting.

Geoff Shepard

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Form DJ-150
(Ed. 4-26-65)

UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF JUSTICE

TO : Egil Krogh
Deputy Assistant to the President

DATE: October 13, 1971

FROM : Donald E. Santarelli
Associate Deputy Attorney General

SUBJECT: Saturday Night Specials--Industry Contacts

Charles Dubisson, President, Savage Arms Corporation, is a long-time personal friend of mine who called to tell me the following. Yesterday a ~~UPI~~ AP reporter (Sandy Schwartz) called Dubisson to inquire rather sharply of him concerning the meeting held over at the White House which Dubisson attended ~~ended~~ during which we "smoked" representatives of the shooting world.

Schwartz apparently reflected the intention of writing a story alleging that the Administration's communication with the "shooting fraternity" was an attempt to obtain their political support for Mr. Nixon's reelection rather than to discuss the narrow issue of Saturday Night Special legislation. Schwartz repeatedly questioned Dubisson as to the "political" nature of the discussion and if any "assurances" were exchanged.

Schwartz also inquired as to Gordon Liddy's role both at Treasury and now at the White House on this subject.

Dubisson answered all questions apparently properly, in my opinion.

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National Council for a Responsible Firearms Policy, Inc.

1028 Connecticut Avenue, N.W., Washington, D. C. 20036 ■ Phone: (202) 659-2066

PRESIDENT
James V. Bennett

VICE PRESIDENTS
Carl Bakal
Leonard S. Blondes

SECRETARY
J. Elliott Corbett

TREASURER
David J. Steinberg

■

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Frances Neely
David J. Steinberg
Hy Steirman
Adlai E. Stevenson, III
Charles P. Taft

STATEMENT OF JAMES V. BENNETT, DIRECTOR (Rtd.)
U. S. BUREAU OF PRISONS

Mr. Chairman and Members of the Committee:

I am James V. Bennett, former Director of the U. S. Bureau of Prisons, President of "The National Council for a Responsible Firearms Policy" and a member of the Council of the Criminal Law Section of the American Bar Association. I speak for approval of the pending bill in the name of these groups as well as my own.

The bill would prevent the sale or transfer of a hand gun that does not meet certain standards promulgated by the Secretary of the Treasury. It is directed at stopping the sale of cheap, unsafe and potentially dangerous hand guns, the so-called Saturday Night Specials. These are guns made in this country by a small number of firms (four, I understand) that came into being after the Gun Control Act of 1968 precluded the importation of similar guns. Please note that the proposed amendment to the Gun Control Act does not prohibit the possession of such handguns even though they may not now be legally sold or transferred and also may be dangerous to their owners. This bill follows the principle that our laws must prevent the sale of articles, tools, clothing, equipment or appliances that may be inherently dangerous to whoever owns them. We are seeking to protect the consumer from potentially dangerous articles. The Saturday Night Special is in

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file

OFFICE OF THE
DEPUTY ATTORNEY GENERAL

Donald E. Santarelli
Associate Deputy Attorney General

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that category. When it back-fires or explodes it creates a casualty, the cost of which all of us are likely to pay in our taxes to support our health and social security programs.

It is important to note that this bill does not seek to solve the problem by a sort of meat-ax approach by cutting off the sale or transfer of all small caliber revolvers. If the gun meets the so-called factoring or safety standards of the Secretary of the Treasury and is suitable for sporting purposes, it may be merchandised by a licensed dealer.

In a word, it outlaws the sale or transfer of cheaply made small handguns which have figured prominently in the burgeoning number of police killings, bank robberies, store holdups and the senseless murdering of law abiding citizens—instances of which we read nearly every day.

Just how many of these guns are being manufactured we, or at least I, do not know because no accurate statistics are available. But the seizures by the police would seem to indicate that at least one third of all armed robberies—of which there were 139,000 last year—used this type of gun. Certainly also a high percentage of the 80,000 gun assaults were made with these cheap revolvers. Undoubtedly, more than one third of those who died as the result of the 3,000 accidents caused by guns last year were due to these Saturday Night Specials. And the proportionate number of suicides and shootings engaged in by emotionally disturbed persons who used these lethal weapons are not recorded but it is reasonable to believe such a person would not resort to an expensive gun for this purpose since the cheaper one would be equally effective and would likely be easier to obtain.

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It is difficult for me to understand how anyone can object to a bill that prohibits the sale of a gun that is of no value as a sporting weapon, is dangerous to those who buy it for self-protection and assuredly immeasurably complicates our efforts to combat crime. The time-honored, tongue-in-cheek, hackneyed arguments about the right to bear arms, the right of law-abiding citizens to defend themselves, the hardships and inconvenience of gun registration cannot be advanced against this bill.

It does not tread upon the easily aroused defense mechanisms of the gun crowd. It merely plugs one of the loopholes that has developed in the Gun Control Act of 1968. From my point of view there are many other shortcomings of that Act.

As one who formerly was responsible for the safety of 5,000 prison officers, I am just now extremely discouraged about keeping guns out of the hands of psychopathic killers and hate mongerers. The ruthless murder of three San Quentin Prison officdrs by use of a smuggled 9 millimeter Spanish made Astra revolver has aroused fears among our officers and their wives of an unparalled intensity. The gun used was sold to a field marshal for the Black Panther Party who was assigned to procure guns for their day of reckoning. The gun was apparently in this country legally since it was, I judge, imported prior to the effective date of the 1968 Gun Control Act. It was, however, sold after the Act became effective and the dealer had, as the law requires, a record of the person to whom it was sold. This will help the California authorities prosecute the guilty and goes to show that the Act so bitterly opposed by the gun people is of some value in the war against crime. But is will not bring back the lives of the officers

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killed by a prisoner who had nothing to lose. No law, no threat of punishment could deter him any more than they can the thousands of other trigger-happy desperados shooting up banks or trying to wreak vengeance on people whom they blame for their troubles.

No, Mr. Chairman, we have no illusions as to how much this bill can accomplish in establishing the kind of national firearms policy the nation so desperately needs. But we wholeheartedly support it as of some help. We can wait until another day when we can and will show the overwhelming demand of the silent majority for an effective and responsible firearms policy. We marshalled, as some of you know, one and a half million signatures to a petition demanding a gun control federal statute. We were partially successful. Perhaps we will do better later. Let's hope we don't have to have another assassination or the shooting of the pilot of an airplane carrying 300 passengers to their death or the murder of even more policemen and prison officers before we can make certain that only responsible, law-abiding citizens who have legitimate need for a firearm may possess one.

There are one or two minor changes in the amendment which I would like to discuss with the staff of the Committee at a later date. One of them has to do with the disposition of guns that are confiscated by the police and the other has to do with better reporting of progress being made in implementing the intent of Congress in passing the Gun Control Act.

Thank you, Mr. Chairman and Members of the Committee.

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Dave Wolfe Publishing Company
Publisher of The HANDLOADER and The RIFLE
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TELEPHONE 445-7810 - AREA CODE 602

October 11, 1971

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

Dear Don,

Thanks for sending your statement before Bayh's committee--and for continued support of the quality standards tests. I understand that Bayh and Kennedy really raked you over the coals during the testimony. I wish to the dickens that they had held off until the Administration had its bill ready--that would surely have simplified matters, but too much to expect of those SOB's.

As Gordon may have told you, a Sandy Schwartz of Associated Press called Arnold P. Jeffcoat of Gun Week and me wanting to know: Had the Administration reneged on its earlier statements to gun people? (To which I answered no.) And what was our relationship with Liddy? It looks to me as if AP, at the urging of someone, is doing its best to drive a wedge between gun owners and the Administration, and to drive a wedge between Liddy and his present post at the White House. From what Schwartz told Jeffcoat that I had said, I'm really nervous about this story appearing. He told Jeffcoat "Knox wants to take guns away from all blacks." Of course, I said no such thing, I was talking about the social, economic and educational factors which are so closely related to crime, and pointed out that the blacks are the most readily identifiable group in this "class," then cited the murder arrest and murder victim statistics for blacks. Obviously it was a mistake, for it sounds as if he may twist it around to suit his own purposes. If he twists it as much as he did when he was talking to Jeffcoat, I'll take it to the courts.

In your statement you mention that the term "Saturday Night Special" probably came from Detroit a few years ago. I saw that newspaper story too, but it was grossly in error. The term "Saturday Night Special" to designate a small, usually inexpensive handgun goes back at least 50 years--I recall seeing the term in a Rifleman article from the 1920's--and it probably dates to around 1900.

I hope to see you before long.

Cordially,

Neal Knox, Editor

NK/s

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ASSOCIATE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

October 8, 1971

MEMORANDUM FOR: Egil Krogh

FROM: Wallace Johnson

I subscribe to what Santarelli says. It seems to me that Treasury missed the point completely and the proposed legislation that we reviewed could have been submitted two years ago. The whole point in having an objective standard is that Congress, and not the Executive, will determine what is a prohibited gun.

It seems to me clear that the Administration must consult with the public before submitting this legislation. Treasury told the Congress that we would; Justice told the Congress that we would; good sense dictates that we do. I would suggest that we broaden the base somehow and consult with a wider public spectrum than just the industry. Maybe we should ask some of those witnesses who testified on "Saturday Night Specials" before Congress to comment. If we avoid this step, we will be giving away any advantage we would otherwise have.

I think you should work within a time frame which would see the legislation go to the Hill no later than early November. This should give us time to consult with the public and polish the legislation.

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Form DJ-150
(Ed. 4-26-65)

UNITED STATES GOVERNMENT DEPARTMENT OF JUSTICE

Memorandum

TO : Egil Krogh
Deputy Assistant to the President

DATE: October 8, 1971

FROM : DS Donald E. Santarelli
Associate Deputy Attorney General

SUBJECT: Gun Control -- Saturday Night Specials

After reviewing the Treasury draft bill dealing with Saturday Night Specials which Geoff Shepard sent to Wallace Johnson on October 7, it is apparent that the standards used therein are no less subjective than those found in the existing law relating to importation of handguns. 18 U.S.C. 925(d)(3). Treasury's proposal not only fails to embody an objective standard, but fails altogether to recognize and incorporate the recommendations and conclusions of H.P. White Laboratory, which, at Treasury's instance, conducted an extensive test to justify an objective standard for banning inferior handguns.

I recognize that the mission of H.P. White Laboratory was only to determine whether an objective standard was feasible. It did not, in its final report, purport to suggest the details of the actual testing process. But it did recommend, with ample supporting test data, several factors which should be, and could very easily be, incorporated in any Administration proposal, making the standards far more objective, while still leaving sufficient subjectivity to allow the Secretary to exercise his discretion.

Based on H.P. White's report, I would suggest an entirely different approach. The standards--safety and reliability--should be clearly established in the bill. Establishment of particular testing procedures should be the only thing left to the Secretary's discretion. After setting out those two standards, I would add the following provisions:

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The secretary shall prescribe tests to determine whether a handgun conforms to the standards established by this chapter. Such tests shall be based upon--

(1) The patent or latent defects of the handgun which would or reasonably could preclude its safe usage;

(2) The ability of the handgun to withstand, without failure or deformation of a critical component, repeated firing under conditions simulating those conditions of usage, cleaning and maintenance--

(A) to which a handgun could reasonably be expected to be subjected in normal usage without regard to extremes of endurance, performance, environment or handling; and

(B) which, because of a defect in design, materials, or assembly could result in failure or malfunction within the limits of the reasonable life expectancy of the handgun;

(3) The ability of the handgun to withstand conditions as described in subparagraph (2) of this subsection without malfunction caused by excessive wear of a component; and

(4) The ability of the handgun to withstand a blow--similar to that which it would experience if it were jarred or dropped--without discharging.

