

FIREARMS LEGISLATION

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

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

Serial No. 11

Part 1



United States Congress, House, Committee on
the Judiciary, Subcommittee on Crime

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151

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Serial No. 11

Part 1



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FIREARMS LEGISLATION

TUESDAY, FEBRUARY 18, 1975

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

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 2141, Rayburn House Office Building, the Honorable John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Hughes, McClory, and Ashbrook.

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

Mr. CONYERS. The subcommittee will come to order.

Today, the Subcommittee on Crime opens hearings on more than 20 bills concerning the controversial and well-studied subject of firearms regulation. During these initial hearings, we will be listening to our colleagues in the House and Senate who have sponsored legislation or who have indicated an interest in this subject.

We might note that during the 93d Congress there were over 100 firearms bills introduced and that the House Committee on the Judiciary has not held hearings on this subject since June 1972. Obviously, there are many people with strong feelings on gun control, and it is the disposition of the chairman to make sure that we have as substantive, fair, and open hearings as possible. It is our intention to compile a very substantial record. After we hear testimony from Members of Congress, we are going to move on to law enforcement officials, mayors, and other officials in government, in addition to the experts: penologists, criminologists, and psychiatrists. It is extremely important that we put together a body of hearings that will illustrate the significance of the problem while reviewing all of the different legislative proposals that have been suggested to us.

First, some members have proposed tougher criminal penalties for the use of a firearm in the commission of a felony as being one method of dealing with escalating gun crimes. Others contend that the registration of handguns, and the licensing of owners should be legislatively mandated by the Congress. The third suggestion that confronts us is the proposal to prohibit manufacture and sale of inferior handguns referred to frequently as "Saturday Night Specials."

Also proposed is the banning and prohibition of handguns in their entirety. And, of course, on the other end of the spectrum there is the proposal that the existing Federal laws on handgun regulation be repealed. So, you can appreciate the enormity of a task that will

require us to hear from literally all segments of the community in our consideration of these bills.

We want to examine as carefully as possible the questions that are involved in these various proposals, give them our best effort, and come up with a bipartisan bill that we can, in good faith, report to the Committee on the Judiciary. I hope that this legislation will move toward a speedy enactment, and enjoy a majority of the support of not just the Congress but of the citizenry as well. At this point, I will place my extended remarks into the record.

[The opening statement of Hon. John Conyers, Jr., follows:]

OPENING STATEMENT OF HON. JOHN CONYERS, JR., CHAIRMAN,
SUBCOMMITTEE ON CRIME

Today, the Subcommittee on Crime opens hearings on more than 20 bills concerning the controversial and well-studied subject of firearms regulation; the second hearing will be held on Thursday, February 20. During these initial hearings testimony will be received from House sponsors of the various bills pending before the subcommittee and other interested members of Congress. This week's hearings were noticed in the Congressional Record on February 7; and, in addition, a memorandum was sent to all House sponsors of firearms bills to inform them of our interest in receiving their testimony.

I anticipate that in the next several months, the subcommittee will hold between 8 and 10 additional hearings. During this time a number of distinguished witnesses will be invited to comment on this subject. They will include: mayors, governors, police officials, law professors, criminologists, sportsmen, private organizations and citizen groups. We hope to make the views of representatives of all segments of our society, which have an interest in firearms legislation, a part of the record, including the private citizen who may have the greatest stake in what is ultimately decided as a result of this inquiry.

During the 93rd Congress more than 100 firearms proposals were introduced in the House. As of February 10, twenty three bills were introduced in the first session of the new Congress, and it is anticipated that in the months ahead firearms legislation will exceed the total introduced in the previous Congress. All of this illustrates that there is a continuing concern on the part of Members of Congress to address the critical questions posed by the astronomical number of firearms in private hands. However, not all of the bills would toughen existing firearms laws as a means to address the Nation's escalating crime rate, which numerous authorities trace to the wide-spread availability of firearms. Indeed, three bills would repeal the Gun Control Act of 1968, while others would merely weaken its provisions. These bills, however, represent a distinct minority of the proposals before this subcommittee.

It is the purpose of the majority of the bills before us to keep firearms out of the hands of criminals and irresponsible individuals. In order to achieve this goal, the authors have proposed various approaches which include: (1) criminal penalties for the use of a firearm in the commission of a felony; (2) the registration of handguns and licensing of owners; (3) a prohibition on manufacture and the sale of inferior handguns called "Saturday night specials," (4) a prohibition on the importation, manufacture, sale, purchase, transfer, receipt, possession or transportation of all handguns, and (5) the registration of all firearms.

The Subcommittee on Crime intends to conduct a thorough study of these proposals and to maintain an unbiased demeanor in this process. However, without having heard a word of testimony, and without betraying my responsibility as chairman to carefully weigh the facts, it is unequivocally clear that neither repealing nor weakening existing laws with respect to the regulation and control of firearms should be taken seriously by this subcommittee. Indeed, one would have to be completely uninformed or misinformed if he did not recognize the tremendous body of statistics, national crime commission reports and other sources, which point compellingly to the need to strengthen federal gun laws.

The extent to which we determine the firearms laws should be strengthened will depend upon our findings with respect to these questions: Whether firearms, particularly handguns, play a significant role in accidental deaths and in the commission of serious felonies? Whether the present availability of firearms in the Nation contributes significantly to the use of these weapons in the com-

mission of serious felonies? Would making it more difficult or more costly for an individual to acquire or illegally use a firearm, or reducing their availability reduce the amount of firearms violence? If the answer to these questions suggests the need for stronger firearms laws, then, we must decide: Which of the proposed approaches would achieve the goal of maximizing the reduction of firearms violence and be both reasonable and responsive to other legitimate, though less important, needs of our citizens.

In order to make this determination, the subcommittee must balance the benefit to society which such a limitation would reap against the inconvenience it could cause to the legitimate users of firearms. We must ask whether the legitimate uses of firearms for self defense, hunting, sport shooting and collecting would be seriously affected by tougher gun laws and if so, whether such a burden is justifiable? In so doing, we should be mindful that this is in essence a life and death decision. That is, whether the value placed upon the need to protect our fellow citizens and ourselves from death, injury and fear of violence is greater than the value of the various purposes for which firearms may be used. To make clear that this equation is not stacked against firearms, it must be pointed out that many individuals claim that one of the chief functions which firearms, particularly handguns, serve is to defend human life and property against unlawful attacks. So, the goal of protecting human life being present on both sides of the equation, makes what appears to be a simple chore a most challenging and controversial task. The critical question with respect to limiting the availability of firearms, or making them more difficult to acquire becomes: Whether the presence of firearms, particularly handguns, in the home and in business establishments have any value as a defense or a deterrent to criminal activity.

Now let us look at the facts. In its 1969 statement concerning firearms, the National Commission on the Causes and Prevention of Violence claimed that there were 90 million firearms in the United States as of 1968, representing 35 million rifles, 31 million shotguns, and 24 million handguns. Since it is extremely difficult to determine the precise total of firearms where no uniform system of registration exists, this staggering figure is thought to be less than half the true total.

These firearms, according to the Federal Bureau of Investigation's Uniform Crime Reports, were responsible for 11,249 deaths in 1973, which represent 67 percent of the 17,123 murders committed during that year. The handgun, which is the focus of these hearings, was responsible for 53 percent of these deaths. An even more disturbing statistic is the use of firearms in the killing of police officers. During the same year, 127 law enforcement officers were murdered. One hundred and twenty of them met their deaths at the hands of a firearm. Of this total 86 of the deaths were accomplished by the use of a handgun. These statistics, indeed, paint a startling picture of the entanglement of firearms in the commission of violent acts.

In contrast to the United States, the report of the National Advisory Commission on Criminal Justice Standards and Goals found that countries with restrictive regulations on the private possession of handguns have considerably lower homicide rates. For example, Tokyo, Japan, with a population of more than 11 million people, where it is illegal to own, possess, or manufacture handguns, there was only one handgun homicide reported in 1971. In contrast, during the same time period, Los Angeles County, California, with a population of just over 7 million, reported 308 handgun homicides. Further, the Commission found that during the years 1962 to 1972, the United States had 722 police officers murdered with handguns. During the same 10 years, nine police officers were killed by handguns in Great Britain, 26 in Japan, and in France, "not enough to make a percentage." These countries all have stringent handgun control laws.

Now the positive side: Firearms have the potential to provide protection to home owners and to businessmen who seek to defend themselves from unlawful attacks by intruders. Fifty percent of Americans, it has been found, believe that handguns in the home would serve this purpose.

In addition, firearms provide leisure-time enjoyment to millions of sport shooters, hunters and collectors. Yearly, more than 20 million hunting licenses are sold at a cost of over 100 million dollars. Likewise, more than five million Americans engage in some form of target shooting. The National Rifle Association has more than 12,000 clubs and operates an extensive nationwide annual marksmanship competition. In reaching its decision on gun control legislation, the subcommittee should take into account these worthwhile activities. But in so doing it should not neglect to put them into proper perspective.

Unfortunately, in the past the tendency to overplay the usefulness and historical value of the firearms and to downplay their harmfulness has been the greatest obstacle to the enactment of effective gun control legislation. This is due in large measure to the very effective, and often politically devastating, lobbying activities of hunters and sportsmen, spearheaded by the National Rifle Association. Their efforts to block gun legislation, more than any other, have been responsible for the failure of the Congress to give equal weight to the interests of the Nation-at-large when balanced against the interests of sportsmen. Today, there are more than 200 million Americans, 139 million of whom are of voting age. On the issue of gun control, the 1 million or so members of the National Rifle Association have had a staggeringly disproportionate amount of influence over the course of our federal policy.

In considering gun control legislation this year, the Congress should be mindful of the fact that there may be a slumbering silent majority of Americans who could, at any time, be awakened to prod us to enact effective legislation, or turn us out of office for failing to do so. Surely the lesson of Watergate in 1974 cannot be so far behind us. For example, in a recent Gallup Poll Americans were asked whether they thought that gun registration should be required: Seventy-four percent responded yes, while only twenty-six percent said no. This is an increase of four percent positive responses over a similar Harris poll conducted in July, 1972, just after the unsuccessful attempt to assassinate Alabama Governor George Wallace.

In its work, the subcommittee should be guided by the intensive studies and investigations conducted by the five most recent national crime commissions. Everyone knows that the Congress is not geared up to be an efficient research organization. That is why we create commissions composed of distinguished Americans to inquire into the myriad of issues confronting us. We staff them with the very best minds and with resources necessary to perform the highest qualitative work, but in the final analysis, we fail to adopt their most critical recommendations. Taking nothing away from Congress' ability to analyze complex data, why has it failed to heed recommendations of the reports of the President's Commission on Law Enforcement and the Administration of Justice, the National Advisory Commission on Civil Disorders, the National Commission on the Causes and Prevention of Violence, the National Commission on Reform of the Federal Criminal Laws and the recent National Advisory Commission on Criminal Justice Standards and Goals?

All of the crucial questions that were mentioned at the beginning of my remarks have been treated by these commissions. For example, the National Commission on the Causes and Prevention of Violence found that firearms, particularly handguns, play a major role in the commission of homicide, aggravated assault, and armed robbery, and that they are being used in greater percentages of these violent crimes. Further, the Commission said that firearms in the home are probably of less value than commonly thought in defending the householder's life against intruders, but that in business establishments they may sometimes be effective in defending against robberies. Most importantly, the Commission said: "A National firearms policy which significantly reduces the availability of handguns will reduce the amount of firearms violence."

In order to reduce the availability of handguns, the 1969 National Commission on the Causes and Prevention of Violence recommended restrictive licensing of all such weapons. This method would require all persons seeking to buy a particular type of handgun to demonstrate to authorities an affirmative need to own the firearm. In making this recommendation, the Commission singled out the handgun as being "the most serious part of the current firearms problem in this country." Similarly, the 1967 report of the President's Commission on Law Enforcement and the Administration of Justice recommended legislation requiring the registration of handguns, rifles, and shotguns. It also recommended, among other proposals, legislation requiring permits for the possession of a handgun. In addition, the 1968 National Advisory Commission on Civil Disorders recommended the enactment of gun control legislation of the type recommended by the President's Commission.

More recently, the 1973 report of the National Advisory Commission on Criminal Justice Standards and Goals recommended that by 1983 each State should enact legislation which would ban the manufacture, sale, and possession of handguns, except for law enforcement and military personnel. In reaching this conclusion, the Commission found:

Many persons keep firearms in their homes because they fear for the lives and safety of themselves and their families. It should be known, however, that many "gun" crimes are family killings not the "stranger" crimes where protection is needed. In 1971, one-fourth of all murders were intra-family," in which a family member seized the weapon at hand. When a gun was seized, the fatality rate was five times higher than the fatality rate from an attack by any other weapon.

Further, the self-protection afforded by a handgun often is illusory. Although many handguns are acquired to defend family and property from intruders, a handgun in the home is more likely to kill a member of the family than it is to provide lifesaving protection from burglars and robbers. A survey conducted in Detroit, Mich., indicated that more people were killed in household handgun accidents in 1 year than died as a result of home burglaries and robberies in 4½ years.

Finally, in 1971 a majority of the Commissioners of the National Commission on Reform of the Federal Criminal Laws recommended that the Congress: (1) Ban the production and possession of, and trafficking in, handguns, with exceptions only for military, police and similar official activities; and (2) require registration of all firearms * * *

Among the arguments supporting the majority view are the following. Crimes of violence and accidental homicides will be markedly reduced by suppression of handguns, which, on the one hand, are distinctively susceptible to criminal and impetuous use, and on the other hand, are not commonly used for sporting purposes as are long guns. State control is ineffective because of differing policies and leakage between states. A comprehensive and uniform registration law will facilitate tracing a firearm when it has been used for criminal purposes.

The Subcommittee on Crime has a challenging task ahead, not only in reaching a decision on the fate of gun control legislation, but in carefully considering the voluminous work on this subject which has preceded us. In my judgment the recommendations that will issue from this subcommittee will be based upon a sound analysis of the facts and not upon emotional arguments or political appeals which so often prevail in the consideration of this issue.

Mr. CONYERS. Before we call on our first witness, I would like to recognize the ranking minority member of the subcommittee, Hon. Robert McClory of Illinois.

Mr. McCLOY. Thank you very much, Mr. Chairman.

First of all, I want to congratulate you on scheduling these hearings. I cannot imagine any more important legislation in our efforts to do something about reducing crime than that involving the control of handguns. There are a great many areas where we may be powerless. We cannot do much about the mores within the family and things that occur in the home which sometimes result in criminal conduct.

But, in the area of controlling handguns, we can definitely provide legislatively for controlling them. Now, I recall that similar legislation or legislation regarding handguns was introduced by me on the floor of the House in the 1968 session, and supported at that time by the then FBI Director; by Quinn Tamm, the executive director of the International Association of Chiefs of Police; and by an organization headed then by Col. John Glenn, who is now in the Senate.

I am encouraged by the fact, Mr. Chairman, that you say we are going to have open hearings here, that we are going to spread this out in the open. We did, indeed, have open hearings in 1972, and we have the record of these hearings before our committee. But somehow or other, the legislation which was discussed openly experienced a quiet death by our committee, and I think that was reprehensible. I think it was extremely unfortunate. It is a reflection on this committee that we did not bring to the floor of the House meaningful gun control legislation following those 1972 hearings.

And I am encouraged by your statement here this morning, by the fact that you are supporting this legislation. There are a number of bills pending here and I have sponsored one measure myself, which I think is realistic insofar as this type of legislation is concerned. I am hopeful that bill, or something similar, will be enacted.

Let me say further that I am hopeful that the Justice Department will see fit to support effective gun control legislation, that is handgun control legislation. I am sure that such legislation can be passed which would afford full protection to the constitutional rights of all Americans, and yet, at the same time, would help to reduce crime in America by eliminating the needless deaths that result from the proliferation of handguns in our society.

I look forward to these hearings to working closely with you, Mr. Chairman. Under your guidance the subcommittee can bring forth all of the facts, which will contribute to enactment of effective legislation.

Thank you.

Mr. CONYERS. I thank my colleague.