Before submitting our proposal, it seems in order that Treasury consult with the Defense Department weapons and ballistics experts, such as USASASA and BRL, as to the practical considerations of conducting the necessary tests under our proposal, and with the Bureau of Standards at Commerce as to the design of the testing program.

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It is clear that Treasury, left to its own devices in dealing with the Saturday Night Special problem and in drafting legislation to meet the problem, has missed the point. It is also clear that from this point on someone from the White House and/or the Justice Department must work with Treasury if only to supply guidance and balance.

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Process.

① Legis.

- Bill prepared by Treas. & DoJ. SAT & SUN. - To Jim Gregg by C.O.B. Mon. OMB working group work over Tues. We meet Wed. A.M.

- Wed. - Referred to Sec. Connally.

② Consultation:

- Lynch - to testimony group.

- Cashen - leg work.

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Form DJ-150
(Ed. 4-26-65)

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : Egil Krogh, Jr.
Deputy Assistant to the President

DATE: October 8, 1971

FROM : DS Donald E. Santarelli
Associate Deputy Attorney General

SUBJECT: Saturday Night Specials

As you can see from the attached, both Treasury and Justice indicated in 1969 that legislation to cure the Saturday Night Special problem should be forthcoming. It is now over two years and it has not forthcome. You know the reasons why!

The UPI press release fairly reports the events of the hearing.

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UPI PRESS RELEASE

UPI-83
(GUNS)

WASHINGTON--A JUSTICE DEPARTMENT OFFICIAL SAID TODAY THE ADMINISTRATION HOPES TO HAVE "IN AS LITTLE AS 45 DAYS FROM NOW" A PROPOSAL FOR LEGISLATION TO BAN THE SALE OF "STREET CRIME" HANDGUNS KNOWN AS "SATURDAY NIGHT SPECIALS."

DONALD E. SANTARELLI, ASSOCIATE DEPUTY ATTORNEY GENERAL, SAID THE ADMINISTRATION HAS NOT STAND ON ANY SPECIFIC PROPOSALS ALREADY OFFERED IN CONGRESS, BUT "WHOLEHEARTEDLY SUPPORTS THE BAN ON INTERSTATE COMMERCE IN SATURDAY NIGHT SPECIALS."

SEN. BIRCH BAYH D_IND, CHAIRMAN OF THE JUVENILE ELINQUENCY SUBCOMMITTEE WHICH CALLED THE ONE_DAY HEARING IN THE AFTERMATH OF A SPATE OF MURDERS WITH THE CHEAP, SMALL CALIBRE WEAPONS, HAS PROPOSED SETTING STANDARDS FOR HANDGUNS WHICH CAN BE CONSIDERED LEGAL.

SANTARELLI FACED SOMETIMES HEATED QUESTIONING BY BUYH AND SEN EDWARD M. KENNEDY, D_MASS., WHO CHARGED THAT THE ADMINISTRATION HAS HAD MORE THAN TWO YEARS SINCE THE ENACTMENT OF THE 1968 GUN CONTROL ACT TO COME UP WITH A RECOMMENDATION, BUT HAS NOT DONE SO.

THE 1968 ACT BARS IMPORTING SATURDAY NIGHT SPECIALS BUT DOES NOT CONTAIN ANY LIMITATION IN IMPORTS OF THE PARTS TO BE ASSEMBLED IN THE UNITED STATES OR ON THE DOMESTIC MANUFACTURER OF THE WEAPONS WHICH OTHER WITNESSES SAID HAS BEEN RISING RAPIDLY SINCE THE 1968 ACT.

KENNEDY CRITICIZED THE JUSTICE DEPARTMENT FOR NOT SENDING ATTORNEY GENERAL MITCHELL OR A HIGH DEPUTY TO PRESENT "THEIR DEPARTMENT'S ATTITUDE WHICH TOO LONG HAS BEEN MISSING."

HE SAID, "I REJECT THE IDEA THAT HE (MITCHELL) HASN'T GOT TIME TO TESTIFY WHEN HE HAS TIME FOR POLITICAL MEETINGS."

SANTARELLI SAID THE DELAY IN FORMULATING A PROPOSAL HAS BEEN CAUSED BY A CAREFUL ANALYSIS OF TECHNOLOGY NEEDED TO CLASSIFY THE GUNS BY SIZE, BORE, AND SAFETY AND THEIR PURPOSE, SUCH AS FOR SPORTING OR SELF-PROTECTION.

AS A LAWYER, BAYH SAID, TECHNICAL PROBLEMS ARE APPARENT TO HIM. "BUT I HAVE THE FEELING THE TECHNOLOGY COULD BE WORKED OUT IN A MONTH"S TIME. ITS NOT TECHNOLOGY, BUT POLITICAL FIRE SOME PEOPLE ARE GOING TO FEEL IF WE GO AHEAD AND TAKE THESE WEAPONS OFF THE STREET."

SANTARELLI SAID THE TREASURY DEPARTMENT "HAS BEEN WORKING FOR SOME TIME" ON THE ANALYSIS AND SHOULD HAVE A DRAFT "IN AS LITTLE AS 45 DAYS FROM NOW."

GW1237PED

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pp 37-58

Statement of

Randolph W. Thrower

Commissioner of Internal Revenue

Before the

Subcommittee to Investigate Juvenile Deliquency

of the

United States Senate

on

S. 100

S. 849

S. 977

S. 2433

July 24, 1969

Mr. Chairman, I am Randolph W. Thrower, Commissioner of Internal Revenue. In response to your request, I am here on behalf of the Treasury Department with Mr. Eugene T. Rossides, Assistant Secretary of the Treasury for Law Enforcement and Operations, concerning the bills you have under

TREASURY DEPT. TESTIMONY 1969

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the Gun Control Act permits the importation of firearms which are generally recognized as particularly suitable or readily adaptable to sporting purposes. The Service implemented the statutory criteria by establishing a point system for use in cases of handguns in order to determine whether the statutory criteria for importation had been met.

From October 22, 1968 through December 31, 1968, the Service denied 272 applications to import 494,273 firearms. We approved 2,535 applications to import 1,000,059 sporting firearms. From January 1, 1969 through June 30, 1969, the Service denied 1,156 applications to import 101,628 firearms. During the same period 270,775 sporting firearms were imported.

Our experience has shown that we have been successful in keeping out of the United States cheap foreign made firearms--the so-called "Saturday Night Special." However, we have found

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that the importation restriction has resulted in a substantial increase in the domestic production of these cheap weapons. This is a problem area which the Service presently has under consideration and on which we may be able to submit recommendations to you at a later time.

As you know, the Service has implemented the ammunition record requirements of Chapter 44 by requiring licensees to record the name, age, address, and method of identification of the purchaser and a description of the ammunition sold. These regulatory requirements implement section 922(b)(5) and 923(g) and in our opinion represent the minimum required by the legislation intent. Yet we have been subjected to severe criticism for requiring this information. I am sure members of this subcommittee have also received a large volume of correspondence on this subject. It appears to be a constant source of irritation to the sportsmen of the country.

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STATEMENT OF DONALD E. SANTARELLI
ASSOCIATE DEPUTY ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
BEFORE THE
SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
ON S.100, S.849, S.977, S.2433
JULY 24, 1969 -- FIREARMS LEGISLATION

Mr. Chairman and Members of the Subcommittee, I appreciate the invitation to appear before this Subcommittee to give you the views of the Department of Justice on four legislative proposals affecting Federal controls over firearms and ammunition. The Department of Justice appears jointly with the Treasury Department because of our joint responsibilities in the enforcement of the Federal firearms laws. The primary responsibility for the actual administration of the Federal firearms statutes is with the Treasury Department. The Department of Justice provides the investigative assistance of the Federal Bureau of Investigation in procuring evidence of crime and the prosecutive arm of the United States Attorney in prosecuting violations of the Federal firearms laws in the Federal courts.

Therefore, I defer to the Treasury Department on S.100, S.1432, and S.2433, bills generally referred to as proposals for "registration and licensing" of firearms. A few comments, however, on those proposals are in order.

Last year the Congress passed legislation which completely revised and expanded the Federal statutes pertaining to the transferring, transporting, and possession of firearms and ammunition.

Title II of the Gun Control Act of 1968 revised the National Firearms Act to deal with the Supreme Court's decision in Haynes v. United States which had greatly limited the effectiveness of that Act. Because the National Firearms Act covers only "gangster" type weapons and destructive devices, it is not pertinent to the present legislative proposals before this Committee. Therefore, I will address my remarks toward the statutory framework created by other aspects of the legislation passed by the Congress last year, and the effect of the legislative proposals before this Committee on that statutory framework and their desirability.

1969 JUSTICE TESTIMONY

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Title I of the Gun Control Act of 1968, by curtailing interstate sales of firearms to individuals, both over-the-counter and through the mails, enables the several States to regulate effectively the sale and possession of firearms within their borders. This statutory framework was sufficiently well described and commented on by the representatives from the Treasury Department. But I believe it is necessary to emphasize that each State faces different problems and conditions in the area of firearms control. The problems and conditions peculiar to the populous urban Northeastern States are not those peculiar to the sparsely populated Plains and Mountain States. Thus, the legislatures of these diverse States are likely to adopt different measures in dealing with firearms.

The present statutory framework permits the States to design their own programs of firearms control according to their respective needs and protects them against circumvention through interstate and mail-order sales. The Department of Justice believes this is the proper statutory program to achieve this goal.

Furthermore, since the Gun Control Act of 1968 did not become effective until the end of 1968, we have had only approximately seven months of experience with its enforcement. Nevertheless, the statistics referred to in Mr. Thrower's testimony for the first six months of this year indicate a marked increase in the investigative activity made possible by the new and broader firearms legislation enacted by the Congress last year. However, it is too early for a similar increase to be reflected in our statistics on firearms prosecutions.

We agree with the representatives from the Department of the Treasury that registration and licensing proposals represent a distinct departure from previously held concepts of Federal controls of sporting firearms and would constitute an unwarranted invasion into the province of State and local governments. Keeping in mind the recent repudiation of similar proposals in the 90th Congress, and noting the possible constitutional problems raised specifically in the previous testimony, and contemplating the practical aspects of such an undertaking, and contrasting these factors against the fact that there is no clear indication that such a program would have a significant impact on the criminal misuse of firearms, the Department of Justice joins the Treasury Department

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in opposing the enactment of registration and licensing proposals at this time.

Before looking to broader and more controversial statutory schemes for firearms control, it would be wise to look closely at the existing statutes with an eye towards perfecting them and making them more equitable in their application. A few comments on the existing law are in order.

Title I of the Gun Control Act of 1968 prohibits the sale of firearms and ammunition to several categories of interdicted persons, including fugitives from justice, and addicts and users of narcotic and dangerous drugs. Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, while prohibiting the possession of firearms by certain classes of persons, including those dishonorably discharged from military service, convicted felons, aliens unlawfully in the country and others, does not prohibit possession by those interdicted classes in Title I of the Gun Control Act. The danger posed by possession of firearms by persons in Title I, such as fugitives and narcotics addicts, is a very substantial one. Therefore, the Committee may well wish to consider this inconsistency between two different Federal statutes passed in the last Congress and make some attempt at resolving these apparent inconsistencies.