Before we begin testimony, I would like to welcome and recognize the gentlemen from New Jersey, Mr. William Hughes, who has joined our subcommittee, and who, by the nature of his background, has evidenced a very strong feeling about this subject. I yield to him for any opening observations that he chooses to make.

Mr. HUGHES. Thank you, Mr. Chairman, my distinguished colleague, and ladies and gentlemen.

It is a privilege for me to serve on this Subcommittee on Crime. One of the, I think, thrilling moments of my first days on Capitol Hill was to learn from our chairman that we were going to get into this very interesting and important subject of gun control. I do have a background, as the chairman knows, in law enforcement. It has not been in politics as such.

I spent some 10 years in the prosecutors office investigating and trying cases at all levels, both at the municipal, county and appeal level.

I am very interested in the subject of crime and the crime problem. Even though crime has been dwarfed recently by the economic problems of our great country, crime is here and as alive as ever. I am interested, very interested, in seeing us bring forward the kind of legislation that will equip our police with the tools that will begin to finally reduce the crime problem.

I know that gun control legislation has engendered a great deal of interest in this country and I am interested in examining the testimony. I am very happy to hear that we are going to get into the kind of exhaustive study I think this subject needs and warrants. We have to maintain a balance between the rights of peaceful citizens to use guns in a legitimate fashion, and at the same time, take the steps that are necessary to control crime.

So, Mr. Chairman, I am very pleased to join with you, and I pledge to you my untiring efforts in trying to bring forth the kind of legislation that we need in this country in the years ahead.

Mr. CONYERS. Thank you for your very fine statement.

I wish to note that our professional staff consists in part of, to my right, Maurice Barboza, counsel, and to the left of the gentleman from Illinois, Chris Gekas, minority counsel. These gentlemen are very able members of this subcommittee's staff and have done a great job

in preparing us for the work that we will be doing here and in the various cities that we will be visiting.

Our first witness is a Member of Congress, and a former member of the Judiciary Committee, the distinguished gentleman from Illinois, Mr. Abner Mikva. We welcome him.

He has, of course, been in the 91st, the 92d, and now the 94th Congress. He is a member of the Ways and Means Committee, but we remember him best for his distinguished service on this committee.

You have had a continuing and overriding concern with the subject of gun control, and we welcome you, Mr. Mikva, before the subcommittee as our initial witness. We have your statement, and it will be incorporated in its entirety into the record. We will, of course, allow you to proceed in your own inimitable way.

TESTIMONY OF HON. ABNER J. MIKVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. MIKVA. Thank you, Mr. Chairman. I am very pleased to be before this committee. I am delighted the committee has seen fit to make gun control the first order of business for itself.

I could not agree more that the subject of handgun control is the very top priority item in terms of crime control. I listened to my good friend and colleague, Mr. McClory of Illinois, detail very briefly the demise of any gun control legislation in 1972. He and I sat on the subcommittee at that time and we watched together, with some agony and pain, the way it expired almost before our very eyes. That is why I am so pleased that the chairman of this committee has seen fit to put the kind of emphasis on this subject matter that it needs.

Mr. Chairman, this is not a new debate. As you and the other members of the committee know, it has been going on for years, and years, and years. In fact, it is almost stretching the term to call it debate, because of all of the legislative battles and arguments in which I have participated, none has been more lopsided, more obviously weighted toward one end than the so-called debate on handguns. There just is not any case that can be made for the continued proliferation of handguns.

The facts and figures are there. They have been there for years. I cite in my remarks some of these numbers.

Before the day is out, another 35 people will be dead because of handguns. There are 40 million handguns in circulation, growing at a rate of 2 million each year. That is 40 million out of a 150 million total guns, which says many things.

First of all, we are wrong to let the fight on handguns be treated as if it were an assault on all guns, because handguns, even though they may represent a minority of the guns in existence, are responsible for 70 percent of all murders, up from 1973, when it was 53 percent, and 43 percent 10 years ago. And of course, each year there are more handgun-related crimes and accidents than the year before.

Second, Mr. Chairman and members of the committee, in a way the statistics have blinded us from the problem. That is why I put them in my prepared remarks rather than to bore you with them here, because it is just too easy to treat these members as abstractions,

as meaningless numbers; you know, x numbers against x numbers, divided by Y , multiplied by 2.

Instead, we do not realize that those numbers have symbolized a tragic change in the way millions of Americans lead their lives. To illustrate, we used to watch the scene of an escapist western movie, where the villain rides into town with his guns drawn and all of the good citizens abandon the streets and run for cover, and after a number of such acts of terror, the good townsfolk finally find a hero charging in on a horse who stands up to the villain, usually with his own guns drawn and blazing. When the theater lights come back on, virtue has triumphed and the good townsfolk have their streets back again.

Well, part of that fictionalized western movie is reality for millions of Americans today. Americans have lost their streets in big cities, in suburbs and, increasingly, in smaller communities to the criminals.

Mr. Chairman, I do not have to tell the members of this committee that you can shoot a cannon at night through the streets of Washington, Chicago, Detroit, or New York, and hardly hit a moving soul. But the problem is that unlike the old western heroes, there are not enough horses or heroes to go around to come to the rescue. There are just too many crimes and too many guns.

By giving up the streets of America to the threat of violent crime, we have changed our entire lives.

Some of our citizens, particularly those who are too poor and do not have any options open to them, have become virtual prisoners in their own homes and neighborhoods. Others have severed long-established roots in a community and moved out to the suburbs, or out to rural areas. Sadly, the transplant is never quite satisfying and never quite the same. For almost everybody, the threat of violent crime has meant a change in the way they work, in the way they play, in the way they bring up their children, the way they build their houses, the way they relate to their neighbors and the way they participate in the community.

The political way of life has changed because of the presence of the handgun. And for many of us, the threat of violent crime has meant a desperate change, a drastic change, in our lifestyle. We have to realize that it has changed our lives to a degree more often associated with technological progress, like television or the automobile, or commercial air travel, or computers. Well, the handgun, this evil, this pernicious evil per se, has similarly changed our lives.

This country has had a long history of violence. Mr. Chairman, but the magnitude of the present situation is absolutely unprecedented in that history. Of course, I do not have to persuade this committee and I do not have to persuade a majority of the Americans of what I am saying. They understand the problem of violent crime, and the use and the availability of handguns are directly related to the problems of violent crime. Every year public opinion polls, from the time they first started taking them on handguns, show that an overwhelming majority of American citizens favor strong gun controls.

In recent years police officials throughout the country, starting, as Mr. McClory pointed out, with the late Mr. Hoover and Quinn Tamm and just about every big city police chief in the country, have favored strong gun control legislation at the national level.

I was delighted to hear the chairman indicate that this subcom-

mittee will be traveling out to some of the cities of this country. I hope you will get an opportunity to get out to my area and talk to some of the law enforcement officials, not just of Chicago, but of the suburbs that I represent, and Mr. McClory represents, and hear from them how strongly they feel about the need for national handgun control legislation.

Mr. Chairman, I think the people are legitimately frustrated, and angry over congressional failure. I think they are finally beginning to do something about it. The biggest change I can see in what is happening is that they have begun to form a variety of groups to mobilize support for gun control legislation. So, for the first time, Mr. Chairman, there is going to be a battle. Members of the committee, there is going to be organized opposition to the National Rifle Association and to the gun lobby.

And if it is true, as Aristotle suggested, that truth and justice are more powerful than their opposites, then the citizen's lobby for handgun legislation will triumph. And I hope we will never again bury legislation like this in this committee.

There is nothing in my bills that would interfere with the legitimate activities of hunters or sportsmen. I appeal to them, to all of the hunters of this country, who as American citizens have also been victims of spiraling violent crime, to support these bills. It is time we give the streets of America back to the people who live there rather than to gun-toting hoodlums.

It is time for legitimate hunters and sportsmen to stop providing ammunition to these hoodlums, which they do by their opposition to handgun control.

Mr. Chairman, there is no single thing that this committee could do that would be more dramatic in cutting street crime than to pass a bill like that of Congressman Rostenkowski and myself or any of the other really meaningful gun control legislation. If the Congress does not do that, very little else that Congress does will make much difference in street crime.

Thank you for listening.

[The prepared statement of Hon. Abner J. Mikva follows:]

STATEMENT BY HON. ABNER J. MIKVA, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF ILLINOIS

Mr. Chairman, I would like to thank the Committee for this opportunity to testify and to commend the Chairman of the Crime Subcommittee, my good friend and distinguished colleague, Representative John Conyers, for scheduling these hearings as the first order of business before this Subcommittee. I could not agree more than the subject of handgun control is a top priority concern.

Today we begin still another round in the debate over whether this country should do something about the handgun. If a debate implies an exchange of ideas and arguments to achieve a rational course of action, then the debate over handguns should be ancient history by now. Of all the legislative battles and arguments in which I have participated, none has been more lopsided, more obviously weighted toward one end than the so-called debate on handguns.

The facts and figures are there—and have been there—for everybody to see. Each year there are more handguns in circulation than the year before—now over 40 million. Each year there are more homicides with handguns than the year before—almost 70% of all murders in 1974 were by handguns, up from 53% in 1973 and up from 43% ten years ago. And, of course, each year there are more handgun-related crimes and accidents with handguns than the year before.

In a way, however, the handgun statistics do not shed light on the pervasiveness of the problem but blind us to it. It is too easy to treat these numbers as

meaningless abstractions, which apply only to an alleged criminal element, without realizing that the numbers symbolize a drastic change in the way millions of Americans must now lead their lives.

We watch a scene in an escapist Western movie where the villain rides into town, guns drawn, and all of the good citizens abandon the streets and run for cover. After a number of such acts of terror, the good townsfolk discover a hero on a charging horse who stands up to the villain, usually with the hero's own guns drawn and blazing, and when the theatre lights come back on, virtue has triumphed and the good townsfolk have their streets back again.

Part of that fictionalized Western movie is reality for millions of Americans today. Americans have lost their streets—in large cities, in suburbs and increasingly in smaller communities—to the threat of violence, violence most often carried out with a handgun. But unlike the old Western movie, there is not likely to be a hero on a charging horse coming to our rescue if we should be met with terror on the streets. There are not enough heroes or horses to go around.

By giving up the streets of America to the threat of violent crime, we have changed our entire lives. Some of our citizens, particularly those who are poor and who have few alternatives, have become virtual prisoners in their own homes and neighborhoods. Others have severed long established roots in a community and moved on, the transplant never quite as satisfying. For almost everybody, the threat of violent crime has meant a change in the way they work, or play, or bring up their children, or build their houses, or relate to their neighbors or participate in the community—and for many of us, the threat of violent crime has meant a change in all of these things.

In short, we must realize the pervasive consequences that violent crime—both the threat and reality—has had on our society. It has changed our lives to a degree most often associated with the revolutionary technological changes of the post-World War II period—television, the growth of the automobile and commercial air travel, computers. Yes, this society has had a long history of violence, but the magnitude of the present situation is unprecedented and intolerable.

The major thrust of what I am saying is understood clearly by the vast majority of Americans. They understand that the problem of violent crime and the use and availability of handguns are directly related. Every public opinion poll on handguns shows that an overwhelming majority of Americans favor strong controls. And in recent years, police officials throughout the country have been calling repeatedly for strong national handgun control legislation.

The people are frustrated and angry over Congress' refusal to pass strong handgun legislation. Citizens have formed a variety of groups to mobilize support for such legislation. For the first time in the long history of the battle over handgun legislation, there is going to be an organized opposition to the National Rifle Association and the gun lobby. And if it is true, as Aristotle suggested, that truth and justice are more powerful than their opposites, then the citizens lobby for handgun legislation will triumph.

My bills, H.R. 638 and H.R. 3086, would prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, where authorized, licensed importers, manufacturers, dealers, and pistol clubs.

There is nothing in my bills that would interfere with the legitimate activities of hunters or sportsmen. I appeal to them, who as American citizens have also been victims of spiraling violent crime, to support these bills. It is time we give the streets of America back to the people who live there, rather than have them owned by gun-toting hoodlums. It is time for legitimate hunters and sportsmen to stop, in effect, providing ammunition to these hoodlums.

Mr. Chairman, I shall also be submitting to the Subcommittee an extension of my remarks for inclusion in the record of these hearings.

[Statement referred to by Hon. Abner J. Mikva follows:]

STATEMENT ON HANDGUN CONTROL

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In short, we must realize the pervasive consequences that violent crime—both the threat and reality—has had on our society. It has changed our lives to a degree most often associated with the revolutionary technological changes of the post-World War II period—television, the growth of the automobile and commercial air travel, computers. Yes, this society has had a long history of violence, but the magnitude of the present situation is unprecedented and intolerable.

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My bills, H.R. 638 and H.R. 3086, would prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, where authorized, licensed importers, manufacturers, dealers, and pistol clubs.

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Mr. Chairman, I shall also be submitting to the Subcommittee an extension of my remarks for inclusion in the record of these hearings.

[Extension of remarks referred to by Hon. Abner J. Mikva follows:]

EXTENSION OF REMARKS ON HANDGUN CONTROL

I appear today in support of H.R. 638 and H.R. 3086, bills which will prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, where authorized, licensed importers, manufacturers, dealers, and pistol clubs. H.R. 3086, introduced on February 6 by Mr. Rostenkowski and myself, has to this date received the support of 24 other cosponsors.¹

A

Mr. Chairman, by the time this day is over, 33 or 34 people in this country who were alive yesterday will be dead as the result of handgun murders or handgun accidents.² An additional 540 people will be injured by guns. Many will be crippled for life.

A large share of the responsibility for these deaths and injuries falls squarely on the Congress. Had we put an end to the proliferation of handguns, we could have substantially cut down on the 10,340 murders, the 2,700 accidental deaths, and the 100,000-plus injuries caused by handguns in 1973. In 1973, nearly 7 of 10 persons murdered were shot with a gun. In the same year, 53% of all murders were committed with a handgun, up from 44% in 1966. If we fail to enact strong handgun legislation now, the deaths and injuries of ever-increasing numbers of Americans will be on our hands in the year to come.

Mr. Chairman, there are more guns in this country than there are cars. One hundred and fifty million (150,000,000) guns exist in the United States today. Forty million of these guns are handguns. That means there is one handgun for every five persons.

In the U.S. in 1973, handguns were responsible for one murder every 48 minutes. In the Nation's Capital, guns are the leading cause of death among males under the age of 40.

Some things cause crime, such as poverty, ignorance and frustration. Some things explain crime, like drug addiction, an antiquated system of justice, and prisons that corrupt rather than correct. Other things, such as handguns, make crime far too easy—and too deadly.

B

Critics of gun control argue that guns do not kill people. They argue that if somebody really wants to kill somebody, a way will be found even without a gun; that a person really intent on murder can accomplish his goal with a garrote, knife, a bottle, or a baseball bat. But two facts sharply limit the truth to this argument. First, most killers do not plan in advance to kill their victims. According to the FBI, in 1973, almost two-thirds of all killings resulted from a family dispute or other arguments between friends or acquaintances, and not because of premeditated murder. Most of these killings would have ended as nothing more serious than a shouting match or a fist-fight, except for the presence of a gun. Second, one of every five gun attacks ends in death while only one of every 20 knife attacks ends in death. Thus, if the attacker is intent on murder, he is four times less likely to be successful if he cannot get a gun. It is much more difficult to kill somebody with a garrote by accident, or by mistaken identity.

Many people claim that they need a handgun around the house to protect themselves against intruders. Yet statistics show that a gun kept around the house is six times as likely to kill a family member as it is to kill an intruder. And the National Committee on Violence found that in one year, more homeowners were killed in gun accidents alone than were killed by robbers and burglars in the four preceding years combined. Thus, keeping a handgun in the house is itself a dangerous practice and should be discouraged.

¹ Co-sponsors of H.R. 3086 include the following: Representatives Rostenkowski, Bolling, Chisholm, Edwards of California, Fraser, Harrington, Holtzman, Koch, Matsunaga, Mitchell of Maryland, Moakley, Murphy of Illinois, O'Neill, Rangel, Rees, Roybal, Ryan, Solarz, Thompson, Waxman, Charles H. Wilson of California, Won Pat and Zeferetli.

In addition, Representatives Stokes and Scheuer have indicated they desire to co-sponsor another bill which I will re-introduce soon.