Another major problem that has become apparent in the operation of the recently enacted Federal firearms laws relates to the proliferation of cheap, small calibre handguns, known commonly as "Saturday Night Specials." As you will recall, from the past hearings and debate on this subject, it was widely believed that this kind of handgun was coming to this country from foreign sources. Consequently, importation of military surplus handguns was sought to be prohibited by a provision of the proposal which became the Gun Control Act of 1968. During the consideration of that proposal, the House of Representatives added an amendment excluding all military surplus firearms. The Gun Control Act now excludes from importation all military surplus firearms and firearms not particularly suitable or readily adaptable to sporting purposes. In an attempt to control these so-called cheap handguns, all imports have been subject to tight control by the Secretary of the Treasury and all military surplus has been forbidden. Nevertheless, the problem sought to be solved has not only resisted solution, but has proliferated further. By embargoing all military surplus and firearms not generally

please see next page

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suitable for sporting purposes, perhaps unfairly, a new "protected" industry has been created in the United States. The Alcohol, Tobacco and Firearms Division of the Internal Revenue Service estimates that 60,000 of these cheap handguns were manufactured in the United States in 1968. It is estimated that 700,000 of these guns will be manufactured here in 1969. It is further estimated that there will be approximately one million such handguns manufactured domestically in 1970. Thus, it is readily apparent that the problem caused by these Saturday Night Specials has not abated, but, in fact, has exacerbated. The Department of Justice and, as Mr. Thrower has indicated, the Department of the Treasury are actively considering appropriate measures for dealing with these problems. But, in the meantime, it may be wise for the Committee to direct its attention to this problem.

Another aspect of the Gun Control Act of 1968, that has raised substantial problems, is that relating to record keeping. As the representatives from the Treasury Department indicated, there is substantial reaction to the requirements in the 1968 Act for detailed recordation of all transactions involving sporting ammunition. Licensees, especially small dealers who lack clerical personnel, object to the burden imposed on them by the record keeping requirements. Sportsmen and shooters object to the burden and annoyance of providing required information and identification and filling out the forms. It is further argued that such recordation is meaningless to law enforcement since sporting ammunition is fungible and, thus, not easily identified. Furthermore, the hundreds of thousands of daily transactions in sporting ammunition create a volume of records almost impossible to deal with.

Careful consideration should be given to this subject in view of the widespread dissatisfaction with its implementation and the questionable effectiveness of its enforcement.

You have also asked for our views on S. 849, a bill to amend the penalty provisions for crimes committed while armed. S. 849 provides mandatory, additional consecutive sentences for persons who carry or use firearms during the commission of felonies in violation of Federal law. Sentences under this section could not be suspended, nor could offenders be given probation. Such sentences are designed to persuade the man who sets forth on a criminal venture to think twice of the consequences of going forth armed. A man who is armed in the commission of a crime is a man prepared to commit murder. We believe that the certainty

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of punishment for such conduct under mandatory sentence provisions will serve to deter, to some degree, such conduct.

The Gun Control Act of 1968 provided minimum mandatory sentences for such conduct. Section 924(c) of the Criminal Code, as enacted by that Act, provides that a person using a firearm to commit a Federal felony or who carries firearms unlawfully during the commission of any such felony shall be sentenced to not less than one year nor more than ten for the first offense, and not less than five nor more than twenty-five years for the second offense. In the case of a second offense, the court shall not suspend the sentence or give him a probationary sentence.

Minimum mandatory sentences in present law of one year for the first offense and five years for the second offense are not so high as to interfere with meaningful correctional programs and yet they are high enough to offer some prospect of deterrence.

These significant new penalties have been law for only some seven months. Our experience with their effectiveness has been extremely limited. Thus, it would seem premature to revise the present penalty structure at this time.

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Department of Justice

STATEMENT OF

DONALD E. SANTARELLI
ASSOCIATE DEPUTY ATTORNEY GENERAL

BEFORE THE

SUBCOMMITTEE TO
INVESTIGATE JUVENILE DELINQUENCY

OF THE

SENATE JUDICIARY COMMITTEE

ON

SATURDAY NIGHT SPECIALS

OCTOBER 5, 1971

1971 JUSTICE TESTIMONY

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Mr. Chairman and members of the Subcommittee, we are grateful for the opportunity to present the views of the Department of Justice on the legislation the Chairman has introduced (S. 2507) to prohibit the domestic sale of the low quality handguns known as "Saturday Night Specials."

It is a special pleasure for me to represent the Department today, since I was privileged to testify before your Subcommittee at the last round of hearings held on firearms legislation, in July, 1969. I appreciate the Chairman's recognition of that appearance, and of my calling the Subcommittee's attention to the Saturday Night Special problem, when he introduced S. 2507 on September 14.

The Subcommittee will recall that I assured the late former Chairman of our desire to work with the Subcommittee on the Saturday Night Special problem, and, of course, that offer still holds. It is unfortunate that we were unable to get together in the interim. We are cognizant of the other important activities of the Subcommittee, notably its vital contribution to the passage of the Drug Abuse Prevention and Control Act in the last Congress, and its work on the problems of juvenile delinquency as well as drug abuse this year. We were involved at the same time with assisting in the enactment of such key pieces of legislation

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as the District of Columbia Court Reorganization and Crime Control measure, the Organized Crime Control Act of 1970, the Omnibus Crime Control Act of 1970, as well as the Drug Abuse and other crime control bills.

As Secretary of the Treasury's representative told the Subcommittee three weeks ago, during the last half of 1969 and early 1970, study was given to the question of whether or not it was possible to come up with objective standards to determine safety and reliability of handguns rather than to simply extend to domestic weapons the subjective test presently applied imported weapons, i.e., generally recognized, in the judgment of the Secretary of the Treasury, as "particularly suitable for or readily adaptable to sporting purposes." Extending the subjective test to domestic weapons was suggested by the late Chairman Dodd in his bill, S. 2932, introduced in September, 1969.

After it was decided that objective standards were probably feasible, and after funds to finance a test program were found and allocated, the Department of the Treasury proceeded to select a laboratory capable of conducting the test program. As you know, Mr. Chairman, H.P. White Laboratories, Inc. was the organization selected for the program, and only recently has it been completed. I understand that the Subcommittee has received a statement from the Manager of the Laboratories indicating that an objective test is indeed feasible.

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With that chronology of events since 1969 as background, I would like, with the Subcommittee's permission, to discuss some of the things we have learned about cheap handguns.

The term "Saturday Night Special" appears to have had its origin in Detroit in the mid-1960s. Officials there found that many violent crimes committed in Detroit--more frequently on Saturday night than at any other time--were committed through the use of small, cheap handguns which were largely purchased in interstate commerce. The criminal was frequently a resident of Detroit who had no difficulty in driving to a neighboring State where such guns were readily available without question. Parenthetically, as the Subcommittee knows, this indiscriminate sale of guns to non-residents is now prohibited by the Gun Control Act of 1968.

Prior to enactment of the 1968 Act, most Saturday Night Specials were imported from Europe. The Act's ban on importation of assembled guns, but not on parts, created in effect a protected industry in the United States. As we have heard, it is estimated that over a million of these handguns were produced in this Country last year. Subverting the intent of the Gun Control Act, about half of the guns were assembled here using imported parts.

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We have recently undertaken a survey to determine the extent of illegal use of Saturday Night Specials. Some of our preliminary findings will, I know, be of interest to the Subcommittee. Most of the guns taken in by the major police departments are still of the old imported variety but the proportion of American made and assembled is rising rapidly. Some of our statistical findings are significant. 2,244 handguns were seized by the Washington, D. C. Metropolitan Police Department from January 1 to August 14, 1971. Our analysis of these shows that about 54% low quality Saturday Night Specials. In this analysis we did not count gas, starter, pellet and toy guns, nor were we able to determine how many of the higher-quality type guns were worn out or in disrepair.

We also examined a list of 1,303 .22 caliber handguns seized by a large metropolitan police department between January, 1970 and September 7, 1971. About 69% of these guns were of low quality. We are currently analyzing data from other cities, and will be pleased to submit these to the Subcommittee when our analysis is complete.

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Our interim analysis of the survey is sufficient to convince us that a ban on the manufacture and sale of Saturday Night Specials can have a dramatic effect on our ability to keep this kind of weapon out of the hands of those who would use them illegally.

These hearings, therefore, are extremely timely. The opportunity for us to join with the Committee in working out the legislation needed to put an end to the availability of these handguns is most welcome. You are assured, Mr. Chairman, of our complete cooperation.

Coming to the question of what legislation is needed to solve the Saturday Night Special problem, Mr. Chairman, I regret to say that we are not quite ready to offer a specific recommendation. As Mr. Rossides has testified, we are not satisfied that merely requiring weapons to pass a "sporting purposes" test, as determined by the Secretary, will prove effective. Moreover, the sporting purpose test could prohibit the manufacture and sale of handguns that are suitable for other lawful purposes, such as law enforcement and self-protection. We therefore prefer to submit a proposal based on objective standards rather than to adapt the subjective standards to domestic guns, as your bill would do. This is so even if the bill were to be amended,

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in accordance with your later suggestion, to require weapons to pass a safety and reliability test in addition to the sporting purposes test. The amended version would nevertheless be objectionable because it could result in the ban of weapons which, though safe and reliable, are usable only for non-sporting, albeit lawful purposes. We cannot agree that such a result is either desirable or necessary. As the Congress said when it passed the Gun Control Act:

". . .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, trap-shooting, 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."

We would therefore appreciate the opportunity to consult with officials of the other agencies concerned, as well as knowledgeable members of the public in order to develop a legislative proposal which will be effective in ridding the country of Saturday Night Specials while not interfering with the rights of private property and of

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law-abiding citizens to protect themselves. I would anticipate that we will be able to report back to you, Mr. Chairman, before the end of this session of Congress. Your concern and cooperation is very much appreciated.

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Form DJ-.50
(Ed. 4-26-65)

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : John Mitchell
Attorney General

DATE: October 6, 1971

FROM : Donald E. Santarelli
Associate Deputy Attorney General

SUBJECT: Gun Control -- Saturday Night Specials

Over a period of many years a genre of handguns, commonly known as "Saturday Night Specials" came into widespread distribution in the United States. These are cheap, pot metal, inaccurate and unrealiable handguns selling for as little as nine to ten dollars. They were largely manufactured abroad and imported. They have no useful purpose either for sporting or self-defense, since they are inaccurate and unreliable to the user. The 1968 Gun Control Act sought to prohibit their importation under a general legislative standard "not suitable for sporting purposes". This unfortunately one-sided ban (foreign sources) allowed for the growth of a "protected" domestic industry which then did not exist but which predictably has grown significantly since 1968.

The proliferation of this cheap gun was predicted by those of us Republicans involved in the passage of the 1968 Act. But, due to Senator Dodd's political "deal" with the domestic gun manufacturers to obtain their support for the 1968 Act in return for a ban against foreigh imports which were substantially hurting them, this loophole was left in the Bill. In July 1969, I testified on behalf of the Department of Justice before Senator Dodd's Subcommittee (Juvenile Delinquency Subcommittee of Senate Judiciary) to the effect that these "Saturday Night Specials" needed to be controlled. I then pressed this Administration to develop a proposal with respect to them. For many reasons, including hostility from the Treasury Department over our role in the Gun Control issue, Treasury never moved to develop this proposal until pressure was brought to bear on them early in this year, at my request, through Bud Krogh. Treasury has subsequently undertaken to develop an objective standard proposal (see attached) and will be ready shortly, but unfortunately not soon enough. We should have been first on this issue. Birch Bayh has now stolen it from us by setting hearings and introducing his own Bill before we were ready.

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What is important for us is that we have long recognized and have long been working to ban the Saturday Night Specials in commerce. We can show (see my attached testimony) that over fifty percent of all guns seized in the District of Columbia, recently were in this class. It is well known that these cheap guns end up in the hands of juvenile and other youthful offenders because they are so cheap and readily available. No one can defend this class of firearms since it has no useful purpose. The only argument used against banning it is that it is a foot in the door to the banning of others and more sporting firearms.

Our whole thrust should be one of an affirmative kind. It was quite clear from the hearing today that Senator Bayh, Senator Kennedy and Representative Abner Mikva were attempting to paint the President as "permissive" on this issue and a tool of the gun lobby and unwilling to enact strict laws prohibiting guns which are now murdering police and other innocent citizens. Thus, it becomes vitally important that we have an affirmative posture on the subject of gun control. We can balance the issue by being for Saturday Night Special gun control and against National registration licensing and confiscation by reemphasizing the point that the proper federal role in this subject is to give enforcement effect to state and local laws which take into consideration the various needs of the locals and would not discriminate against those areas which do not need or wish gun control of a strict kind.

You should be aware of some discrepancies in our record on this subject. The transcript of the David Frost show indicates that you made a statement of a personal nature opposing the ownership of guns except by police and law enforcement officials. The transcript of the press conference following the Police Chiefs' meeting with the President indicates that you made a clear expression that the Administration would not be opposing any new gun control laws. You will need to square this Saturday Night Special proposal of ours with the latter statement and our general approach to gun control legislation with the former should those questions arise.

Attachments

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This is
Jo Ann's copy

MEMORANDUM FOR BILL DICKEY

SUBJECT: GUN CONTROL MEETING

Per our phone conversation, as you can see from the attached memorandum to Chuck Colson people at the White House have decided its very important to continue the previous meetings they have had with gun enthusiasts and to personally present this report to these individuals at that time.

This means that you should hold any distribution of the final printed report (with certain limited exceptions which I would like to discuss with you) until the morning of October 18, 1971. I imagine the best way to do it would be shortly after this meeting to have the Department of the Treasury publicly release the H. P. White report and then send all the other copies out. This gives you a grace period of three extra days to be sure copies of the report are ready to personally give to the individuals attending this meeting.

The mailing list for the other individuals not attending this meeting, including anti-gun people, should also be ready to be used on Monday, October 18, 1971.

Geoff Shepard

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October 5, 1971

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Geoff Shepard

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THE WHITE HOUSE
WASHINGTON

OCT. 15
3:00

Haig
Buchen
Shepard

Bill
Treasury
Sticky

Fri
Oct 15
afternoon

-5115-181

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October 5, 1971

MEMORANDUM FOR CHUCK COLSON

SUBJECT: GUN LOBBY MEETINGS

You will recall we met twice last year with firearms manufacturers and gun enthusiasts. We detailed for them the Nixon Administration's general policy on guns and heard out their own views. We also discussed the difficulties of "Saturday Night Specials" and explained that we were trying to develop objective standards for all handguns. We promised to keep the participants informed of our progress and to meet with them to discuss the test results.

The tests have been conducted by H. P. White Laboratories, an independent ballistics organization, which contracted with the Treasury. Their 1,000 page report will be ready for release on October 18, 1971. The report will indicate that objective standards are feasible for eliminating poorly constructed junk handguns.

The recent Bayh hearings on gun control (Bayh has introduced a bill to outlaw the "Saturday Night Special", but he is advocating subjective standards) have stolen the initiative and necessitated administration action on a very quick time schedule. Gene Rossides of Treasury has testified that we will try to get legislation to the Hill before the end of this session. Deputy Attorney General Kleindienst testified we would have legislation up within 30 to 45 days. We are presently developing that legislation, but we must work to keep the gun people enthusastically behind us.

The best way to do this is to have a meeting on Monday morning, October 18, 1971, to personally distribute this H. P. White report to our gun friends. I envision a meeting in the Vice President's Conference Room (preferably at 10:00 a.m.) to enable us to place this report in the proper context and the necessity of moving quickly to establish acceptable legislation. We would

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ask the participants to take the reports with them, review them thoroughly, and come back to a second meeting two weeks later (November 1, 1971) to discuss the specific parameters of legislation which they could support. We would also have representatives there from Justice and Treasury to present a united front.

The purpose of the first meeting is mainly a handholding operation which will enable us to place the report in the proper context and cement our relationship with these people. The second meeting, after they have had a chance to read and digest the H. P. White report, will concentrate on reaching a consensus on acceptable legislation to outlaw "Saturday Night Specials."

For your convenience, I have attached a list of the desired participants at Tab A and a draft letter of invitation containing appropriate information at Tab B.

Finally, I think we should have a preparatory meeting, including the Justice and Treasury representatives, on Friday, October 15, 1971, to iron out our agenda items.

Bud Krogh

cc: Don Santarelli
Bill Dickey

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Department of Justice

STATEMENT OF

DONALD E. SANTARELLI
ASSOCIATE DEPUTY ATTORNEY GENERAL

BEFORE THE

SUBCOMMITTEE TO
INVESTIGATE JUVENILE DELINQUENCY

OF THE

SENATE JUDICIARY COMMITTEE

ON

SATURDAY NIGHT SPECIALS

OCTOBER 5, 1971

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Mr. Chairman and members of the Subcommittee, we are grateful for the opportunity to present the views of the Department of Justice on the legislation the Chairman has introduced (S. 2507) to prohibit the domestic sale of the low quality handguns known as "Saturday Night Specials."

It is a special pleasure for me to represent the Department today, since I was privileged to testify before your Subcommittee at the last round of hearings held on firearms legislation, in July, 1969. I appreciate the Chairman's recognition of that appearance, and of my calling the Subcommittee's attention to the Saturday Night Special problem, when he introduced S. 2507 on September 14.

The Subcommittee will recall that I assured the late former Chairman of our desire to work with the Subcommittee on the Saturday Night Special problem, and, of course, that offer still holds. It is unfortunate that we were unable to get together in the interim. We are cognizant of the other important activities of the Subcommittee, notably its vital contribution to the passage of the Drug Abuse Prevention and Control Act in the last Congress, and its work on the problems of juvenile delinquency as well as drug abuse this year. We were involved at the same time with assisting in the enactment of such key pieces of legislation

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as the District of Columbia Court Reorganization and Crime Control measure, the Organized Crime Control Act of 1970, the Omnibus Crime Control Act of 1970, as well as the Drug Abuse and other crime control bills.

As Secretary of the Treasury's representative told the Subcommittee three weeks ago, during the last half of 1969 and early 1970, study was given to the question of whether or not it was possible to come up with objective standards to determine safety and reliability of handguns rather than to simply extend to domestic weapons the subjective test presently applied imported weapons, i.e., generally recognized, in the judgment of the Secretary of the Treasury, as "particularly suitable for or readily adaptable to sporting purposes." Extending the subjective test to domestic weapons was suggested by the late Chairman Dodd in his bill, S. 2932, introduced in September, 1969.

After it was decided that objective standards were probably feasible, and after funds to finance a test program were found and allocated, the Department of the Treasury proceeded to select a laboratory capable of conducting the test program. As you know, Mr. Chairman, H.P. White Laboratories, Inc. was the organization selected for the program, and only recently has it been completed. I understand that the Subcommittee has received a statement from the Manager of the Laboratories indicating that an objective test is indeed feasible.

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With that chronology of events since 1969 as background, I would like, with the Subcommittee's permission, to discuss some of the things we have learned about cheap handguns.

The term "Saturday Night Special" appears to have had its origin in Detroit in the mid-1960s. Officials there found that many violent crimes committed in Detroit--more frequently on Saturday night than at any other time--were committed through the use of small, cheap handguns which were largely purchased in interstate commerce. The criminal was frequently a resident of Detroit who had no difficulty in driving to a neighboring State where such guns were readily available without question. Parenthetically, as the Subcommittee knows, this indiscriminate sale of guns to non-residents is now prohibited by the Gun Control Act of 1968.

Prior to enactment of the 1968 Act, most Saturday Night Specials were imported from Europe. The Act's ban on importation of assembled guns, but not on parts, created in effect a protected industry in the United States. As we have heard, it is estimated that over a million of these handguns were produced in this Country last year. Subverting the intent of the Gun Control Act, about half of the guns were assembled here using imported parts.

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We have recently undertaken a survey to determine the extent of illegal use of Saturday Night Specials. Some of our preliminary findings will, I know, be of interest to the Subcommittee. Most of the guns taken in by the major police departments are still of the old imported variety but the proportion of American made and assembled is rising rapidly. Some of our statistical findings are significant. 2,244 handguns were seized by the Washington, D. C. Metropolitan Police Department from January 1 to August 14, 1971. Our analysis of these shows that about 54% low quality Saturday Night Specials. In this analysis we did not count gas, starter, pellet and toy guns, nor were we able to determine how many of the higher-quality type guns were worn out or in disrepair.

We also examined a list of 1,303 .22 caliber handguns seized by a large metropolitan police department between January, 1970 and September 7, 1971. About 69% of these guns were of low quality. We are currently analyzing data from other cities, and will be pleased to submit these to the Subcommittee when our analysis is complete.

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Our interim analysis of the survey is sufficient to convince us that a ban on the manufacture and sale of Saturday Night Specials can have a dramatic effect on our ability to keep this kind of weapon out of the hands of those who would use them illegally.

These hearings, therefore, are extremely timely. The opportunity for us to join with the Committee in working out the legislation needed to put an end to the availability of these handguns is most welcome. You are assured, Mr. Chairman, of our complete cooperation.

Coming to the question of what legislation is needed to solve the Saturday Night Special problem, Mr. Chairman, I regret to say that we are not quite ready to offer a specific recommendation. As Mr. Rossides has testified, we are not satisfied that merely requiring weapons to pass a "sporting purposes" test, as determined by the Secretary, will prove effective. Moreover, the sporting purpose test could prohibit the manufacture and sale of handguns that are suitable for other lawful purposes, such as law enforcement and self-protection. We therefore prefer to submit a proposal based on objective standards rather than to adapt the subjective standards to domestic guns, as your bill would do. This is so even if the bill were to be amended,

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in accordance with your later suggestion, to require weapons to pass a safety and reliability test in addition to the sporting purposes test. The amended version would nevertheless be objectionable because it could result in the ban of weapons which, though safe and reliable, are usable only for non-sporting, albeit lawful purposes. We cannot agree that such a result is either desirable or necessary. As the Congress said when it passed the Gun Control Act:

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We would therefore appreciate the opportunity to consult with officials of the other agencies concerned, as well as knowledgeable members of the public in order to develop a legislative proposal which will be effective in ridding the country of Saturday Night Specials while not interfering with the rights of private property and of

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law-abiding citizens to protect themselves. I would anticipate that we will be able to report back to you, Mr. Chairman, before the end of this session of Congress. Your concern and cooperation is very much appreciated.