² *U.S. News and World Report*, February 10, 1975, p. 25. Per day figure arrived at by dividing annual rate of 10,340.

Further, in a pleading recently filed with the United States District Court for the District of Columbia,³ the National Rifle Association, which speaks for more than one million members, stated that:

(handgun) ammunition is intended as suitable for use in the open, in woods and fields and on shooting ranges. Ammunition is *not* intended or suitable for household use. (emphasis in original)

If the NRA can admit that handgun ammunition is not suitable for household use, the Congress can certainly do no less than ban the general sale of handguns that use such ammunition.

One common argument made by gun proponents is that cutting down on the number of handguns would not lead to a reduction of deaths. All evidence, however, points to the contrary. In countries with strict gun laws the number of homicides contrasts strikingly with our own. For example, in England and Wales, with a population of about 50 million, there were 35 homicides by firearms in 1971. In that same year, the United States, with approximately four times the population, had 12,243 homicides by firearms—85 times as many homicides.

Another favorite argument of gun control opponents is that the Second Amendment guarantees the right to bear arms. But the Supreme Court has held on at least four occasions that this right is limited to state militias and does not extend to private citizens. Those who use this argument ignore an even more basic right that has been denied many citizens because of the lack of adequate handgun control laws—the right of citizens not to be gunned down in the streets or in their homes.

And then there is the old favorite, "Guns don't kill people . . . people kill people." But the huge numbers of argument-related murders suggest that if guns were not so readily available, people would not find it so easy to kill people. Further, University of Wisconsin psychologist Leonard Berkowitz has found that guns can themselves stimulate aggressive behavior. According to Professor Berkowitz, "The finger pulls the trigger . . . but the trigger may also be pulling the finger."

Two other complaints of anti-gun legislation forces are that (1) handgun control laws would prevent legitimate sportsmen from having fun, and (2) that handgun legislation should be undertaken at the state rather than at the federal level.

As for sportsmen, under my proposal any legitimate gun club will be allowed to obtain and use handguns on the club premises. This may be a slight inconvenience to the relatively few people who like to shoot at targets in their back yards, but when measured against the lives that will be saved, this seems a small concession for sportsmen to make.

Secondly, as to the contention that the states and not the federal government should enact handgun legislation, it seems almost pointless to ban the sale of handguns in Illinois if a person can buy one with no trouble just over the state line in Indiana, Wisconsin, or Missouri. Further, since most handgun killings are crimes of passion, long prison sentences and stiff fines—another proposal of this kind—would not serve as an effective deterrent, whether such sentences or fines are imposed at the state or federal level.

C

In light of the overwhelming evidence in favor of handgun controls, one question remains: What is the best type of legislation to greatly reduce the appalling number of handgun crimes?

To date, several different kinds of legislation on the subject have been introduced.

One type simply calls for the systematic registration of all handguns. This type of legislation will only insure that the government knows who has purchased the gun. But since many guns used in crimes have been stolen from lawabiding citizens, this type of handgun control would not be of much help in reducing gun crimes.

A second type of handgun control legislation calls for a ban only on so-called "Saturday Night Specials"—cheap, poorly constructed handguns. Proposals of this kind are unacceptable because all handguns are murder weapons. The shape, size, and price range of a handgun are not significant. No matter what the quality of a handgun, its only purpose is to kill people. An expensive one will do the job

³ *The Committee for Hand Gun Control, Inc. v. Consumer Product Safety Commission, et al*, Civil Action 74-1387.

just as well as a cheap one. I doubt that the survivors of a handgun vietim will take and solace from the fact that he was killed with an expensive gun.

A third type of handgun control proposal calls for a ban on the possession and ownership (as well as the Importation, manufacture, sale, purchase, transfer, receipt and transportation) of handguns. I agree with the reasoning behind this type of proposal—that we ought to get as many of the existing handguns as possible out of circulation—but I worry about the approach. To outlaw the possession and ownership of handguns is to put police officers in the extremely dangerous position of having to enter people's homes in order to seize guns. If a ban on possession is included in handgun legislation, it can mean needless deaths and injuries to police officers.

My legislative approach, on the other hand, attempts to reduce the number of handguns in circulation by offering a bounty to all gun owners willing to turn in their guns. This, combined with the fact that "new" guns are responsible for a much larger share of gun crimes than their numbers would suggest, should serve to reduce sharply the number of gun crimes in this country.

In fact, a law stopping the glut of "new" handguns, as contrasted with "older" guns, would probably bring the crime rate down disproportionately to the total number of guns it would put out of circulation. According to University of Chicago law professor Franklin Zimring, who has done an extensive study of gun control laws:

New handguns are involved in crime at higher rates than older handguns . . . In urban settings where new handguns are available, these guns are purchased by persons who plan to use them. Older handguns include a large number that are packed away in attics or kept in homes for self-protection. Such weapons show up in crimes or confiscations [after arrest] only if used by their owners or transferred by sale or theft to other individuals As long as the changes of transfer [of older guns] are relatively small, each new gun will have much more impact on handgun availability than each older gun owned by the civilian population. As long as the average person who wants to buy a handgun this month is more likely to misuse it than the average person who already owns one, handgun availability will have more impact on trends in violence than handgun ownership.

Professor Zimring's observations are especially relevant to the situation in this country where 2.5 million "new" handguns appear each year, according to the National Commission on the Causes and Prevention of Violence.

The major purpose of handgun legislation, therefore, must be directed at shutting off the flow of any new handguns. My bills, H.R. 638 and H.R. 3086, would accomplish that goal by banning the importation, manufacture, sale, purchase, transfer, receipt and transportation of handguns (except to or by law enforcement officials and licensed persons, including pistol clubs). Further, as to older guns, under my bill a bounty is authorized to encourage people to turn in their handguns.

I believe my approach is preferable to other alternatives and I urge favorable consideration by this committee.

D

Mr. Chairman, except for a small number of target shooters, handguns are made and used for only one thing: to kill human beings. And the American people realize this. Some form of handgun controls has been overwhelmingly favored in every public opinion poll on the subject since 1938. The people have been speaking, and Congress has turned a deaf ear. It is time we listened.

Not only ordinary citizens, but also many police officials throughout the country support strong handgun controls.

Chicago Police Superintendent James Roehford recently called for "national legislation banning the sale of handguns to all but the police and military services."

And Sheriff Peter Pitchess of Los Angeles County said, "I believe we have reached the stage in America where we must eliminate the instrument most often used in murder—the revolver, the pistol, the handgun. . . . I believe your right and my right to live and walk our streets without fear supersedes the right of potential murderers to possess instruments of homicide. . . ."

It is certainly a sad commentary on our society that many people feel they have to be armed to protect themselves from criminals. A proliferation of handguns causes a proliferation in gun-related crimes. We are all prisoners of a vicious circle. People buy handguns for protection from criminals who might attack with a handgun. Criminals or would-be criminals steal handguns from

law abiding citizens who originally bought handguns for protection from criminals. There will be no relief from this madness until the Congress passes strong handgun control legislation.

It is time for the United States to join the ranks of other civilized countries and ban the manufacture, sale and distribution of handguns.

And it is imperative we act quickly.

Handgun deaths are on the rise to the point where murders by handguns have doubled since 1967. It is a waste of human life to tolerate over 10,000 a year when we have it in our power to prevent the great majority of them. It is time that the Congress stand up to the gun lobby and start listening to the voices of the great majority of American people, many of whom live each day with an unnecessary threat of death hanging over their heads. It is time we give the streets of America back to the people who live there, rather than have them owned by gun-toting hoodlums. It is time for legitimate hunters to stop, in effect, giving ammunition to these hoodlums.

Urge the committee to consider favorably H.R. 3086.

Mr. CONYERS. Mr. Mikva, you have put your finger on the kinds of statistics that it seems to me are not as available to many of our citizens as they are to us. The Members of Congress are glad you emphasized that and the way you have framed that around the bill that you have introduced.

Because we have a number of new Members of Congress that want to testify, I am going to ask a couple of questions, if I can, and perhaps the members of the subcommittee would want to ask one or two questions.

I was impressed by your description of the Western shoot-'em-up where Americans have traditionally become accustomed to settling their disputes in that singular ego-satisfying way of drawing guns out of their holsters. This is a Western myth; there is, in fact, a romance with the gun in this country, in America. We, as you know, are looked upon around the world as a very violence-oriented society, and this notion of being able to resolve our disputes with our own gun at our sides, strolling out at sundown to meet our fate and determine it, is very deeply rooted in our society.

I think that there are some people who reluctantly share some hesitation about giving up firearms because of this. Would you comment on that briefly?

Mr. MIKVA. I think you are right, Mr. Chairman. The reason why we cannot continue the luxury of carrying the equalizer on our hip is that there are too many of us living too close together.

Every law enforcement official, almost without exception, has said that the citizen who relies on a handgun to protect himself is in deep trouble. He is much more likely to shoot himself, his wife, the kids, the neighbors, or somebody other than the burglar, either by accident or on purpose. The plain fact of the matter is that having a gun in the house is not a protection; it is a danger.

Mr. CONYERS. There is no question about it statistically. We are still struggling with that myth, though, I think.

Mr. MIKVA. Correct.

Mr. CONYERS. Which carries forward in the minds of quite a few people.

Now, let me close with this series of just brief questions to you.

Do you see a value in nationalizing some kind of registration of guns and ammunition?

Mr. MIKVA. No.

Mr. CONYERS. You do not?

Mr. MIKVA. No.

Mr. CONYERS. What defect do you see in that?

Mr. MIKVA. I have struggled to pass registration legislation in my State legislature and, in fact, I think Congressman McClory and I collaborated on one when we were there. The problem is it plays right into the hands of the opposition, because, by and large, it does not do much. Further, it will lead into the hands of those who will argue that, since registration didn't work, more effective gun control laws will not work.

While it may make it a little easier for the police to catch somebody afterward, such as Sirhan Sirhan where the gun was traced in part because it was a registered gun, it does not do much by way of cutting down the supply. The result is that it is not much of a deterrent to crime. It may have a little value in law enforcement after the fact. Thus, I think registration is a bad way to approach it.

Mr. CONYERS. I appreciate that view. Is it also not correct, however, that we have never had national registration, so that those States and those localities that have a very strict registration provision never have had the chance to measure what impact it might have, because it is frequently surrounded by areas that do not, and they are subject to the importation of unregistered guns by many who have them brought in, through frequently legal means, that are introduced that way, so that we never have tested the proposition mainly because there has never been any national registration?

Mr. MIKVA. That is part of the problem. It is true in Chicago, for example, that right on the city line you have gun stores. You know, they are as close to the city as possible, because Chicago has a tough registration law and most of the suburbs do not.

The other problem, Mr. Chairman, is that without some kind of restraints on the manufacture, the ready supply of even registrable guns is going to make it too easy for the criminal element, the young hoodlums and others, to get hold of guns. I just think that the only time a registration law has had any effect is when it has been so rigidly enforced that it has almost been overenforced. As in Chicago, theoretically it is a registration ordinance, but it is, for all practical purposes, a prohibition. You cannot buy or carry or own a handgun in Chicago without permission and they almost never give it. Well, as a result there are an awful lot of unregistered guns.

Mr. CONYERS. Of course.

Mr. McClory?

Mr. McClory. Thank you, Mr. Chairman.

As I interpret your bill, it would prohibit the ownership of handguns except for people in the military, law enforcement officials, and certain other categories? In other words, the private individual who wanted to own, possess a handgun in his home—

Mr. MIKVA. No.

Mr. McClory. Would not be permitted?

Mr. MIKVA. That is not quite true, Mr. McClory. My bill does not ban the possession of handguns now in existence. That is a very pragmatic judgment that I made. Some bills before you do so ban possession.

The reason my bill does not include a banning of possession is that I think that in order to pick up these 40 million guns, there would be an awful lot of dead policemen and dead citizens in shoot-outs or

confiscations. I would rather live with some of the 40 million handguns that are out there, with some to be picked up by a bounty provision which is in my bill. My bill applies only to the manufacture, sale, and transfer of handguns.

Mr. McCLORY. Well, then, I am correct then, am I not, in stating that with respect to the future ownership—

Mr. MIKVA. That is correct.

Mr. McCLORY [continuing]. And future acquisition—

Mr. MIKVA. That is correct.

Mr. McCLORY [continuing]. That handguns would be prohibited to the general public?

Mr. MIKVA. That is correct.

Mr. McCLORY. Now, you stated that you felt that the possession of a handgun in a home would be a much greater danger to the possessor than to a potential intruder, and I would not disagree with you on that. On the other hand, it seems to me that what you are attempting to do through this kind of prohibitory legislation is to change the attitude of people. You are trying to effect a psychological change by the individual gun owner who owns and possesses a gun for theoretical protection in his own home. Effectively such a psychological change by Federal legislation is not an easy task, it seems to me.

Now, what do you say about that?

Mr. MIKVA. Well, I am aware that the people who own them think that they need them. But I can only say, Mr. McClory, that the majority of people think that the private manufacture of handguns for private possession is a great danger to their lives and liberty, and I agree with them. And I think this is one case where the majority concern ought to be the major concern of the Congress.

I think that we will be taking away a theoretical security that homeowners have, that you and I agree is not a real security in return for which we will be giving a real security to the majority of the citizens of this country who now cannot walk the streets.

Mr. McCLORY. I would like to recall just for another instant the experience we had in 1972. I believe it was when we were trying to outlaw only the Saturday Night Special, a cheap, small type of handgun, not the expensive models which so many collectors and other responsible individuals acquire. I recall the extreme difficulty of getting even that limited kind of legislation enacted. As a result, the legislation died in this committee, and I want to emphasize that it did over my loud protests.

It seems to me that legislation which would prohibit, for the future, the acquisition and the ownership of all handguns is far more unrealistic than legislation which would provide a means by which we identify, register and control, through Federal and State, and local legislation, the ownership and transfer in dealing in handguns.

Now, what do you say about that?

Mr. MIKVA. Mr. McClory, I think I have worked in the gun field about as long as you have, and I have become convinced that any bill you try to pass is just as tough as any other bill. I favor any bill that will move us toward effective gun control but I worry about registration bills, as I indicated to the chairman, because I think they are a step backward. We have had them in Illinois and they have not been

very successful. Maybe a national registration bill would make a difference, but I have great doubts about it.

On the Saturday Night Special, I have had my concerns, because sometimes, depending on how the bill is drafted, we end up giving up some of the controls that the Treasury Department now has. Further, as I indicate in my prepared remarks, it is not very comforting to the victim or his family to be assured he was injured or killed by an expensive gun. It is not like an expensive funeral. Unfortunately, the presence of handguns is not only in the Saturday Night Special category. I have heard over and over again people talk about ways that they can defeat that Saturday Night Special limitation by the melting point and so on.

All I would say is, I think, passing a bill that would prohibit the manufacture, the sale and distribution of handguns, such as my bill, is no more difficult than passing a national registration bill.

Mr. McCLODY. Let me just ask this one question. We are somewhat constrained on time, but if the committee should see fit to vote out a Federal gun, handgun registration measure, you would not oppose that; would you?

Mr. MIKVA. It would be very hard for me to oppose any measure that is going to move us towards effective gun control.

Mr. McCLODY. Thank you very much for your testimony and your statement, and for your general support for handgun control legislation.

Mr. CONYERS. Mr. Hughes.

Mr. HUGHES. Yes, Mr. Congressman, as I understand your bill, it just would prohibit the importation, manufacture, sale, and transportation, and so forth, of handguns?

Mr. MIKVA. That is correct.

Mr. HUGHES. I have several questions. Does your bill contemplate the passing of handguns down from one member of the family to another?

Mr. MIKVA. It would prohibit any transfer.

Mr. HUGHES. That would be—

Mr. MIKVA. At the time someone died, the gun could become contraband. You notice that there is a bounty provision in the bill that allows anybody to turn in their guns for \$25 or the fair market value, whichever is more, so that at a time of death, the decedent's estate would submit the gun for the bounty provision.

Mr. HUGHES. Under 109B. That is a good provision. Let me just ask a question. We have 40 million handguns and obviously this legislation would do very little about the handguns that are out except for this one bounty provision that you have written in the bill.