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October 7, 1971

MEMORANDUM FOR

GEOFF SHEPARD

I notice from yesterday's papers that we are still getting fairly beaten about the head for the Administration's position on gun control and Saturday night specials. The papers quote Don Santarelli as saying that we ought to have a position on this 45 days from now. This is where we were 45 days ago, and public pressure is continuing to build and we are continually getting clobbered. Is there any hope that we will be able to take some action before the President has lost all of his opportunity to co-op the issue?

KEN COLE

cc: Bud Krogh

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CONFIDENTIAL

ACTION MEMORANDUM

THE WHITE HOUSE

WASHINGTON

LOG NO.: P-1872

Date: October 7, 1971

Time: 5:00 pm

OCT 7 1971

FOR ACTION: J. Ehrlichman

cc (for information):

T- Ac tomorrow

FROM THE STAFF SECRETARY

DUE: Date: October 13, 1971

Time: 2:00 pm

SUBJECT:

Weapons Control.

ACTION REQUESTED:

X ___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

___ For Your Comments

___ Draft Remarks

REMARKS:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

JON M. HUNTSMAN
For the President

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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

CONFIDENTIAL

October 7, 1971

MEMORANDUM FOR: JOHN D. EHRLICHMAN

FROM: JON M. HUNTSMAN

SUBJECT: Weapons Control

The following report was noted in the October 6, 1971 News Summary:

> "Justice's Don Santarelli conceded it was "our fault" the Administration has not proposed legislation to halt the flow of cheap pistols. In a sharp verbal exchange, Edward M. Kennedy noted that three Attorney Generals had spoken in favor of stricter weapons control."

It was requested that you report on this matter and answer why we cannot get moving?

Please submit your report to the Office of the Staff Secretary.

Thank you.

cc: H. R. Haldeman
Alexander P. Butterfield

CONFIDENTIAL

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check
w/ Cashen's
office &
be sure a
mtg w/
industry (9am Tom)
has been
scheduled.

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10-8-

Nothing has
been scheduled
there Carter's
Office —

check w/
Liddy also

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THE WHITE HOUSE

WASHINGTON

B

Geoff asked me this afternoon to arrange a mtg. on Oct. 1st re. Gun Control!

You
Geoff
Santarelli
Cashen
Dick Berg

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And I did!

Be sure Henry Cashen doesn't set up 18th mtg w/ outside people

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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

October 7, 1971

MEMORANDUM FOR: BUD KROGH

FROM: CHARLES COLSON

I will be happy to help with the "gun lobby" meetings. Henry Cashen will set them up in accordance with the schedule you recommend.

I am very concerned, however, with the political ramifications of the meeting that you suggest and the procedure you propose. It will certainly get out that we have circulated our report to the gun lobby and that we are working hand in glove with them in the formulation of legislation. This will undoubtedly leave us open to a very severe political attack. We are already taking considerable flak. This could also destroy the credibility of our legislation. My thought is that we should prepare the legislation, then have the gun lobby in to explain what we are doing but set it up in a way that does not lead to changes of collusion.

I strongly advise that you check with John Ehrlichman on this before you make any decisions and then let me know the outcome. If it's affirmative and you still wish the meetings to be held, please advise

I happened to mention this to JDE after I wrote this; I think he concurs -

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July 28, 1971

INFORMATION

MEMORANDUM FOR JOHN EHRLICHMAN

SUBJECT: SATURDAY NIGHT SPECIALS

We have been working closely with the National Rifle Association, and other representatives of the U. S. firearms industry and shooters organizations, in developing our work on "Saturday Night Specials."

Illustrative of this is the recent article in the July issue of the American Rifleman, the official NRA publication, in which they were granted full access to the current tests being completed at the H. P. White Laboratory in Bel Air, Maryland, which is doing the research into developing objective standards for classifying handguns (attached at Tab A).

Although the NRA has not spelled out any position on any specific plan or legislative proposal concerning "Saturday Night Specials", the NRA has consistently frowned on such crude sub-caliber handguns. This has been reflected editorially in the American Rifleman in 1963, 1968, and 1969 (editorials attached at Tab B). The American Rifleman has steadfastly declined to accept advertising for firearms of this nature.

The report from H. P. White Laboratories on the feasibility of designing objective standards for handguns is due to the Treasury Department at the end of July. Preliminary drafts of this report indicate that such objective standards are feasible. Our plan then is to bring together representatives of the gun industry, shooters organizations, and other interested parties to provide them with an opportunity to comment on the report from H. P. White Laboratories. Hopefully at that point a consensus can be reached in support of possible legislation which is acceptable to all these elements.

Although I am not able to say that such a consensus will be reached, everything is presently on track and all gun representatives will have been contacted prior to the development of any legislation.

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RECOMMENDATION

That you inform the President that the NRA has supported the outlawing of cheap handguns in the past, that they have been kept fully informed of this Administration's development of tests seeking objective standards for handguns, and that they will be consulted in the development of legislation if we find such legislation feasible. Donald Santarelli on Deputy Attorney Kleindienst's staff is representing the Department of Justice for us on this issue.

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MEMORANDUM FOR JOHN EHRLICHMAN

SUBJECT: SATURDAY NIGHT SPECIALS

We have been working closely with the National Rifle Association, and other representatives of the U. S. firearms industry and shooters organizations, in developing our work on "Saturday Night Specials."

Illustrative of this is the recent article in the July issue of the American Rifleman, the official NRA publication, in which they were granted full access to the current tests being completed at the H. P. White Laboratory in Bel Air, Maryland, which is doing the research into developing objective standards for classifying handguns (attached at Tab A).

Although the NRA has not spelled out any position on any specific plan or legislative proposal concerning "Saturday Night Specials", the NRA has consistently frowned on such crude sub-caliber handguns. This has been reflected editorially in the American Rifleman in 1963, 1968, and 1969 (editorials attached at Tab B). The American Rifleman has steadfastly declined to accept advertising for firearms of this nature.

The report from H. P. White Laboratories on the feasibility of designing objective standards for handguns is due to the Treasury Department at the end of July. Preliminary drafts of this report indicate that such objective standards are feasible. Our plan then is to bring together representatives of the gun industry, shooters organizations, and other interested parties to provide them with an opportunity to comment on the report from H. P. White Laboratories. Hopefully at that point a consensus can be reached in support of possible legislation which is acceptable to all these elements.

Although I am not able to say that such a consensus will be reached, everything is presently on track and all gun representatives will have been contacted prior to the development of any legislation.

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RECOMMENDATION

That you inform the President that the NRA has supported the outlawing of cheap handguns in the past, that they have been kept fully informed of this Administration's development of tests seeking objective standards for handguns, and that they will be consulted in the development of legislation if we find such legislation feasible. Donald Santarelli on Deputy Attorney Kleindienst's staff is representing the Department of Justice for us on this issue.

Bud Krogh

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THE DEPARTMENT OF THE TREASURY

DATE June 2, 1971

TO THE HONORABLE EGIL KROGH, JR.

Bud:

1. Attached editorial important. It shows the fruits of our efforts. Add Guns magazine to a list now including the American Rifleman; Gun Week; the Rifle; Guns & Ammo; and The Handloader.

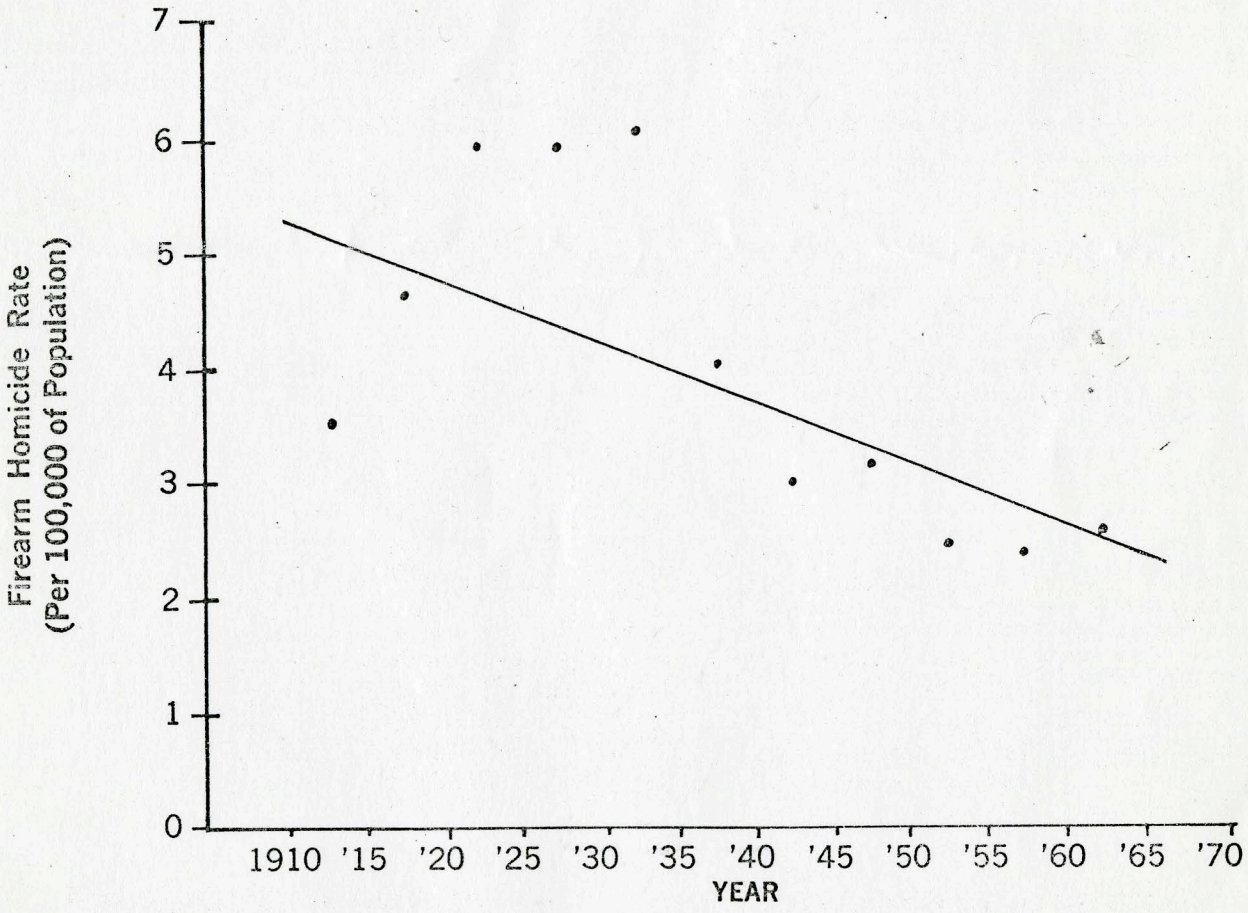
2. Attached chart important in view of current anti-handgun emotional climate.

2 Attachments
as stated

Gordon

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Figure 1. Trend of the firearm homicide rate in the United States: 1910-1966.[1,2]



[1] Data for 1910-1932 are for "Death-registration States" only; data for 1933-1966 are for the entire United States (22).

[2] The trend line was constructed from the annual data for the period 1910-1966. The dots represent the average firearm homicide rate for each five-year period 1911-1965 (See Appendix Table 1).

Source: Public Health Service, U.S. Department of Health, Education, and Welfare (1910-1960); Federal Bureau of Investigation, U.S. Department of Justice (1961-1966).

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JULY, 1971
Vol. XVII, No. 01-7
George E. von Rosen
Publisher

Guns

FINEST IN THE FIREARMS FIELD

TRIGGER TALK

SITTING in the White House on March 25th, I listened as Administration officials explained their position on gun control. The subject was handguns, and the specific problem was the vast numbers of "Saturday Night Specials" now being manufactured and sold in the U.S. At the table, the three administration representatives—Gordon Liddy, Special Assistant to the Secretary of the Treasury; Donald Santarelli, Associate Deputy Attorney General; and Henry Cashen, Assistant to the President—reaffirmed their position against the several handgun proposals pending in Congress, that is, they are against any sort of registration and, of course against any ban on the sale or manufacture of handguns. They also indicated that the administration would support bills which would amend—not repeal—the Gun Control Act of 1968.

On the subject of some sort of control of the cheap handguns, the Administration admitted that they were in the process of testing all types of handguns to see if some sort of quality standards could be imposed which would eliminate those which are unsafe. We will have to wait and see just what kind of proposal comes out of this test program, but it is apparent that the Administration wants the support of the shooting sportsman if the proposal is acceptable to them.

As I sat there, I must admit that I missed a lot of the conversation. My thoughts kept going back to Washington meetings during the Johnson administration, and I wondered if the shooters would accept the fact that we do have an administration which is not anti-gun; one that is willing to sit down and discuss the problem and listen to ideas—or would they look back to the 60's and reject anything to come out of the White House? I am certain that we will never get the simplistic proposals we want—repeal of the GCA and mandatory penalty laws rather than more gun controls—out of this administration. But we will, I am sure, get help from them in combatting registration and confiscation proposals, and we should take advantage of any help we can get. Who knows what direction the feelings of the next administration—if Nixon should be defeated—will take?

THE COVER

The venerable Krag, shown here with original sling, and bayonet. Details in the article on page 32. Photo by Albert Hout.

CONTENTS

FEATURES

CONTEST WINNER AT YO RANCH
Winner of our Safari contest bags his ram .....Col. Charles Askins 18

MENOMONEE FUN SHOOT
Muzzle loaders vs. modern guns in unique contest .....John Harding 20

HOW TO CHEAT AT PLINKING
Tongue in cheek look at fun shooting .....Neil Smith 23

BROWNING LEVER RIFLE
Test report on Browning's newest .....Col. Charles Askins 26

GUNS AND THE LAW
More on non-lethal weaponry for police .....Col. Rex Applegate 28

HENRY WILKINSON—GUNMAKER
One member of a reknowed family .....R. J. Wilkinson-Latham 30

THE KRAG RIFLE
History of the rifle that replaced the Trapdoor .....Albert Hout 32

RUGER SECURITY SIX
Field test of the Ruger D.A. revolver .....Mason Williams 35

HOUSE ON THE ROCK
Gun collection of a unique tourist attraction .....Mars Cassidy 37

THE (ALMOST) ASTRA
Mate to the presidential presentation pistol .....Harold A. Murtz 42

FREE GUN CONTEST
Win a Thompson/Center Contender and accessories 44

HUNTER'S NOTEBOOK
Get to know your rifle before the hunt .....Jon R. Sundra 46

SAVE THAT CARDBOARD BOX!
Collectors want the original packaging .....Richard L. Baker 48

DEPARTMENTS

Shooters Club of America..... 5
Crossfire 6
Point Blank.....Charles Askins 8
Our Man in Washington..Carl Wolff 12
Handloading Bench...George Nonte 14
Pull! .....Dick Miller 50
Arms Library 45
Questions & Answers..... 64
Shopping with Guns..... 68
Index of Advertisers..... 75
The Gun Market..... 78

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

June 1, 1971

MEMORANDUM FOR: GENERAL COUNSEL PIERCE

FROM : G. Gordon Liddy
Enforcement Legislative Counsel

SUBJECT : Firearms Testing Program
H. P. White Laboratory

Attached is a letter to me dated 24 May 1971, from Mr. D. R. Dunn of H.P. White Laboratory, concerning three categories of additional testing in connection with the captioned program.

You will note that Mr. Dunn advises that the additional testing can be incorporated into the present program without slipping further the completion date of 31 July, provided the required GFE and authority to proceed are received prior to 5 June.

At a meeting at the White House this morning chaired by Deputy Assistant to the President Krogh, which Mr. Dickey and I attended, early completion was emphasized strongly.

Assuming that there remain funds sufficient to do so, I recommend that Proposal No. 1, "Destructive Pressure Testing," be authorized.

I concur in Proposal No. 2, "Modification of Existing Test Program," but believe there is no necessity for the suggested introduction of the Smith & Wesson Centennial into the existing test series. It is a quality firearm which has been manufactured and sold for many years without problems. Omission of this element would effect a saving of $1,780.

I concur in Proposal No. 3, "Hammer/Drop Test," (again, assuming sufficient funds are available) with the exception of the proposed adding thereto of the Smith & Wesson Centennial. There is, however, an important caveat. Procurement of the additional weapons may incur a time problem which could cause further slippage of the completion date. Further slippage is, in my judgment, unacceptable.

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As the entire test program looks toward enforcement legislation, it would appear to be a matter within your jurisdiction as to policy. As the Internal Revenue Service has the action for logistical support, the matter should be coordinated through the Commissioner and Mr. Rossides. All involved should bear in mind the June 5 reply date.

Attachment

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H. P. WHITE LABORATORY
RESEARCH · DEVELOPMENT ENGINEERING

BOX 331, BEL AIR, MARYLAND 21014
TELEPHONE: TErrace 8-6550

24 May 1971

Mr. G. Gordon Liddy
Enforcement Legislative Counsel
Department of Treasury
Room 2010 Main Treasury
15th and Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Mr. Liddy:

Confirming our discussion of 20 May 1971, H.P. White Laboratory proposes to furnish the necessary personnel, materials, and facilities to perform testing supplemental to that being performed under Contract No. TIR 25965 in accordance with the attached proposals.

The three (3) categories of additional testing are discussed and proposed separately to provide for independent evaluation and action. It is anticipated that this work can be completed on or before 31 July 1971 providing the required GFE and authority to proceed are received prior to 5 June 1971.

Should you have any questions regarding this matter or if I can be of any further service, please do not hesitate to call.

Very truly yours,

H.P. WHITE LABORATORY

D.R. Dunn

DRD/ss

4 enclosures

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DESTRUCTIVE PRESSURE TESTING

Discussion. After completion of the existing test series, one (1) each of the models tested are to be subjected to increasing chamber pressures until deformation or failure occurs. (If the drop testing proposed elsewhere is adopted, it is suggested that the Smith & Wesson Centennial be subjected to the existing series and to this destructive pressure test for program continuity.)

Scope of Work. The performance of these tests will require the purchase of 14 types of pressure barrel calibration rounds, purchase of 8 pressure barrels which H.P. White does not currently possess and the development of pressure rounds to produce 80,000 psi chamber pressure, incrementally, for each caliber tested. Each of 59 weapons will then be subjected to firing tests and record made of the increasing chamber pressures until each weapon either fails or deforms or until a maximum chamber pressure of 80,000 psi is recorded.

Cost. It is estimated that the cost of this testing will require $8388 in accordance with the following:

Calibration rounds (purchased)	$101.00
Pressure barrels (purchased)	1400.00
Development of special pressure rounds	940.00
Test of 59 weapons @ 6 hours/each @ $16.80/hour	5947.00
	$8388.00

H.P. WHITE LABORATORY

D.R. Dunn

24 May 1971

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MODIFICATION OF EXISTING TEST PROGRAM

Discussion. In order to complete the existing test series, certain proof ammunition was to have been acquired. Subsequent to that determination it was agreed that your office would procure this material and supply it to us as GFE. Because of the unavailability of three (3) of these cartridges, it was decided that H.P. White would develop these three (3) proof rounds. This then confirms that agreement and documents the additional cost and materials required. In addition, should you elect to perform the drop test as outlined elsewhere, the Smith & Wesson Centennial should be completely tested. The cost of this testing is included herein.

Scope of Work. Proof rounds for .380 automatic, .32 automatic, and .30 Luger will be developed, which will provide chamber pressure overloads in accordance with SAAMI Proof Standards. Using government-supplied, primed cases and bullets, H.P. White will load 400 proof rounds in accordance with the results of the development phase of this work. Finally, we will subject the Smith & Wesson Centennial to the existing series of tests.

Cost. It is estimated that the cost of this work will result in an increase of $2348 in the original estimate in accordance with the following:

a) Develop three (3) proof rounds, 10 hours @ $16.80	$168.00
b) Loading of 400 rounds @ 1.00/round	400.00
c) Introduce the Smith & Wesson Centennial to the existing test series, 106 hours @ $16.80	1780.00
d) Total additional cost	$2348.00

GFE

a) 200 primed cases of .380 automatic ammunition
200 bullets of .380 automatic ammunition

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GFE continued

b) 100 primed cases of .32 automatic ammunition
100 bullets of .32 automatic ammunition

c) 100 primed cases of .30 Luger (7.65mm) ammunition
100 bullets of .30 Luger (7.65mm) ammunition

d) 9750 rounds caliber .38 Special commercial ammunition

e) 260 rounds caliber .38 Special SAAMI proof ammunition

H.P. WHITE LABORATORY

D. R. Dunn

24 May 1971

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HAMMER/DROP TEST

Discussion. The weight-drop type of hammer test is probably adequate to evaluate the design and materials of exposed hammer weapons to endure a severe external mechanical loading on the hammer with a round in the firing position without discharging. However, the existing test schedule provides this test for exposed hammer revolvers only though the identical potential hazard exists with exposed hammer, semi-automatic handguns. In addition, no test in the current series—including the weight-drop test—evaluates the ability of a loaded handgun to endure the impact of being dropped without discharging. For this reason the comprehensiveness of the existing program as a means of establishing minimum safety standards may be questioned.

Scope of Work. To properly evaluate the material strength and the relative movement of critical internal and external parts during the rapid deceleration a handgun would experience if dropped during normal usage, the weapon should be dropped in an infinite number of attitudes from an infinite number of heights. However, the six (6) attitudes established by the three spatial axis will provide data of very high reliability, and testing based on this assumption can be conducted within practical limits of time and cost. For the same reasons of practicability, the drop height will be limited to 3 feet (36 inches) onto a hardened steel surface.

Accordingly, a testing fixture will be fabricated which will be used to drop test a fully loaded weapon in each of six (6) attitudes. The round under the hammer will be comprised of a primed case only. One (1) of the six (6) drops will be such that after the free fall of 36 inches, the weapon will impact on its exposed hammer—providing one exists—thus satisfying the intent of the weight-drop test.

One each of the weapons currently under test will be subjected to this test. To this list of weapons should be added an additional weapon—the Smith & Wesson .38 caliber Centennial—as the only readily available hammerless revolver. This addition will bring the total number of weapons to be so tested to 59.

Cost. It is estimated that this testing will cost $1572 in accordance with the following:

a) Test Fixture

Material	$ 145.00
Labor, 26 hours @ $16.80/hour	436.00
	$ 581.00

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b) Testing

59 weapons @ 1 hour/each @ $16.80/hour	$ 991.00
c) Total cost of testing	$1572.00

GFE

It is our understanding that you have initiated action to procure an additional test weapon for each of the exposed hammer revolvers in the current test series for the conduct of this test. The attached list of 26 weapons should be added to that procurement to provide for the testing outlined above. Note that three (3) Smith & Wesson Centennials are listed. Two (2) of these units, will be phased into the current series (if it is tested in this drop test) to provide an overall program continuity.