Would that be fairly accurate?

Mr. MIKVA. No; not really. Each year, for instance, in the Chicago area, I think last year they confiscated something like 50,000 guns, if my memory serves me correctly. The problem is that without effective legislation, the supply outdistances the confiscations. But if you cut off the supply, those confiscations of these guns which are involved in crime or which are illegally possessed, or are being carried on the street or what have you, would begin to dry up. This drying up of the existing supply would occur because of the confiscation and the bounty provision, which I think would be rather meaningful.

Mr. HUGHES. Talking in terms of your bill or other bills on the handgun registration, you would not be opposed. I am sure, to a form of registration of handguns also that would assist law enforcement people.

Mr. MIKVA. Absolutely.

Mr. HUGHES. For detection and prosecution of crime?

Mr. MIKVA. My concern about registration has been that we have passed registration provisions in the past with the notion that it would somehow manage the gun problem, but it has not. I do agree that it is an aid in law enforcement, and I would support it for that reason, if no other.

But it should not be oversold as the solution to the handgun problem, because it will not solve the problem unless we pass something like my bill or one of the other, similar bills before you.

Mr. HUGHES. I do not know what your experience has been in the field of handguns. But one of the major problems, of course, is to identify and to trace handguns after the fact, after a crime has been committed. It would seem to me that some form of registration would be required to assist law enforcement people in that direction.

Do you find that that particular aspect would be objectionable to those sportsmen, people that hunt and would require—

Mr. MIKVA. Absolutely, they are not objectionable, and I have never understood why some believe they are.

Mr. McCCLORY. Would the gentleman yield?

Mr. HUGHES. Yes. Sure.

Mr. McCCLORY. I would just like to observe that the number, I do not know how large a number, but a fair number of the members of the National Rifle Association in my district who are hunters, sportsmen, do not object to Federal handgun registration legislation, but would support it.

Mr. HUGHES. Yes. I find that to be the case, too, Mr. Mikva.

Mr. MIKVA. And I do too, and I find a large number of hunters would support my proposal, because they recognize that a handgun is not a hunting weapon. But unfortunately, the National Rifle Association and most of its State constituent bodies have taken a formal position that they oppose everything. They have even opposed the Saturday Night Special for reasons that I have never understood. Now I understand that they have changed their position slightly on that.

Mr. HUGHES. I find there has been somewhat of a change in that direction, because I think there was somewhat of a basic misunderstanding as to what handguns registration would require. But let me just ask one additional question.

I know time is short, but I am interested in the thrust of your bill. One of the things that I was unclear about is whether or not a transfer did contemplate transfer within members of a family.

How would you enforce that, Mr. Mikva?

Mr. MIKVA. Let me say if I had my druthers I would like to get rid of all handguns. It is an antipersonnel weapon, it performs no useful purpose except to kill a fellow human being. It is not a hunting weapon, and for those few target shooters there are, I think we could make some provision, which my bill does, to allow them to continue to target shoot without giving them handguns.

I would like to go as far as we can in getting rid of a handgun as a problem, short of having the existing guns declared contraband where the police are charged with the responsibility of going out and trying to collect the guns which are now outstanding. This, as you know, could result in a lot of dead citizens and dead policemen. It would be difficult to manage the transfer down problem, and I recognize that someone intent on giving a gun he now owns to his son or his grandson, if he wanted to violate the law, could do so.

I think in the long run if we dried up the supply, we would dry up most of the problem, because a surprising number of guns that are used in street crime are new guns, guns that are stolen, guns that find their way into illicit commerce simply because the quantity is unlimited. I recognize that there would be some cheating in the passing down prohibition.

Mr. HUGHES. I wonder whether or not to try to avoid the factual determination of who would be involved, who really owns a gun without some form of registration, whether or not some form of registration would not be absolutely essential to your type of legislation?

Mr. MIKVA. You may be right. I have always felt, as I said to Mr. McClory, either of those apples is a very tough one to bite, because the opposition is so great. I did not see the sense of putting both in one package, but if the committee decides, for other reasons, to come up with a national registration law, they will get no argument from me.

Mr. HUGHES. I want to thank you, because I thought your statement was excellent, and your broad outline of the problem was the best that I have really heard. Thank you very much.

Mr. CONYERS. Mr. Mikva, we originally intended to bring the Attorney General in as our leadoff witness. I see now that we are just as grateful that he had to defer his appearance and allow you to be our initial witness on these hearings, because you brought, in the brief time that you have been before the subcommittee, a very clear insight and an experience that I think will be one of the measuring rods from which this committee will make its ultimate judgments.

Thank you very much.

Mr. MIKVA. Thank you very much, Mr. Chairman, and members of committee.

Mr. CONYERS. Our next witness is the Delegate from Washington, D.C., Congressman Walter Fauntroy, who has been with us since the 92d Congress and serves on the Banking and Currency Committee and is, of course, a member of the District of Columbia Committee.

We welcome Walter Fauntroy as one of the outstanding members of the Congressional Black Caucus, and for his tremendous leadership and energy as one of the national religious, as well as political, figures.

Congressman Fauntroy, we have your statement. It will be reproduced in full in the record, and that will allow you to proceed in whatever way you choose.

TESTIMONY OF HON. WALTER E. FAUNTROY, A REPRESENTATIVE IN CONGRESS FROM THE DISTRICT OF COLUMBIA

Mr. FAUNTROY. Thank you, Mr. Chairman.

[The prepared statement of Hon. Walter E. Fauntroy follows:]

STATEMENT OF HON. WALTER E. FAUNTROY, A REPRESENTATIVE IN
CONGRESS FROM THE DISTRICT OF COLUMBIA

Mr. Chairman and members of the Committee, three times in the last seven years I have had to travel to Atlanta, Georgia for the burial of a King; members of the family of Dr. Martin Luther King, Jr. Two of those funerals were the result of the easy access to and senseless use of deadly fire arms. The death of Mrs. Alberta Williams King, the mother of Dr. Martin Luther King, Jr., in June of last year is still painfully fresh in my mind. She and a cherished trustee of her church were gunned down as she sat playing the organ at a Sunday morning worship service by a demented young man who had gained easy access to a deadly handgun.

This kind of funeral was not new to me. As a minister and activist in the civil rights movement, I have officiated at the funerals of numerous citizens who would be alive today had we a law banning the manufacture, sale, and possession of handguns. As a minister, I have buried children who have been the innocent victims of firearms accidents because handguns were in the home. I have buried sorely missed wives and mothers, husbands and fathers whose lives were snuffed out at the tragic end of family quarrels because handguns were in the home. I have buried law-abiding citizens who were the victims of handguns used in the commission of crimes, and a very fine law enforcement officer in my church who was senselessly gunned down while handling a routine traffic violation.

I am tired of handgun funerals. In the District of Columbia, which I represent in the Congress, the leading cause of death for males under the age of forty is firearms. Last year we had a record 295 homicides in our Nation's Capital, 153 of them by handguns.

These people died, as people continue to die every day, because handguns are as accessible as they are deadly. Anyone, from the hardened criminal, to the frightened teenager committing his first crime, can easily obtain a gun, not only here in the District of Columbia, but virtually anywhere in the country. Some have estimated that there are some 200,000 handguns on the streets of the District of Columbia, and I am tired of handgun funerals.

If my remarks thus far have sounded morbid, believe me I have intended it so. I have a deep personal aversion to the private ownership of handguns that I share with the vast majority of American citizens today. You can understand, therefore, my delight at the prompt and thorough hearings you are giving, Mr. Chairman, to the need to pass handgun control legislation in the 94th Congress.

Lest you think that handgun deaths are just a problem to me personally or unique to the District of Columbia, let me remind you that every city in the United States has this problem.

Guns are responsible for an average of sixty-nine deaths each day in America. Of the 25,000 gun deaths occurring each year, 12,000 are homicides, 10,000 are suicides, and 3,000 are accidents. One out of every hundred deaths in the United States is caused by a gun. Forty percent of the victims are 19 years old or less. In addition, some 200,000 people are wounded by firearms each year, resulting in paralysis, sterilization, dismemberment, blindness, deafness, and other disabling effects.

In 1972, 54 percent of all murders committed were carried out by handguns.

Between 1969 and 1974, armed robbery increased 75 percent, and both aggravated assault and gun murder were up 50 percent. Our population did not increase in such vast proportions.

Most murders are committed by previously law-abiding citizens where the killer and victim are acquainted—approximately 25 percent occur within families. These are murders which could well have been prevented by gun control.

The fact is that guns in the home do not prevent lawlessness, violence and death; they cause it. For every intruder stopped by a home-owner with a gun, there are four accidents in the home. Close to 3,000 accidental deaths are caused by firearms each year. One fourth of the victims are under 14 years old.

Handguns are involved in a majority of all police killings. During the period of 1964-73, firearms were used by felons to commit 95 percent of the police killings. During this period, 858 law enforcement officers were slain: 613 were killed with handguns, 104 with rifles, 101 with shotguns, the remaining forty were killed with weapons other than guns.

The three Federal law enforcement officers killed in 1973 were killed by the use of handguns.

It is impossible to measure the full impact of handguns in homicide statistics alone. There are countless rapes, robberies, assaults carried out with handguns. A gun gives the criminal the God-like power of life and death over ordinary citizens. We must get guns out of the hands of criminals, and my legislation will set the framework for doing it.

The shape of our history over the last decade has been distorted by firearms in the hands of paranoid little men. First, John F. Kennedy, then Malcolm X, Martin Luther King, Jr., and Robert Kennedy. All of this tragedy because we, as a nation, are unwilling to see a simple fact: the only purpose of a gun is to kill.

The number of handguns in the United States is estimated as high as 40 million—or about one gun for every 5 persons. In recent years there has been a great increase in the number of such weapons. The incredible proliferation of firearms in the United States, however, is not part of a world-wide trend. The total number of gun deaths in all other free nations is exceeded by the number of gun deaths in the United States alone. The following is a list of rates of accidental deaths and homicides by firearms in various countries of the world. The most recent years for which figures are available are represented.

[Rate per hundred thousand]

Country and year	Homicides	Accidents
United States, 1971.....	5.50	1.18
United States, 1968.....	4.42	-----
Costa Rica, 1967.....	1.07	.94
Australia, 1970.....	.57	.42
Canada, 1963.....	.52	.80
Italy, 1968.....	.47	.25
New Zealand, 1969.....	.32	.32
France, 1969.....	.30	.24
Germany Federal Republic, 1970.....	.28	.13
Switzerland, 1970.....	.19	.08
Denmark, 1969.....	.18	.08
Netherlands, 1970.....	.08	.02
Scotland 1970.....	.08	.10
England and Wales 1970.....	.04	.06
Japan, 1968.....	.02	.04

With proper gun control laws, the gun death rates of the United States could someday favorably compare with those of the rest of the world.

State and local laws cannot be effective in controlling this menace. There is demonstrated need for immediate strong and comprehensive national legislation.

I believe that the type of legislation which I have introduced, H.R. 2313, is a fair and workable way to begin to come to grips with this plague of guns which has swept our land.

The primary provisions of my bill are as follows:

(1) It would be unlawful for any person to import, manufacture, sell, buy, transfer, receive, or transport any handgun or handgun ammunition.

(2) Exceptions to the overall prohibition would be granted: For licensed gun clubs which keep possession and control of guns on their premises; for police and other law enforcement officials; for professional security guard services licensed under state law; and for guns that are collector items.

(3) The penalty for manufacturing, selling, or trading in handguns would be \$5,000 or imprisonment of not more than five years, or both. The penalty for possession of a handgun would be \$2,000 or imprisonment for not more than two years, or both.

(4) The law would require that handguns be turned in within a six month period after the effective date of the Act.

(5) Persons turning in their handguns would receive a tax credit equal to the fair market value of the handgun or \$25,000, whichever is greater. This is an added inducement to turn in guns.

I am not necessarily wed to the tax credit idea. I do feel that this is an easy and useful administrative mechanism for dealing with the "bounty" provision which will be essential to any effective handgun legislation.

It is my fervent hope that as handguns disappear from the national scene, this nation may approach an era of domestic tranquility which will allow us to implement a system similar to that now existing in many European countries, where even the police do not carry guns except in emergency situations. I believe

that this legislation is the only way for us to begin to bring an end to America's longest national nightmare, the nightmare of death and destruction brought on by the use of handguns.

In the time in which I have been speaking with you, approximately 15 crimes have been committed with a gun. Most likely, at least one person has been needlessly killed.

I respectfully urge, plead, with you that this committee get on with the task of meeting this nightmare. The country is in danger of becoming one great armed battleground. The time has long since come for us to wipe this stain of armed violence from our land.

How many more deaths will it take before we know that too many people have already died?

Mr. Chairman, and members of the Committee, I thank you for this opportunity to testify on behalf of gun control legislation.

Mr. FAUNTROY. May I add my words of commendation to you as chairman and the members of the committee for the speedy way in which you have moved to bring consideration of handgun control before this Congress on behalf of, I think, the grateful people of the Nation.

Mr. CONYERS. Thank you.

Mr. FAUNTROY. And you have and will have, in the course of these hearings, been presented with a great many statistics supporting the kind of legislation which the various members of this Congress have placed at your disposal and for your consideration.

I want to just inject a few personal references, which tend, I think, to give some flesh to the bones of the statistics. Three times in the last 7 years I have had to travel to Atlanta, Ga., for the funeral of a King, a member of the family of Dr. Martin Luther King, Jr. Two of those funerals were the result of easy access to and the senseless use of deadly firearms.

The death of Mrs. Alberta Williams King, the mother of Martin Luther King, Jr., in June of last year, is still painfully fresh on my mind. She was a trustee of the church where Martin Luther King, Jr., grew up, where she was gunned down as she sat playing the organ at the Sunday morning worship service by a demented young man who had gained easy access to a deadly handgun.

And this kind of a funeral, of course, is not new to me. As a minister, I have officiated at the funerals of numerous citizens who would be alive today had we a law banning the manufacture, sale and possession of handguns. As a minister, I have buried children who have been innocent victims of firearm accidents because guns were in the home.

I have buried sorely missed wives, mothers, fathers and husbands whose lives were snuffed out at the tragic end of a family quarrel, again because handguns were in the home. I have buried law-abiding citizens who were the victims of handguns used in the commission of crimes, and I have officiated at the funeral of a very fine police officer who was senselessly gunned down while handling a routine traffic violation.

And so I am tired of handgun funerals.

In the District of Columbia, which I represent here, the leading cause of death for males under the age of 40 is firearms. Last year we had a record 295 homicides in the Nation's Capital, 158 of them by handguns.

Now, these people died, as people continue to die every day in this country, because handguns are as accessible as they are deadly. Any-

one from the hardened criminal to the frightened teenager committing his first crime can easily obtain a gun, not only here in the District of Columbia, but virtually everywhere in the country.

Some have estimated that there are some 200,000 handguns on the streets of Washington alone, and as I said, I am tired of handgun funerals. And if my remarks thus far have sounded morbid, believe me, I have intended it so.

I have a deep personal aversion to the private ownership of handguns, an aversion I think I share with a majority of American citizens today. You can understand, therefore, my delight that you have moved ahead on these hearings.

But, lest you think that handgun deaths are just a problem for me personally, or unique to the District of Columbia, let me remind you that every city in this country has this problem. Guns are responsible for an average of 69 deaths each day in America.

Of the 25,000 gun deaths occurring each year, 12,000 are homicides, 10,000 are suicides, and 3,000 are the result of accidents. One out of every 100 deaths in the United States is caused by a gun; 40 percent of the victims are 19 years old or less.

In addition, some 200,000 people are wounded by firearms each year, resulting in paralyzation, sterilization, dismemberment, blindness, deafness and other disabling effects. And I could go on to quote the many statistics that document the devastating effect of the availability, easy availability, of handguns.

Most murders in this country are committed by previously law-abiding citizens where the killer and the victim are acquainted with one another, and as Congressman Mikva has pointed out, in most instances a gun in the home is not going to stop a criminal who may break in, but often may result in the tragic loss of a mother or a father or a brother or a sister as the result of a family quarrel, that without a handgun being available might have been involved in some fisticuffs, but certainly not in another funeral for a minister like myself.