H.P. WHITE LABORATORY

D.R. Dunn

24 May 1971

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WEAPONS REQUIRED FOR DROP TESTS

(in addition to those currently being procured for the Weight-Drop Test)

Weapon	Caliber	*Price (Retail)
Valor Guardian	.25 Automatic	$26.00
Smith & Wesson M-61	.22 Long Rifle	36.80
Sterling Trapper	.22 Long Rifle	55.87
Colt Pocket	.25 Automatic	43.75
Ruger Standard	.22 Long Rifle	36.10
High Standard Duramatic	.22 Long Rifle	48.06
Beretta M100	.32 Automatic	56.50
MAB PA15	9mm	89.95
Beretta 1951	9mm	93.75
Browning HP	9mm	90.46
SIG 210-6	.30 Luger	205.00
Titan	.25 Automatic	23.00
Browning Nomad	.22 Long Rifle	56.49
Star BKS	9mm	67.46
Erma KGP68	.380 Automatic	67.46
Mauser H_SC	.380 Automatic	82.50
Unique Corsair	.22 Long Rifle	49.46
Stoeger Luger	.22 Long Rifle	52.46

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WEAPONS REQUIRED FOR DROP TESTS (Continued)

Weapon	Caliber	*Price (Retail)
Walther PPK/S	.380 Automatic	$79.50
RG Ind. RG25	.25 Automatic	20.50
Colt MK/IV/70	.45 Automatic	95.93
Llama IXA	.45 Automatic	69.38
A.F.C. SS	.25 Automatic	44.00
** Smith & Wesson Centennial	.38 Special 3 @ $82.50 each	247.50
	Total	$1737.88

* Prices are those furnished by you with initial issue of weapons except for Smith & Wesson Centennial, which is retail.

** Two (2) of these units required if this weapon is to be phased into existing series.

H.P. WHITE LABORATORY

D.R. Dunn

24 May 1971

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THE DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

MEMORANDUM TO: The Honorable
Carl J. Gilbert
Special Representative, Office of the
Special Representative for Trade
Negotiations

FROM: Eugene T. Rossides

SUBJECT: U. S. Import Restrictions on Firearms

In reference to your April 26, 1971, memorandum, I concur in your suggestion of demonstrating to the EEC and interested GATT contracting parties that we are taking requisite steps leading to removal of discriminatory import restrictions on firearms.

For your use and information in that regard, be advised that in an effort to develop objective standards for control of all commerce in handguns of whatever origin, the Department of the Treasury authorized and directed the Alcohol, Tobacco and Firearms Division, Internal Revenue Service, to conduct a test project to determine the feasibility of establishing "quality" standards as opposed to "sporting" standards in the handgun phase of the firearms industry.

As a result, a test project was established with the H. P. White Laboratory, Bel Air, Maryland, to determine by the destructive and functional testing of currently manufactured "off-the-shelf" foreign and domestic handguns, if minimal standards of safety, durability and reliability can be determined and applied to the future production of handguns. Qualitative standards, if they can be determined and applied, would allow for either the elimination or upgrading of

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inferior handguns which are potentially dangerous to the users or bystanders by virtue of defects of design, materials and quality of workmanship. Testing began on January 18, 1971. The firearms being tested cover the entire spectrum of currently manufactured handguns, both foreign and domestic.

A total of 146 handguns have been delivered to the Laboratory for testing. Each firearm is inspected visually and then measured, after which the firearm is subjected to firing proof ammunition. This is followed by another inspection and measurement. If the firearm "passes" the proof firing, it is then subjected to repetitive functional firing until damage is sustained which causes the firearm to become unsafe or inoperative, or until the firearm has successfully fired 5,000 rounds of commercial ammunition.

At the present time, the project is approximately one-third completed. The Laboratory estimates completion by July 31, 1971. Firing has been completed on 33 of the firearms and of the 33, only 7 fired 5,000 rounds without damage. Some of the 7 firearms were of the make and design which, prior to the testing, would have been regarded as being the least likely to stand up under the test firing.

Once the project has been completed, it will be necessary to present the test data to a panel of experts for their review and application in establishing the desired quality standards. The panel of experts remains to be selected, and serious consideration is being given to the possibility of including firearms experts from interested foreign countries on the panel. The length of time necessary for the proposed panel to develop quality standards from the test data cannot be estimated at this time, but it is the Treasury goal to have such standards by October 1, 1971.

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OFFICE OF THE SPECIAL REPRESENTATIVE
FOR TRADE NEGOTIATIONS
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

LIMITED OFFICIAL USE

April 26, 1971

MEMORANDUM FOR

Eugene T. Rossides
Assistant Secretary of the Treasury
for Enforcement and Operations

SUBJECT: U.S. Import Restrictions on Firearms

As you know, Federal regulations implementing the Gun Control Act of 1968 prohibit the commercial importation of firearms not particularly suitable for, or readily adaptable to, sporting purposes, but impose no such prohibition on interstate commerce in such firearms. The EEC and Spain have initiated formal proceedings in the GATT against the United States on the grounds that such unjustifiable discrimination nullifies tariff concessions on firearms granted by the United States in trade agreements.

During the consultation with the EEC on this question in Geneva a year ago, the United States (Mr. Santarelli) stressed the Administration's intention to develop and apply objective standards for control of all commerce in handguns of whatever origin and stated the U.S. intention to invite other countries to submit views in developing fair and just standards for all suppliers. (See attached summary of consultation.) I understand that an intensive program of physical testing of firearms is now underway for the purpose of developing such objective standards.

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The EEC has made it clear that the timing of its actions on this case is closely related to our timing on a U.S. case in the GATT against the EEC's tariff preferences on citrus which discriminate against U.S. producers. The U.S. Senate several weeks ago passed a unanimous resolution calling on President Nixon to retaliate against the EEC within 60 days if the EEC's citrus preferences are not eliminated. President Nixon raised the citrus problem on April 8 with EEC Commission President Malfatti who offered no solution to the problem.

In the absence of a satisfactory solution, it now appears likely that the United States will soon move into a new phase of the citrus problem which may involve retaliation. If this occurs, we would like to be in a position to demonstrate to the EEC -- and perhaps more importantly, to the GATT Contracting Parties -- that we are energetically moving towards the removal of our discriminatory import restrictions on firearms. One way to do this -- and you may have other suggestions -- would be to inform the EEC and other GATT countries of the progress in our firearms testing program and intention to consult at an early date on standards resulting from the program before submitting legislation.

At a GATT Council meeting in the near future, it is possible that the United States may move the citrus problem into the early part of the retaliation phase. We would therefore want to show some evidence before that date of progress on the firearms question, perhaps along the lines of the suggestion above.

I would appreciate your comments and guidance.

Carl J. Gilbert
Special Representative

Attachment

cc: Mr. Donald Santarelli

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Department of State TELEGRAM

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PAGE 01 GENEVA 01315 241454Z

52
ACTION E-15

INFO OCT-01 JUS-02 MC-02 AID-28 CEA-02 CIAE-00 COM-08
EUR-20 FRB-02 INR-07 NSAE-00 RSC-01 STR-08 TRSY-11
DODE-00 PM-05 H-02 L-04 NSC-10 P-03 PRS-01 SS-20
USIA-12 AGR-20 RSR-01 /185 W
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GATT

PASS DEPUTY ATTORNEY GENERAL

SUBJ: EC-US ARTICLE XXIII:1 CONSULTATION (FIREARMS)

REF: STATE 59877

1. SUMMARY: EUROPEAN COMMUNITIES (EC) APPRECIATED EVIDENCE OF USG DETERMINATION TO CORRECT PRESENT DISCRIMINATORY TREATMENT OF IMPORTED FIREARMS NOT SUITABLE FOR SPORTING PURPOSES. EC WAS DISABUSED OF ITS FEAR THAT NEW US CHEAP HANDGUN INDUSTRY WOULD HAVE POLITICAL POWER TO BLOCK LEGISLATION CORRECTING ANOMALY AND APPRECIATED INVITATION TO COMMENT ON OBJECTIVE STANDARDS NOW BEING DEVELOPED. WHILE EC CLAIMED TRADE DAMAGE OF AT LEAST DOLLARS 7.2 MILLION IN 1969, MISSION BELIEVES EC AWAITING FURTHER DEVELOPMENTS BEFORE CONSIDERING INVOKING RETALIATORY PROVISIONS OF GATT. END SUMMARY

2. CONSULTATION HELD APRIL 23. EC SPOKESMAN (LUYTEN) ACCOMPANIED BY SEVEN COMMISSION AND MEMBER STATES REPRESENTATIVES CITED EARLIER GATT ARTICLE XXII CONSULTATION AND SAID EC DOES

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NOT QUESTION US RIGHT TO CONTROL SALE OF FIREARMS FOR SAFETY REASONS BUT THAT DISCRIMINATION AGAINST IMPORTS IN FAVOR HANDGUNS NOT SUITABLE FOR SPORTING PURPOSE OF US ORIGIN IS DAMAGING EC TRADE AND NULLIFIES OR IMPAIRS KENNEDY ROUND CONCESSIONS. HE ASSERTED US PRODUCTION DEVELOPING RAPIDLY AND EC FEAR THAT NEWLY PROTECTED AND EXPANDING US INDUSTRY CAN BE EXPECTED VIGOROUSMV TO OPPOSE SIMILAR CONTROLS ON DOMESTIC HANDGUNS PARTICULARLY CHEAP HANDGUNS.

3. LUYTEN INDICATED EC EXPORTS OF ALL HANDGUNS TO US BY VALUE DROPPED FROM DOLLARS 12.9 MILLION IN 1968 TO 5.7 MILLION IN 1969, OR DAMAGE OF DOLLARS 7.2 MILLION WHICH MUST ALSO BE ASSESSED IN RELATION NORMAL GROWTH WHICH WOULD HAVE OCCURRED. ALSO NOTED DECLINE IN EC EXPORTS TO US OF PARTS OF RISTOLS FROM DOLLARS 2.4 MILLION IN 1968 TO 700 THOUSAND IN 1969. HE SAID EXPORTS OF RIFLES NOT AFFECTED AND DID NOT MENTION SURPLUS MILITARY FIRE- ARMS.

4. US SPOKESMEN (CULBERT AND ASSOCIATE DEPUTY ATTORNEY GENERAL SANTARELLI) ASSISTED BY MCNAMARA REAFFIRMED US VIEW CONTROLS JUSTIFIED BY ARTICLE XX AND RECOGNIZED ABSENCE OF SIMILAR CON- TROLS OVER US DOMESTIC HANDGUNS.

5. SANTARELLI GAVE IMPRESSIVE PRESENTATION ALONG LINES REFTEL STRESSING ADMINISTRATION'S INTENTION TO DEVELOP AND APPLY OBJECTIVE STANDARDS ACROSS THE BOARD FOR CONTROL OF ALL COMMERCE IN HANDGUNS OF WHATEVER ORIGIN. HE SAID NEW US CHEAP HANDGUN INDUSTRY IS SMALL, CANNOT STAND SPOTLIGHT ON UNDESIR- ABLE FIREARMS AVAILABILITY AND THUS DOES NOT HAVE POLITICAL STRENGTH. DELAY IN CORRECTING ANOMALY CAUSED BY TECHNICAL DIFFICULTY DEVISING AGREED STANDARDS. SANTARELLI SAID SINCE OTHER COUNTRIES INTERESTED, WE INTEND INVITE THEM TO SUBMIT VIEWS TO ASSIST IN DEVELOPING FAIR AND JUST STANDARDS FOR ALL SUPPLIERS.