Mr. CONYERS. Would the gentleman allow me to ask a question based fresh on my inquiries within my own district, and in the black community particularly. And I want to make this ethnic reference, because as many Americans fail to realize, blacks are the greatest victims of crime in our Nation, proportionately.

Is it not true that there is this fear of giving up a handgun in the home. For example, when one State legislator in Michigan introduced a bill to abolish handguns, I received a number of calls from people who said they were with owner groups, black clubs and associations within the black community within Detroit who felt that they did not want to have to give up their guns as their only means of protection.

And it seems to me that this romance with the gun was showing itself once again, and I am beginning to wonder, Congressman Fauntroy, if we do not need to include with the legislative efforts some tremendous educative program where these facts, that many Members of Congress take for granted, and assume to be the basis upon which they propose legislation, are made more commonly understood and known within the entire Nation, in our community as well?

Mr. FAUNTROY. You are eminently correct. You have touched on two myths that need to be shattered.

The first is, "When guns are banned, only the outlaws have guns."

The fact is that more killing goes on in this country, 72 percent of the killings go on, as a result of a family quarrel or accident; so that when you take a gun in your home you are not going to protect—three-fourths of the time you are going to kill somebody in the home, or some newspaper boy who comes to the door and you think is a criminal. That is one myth that has to be destroyed.

The second myth does relate to the black community. I have many of my constituents saying to me, "What you are going to do is take the guns away from us so that 'they' can come and get us." Well, the fact is, 60 percent of the murders in this country are committed by black people, and 95 percent of those murdered by blacks are blacks, so that the protection here is tended toward law-abiding citizens far more than it is paralyzing law-abiding citizens.

So this kind of education has got to go on and I think the kind of hearings you are holding, the kind of information you are gathering and disseminating, is going to help to get that message over.

Mr. CONYERS. Well, thank you. My final question is in what ways, if any, does your bill differ from that which has been described by your colleague, Mr. Mikva of Illinois.

Am I correct in assuming from his remarks and from you that if we could really abolish all handguns, we would be a lot better off, but since we cannot retroactively act, the question then becomes how can we begin to curb the supply and their availability from this point on?

Is that the general thrust of your legislation?

Mr. FAUNTROY. Yes. There is one significant difference between our offerings. In the first instance, we agree that we ought to ban the manufacture, the sale and the importation of handguns. My ban calls for the ban on the possession of handguns, and I believe, again, based on the statistical facts, that guns in the home do more killing of people who have them ostensibly to protect themselves from criminals than they do of criminals, and that when you have a gun in your home you are more likely to use it to hurt someone in the family or someone you love.

Now, my bill calls for a ban on the possession, and it does not call for gun confiscation. I am not going to have policemen running into people's homes and searching them, looking for guns. But everyone who has a gun must understand that if you, in your wisdom, pass my measure, that if you are caught, if you are caught manufacturing a gun, if you are caught with a gun, or selling it, you make yourself liable to 5 years or \$5,000 fine or both. And if you possess a gun, you run the risk of being assessed \$2,000 or 2 years in jail or both.

Now, we have an incentive of \$25 as a tax credit. Mr. Mikva's bill says \$25 as a cash payment. But the idea here is to impress upon all American citizens that the gun in the home is not a protection. It is probably going to be used to hurt somebody close to you; therefore, get rid of it, and if you don't want to get rid of it, you run the risk of being prosecuted if you are caught with one, a handgun, not a rifle.

And I think that will serve to deal with the problem of the 40 million guns that are being manufactured and dispersed every year.

Mr. CONYERS. Well, it seems to me you are now moving beyond that point which we were at in 1971 and 1972, when the Congress last looked at handgun control, and I commend you for the thoughtfulness with which you have put together this statement.

I now yield to the gentleman from Illinois, Mr. McClory.

Mr. McCLORY. Thank you very much, Mr. Chairman, and thank you, Congressman Fauntroy, for your very helpful statement and particularly for the enlightening information which you have provided to the committee. Most of us who serve here in the Congress, also being residents of the District of Columbia during the period of our service here, are extremely interested in the subject of crime control in the District, and I want to assure you of my extreme interest in that and in the Northeast area of our city.

On the general subject of compensation one difference between the program of your bill and programs in others which you have indicated and which is apparent in your bill is that you seem to provide for a tax credit for the voluntary surrender of handguns, whereas Mr. Mikva's bill, for example provides for the cash bounty. You mention that there are 40 million guns in the United States, and I am just wondering whether you or anyone has made any kind of an estimate as to what the cost of such a program would be if we provided for the bounty, which is not just \$25 cash, but \$25 or the fair market value which might be hundreds of dollars for extremely valuable handguns?

Do we have any estimate as to what the cost of such a program would be?

Mr. FAUNTROY. In the first instance, I do not have a total estimate on that, and I understand Congressman Mikva's bill and my bill, it's \$25 or the cash value, whichever—

Mr. McCLORY. Whichever is higher.

Mr. FAUNTROY. Higher?

Mr. McCLORY. Yes.

Mr. FAUNTROY. Let me say that you cannot really assess the value of those tens of thousands of people who are killed in accidents, in quarrels, to the economy and to the country, so that while I am not wed to the tax credit idea, I think the people ought to be willing, collectively, to pay for this purification of our system, this growth beyond the Wild West period of our Nation's history.

Mr. McCLORY. With respect to the theory of your bill, it would not be a cash payment anyway, would it?

Mr. FAUNTROY. No, it would be a tax credit.

Mr. McCLORY. But since there was a tax credit, there would be a loss of tax revenue?

Mr. FAUNTROY. To the Federal Government.

Mr. McCLORY. To the Federal Government, and you have not made any estimate of what that would be?

Mr. FAUNTROY. I have not made that estimate. I think the people of this Nation, whatever the estimates, are willing to pay that price.

Mr. McCLORY. In the event that the committee would see fit to recommend Federal registration of handguns with, of course, appropriate controls, so that the only persons permitted to register would have to show a legitimate need for a gun and could not have been convicted criminals, or mental incompetents—would you support that type of Federal registration of handguns, in the event that that is the way the committee would act?

Mr. FAUNTROY. Obviously, like Congressman Mikva, I would certainly not oppose that, if that is the best that we can get. I think we can get more, and certainly I think more is required.

The fact is that we have gun registration in the District of Columbia. We have it in New York, we have it in a number of municipalities around the country, and yet deaths by handguns are still on the rise. I look forward to your hearing testimony of some of the mayors in the country.

I've had the privilege of meeting with the members of the U.S. Conference of Mayors, and I particularly was impressed with a statement by the mayor of St. Paul, Minn., who said to me that his city does have a ban on the sale and possession of handguns, but it does not deal with the problem because the Twin City of Minneapolis, across the river, does not, so that my bill runs to the question of banning the manufacture and the sale of these handguns with the proper exceptions. So then, we can move beyond what has been our experience with registration in the jurisdictions that have been wise enough at least to attempt this means of controlling traffic and possession of handguns.

Without the manufacturing ban, I think registration is only going to be a small step toward effective control.

Mr. McCLORY. I do not know whether we can assume that any legislation that we are going to enact is going to be complied with, whether it is legislation which bans handguns, which you indicate is not effective if the adjoining community does not have it, or Federal registration of handguns. If there is not compliance with it, it is not going to be effective.

But I am thinking about enactment of effective Federal handgun legislation, with the appropriate enforcement of that legislation, and a Federal registration law would be a long step forward, would it not?

Mr. FAUNTROY. Well, it obviously would be farther than we are today, and I would like to see a national registration law. But, I would rather see a national ban on the manufacture of guns, of handguns, and on the possession of handguns by private citizens, except under duly authorized circumstances.

Mr. McCLORY. Thank you, Mr. Chairman.

Mr. CONYERS. You are welcome. Mr. Hughes, do you have a question or observation?

Mr. HUGHES. Yes. Just a couple of questions.

First of all, Congressman, I want to congratulate you on a very fine statement. I just have a couple of questions.

As I understand it, you would not, under your legislation, expect law enforcement people to go in and confiscate handguns, and yet your legislation would make felons, in effect, of those that possess handguns, because by the very terms of the legislation, it would be unlawful for people to own or to possess handguns, as I understand it?

Mr. FAUNTROY. That's right.

Mr. HUGHES. Am I correct in that? I just wonder whether or not that would be a healthy situation to create, whereby you would, in effect, make illegal the possession of handguns, and not have some mechanism for acquiring them.

Mr. FAUNTROY. Well, my bill does call for a 6-month period after the enactment of the bill, during which period handguns could be turned in by law-abiding citizens. Of course, some citizens may choose to violate the law and take the chance of killing a mother or a father,

a brother or sister, in an argument, or having the gun go off while a kid is playing in the attic unknown to the parent.

But that citizen would know that in the first instance, if he is caught with the gun, or it is found that he has one, that he is subject to a substantial fine and possibly a jail sentence. And obviously, if 1 year or 2 after the law went into effect, he had a gun, he would be certainly a suspect for criminal use of guns.

Mr. HUGHES. Now, I appreciate, I think, what you are trying to do. I just have some basic misgivings, because I am aware of the general feeling that handguns are necessary because of the fear that perhaps there are just not enough police, you know, in neighborhoods to try to protect people and that the thing that makes families secure is the fact that they possess a handgun.

And being a realist, as I am, I recognize, and I am sure you do too, that a lot of people just would not surrender handguns under legislation, and as a result we would make them potential felons, basically good people. And I also am aware of the fact that a lot of the handguns are stolen during burglaries and robberies, and these handguns, once they would be traceable, then would leave the otherwise decent, law-abiding people in the position that they have violated one section of this bill. That would give me a great deal of difficulty.

Mr. FAUNTROY. Well, as the chairman has indicated, the problem in the country is that people do not understand and must be informed of the fact that a handgun in the home really does not protect the family, that you are more likely to have an accident, to kill a newspaper boy or somebody else acting out of that fear. And I know that is a problem, but we must not yield to it. We must educate, just as I must educate my own black brothers and sisters to the fact that we cannot play cowboys and Indians.

The problem is not that the police are breaking into our homes and shooting us; the problem is we are shooting one another because guns are so easily accessible. I think the two-pronged education program has got to go forward, and the best way to teach in this respect is through legislation. People will begin to think why do I have my handgun, will it really protect me.

In 2 percent of the instances, I understand criminals are stopped by the presence of the handgun in the home, but in 71 percent of the instances, somebody in the house is going to get killed.

Mr. HUGHES. I am interested in your statistics on that 70 percent of handgun killings are accidental in nature, I wonder if sometime, not now, you can furnish me with the source of that information?

Mr. FAUNTROY. Be very happy to.

Mr. HUGHES. I was interested in that statistic. Thank you very much.

Mr. CONYERS. The gentleman from Illinois has an observation.

Mr. McCLORY. Let me make this observation. If we are going to get effective handgun control legislation in this Congress we are not going to get it because of the accidental discharge of firearms in the home, or their misuse or accidental use. We are going to get it because handgun control legislation is essential to fight street crime. It seems to me that the emphasis in the testimony, and the emphasis of our deliberations here must be on the subject of reducing crime

in America and on the control of handguns for that purpose. And it is all well and good to provide advanced legislation to help protect people against themselves and against accidents in the home. We could go a long way on that. But the emphasis has got to be on the criminal element, it seems to me, for us to be successful in this effort.

The only other thing I would like to observe is that if we go to the floor with this legislation, and we have got a bounty provision, it is not going to be sufficient to say well, regardless of the cost of the legislation we have got to have this bill. The Members on the floor are going to want to know how much is this going to cost, even if the cost is large, and even though I might agree that the large cost is essential. But those are facts, it seems to me, which must enter into our hearings here.

Mr. FAUNTROY. Mr. McClory, rest assured that I will get to the computers, and I will get you a figure back on what the bounty, in fact, will cost the country. And secondly, if you can get the bill by saying crime is a problem, please do so. But the fact is, and people must understand, that most of the murders, most of the deaths, most of the funerals that are held in this country are because handguns are in the homes and are not as a result of the criminals. It is the result of the easy access to a quickly effective deadly weapon which I think will help bring along some of the people who are not excited by the crime aspect of this.

Mr. HUGHES. Mr. Chairman, I just have one additional observation.

Mr. CONYERS. Please proceed.

Mr. HUGHES. One of the things I think that the chairman has pointed out is that the money by way of fees that are secured from the pistol clubs could be used to fund a \$25 bounty for this surrender of pistols. I do not know what the arithmetic would work out to.

Mr. FAUNTROY. I am going to do a little arithmetic. I would like to do that.

Mr. HUGHES. And the second thing is, do you have a breakdown on the number of offenses that are committed, homicides committed by the use of knives, for instance?

Mr. FAUNTROY. I have read—I cannot recall it right now, but the Department, the Justice Department has a very thick volume recently published on the number of people killed with fists, with knives, with ropes, with everything. And I am sure if we banned handguns there would be some fist murders and some knife murders, but it takes a little longer to do that.

Mr. HUGHES. More effort.

Mr. FAUNTROY. I would like to say in jest I like to stay in good physical shape, you know. And I play baseball around here, and basketball, and handball and the like.

Mr. CONYERS. We also know that you are a boxer.

Mr. FAUNTROY. Oh, yes.

Mr. CONYERS. And I don't know why you didn't mention that.

Mr. FAUNTROY. And I know that the bigger they come sometimes the harder they fall, but my problem is that I can't karate chop a bullet. I can deal with a fellow with a knife I believe, but it is so unfair, and it is such a poor test of manhood to confront me with a bullet, because I can't deal with it.

Mr. HUGHES. Mr. Fauntroy, you know, you and I are neighbors and I have noted your physical stamina because you have steamed by me on the way to the floor at times.

Mr. FAUNTROY. Thank you. I am looking forward to that experience, particularly in the full House when this committee, its Subcommittee on Civil and Constitutional Rights passes a full voting representation for the House and Senate for the District of Columbia. Thank you, Mr. Chairman.

Mr. CONYERS. You are more than welcome. I would like to observe that the subcommittee welcomes the gentleman from Ohio, Mr. Ashbrook, and wants to know if he has any inquiry that he would like to make?

Mr. ASHBROOK. Yes, I do have some questions, Mr. Chairman. I am sorry that my plane was late and I had to miss some of the testimony. I do have three questions I want to ask.

One, following up on the question of my colleague from Illinois, Mr. McClory, Representative Fauntroy, do you think that there is any evidence to show that private ownership of guns, or of handguns, is a cause of crime?

Mr. FAUNTROY. No, I would not say that except to say that guns in the home are often stolen and used in the commission of crime. I am not in any way minimizing the effect of easy access to handguns in the criminal field. What I am emphasizing is the statistical facts that most of the deaths by handguns are the result of accidents and quarrels where there was no criminal intent.

Mr. ASHBROOK. I would say probably with the possible exception of the domestic argument, where a handgun is available, but I suppose in that case if one of the parties is so inclined that they would proceed with whatever options they have, whether or not a firearm is there, but I just want the record to indicate at least my belief that I have never seen any convincing argument that the private ownership of guns of any kind constitutes a cause of crime. The availability of a gun for the person who at any given time might want to perpetrate a crime of the domestic variety or otherwise is obvious, but I just thought the record should show that, and I was pretty sure that you were not making that point.

The second point I would like to make is the opponents of bills of this type indicate that it is the nose under the camel's tent, and sooner or later the full-blown confiscation would probably happen. I would suggest that maybe the history of the District of Columbia indicates that this is a valid fear, because at the present time, as I understand it, and reading the clips from the local papers following your bill introduction, one says, and I quote:

Presently the city requires only the registration of all handguns, shotguns and rifles. The Police Department said its records include 35,145 handguns and 16,500 long guns.

Now that the District of Columbia has a registration requirement, it seems the next step in the process is the prohibiting of the possession, sale or purchase of handguns and shotguns which, of course, you are an advocate of that particular approach.

Mr. FAUNTROY. Handguns.

Mr. ASHBROOK. Of handguns, excuse me. But does this not indicate, to me anyway it indicates, and I would ask you if it does not indicate

some legitimaey to the fears of those—and I am quite frankly ranking myself among those who try to stay open minded on most things, but I think in this area I feel like the person that said never—don't you feel that this is an indication, a graphic example, of the escalation of controls on handguns, that we started out registering at the Federal level, and if we follow the D.C. pattern the next step would be either full confiscation or requiring owners of handguns after registration to turn them in? I think this is something many of us worry about, and I wonder if you would comment on that?