6. EC APPRECIATED OFFER TO SUBMIT VIEWS BUT REMEMBERS UNFUL- FILLED PROMISE MADE BY PREVIOUS ADMINISTRATION TO OBTAIN LEG- ISLATION TO CORRECT IMPAIRMENT OF CONCESSION ON REPROCESSED WOOL TEXTILES. SAID EC BELIEVES FRONTAL ATTACK ON HANDGUN PROBLEM IN US NECESSARY RATHER THAN CHIPPING AWAY PROCESS BUT EC WOULD REFLECT FURTHER ON QUESTION AND FOLLOW UP LATER.

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7. US REMINDED EC OF FACT PROGRESS HAS BEEN MADE IN USG THINKING AND INTENTIONS TO CORRECT ANOMALY SINCE ARTICLE XXII CONSULTATION LAST DECEMBER, AND FACT THAT ADMINISTRATION HAS NO AUTHORITY SUSPEND APPLICATION EXISTING LEGISLATION.

8. COMMENT: WHILE EC SKEPTICAL ABOUT FEASIBILITY OF FINDING OBJECTIVE STANDARD WHICH WOULD REDUCE AVAILABILITY HANDGUNS IN US, IT WAS DISABUSED OF FEAR THAT NEWLY ESTABLISHED US CHEAP HANDGUN INDUSTRY WOULD HAVE POLITICAL STRENGTH TO BLOCK ANY LEGISLATION DESIGNED TO CONTROL DOMESTIC SALES. SINCE EC NOW HAS SUGGESTED AMOUNT OF TRADE DAMAGE, THUS HINTING AT POSSIBLE XXIII:2 RETALIATORY ACTION, PROMPT DEVELOPMENT OBJECTIVE STANDARDS AND EARLY AND MORE FORMAL INVITATIONS TO SUPPLYING COUNTRIES TO SUBMIT VIEWS ON SUCH STANDARDS LEADING TO ACTUAL CORRECTIVE LEGISLATION WOULD BE DESIRABLE.
RIMESTAD

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Gunmaking Booms in U.S. Despite Promise By Nixon to Curb Sale of Cheap Handguns

By Jerry Landauer
Staff Reporter of The Wall Street Journal

WASHINGTON—In July 1969 a Nixon administration spokesman promised "appropriate measures" for dealing with a swiftly growing law-enforcement problem: the unrestrained manufacture of cheap handguns.

Nearly two years have passed, and that pledge before a Senate subcommittee remains unfulfilled. As a result, business is better than ever for makers of small-caliber pistols and revolvers. Well over one million handguns generally selling for $15 to $30 will be produced domestically this year, a twentyfold increase in just four years. Production keeps climbing despite protests by lawmen that the easy availability of cheap guns contributes to the still-spiraling crime rate, including the recent rash of killings of policemen.

Ironically, the freshly flourishing gunmaking business owes its prosperity to the Gun Control Act of 1968. Besides curtailing mail-order sales and restricting interstate shipments in a way to help police enforce state gun controls, the 1968 law prohibits the importation of any firearm not deemed "particularly suitable" or "readily adaptable" for sporting use.

Yet as defined by the law, the term "firearm" means only the frame. All other components—triggers and cylinders, for example—can be imported freely. The lawmakers haven't done anything to stop domestic manufacture of the "crime guns" deemed too dangerous for import.

The result: Instead of importing assembled weapons, gunmakers started bringing in sets of parts, to retain the cost advantage of lower-wage foreign labor. Plants to assemble the imported parts in U.S.-made frames soon sprouted in a number of states, notably Florida. One entrepreneur set up profitable shop in a converted church near Miami.

Indeed, importers are bringing in enough parts to make more low-price pistols and revolvers than the annual total of all handgun imports before the embargo took effect in October 1968.

In 1968 U.S. production of cheap handguns didn't exceed 60,000, a negligible number. But in 1969, according to the Internal Revenue Service, gunmakers obtained permits to import enough parts to assemble 568,500 handguns, most of them selling for less than $30. In 1970 permits were granted to cover 872,400 sets of parts (except prohibited frames or receivers). Based on permits issued in the first three months of 1971, the IRS projects 1.5 million sets for the year.

That's twice the importation rate of finished weapons in 1967 and exceeds even the 1,239,000 handguns brought in during 1968; imports that year shattered previous records because dealers stocked up in anticipation of the embargo. According to the IRS, almost none of the guns being produced in the U.S. with foreign parts could be imported if assembled overseas; the weapons couldn't muster enough points under an IRS scoring system to qualify as suitable or adaptable for sporting use.

Though the rapid growth of domestic output is clearly nullifying the stated crime-curbing purpose of the import embargo, Mr. Nixon's men haven't moved speedily to enhance the gun act's effectiveness.

Donald E. Santarelli, associate deputy attorney general, believes "it's readily apparent that the problem caused by 'Saturday night specials' hasn't abated but in fact has exacerbated." ("Saturday night specials" are guns often brandished by holdup men during weekend robberies.) The Departments of Justice and the Treasury, he assured a Senate Judiciary subcommittee, "are actively considering appropriate measures for dealing with these problems." He gave that testimony July 23, 1969.

In the meantime, certain other problems have popped up. For one thing, the exclusion of nonsporting guns keeps out not only so-called "junkers" or "suicide specials" but fine guns, too. Even the Colt Detective Special or Smith & Wesson's Chief's Special, considered excellent for self-defense, couldn't be imported under the IRS scoring system, says G. Gordon Liddy, a former FBI man who is the Treasury's firearms expert.

Nor can products from famous European gunsmiths surmount the import ban, prompting protests to the State Department from West Germany, Spain, Italy and Belgium that the U.S. embargo breaches the General Agreement on Tariffs and Trade. In general, GATT prohibits signatory nations from excluding products that can be legally produced at home.

To bring the U.S. into compliance with GATT rules, Nixon men expect to propose repeal of the embargo on guns considered unsuited for sport. In place of this standard (the mere addition of target grips may determine whether a particular gun can or can't qualify for import), the administration hopes to come up with an objective method to judge safety and reliability—and to apply these new standards equally to guns made in the U.S. and abroad.

"We've promised the Europeans that we'd submit something to this session of Congress," Mr. Liddy explains, "and on the strength of that promise they've agreed to withhold retaliatory action."

As now envisioned, the new standards would prohibit the importation or the domestic manufacture of handguns that can't be dropped from certain angles without discharging. Also barred would be handguns that don't fire a specified number of times with the most potent commercially available ammunition or that weren't manufactured under specified quality controls. Some guns being sold fire only three or four of every 10 cartridges ("Commercial equivalents of zip guns, that's what they are," Mr. Liddy snorts). And some are more hazardous to the homeowner holding one than to the intruder at whom he's aiming.

Accordingly, administration-sponsored amendments to the gun act will be offered more as a product-safety measure than as a step to stop crime; Mr. Nixon's law enforcers want to avoid stoking the dormant gun-control possession of handguns by all except the police.

Devising relatively noncontroversial standards to impose on the thriving, unregulated producers of cheap guns isn't easy. "It's very difficult in law or practice to distinguish between the junk gun and the safe, reliable gun solely on the basis of price," says Jack Basil, director of legislative services for the National Rifle Association.

There may be other reasons, however, for the Nixon administration's two-year-long "consideration" of gun act amendments to solve the problem of "Saturday night specials." One reason could be reluctance to risk reopening the far broader import issue. Reviving it would provoke fresh fighting with certain segments of the gun lobby, including gunmakers who struck a profitable behind-the-scenes bargain with key Congressmen before the 1968 law was enacted.

Some manufacturers accepted or even supported passage of the gun act in tacit exchange for a second embargo, one prohibiting the importation of all firearms that happen to be military surplus. "Sporterized" for hunting use, riing exhortations to protect our land from be coming a "dumping ground" for the world' cast-off, crime-causing guns. But the effect i to protect American manufacturers, givin some a "tremendous bonanza," one officia agrees. But this embargo doesn't bump agains GATT rules, and the Nixon team isn't planning to challenge it.

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Cop leader urges ban on handguns

By TED KNAP
Scripps-Howard Staff Writer

Quinn Tamm, director of the International Association of Chiefs of Police, today blamed the easy purchase of handguns for the rising number of killings of police and called for virtually a total ban on their sale.

Mr. Tamm, in an interview with Scripps-Howard Newspapers, said Congress should pass a law outlawing the sale of pistols to anyone except police organizations and target-shooting clubs which would be required to keep them on the premises.

Ninety policemen were killed last year, a record. Fifty-one policemen have been killed in the first five months this year.

More than 80 per cent were killed with guns.

"In Britain, where hardly any ordinary citizens have sidearms, it is a rare and shocking event when a policeman is killed," Mr. Tamm said. "It's pretty much the same in the rest of Europe."

Mr. Tamm, who has advocated less drastic gun controls for some time, said he came slowly and reluctantly to the conclusion that a total ban on sale of handguns to civilians would be required. He would not ban sale of rifles and shotguns to hunters, but would require federal registration of those weapons.

President Nixon, while deploring the wave of police murders, has not yet called for any restriction on sale of handguns. The Justice Department is working on possible legislation to curb the sale of the so-called "Saturday night specials" — the cheap handguns sold by the hundreds of thousands a year to anyone who walks in off the street.

Mr. Tamm's association, with a grant from the U.S. Law Enforcement Assistance Administration, last July began compiling reports on assaults on police.

There has been a monthly average of 130 injury-producing assaults on police, most of them by ambush or booby trap. The other main category of assault arises when police try to make an arrest. The most difficult assault for a policeman to guard against is the ambush while on a routine call. Here are a few recent examples:

• Patrolmen Waverly Jones and Joseph Piagentini were shot to death from behind after answering a call to help a sick person in Harlem. It was the third armed attack on New York City policemen in three days.

• Patrolman Jerard Young, 25, who survived two tours in Vietnam, was shot fatally without warning here as he approached a man he recognized as a narcotics suspect.

• Patrolman Nicholas Zuccaro, 40, was shot to death as he sought to question the occupants of an automobile. He was the 12th policeman killed in Chicago in 12 months.

• In Berkeley, Calif., policemen Paul Teel, 25, and Leonard Christiansen, 30, were slain from ambush while answering a false burglary alarm.

• In one weekend in February, two Philadelphia policemen were shot to death in their patrol cars; an Indiana state policeman and a town marshal were slain while attempting to question two men in a stolen car; a New York policeman was killed in an exchange of gunfire during a narcotics investigation; a Greenville, S.C., policeman was killed by a man who had shot two other persons, and a Miami policeman was shot as he walked away from a housing project.

"The unprovoked assaults on police officers are a grave threat to the very foundation of our system of government," Mr. Tamm said. "It is an intolerable situation."

In addition to the ready availability of guns, Mr. Tamm blamed the wave of police killings on hostility toward police by militant blacks and anti-war radicals.

He said this has been encouraged in part by some of the news media, which he accused of giving the anti-police groups "favorable publicity."

"When the Black Panthers openly advocate the killing of police, and there is a constant harangue against 'pigs,' that's got to have some effect," he said.

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