Mr. FAUNTROY. Yes. Let me say that first of all I do not think it is likely that a gun confiscation law in the District of Columbia will pass. I am aware that at anytime that you begin to discuss the control of deadly firearms, the opponents of that control go to the extreme instance and say this is a start, this is the break in the dike that is going to bring the whole thing down. As my bill indicates, I am perfectly prepared for people who want to practice shooting, and it must be a lot of fun, I just don't happen to, you know, to like that form of activity, but it must be a lot of fun to be shooting a pistol, and my bill would qualify gun elubs that keep their guns on the premises where they do not get in the hands of kids who do not know how to use them, or they are not available in the home for ending a quarrel. You can go to the gun elub, shoot to your heart's content, leave the gun there. I don't think that there is an intent to deny sportsmen, hunters, access to the rifles and to shoot the guns that they may need to hunt. And I do not think that the other countries, and particularly European countries, or for example, Japan where handguns are banned have experienced that breaking down of the whole dam, because there is a little break in the dike, which is very important I think for the quality of life in the country.

Mr. ASHBROOK. Well, you talk about gun elubs, but what about John Doe or John Ashbrook, who for his own reasons up to this point anyway, legitimate and not in violation of anyone else's right, just happens to want to keep a gun in his apartment or his home?

Mr. FAUNTROY. Again, in the public interest, because those guns often get stolen when they are in the home, because people like to have them there, and they are used in crime, and in the public interest, because often ministers like myself find themselves more often than not speaking words over dead bodies that are the result of accidents and quarrels, in the public interest, I would encourage those people to keep the gun at the gun elub.

Mr. ASHBROOK. OK. The last question, I would say to my friend that yes, I certainly respect the validity of his argument, although I was probably one of those who would disagree. But I have a last statement and particularly to you, Congressman Fauntroy, because you have been active in the civil rights field, and I have noticed on a number of occasions you have, I think appropriately, and quite properly indicated that one of the failings in the country is the fact that we hold out, by legislation, a great promise. The promise is not fulfilled and that causes frustrations, and in all honesty, do you not think that this is one of those areas where we would be holding out a lot more promise than would actually be the case? I think if we all look inwardly at the Congress we can think at the number of times that we have overpromised civil rights bills that are going to bring

this about, and another bill is going to bring about employment, but it doesn't happen that way, and I think you legitimately on occasion have complained about the overpromise and the frustrations that come from the lack of fulfillment because we as leaders hold out something that does not really happen. And in all honesty would not this appear to be one of those dangerous areas of overpromise?

Mr. FAUNTROY. Let me say that I have already indicated my personal aversion to guns, but I have been in situations where guns were pointed, and I have made out pretty well in a movement where only State troopers had guns. We did well. I pastored in the midst of a community where a great many of those 200,000 guns that are on the streets of Washington circulate, and I do pretty well without a gun. We had a way in the movement of saying we cannot legislate morality, but we can regulate behavior. And while there are those who feel, who said then that, you know, you are overpromising if you think that a law banning discrimination and segregation in public accommodations is going to do anything for your ego, they will still segregate and discriminate against you, well the fact is that whereas 12 years ago I would have had to pack a greasy bag lunch to go to Atlanta, Ga., because nowhere would I be fed with dignity on the way between here and Atlanta, the fact is that today, and from July 2, 1964, I had the privilege of picking up the phone in the East Room of the White House after President Johnson had signed a bill, and calling my friend, Andy Young, who is now my colleague here, and saying to him, good news, Andy, go tell it on the mountain, over the hill and everywhere, tell Lester Maddox that either he will fry chicken for black people or he will not fry chicken. That came out of a situation where they were saying you are aiming too high, it is not going to solve the problem, and obviously I do not want to eat any of Lester Maddox's chicken anyhow, but that aside, I think we have made strides toward freedom because of that action taken place back in 1964. And I think we are going to see less death, and ministers having to perform less funerals if we can pass meaningful handgun control legislation in the 94th Congress.

Mr. ASHBROOK. I thank the gentleman. Thank you, Mr. Chairman.

Mr. CONYERS. Well Reverend, Congressman Fauntroy—

Mr. FAUNTROY. I know I preached, but I didn't mean to. I simply was answering the question.

Mr. CONYERS. Well, you did preach in a way, but we in the Congress sometimes need a little preaching to. You have combined your backgrounds in the ministry and in the civil rights movement and as an activist, I think, in a quite remarkable way in bringing your testimony to us this morning. I think it is extremely important because your bill moves beyond the great majority of the bills and tries to bring into the focus of 1975 the very painful experiences that you have testified so personally to today. So thank you on behalf of the committee for your great testimony.

Mr. FAUNTROY. Thank you.

Mr. CONYERS. Our next witness is from Texas, our distinguished colleague, John Young, who serves with distinction on the Rules Committee. We welcome you here as a friend who has been concerned with this matter about which we are taking testimony today. Welcome, Mr. Young, and you may proceed in your own way.

TESTIMONY OF HON. JOHN YOUNG, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. YOUNG. Mr. Chairman, I certainly do thank you for giving me the opportunity to appear here. I assured your very able counsel that I would be very, very brief. I told him I would take between 30 seconds and 1 minute, and so I am going to start my watch and live up to that.

Mr. Chairman, I have been extremely interested in the previous testimony with regard to the statistics. I think they are very, very interesting and challenging. I hope that we do not get this matter involved in civil rights. I think I supported most of the civil rights bills, but I cannot support gun legislation in the form in which I have seen it.

I represent an area down in South Texas. Much of it is rural, farming and ranching, and as you might suspect, they are very much opposed to gun legislation, gun control legislation.

While opposing gun control legislation, a substantial number of those citizens have told me that they would be very happy to register their guns every day of the week if it would take the guns out of the hands of the outlaws, and the thugs in the back alleys of America. They know that this will not happen and they oppose this.

Mr. Chairman, in a constructive sense I would like to suggest to this committee that if we pursue the line of gun control that we do it as Mr. McClory has suggested, to prevent crime, to lessen the activity of crime, and in that respect I would think that a bill that would put a very strict mandatory penalty on the use of any kind of a firearm in the commission of a crime would be one that the Congress ought to look at very carefully. Barring that, Mr. Chairman, I will conclude by saying that obviously this question, the feeling on this question differs a great deal in every part of the country, and I would hope in your wisdom that perhaps you might have some hearings out in the hinterlands to give those folks an opportunity to be heard, too.

Thank you very much, Mr. Chairman.

Mr. CONYERS. Well, I appreciate your coming in. I am going to ask one question and try to set the tone that if we all ask one question we will be able to move on to the other members. And my one question is, do you feel that registration then, at least that legislation that points toward registration would be acceptable to you and to your constituents alike, as well as the approach that has been suggested by our colleague from Illinois?

Mr. YOUNG. To the contrary, Mr. Chairman. I tried to make it plain that my constituents say that they would be happy to register their guns every day if it would take the guns out of the hands of the outlaws of America. But they do not think that it will, and I do not think that it will either, Mr. Chairman, because while you and I are trying to be law-abiding citizens who would conform to the law, I doubt if the people that are using them for crime would. That is just briefly my answer.

Mr. CONYERS. Fine. Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman. I think we should have in mind that the gun control legislation, the registration of handguns

as intended by the bill I introduced, and to which you made reference, is directed specifically against the criminal. It is against the commission of crime. And in the Eisenhower Commission report it was shown that in the large cities of the Nation a handgun was involved in 86 percent of the aggravated assaults, 92 percent of the homicides and 96 percent of the robberies. This is the Subcommittee on Crime and we are concerning ourselves not so much with the subject of accidental deaths in the home, which I believe probably result more from slips in the bathroom than result from accidental discharge of firearms, but we are concerning ourselves with the proliferation and the widespread use of the handgun in the commission of all types of crimes. And it is my view that Federal registration of handguns it might be one way in which we could help reduce crime in America. Registration would not take the handgun away from the legitimate ranch owner in Texas, or someone who wants to possess a handgun for his own protection in his home. In the case of the individual who legitimately applies for and receives a handgun, who purchases one and registers it, by such registration we know where that handgun is, and we know the purpose for which it is owned and held. Thus registration would protect that right, and would still be a giant step forward against the possession of handguns by the criminal elements.

I just thought the prior testimony sort of left the impression that crime was not involved in our hearings here, and that the thing we are trying to get at is the accidental discharge of firearms by people who do not know how to use handguns. I do not want to argue with that. I know that there are a great many accidental crimes of that nature, but we are after the handgun in the hands of the criminal.

Mr. YOUNG. As I say, Mr. McClory, if that is coupled with other provisions that would be of sufficient severity and of a mandatory nature to take the guns out of the hands of the outlaws and the criminals, I think it ought to be explored. I do want to say, as you have, in connection with the tragic accidents in the home referred to by my colleague, Reverend Fauntroy, nothing could be more tragic than one of those accidents that he has referred to. And all of us who have guns live in the conscious fear that that would happen. Unfortunately, so many of us do not ever think that an accident is going to happen to us, but it does and I wanted to say that.

But to go, to get anywhere with gun legislation I want to again say, as you have said so ably before, that it must attack the crime aspect of it, or I do not think that it is going to go anywhere.

Mr. McCLORY. Well I thank you for your very helpful testimony this morning. Thank you.

Mr. CONYERS. Mr. Hughes.

Mr. HUGHES. Yes. Congressman Young, as I understand your legislation you feel the thrust should be in the direction of mandatory sentences for first and second offenders?

Mr. YOUNG. Mr. Hughes, did you say my legislation? If so, that is a slip of the tongue. My testimony, I think you meant, because I have no legislation.

Mr. HUGHES. Your testimony, yes.

Mr. YOUNG. Yes, sir. I think, Mr. Hughes, we just have to have very severe penalties. For instance, the man who shot Governor Wallace in Maryland some years ago, I dare say that man violated many pro-

visions of the criminal law when he shot Governor Wallace. But unless we have extremely severe penalties, and I fear very much for the people who are supporting generally the firearm registration laws are the same ones who oppose these very serious penalties, and I am talking about the death penalty for transporting a firearm across State lines, and I am talking about a mandatory death penalty for the use of a firearm in the commission of a crime, and I am afraid that you would lose an awful lot of your supporters of gun legislation if you ever came through with a bill of that nature. So in answer to the question I say yes, sir, you are going to have to have very severe penalties.

Mr. HUGHES. If it were shown to you that in the detection and prosecution of crime and gun registration as such is a helpful tool, would you feel that would be sufficiently strong?

Mr. YOUNG. Well, Mr. Hughes, helpful? It would have to be pretty helpful, to be honest with you, before I would support it. And it would have to be quite helpful.

Mr. HUGHES. One of the very difficult problems I had when I was in law enforcement as a prosecutor was often trying to really establish the ownership of a weapon, and it would have been very helpful to be able to trace it.

Mr. YOUNG. That was mostly in connection with crime I take it?

Mr. HUGHES. Prosecution.

Mr. YOUNG. Yes, as a former prosecutor myself I would agree with you.

Mr. HUGHES. Would you not say that is enough of a reason to convince somebody to at least register a weapon?

Mr. YOUNG. No, sir, I would not. No. And I say that from the standpoint of a former prosecutor too.

Mr. CONYERS. Mr. Ashbrook.

Mr. ASHBROOK. I have no question to ask Mr. Young. I appreciate his testimony. I would only say that if we are only going to ask what would be helpful, I suppose it would be helpful to have an invasion of total privacy, to have everybody's fingerprints on hand, to have a computerized background dossier on everybody in the country. If we are talking about just being helpful, I imagine that would help in law enforcement, but I do not think that is what a lot of us want. I am sure that the gentleman from New Jersey does not want that, and I certainly do not say that to deprecate what he has said. But many of us who are honestly concerned about the threat of gun control look on that as just much an invasion on our privacy as a dossier would be with some mandatory fingerprints right down the line, and all of these would be helpful, but in a free society where do we draw the line?

Mr. HUGHES. I would like to respond to that. I was not in any respect trying to suggest that we should be unduly invading anybody's privacy, but I do think that we have to balance the various interests today, and it is a matter of balance. When I say helpful, I think it would be extremely helpful as a tool for law enforcement people to be able to trace weapons in the prosecution stage, after the fact.

Mr. CONYERS. Fine. Thank you very much.

Mr. YOUNG. Thank you, Mr. Chairman.

Mr. CONYERS. Your testimony is extremely important, and your suggestion that we visit the hinterlands in your district is one well taken.

Mr. YOUNG. Thank you, Mr. Chairman.

Mr. CONYERS. Thank you.

Our next witness is the gentleman from Maryland, Gilbert Gude, who has been in the Congress, of course, since the 90th Congress in 1966. And he served with distinction on the Government Operations Committee and the District of Columbia Committee. He has been a very able and distinguished member of those committees, and we welcome him before these initial hearings on gun control.

We do have your statement, which will be incorporated in full into the record, and that will permit you to proceed in any manner that you choose. Welcome.

TESTIMONY OF HON. GILBERT GUDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. GUDE. Thank you, Mr. Chairman.

Mr. Chairman, I applaud the Subcommittee on Crime for turning its attention toward methods of reducing the ease with which the criminal, the unbalanced, and the violently angry are now able to buy cheap handguns.

I also find much to commend in the legislation just discussed by Mr. Mikva and Mr. Fauntroy. If a breed of dog had done as much damage as the handgun, it would have been hunted down and wiped out long ago—so there is much to be said for very severe, very restrictive legislation.

However, in the past, such legislation has not fared well in the House. And even if we should get it through the House, which has many new Members, the legislation would face a Senate which has not changed all that much.

In 1972, Senator Philip A. Hart, Democrat, Michigan, supported the proposition that the handgun be entirely outlawed, except for use by law enforcement officials and, under very restricted conditions, sportsmen in licensed gun clubs. He voted for it. And so did only six other Senators.

So, you see, it is obvious that the problem is not only what legislation might be best but what legislation is possible.

In an attempt to find such an approach, Senator Adlai Stevenson III introduced in the other body the legislation I subsequently—and for the same reason—introduced in the House.

This bill would ban the sale or transfer of one notorious class of handguns, the "Saturday night special." These are guns so cheap, so small, so inaccurate and so dangerous that they have no use for sport at all. They have no use but for violence. As Senator Stevenson—who incidentally is a gun owner and hunter—said about such handguns: "You do not shoot ducks with a snub-nosed .38."

The sale, manufacture, transfer, possession or giving of the Saturday night special would be banned by this bill.

But larger, sturdier, and more accurate handguns—weapons that are less concealable and safer—would still be available for sport and protection. The weapons would have to be registered, and the handgun owner would have to obtain a Federal license, but the cost and inconvenience would be minimized.

The bill would apply to working weapons only, not to antiques and replicas.

Owners could register their guns for \$2 for the first handgun and \$1 for each additional. In the case of bona fide collections, the full fee would be \$2.

To be licensed to own handguns, you would fill out a simple form stating that you are 18 or older, free of alcoholism, drug addiction, and mental disease, not a fugitive and never convicted of a crime carrying more than a year's imprisonment. You would then be fingerprinted and photographed.

These regulations would not, I concede, stop organized crime of the "Godfather" type, but these are a small percentage of gun crimes, despite the drama attached to them.

Each of us is far more likely to be assaulted or killed by an angry relative or acquaintance or a young thug on the street. I believe that this legislation would serve to inhibit these crimes of passion and anger and these beginning street crimes.

This legislation would also provide a national base for the tighter legislation that may be needed in high-crime areas.

Mr. Chairman, the illustration to your right illustrates two weapons.

The legislation I introduced would not ban the larger one, which is a safe and accurate weapon that is hard to conceal, very difficult to conceal, and which is fine enough for marksmanship and other sport shooting. You would have to get a license to own such a gun, and the gun would have to be registered to assure that, if that weapon is misused, law enforcement personnel could trace it and its owner.

The ban I propose would be aimed at the smaller weapon, too inaccurate to be used for sport, too unsafe to keep for protection, but small enough for a fanatic in this very room to walk in with, pull out, and shoot several of us.

No other weapon would be banned, though persons who voluntarily relinquished other handguns they no longer wanted or needed could be compensated for them.

Mr. Chairman, I hope that this subcommittee will study the approach taken by this legislation, as well as other approaches, and will report out a bill which will be effective and which a majority of Members of the House and Senate can support.

The misuse of handguns will not be stopped by the introduction of legislation, whatever its merits, but only by the passage of legislation—and only then if the legislation is workable and enforceable. I hope that this subcommittee will be able to approve legislation that wins more than applause from the already convinced. I hope this subcommittee can produce a final bill so reasonable, yet effective, that it will readily become law.

Mr. Chairman, I believe the concept in American society that gun ownership is in the interest of public safety is a very misleading concept and some statistics from Detroit, I think, well illustrate this misconception. Actually, a homeowner possessing a gun is in greater danger of being killed by his own gun in an accident than he is in danger of being murdered by an intruder. In Detroit more persons died in home firearm accidents in 1 year than were killed in home robberies and burglaries in 4½ years. So I could go for a tighter bill in

this respect, but I think we owe it to the American people to have a beginning in this legislation.

I certainly sympathize with the law-abiding sports people who are very careful with their guns, and I think the legislation which Senator Stevenson introduced, and I have sponsored in the House, meets their concerns. So I hope that we will get a workable bill out of the committee, and I thank you for your attention.

Mr. CONYERS. Well, I am glad you joined us on the first day of these hearings, because it is your encouragement, among others, that has stimulated this Committee to make the first exhaustive review of the subject since we undertook hearings in mid-1972.

Mr. McClory?

Mr. McCLORY. Thank you, Mr. Chairman. And thank you, Mr. Gude, for your helpful testimony.

The smaller gun I assume is what 2 years ago we called the "Saturday Night Special." And I notice that you have definitions which would attempt to identify the type of gun that would be banned completely?

Mr. GUDE. Yes. Actually the Treasury Department already has criteria set up for banning the importation of Saturday night specials, and this legislation uses that system.

Mr. McCLORY. Another provision of your bill, which appears to be in other legislation, is a provision to encourage the voluntary surrender of firearms where the person does not want to register them or cannot retain them because they are banned. However, you state that the Federal Government should pay the reasonable value of such handgun. Who is going to determine the reasonable value of all of these handguns?

Mr. GUDE. The Secretary of the Treasury; I believe that he could successfully evaluate handguns banned by my bill, and we will attempt to come up with some total cost figure for you, Mr. McClory. I would point out that these Saturday night specials are very cheap and not worth a great deal. And so I think the cost of this legislation would certainly be much less than the compensation provided under the more stringent bills.

Mr. McCLORY. Thank you very much.

Mr. GUDE. Also, I do not know if I brought this chart to the attention of the committee: of handguns traced in crimes in four major cities in the country, the Saturday night specials considerably outnumber all other firearms that are used in these crimes.

Mr. CONYERS. Thank you, Mr. Hughes?

Mr. HUGHES. Yes, I just have one question, Congressman. I also want to congratulate you on your testimony. It has been very helpful to me. Can you tell me how the licensing would take place; what vehicle you would use? Would it be by municipality, or would it be done through central agencies of the Federal Government? How do you conceive licensing would be effected?

Mr. GUDE. The licensing would be effected through the Federal Government. Certainly I believe that local police agencies could be a vehicle under this legislation and could be utilized as a means of licensing applicants.

Mr. HUGHES. Would you have the FBI as the overall agency that would oversee?

Mr. GUDE. I think they also would be excellent.

Mr. HUGHES. And the local police would be their instruments or agents?

Mr. GUDE. Their agents. One additional idea is important here. This bill outlines the general principles of what I think is a workable and practicable plan and one which will reduce deaths. But I think a stipulation for a person who becomes licensed to carry a handgun could also require some basic knowledge of a firearm and its safe use. It is strange that we require this of people who drive automobiles, that they must show a proficiency to drive a car. But a person who gets a gun does not have to know anything about it and can go around and fire it into the sky or whatever he will.

Mr. CONYERS. Mr. Ashbrook?

Mr. ASHBROOK. Thank you, Mr. Chairman.

Mr. Gude, is it your understanding, your testimony that your legislation would refer to and cover only the so-called Saturday night specials?

Mr. GUDE. It would outlaw Saturday night specials; yes.

Mr. ASHBROOK. Only, I mean? It does not extend to other domestic guns, or handguns of any variety?

Mr. GUDE. It would extend to guns which the Treasury Department classifies as not importable. I have a copy of the criteria they use in determining the type of handgun that is excluded.

Mr. ASHBROOK. All right. We have used the word importation several times, so that I assume as a part of my question that your legislation excludes domestically manufactured handguns?

Mr. GUDE. No. It includes all domestically manufactured Saturday night specials and other types of foreign handguns that are presently excluded under the Treasury Department importation regulations—the type of firearm which they consider only really useful for a criminal but of no use to a sports person.

Mr. ASHBROOK. Again we get into a real problem with definition. So we have jumped all of a sudden from imported Saturday night specials to your statement that there would be some coverage on domestic small handguns that someone, somewhere, considers in the same general category as the foreign, imported Saturday night special. And again I think for the record this is one of the areas where there is a certain degree of misleading publicity. We always are talking about Saturday night specials and the importation of Saturday night specials, but there obviously is an area, from what you are saying, where guns that are domestically manufactured fall into that same category. Now, to reiterate, you would cover domestic guns, and not just imported and foreign guns, where they fall into the criteria you generally refer to as the Saturday night special?

Mr. GUDE. It may be that it is a question of semantics as to whether the term "Saturday night special" covers all of the guns that are excluded by the Treasury Department. I am not a gun buff, but the criteria which the Treasury Department uses is aimed at defining a weapon which would be of no use to a sportsman or to a person who is interested in marksmanship; the type of weapon which would be readily concealed such as you can see from this illustration. And whether all of those are Saturday night specials. I will have to go to the dictionary.

Mr. ASHBROOK. I think this is an area where we clearly want to look. I, for example, have a \$125 Colt .38. I suppose by some choice description that could fall under this legislation, which supposedly is directed at the cheap, imported Saturday night specials, and that is why I would ask the last question. How many standard American handguns have been evaluated under this criteria that you set out on pages 4, 5, and 6 to indicate whether or not they would come under this legislation? Do you have any such test results so that we can know with some certainty and that it would not be a question of semantics, but with some certainty what guns would fall under your legislation and which would not?

Mr. GUDE. We can certainly supply that information. In regard to the firearm you mention, we will get that evaluated and see where that falls.

Mr. ASHBROOK. I thank the gentleman.

[The prepared statement of Hon. Gilbert Gude follows:]

STATEMENT OF HON. GILBERT GUDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. Chairman, I applaud the Subcommittee on Crime for turning its attention toward methods of reducing the ease with which the criminal, the unbalanced and the violently angry are now able to buy cheap handguns.

I also find much to commend in the legislation just discussed. If a breed of dog had done as much damage as the handgun, it would have been hunted down and wiped out long ago—so there is much to be said for very severe, very restrictive legislation.

However, in the past, such legislation has not fared well in the House. And, even if we should get it through the House, which has many new members, the legislation would face a Senate which has not changed all that much.

In 1972, Sen. Phillip A. Hart, D-Mich., supported the proposition that the handgun be entirely outlawed, except for use by law enforcement officials and, under very restricted conditions, sportsmen in licensed gun clubs. He voted for it. And so did only six other Senators.

So, you see, it is obvious that the problem is not only what legislation might be *best*, but what legislation is *possible*.

In an attempt to find such an approach, Sen. Adlai Stevenson III introduced in the Other Body the legislation I subsequently—and for the same reason—introduced in the House.

This bill would ban the sale or transfer of one notorious class of handguns, the "Saturday night special". These are guns so cheap, so small, so inaccurate and so dangerous that they have no use for sport at all. They have no use *but* for violence. As Sen. Stevenson—who incidentally is a gun owner and hunter—said about such handguns: "You do not shoot duels with a snub-nosed .38".

The sale, manufacture, transfer, possession or giving of the "Saturday night special" would be banned by this bill.

But larger, sturdier and more accurate handguns—weapons that are less concealable and safer—would still be available for sport and protection. The weapons would have to be registered, and the handgun owner would have to obtain a federal license, but the cost and inconvenience would be minimized.

The bill would apply to working weapons only, not to antiques and replicas.

Owners could register their guns for \$2 for the first handgun and \$1 for each additional. In the case of bona fide collections, the full fee would be \$2.

To be licensed to own handguns, you would fill out a simple form stating that you are 18 or older, free of alcoholism, drug addiction and mental disease, not a fugitive and never convicted of a crime carrying more than a year's imprisonment. You would then be fingerprinted and photographed.

These regulations would not, I concede, stop organized crime of the "Godfather"-type, but these are a small percentage of gun crimes, despite the drama attached to them.

Each of us is far more likely to be assaulted or killed by an angry relative or acquaintance, or a young thug on the street. I believe that this legislation would serve to inhibit these crimes of passion and anger and these beginning street crimes.

This legislation would also provide a national base for the tighter legislation that may be needed in high-crime areas.

Mr. Chairman, here are two weapons.

The legislation I introduced would not ban the bigger one, which is a safe and accurate weapon which is hard to conceal and which is fine enough for marksmanship and other sport shooting. You would have to get a license to own such a gun, and the gun registered, to assure that, if that weapon is misused, law enforcement personnel can trace it and its owner.

The ban I propose would be aimed at the littler weapon, too inaccurate to be used for sport, too unsafe to keep for protection, but small enough for a fanatic in this very room to walk in with, pull out and shoot several of us.

No other weapon would be banned, though persons who voluntarily relinquished other handguns they no longer wanted or needed could be compensated for them.

Mr. Chairman, I hope that this subcommittee will study the approach taken by this legislation, as well as other approaches, and will report out a bill which will be effective and which a majority of members of the House and Senate can support.

The misuse of handguns will not be stopped by the introduction of legislation, whatever its merits, but only by the passage of legislation—and only then if the legislation is workable and enforceable. I hope that this subcommittee will be able to approve legislation that wins more than applause from the already convinced. I hope this subcommittee can produce a final bill so reasonable, yet effective, that it will readily become law.

Mr. CONYERS. Thank you very much, Mr. Gude. Your testimony embodies that concern which has spurred this committee in holding these hearings.

That concludes the scheduled testimony for our first hearing.

Without objection, the testimony of Representative Ronald V. Dellums, who was scheduled to be a witness, will be accepted into the record.

[The prepared statement and letter of Hon. Ronald V. Dellums follow:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
February 17, 1975.

HON. JOHN CONYERS, JR.,
Chairman, House Judiciary Subcommittee on Crime,
Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I would appreciate you offering the following testimony on my bill, H.R. 354, The Gun Control Registration and Licensing Act of 1975, to your subcommittee for the record. It had been my intention to appear before your committee in person to speak on behalf of my gun control legislation, but due to work in my own committee this morning, the House Armed Services Committee, I will be unable to attend the hearing. I will be glad however, to appear before your committee at a future date should you desire to hold additional hearings on my bill.

Thank you for your cooperation and understanding.

Sincerely,

RONALD V. DELLUMS,
Member of Congress.

REMARKS BY HON. RONALD V. DELLUMS, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF CALIFORNIA

Mr. Chairman, Members of the Subcommittee, I am pleased to be here this morning to emphasize the need for strong national legislation to control guns. I

believe that stringent federal arms control is extremely important to the safety of our citizenry.

We are all aware of the increasing role that guns, as tools of violence, play in our society. The annual sale of guns is approximately 2 million with approximately 34 million handguns in private hands in 1973. Needless to say, this figure is substantially higher today. Handguns, in comparison to long guns, are involved in an extraordinarily disproportionate number of homicides, assaults and armed robberies, and the percentage is increasing.

Statistics of the use of handguns in crimes are too compelling to ignore. In 1971, more Americans were *shot* to death on our streets than on the battlefields of South Vietnam. In 1973, 63 percent of the nation's homicides were committed with firearms; 53 per cent of these firearms were handguns. Firearms were used in 26 per cent of all serious assaults; 63 per cent of all armed robberies were assisted with guns.

Yet, the United States is the only Western nation with no strict national handgun controls. As a result, our homicide rate is 20 times greater than that of Denmark, and 54 times greater than that of Great Britain, both nations where gun controls are firm and protective.

Crime and gun control are inseparable. Our states must also become inseparable with a unified Gun Control law to achieve our goal of a safe and peaceful nation. There are more than 20,000 conflicting and confusing Gun Control laws throughout the country. In addition to state laws, there are frequently local ordinances also governing firearms.

The 1968 Act allows illegal gun-running operations to move across state lines. Until the nation unifies under one Gun Control law to bring an end to the tragic accidents and deaths of the people, such conditions will remain.

Last year the Intelligence Division of the New York City police traced 1800 handguns used in crimes in New York and found more than half came from Southern states. Though states with toughest gun laws have lower crime rates, overall national crime rates continue to soar.

Weapons are fired through the multiple loopholes in the 1968 Act. I deplore the easy access of guns to anyone who meets the liberal 1968 requirements. These requirements include a minimum age limit and a sworn statement of legitimacy for wanting to own the weapon. No fingerprints or identification check is made by local or state police.

The "Saturday Night Specials", banned by the 1968 Act, can be and ARE made domestically. This weapon has no conceivable sporting purpose. In 1970 alone, one million of these "specials" were assembled and sold.

Today, people can resell their guns to anyone with no regulations controlling the transactions. Thus, present laws are as good as no laws at all. My bill, H.R. 354, the Gun Control Registration and Licensing Act of 1975, is designed to prevent lawless and irresponsible use of firearms through the *complete* control of both long guns and short guns. First proposed in 1972, this measure remains a top priority. H.R. 354 is the strongest, most straightforward legislation on gun control before Congress. It is a solid, realistic bill and I foresee no difficulties in its administration.

Briefly Mr. Chairman, my bill calls for three things: (1) Mandatory registration of all firearms, including complete identification of the buyer, the dealer and the weapon. (2) Establishment of a system whereby all citizens must have a permit to hold a firearm. (3) Establishment of a program which would result in the confiscation of all handguns except for specified exceptions.

Gun buffs who claim that "it's not the gun that kills but the man behind it", luckily must never reach the irrational point of anger. In the heat of passion, even law-abiding citizens have been known to destroy with firearms—when available. A 1973 study made in Cleveland found that a firearm bought to protect a family is six times more likely to be used to kill a family member or friend. In 1972, 73 percent of all murders were committed by impulsive law-abiding citizens. And the assumption that arms control will inevitably lead to "people control" is an absurd threat by those persons who strangely believe they can stop army tanks with a handgun, or that hunters were given Constitutional protection for their sport.

The firearm is nothing but a means of destruction and cannot be justified as anything else. I urge the passage of the strongest possible gun control legislation by this Congress immediately.

Mr. CONYERS. I might remind our committee that our next meeting continuing these hearings will be Thursday, February 20 at 10 a.m. in room 2226. We will hear from Congressmen Drinan, Metcalfe, Harrington, Bingham, Murphy, and Sikes. And with that the committee stands adjourned.

[Whereupon, at 11:57 a.m., the hearing was recessed to reconvene Thursday, February 20, 1975, at 10 a.m.]

FIREARMS LEGISLATION

THURSDAY, FEBRUARY 20, 1975

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

The subcommittee met, pursuant to notice, at 10:25 a.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr., [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, Danielson, McClory, and Ashbrook.

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

Mr. CONYERS. The subcommittee will come to order. We apologize for the delay in getting a room that would be more suitable to accommodate the subcommittee and those who join us in this hearing.

We are prepared to begin, and for our first witness we have the distinguished gentleman from Illinois, Mr. Ralph Metcalfe, who has evidenced a strong concern on this specific subject and on the subject of crime ever since we have had the privilege of working in the Congress together.

You have a prepared statement which we will put into the record, and we invite you to proceed in your own way.

Congressman Metcalfe is a subcommittee chairman, and he has been a Member of the Congress since the 92d Congress. We welcome you, Mr. Metcalfe, and you may begin.

TESTIMONY OF HON. RALPH H. METCALFE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. METCALFE. Thank you very much, Mr. Chairman.

I would like to say to you, Mr. Chairman, and gentlemen of the subcommittee, that you are to be commended for holding these hearings on gun control legislation.

This subcommittee will have to examine all points of view in the days and weeks ahead. And, indeed it should. You will examine the constitutional question and the relationship of the second amendment to proposed legislation. You will examine the position of citizens concerned about the enlarging of Government activity and the diminishing of citizens' rights.

In the final analysis though, you will have to come to grips with the fact that in 1973 alone, there were 10,340 homicides by handguns. You will have to decide how best to provide for the common good.

My own city of Chicago is an example of the problems we confront. Comdr. Joseph DiLeonardi, writing in the January 1975 official publication of the Chicago Police Department, stated that the city of Chicago in 1974 experienced 970 deaths by homicide and that the major vehicle of homicide is the handgun. In 1974, there were 669 homicides committed by firearms and 73.24 percent of these were handguns. Commander DiLeonardi continued to say that this type of homicide can only be prevented by a total ban on the manufacture and sale of handguns.

The uniform crime report for the United States for 1973 issued in September 1974, states that in 1973 there were 19,510 murders committed in the United States. In 1973, firearms predominated as the weapon most often used. If we break down the murder rate by type of weapon used, we find that 67 percent were killed by firearms in general and 63 percent of the homicides were committed with handguns. This was an increase of 2 percent over the preceding years.

How many handguns exist in the United States? The U.S. News & World Report estimates around 40 million handguns, or about one handgun for every five persons. The task force on firearms, in its staff report to the National Commission on the Causes and Prevention of Violence, estimated that in 1968 there were 90 million firearms in civilian hands in the United States, 35 million rifles, 31 million shotguns, and 24 million handguns.

The Criminal Justice Coordinating Council of the city of New York issued a report in November 1973 in which it estimated that there were between 25 and 40 million handguns in the United States at that time and there were approximately 2.5 million handguns sold in the United States every year.

Comparatively speaking, the United States has more owners of handguns per 100,000 population by far than any other country. Great Britain has under 500 handgun owners per 100,000; Israel, 1,000; Canada, 3,000; then, the United States with an estimate of 12,000 to 20,000 per 100,000.

Mr. Chairman, at this point in the record I would like to include a list of cities and the handgun murder rate in those cities as prepared by the Library of Congress.

Mr. CONYERS. Yes; we will include it with your entire statement.

[The list of cities referred to follows:]

HANDGUN MURDER IN SELECTED U.S. CITIES, 1973

City	Total murder		Murder with firearm	Murder with handgun	
	Number	Rate per 100,000		Number	Rate
Atlanta	263	53.0	212	191	38.4
Boston	135	21.1	83	69	10.8
Chicago	864	25.7	614	549	16.3
Cleveland	277	36.9	222	202	26.9
Detroit	672	44.5	465	343	22.7
Houston	263	21.3	200	164	13.3
Los Angeles	489	17.4	276	172	6.1
New York City	1,680	21.3	851	810	10.3
Philadelphia	430	22.1	253	213	10.9
Pittsburgh	48	9.2	22	18	3.5
San Francisco	107	14.5	63	44	6.1
Washington, D.C.	268	35.4	161	154	20.3

Source: Basic data were obtained from FBI files. Rates were calculated by CRS, using 1970 census population data.

Mr. METCALFE. Thank you, Mr. Chairman.

Is there any public sentiment for handgun control legislation? A Gallup poll conducted in 1974 indicates that 72 percent of those interviewed indicated that they were in favor of gun registration. There was a breakdown according to size of city which I found interesting: 85 percent of those interviewed in cities with a population of 1 million and over were in favor of gun registration, 15 percent were not; 76 percent of those who lived in cities with a population over 50,000 and under 500,000 were in favor of gun registration, 24 percent were not; 62 percent of those interviewed who lived in towns with a population of under 2,500 were in favor of gun registration, 38 percent were not.

Also, 78 percent of the nonwhite citizens polled were in favor of gun registration, 22 percent were not; 71 percent of the white citizens polled were in favor of gun registration, 29 percent were not; so there does not seem to be any great disparity of opinion according to race according to this Gallup poll.

The City Council of Chicago passed a resolution—February 24, 1972—in which it called on the Congress to prohibit the ownership and manufacture of handguns.

The Chicago Tribune, in the lead editorial on October 20, 1974, called on the Congress to prohibit the manufacture of handguns or handgun parts in the United States.

WBBM radio, one of the largest stations in Chicago, in an editorial on February 6, 1974, said, "We'd like to see all handguns banned."

The superintendent of the Chicago Police Department is on record in favor of a national prohibition on handgun purchase.

The leading candidates for the Democratic nomination for the mayor of Chicago have taken a position in favor of stronger handgun control on the national level to ban the manufacture, importation, and sale of handguns except for law enforcement purposes.

Gentlemen, my assessment of the mood of the citizens from the area which I represent leads me to one inevitable conclusion and that is the citizens are ready for, if not already demanding, gun control legislation.

Black people are among the greatest victims of handgun crime in America. The people in the First Congressional District of Illinois, which I am privileged to represent, know the terror of uncontrolled handguns. They know that the only solution to this epidemic of violent handgun crime is an absolute ban on the manufacture, sale, and distribution of these weapons throughout the United States.

There are some who say that criminals, not guns, kill and stiffer penalties should be meted out to those who purchase, own, carry, or use firearms. The fact that someone will serve a long jail sentence will, in my opinion, not be very helpful to a homicide victim, nor very consoling to survivors of the victim. Nor do I think longer jail terms will deter individuals from using handguns. Further, the Uniform Crime Report for the United States for the year 1973 states that "In 1973, murder within the family made up approximately one-fourth of all murder offenses." There were 19,510 murders committed during this period and 67 percent of the homicides were committed through the use of firearms and 53 percent were committed with the use of handguns.

Chicago's Police Superintendent James Rochford pointed out that Americans are dying from firearm accidents at the rate of about 2,900 per year, and that another 20,000 persons suffer accidental injuries each year from firearms. Rochford continues by saying that firearm accident rates follow the pattern of firearm ownership. Over half of all fatal firearm accidents occur in or around the home and about 40 percent of the victims are children.

A further point might be made to those who say that people, not guns, kill and who advocate stiffer jail sentences as a result—and that point is an economic one.

Robert Sherrill in his book "The Saturday Night Special" states that it costs \$4,141 to keep a man in Lorton 9 months. The attorney general of New Jersey figured it up and said, if that punitive notion had been in effect in New Jersey for the past 7 years, it would have cost \$6 billion to keep those people in jail. I am not against stiffer jail sentences, but to concentrate on that seems to me to ignore the influence of handguns altogether.

According to an article in the December 1, 1974, Chicago Tribune, the chances of an individual in Chicago in 1974 being murdered were four times greater than in 1950: 1 person out of every 35 who died in Chicago in 1974 was a murder victim and 63 percent of these murders were committed by handguns.

What is society's responsibility in the area of handguns? John Mill, in his Treatise on Liberty, states: "The fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct toward the rest." And I would think that that statement means that society has a responsibility to protect itself from the aberrant action of certain of its citizens—and, eliminating the means whereby an injurious action is effected, certainly seems to me, at least, to be a legitimate responsibility of the Congress as the elected body having responsibility.

Mr. Chairman, while preparing for these hearings, I briefly reviewed the hearings held before Judiciary Subcommittee No. 5 in June of 1972. The legislation before that subcommittee then is basically the legislation pending before this subcommittee now.

On January 16, 1975, I introduced H.R. 1533. This bill would prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns except by members of the Armed Forces, law enforcement officials or licensed importers, manufacturers, dealers, and pistol clubs.

I strongly urge, Mr. Chairman, the subcommittee to report out legislation which would meet those objectives and sharply curtail handguns in the United States.

Thank you.

Mr. CONYERS. May I say that this is a very thoughtful and a very strong statement on the subject, and we are very grateful for your being here. Apparently your consideration for this matter was patterned after the report made by the majority of the Commissioners of the National Commission on Reform of the Federal Criminal Laws which recommended essentially a ban of the production and possession of handguns. You see, then that we as a subcommittee and the Congress are concerned with several questions dealing with this great problem.

First is whether we should merely stiffen the penalty for the use of handguns in the commission of a crime; second, whether we should regulate the production and possession and availability of handguns so that they are gradually reduced in their number among our citizenry, and I presume that is the direction in which you are moving.

Third, there is, of course, the possibility of increasing the regulations around licensing, and requiring registration of both handguns and ammunition. It seems that, in your judgment, you think that we should take handguns out of the general traffic of commerce and gradually make them unavailable to the citizenry at the extraordinary rate that they are now.

MR. METCALFE. Mr. Chairman, I do not have the figures on the number of handguns including Saturday night specials that are sold. I probably will need to research that.

MR. CONYERS. 2½ million a year.

MR. METCALFE. And that is a tremendous amount. So I would think that by the passage of legislation that would include this language that it would be a major step in the direction of curtailing the use of handguns. And I think that we have to keep in mind that many of the robberies that occur, and the thefts of automobiles occur because people are looking for handguns. It also becomes a matter of an attrition of those presently existing handguns, as criminals are caught with handguns they are confiscated and, therefore, we will eliminate them.

I think the main thing is that we need to make it difficult. For instance, in Chicago it is difficult to buy a gun. You have to fill out an application, and really qualify, and then you come back 3 or 4 days later, and then you may get a handgun, but if you go just across the border of the city into a suburb, you can get a handgun, and you can even have the opportunity to use a rifle range and practice shooting there. That is the reason we need national legislation, so that people cannot go from one governmental jurisdiction into another governmental jurisdiction and procure handguns.

MR. CONYERS. I have other questions, but I am going to defer them in view of the fact that our colleague from New York, Mr. Bingham, is here. Your statement, though, is very, very well put together and it is extremely thoughtful. And for that reason I shall defer any further questions and yield to the gentleman from Illinois, Mr. McClory.

MR. McCLORY. Thank you, Mr. Chairman. I will be brief in my questioning, too.

But I do want to commend the gentleman from Illinois, Mr. Metcalfe, on his legislation and on the very lucid presentation which he has made here this morning, particularly directing the focus of his testimony to street crime, because this Subcommittee on Crime must direct its attention, it seems to me, to legislative measures which can help reduce crime in America, particularly street crime.

The legislation which you have introduced, as I interpret it, relates to trafficking in guns. It does not affect the possession of a gun. In other words, a person who now possesses a gun would not be deprived of the right to continue to possess it, is that correct?

MR. METCALFE. Yes; I did not include that, and for the main reason that we would probably have some opposition to any gun legislation that includes that particular language. And I might be very candid

and say to my very distinguished colleague from Illinois, that it has racial overtones, and that is that many blacks do not want to give up their handguns because they say they are needed for their protection, and then the whites say that they will not give up their handguns because they are going to attack us, and when we know, in fact, that no one has prevented a robbery by the use of a handgun or prevented a stickup by having a handgun. It is ineffective, and so I would think that there would be less opposition to it.

You will note also in my bill that I have addressed myself to the major lobbies, I mean the gun lobbies, and permitted them to legitimately have guns, and that way I think that we would not have one iota of objection to the bill which I have presented to the committee.

Mr. ASHBROOK. Would the gentleman yield at that point?

Mr. McCLORY. Yes. I will yield.

Mr. ASHBROOK. I think I understood you to say something, that no one had stopped a robbery by the ownership of a gun, is that what you said?

Mr. METCALFE. Yes, yes, I mean the figures are very, very minute. In other words, having a gun in the house does not stop robberies. As a matter of fact, it encourages robberies because they break into homes when no one is there in order to steal guns so as to commit other crimes as well. I might indicate that I was talking with a police officer who was talking with a dope addict, and that dope addict told him that he satisfied his habit by going into the parking lots and breaking into automobiles, and that he found one handgun out of every three cars that he broke into. And that there was a great market for those handguns and, therefore, he was able to satisfy his habit.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. McCLORY. I think the gentleman's approach to this subject is not dissimilar from my approach in my bill which would provide for a Federal registration of all handguns. Now, I assume though that your bill, which would restrict the manufacture, trafficking, and so on in handguns, coupled with the registration law which you have in the city of Chicago, would combine that to provide that objective?

Mr. METCALFE. I will be very happy to support your version of the bill, and including the national registration, because some cities have them and some do not.

Mr. McCLORY. Well, I want to quite agree with your thought that to have legislation which would deprive the individual to possess a handgun even though registered, which he might feel is for his own protection, even though as you indicate from your testimony there is really no protection which is actually involved, nevertheless, probably that approach is consistent with what we should do in order to respect individuals and individual rights.

Mr. METCALFE. Thank you.

Mr. CONYERS. Mr. Mann.

Mr. MANN. Thank you. Mr. Chairman. I will defer questions and will merely comment that the statement of the gentleman obviously indicates much thought and research. It is a very scholarly presentation and for this we thank you.

Mr. METCALFE. Thank you.

Mr. CONYERS. The gentleman from California, Mr. Danielson.

Mr. DANIELSON. Thank you, Mr. Chairman. I want to thank my colleague, Mr. Metcalfe, for a very useful and informative presentation. I have only one question and then a comment.

You summarize your bill at the top of page 6, which would prohibit the importation, et cetera of handguns, except by, and you list a few, but one of them is dealers. How would that materially affect the present or change the present status of handling of firearms? I would think that nearly all firearms that are in the market today are handled by dealers.

Mr. METCALFE. Yes, well, the Secretary of the Treasury will set up certain standards. And in my bill I think it is spelled out that that would be dealers in guns that were maybe not pistols, but I mean dealers in target pistols and antique guns, and all of that. I mean they would be included as dealers, and that is the reason. If you cannot manufacture it, you cannot sell it, so the handgun is the one that I am particularly concerned about. But there would, of course, continue to be dealers selling rifles for hunting, and for target practice and other guns other than the handgun.

Mr. DANIELSON. You contemplate, in other words, that the Secretary of the Department would have the right to restrict—

Mr. METCALFE. My bill calls for him to have that authority, yes.

Mr. DANIELSON. Dealership to eliminate handguns?

Mr. METCALFE. Yes, and even how the guns will be purchased, and where they will be stored and all of those specifics.

Mr. DANIELSON. The comment I wish to make is I am absolutely astounded at the degree of crime apparently prevailing in New Jersey. The figure fascinated me here where the attorney general of New Jersey says it would have cost \$6 billion to keep these people in jail if the law had been in effect for 7 years. Just for the fun of it, I ran this past my pen and ink arithmetic, and that means that either 1,448,925 people up there are felons using guns in New Jersey, and that is a heck of a lot of the population, or if you divide it up in 7 years, it is still 206,989. I do not quarrel with my colleague's word, because I have had the honor of working with him for many years, and I know when he quotes somebody he quotes him right. It is just to be incredible that New Jersey is saddled with that amount of crime, and I certainly hope we get the support of their delegation on any legislation.

Mr. METCALFE. I would hope so.

Mr. CONYERS. The gentleman from Ohio, Mr. Ashbrook.

Mr. ASHBROOK. Yes. First of all, Mr. Chairman, could I, for the record, get some indication of the rules under which we were proceeding? I was not here yesterday at the outset. Is the Chair recognizing members in rotation for 5 minutes or what?

Mr. CONYERS. Well, what we have been trying to do, sir, is expedite the great number of witnesses who are going to testify. We have been really using less than 5 minutes, unless the gentleman feels constrained to employ his full time.

Mr. ASHBROOK. In some cases I would not. The only point I would make for the record is that I have been a part of the cursory and surface hearings, and I have been a part of in depth hearings, and if they

are going to be handled as in depth hearings I do not believe I would want to be—

Mr. CONYERS. How much time does the gentlemen want?

Mr. McCLORY. Would the gentleman yield?

Mr. ASHBROOK. How much times under the rules?

Mr. CONYERS. We are using the 5-minute rule.

Mr. ASHBROOK. I more often than not would not want 5 minutes, but I noticed yesterday that it was said to limit it to one question, and I thought I had missed something.

Mr. CONYERS. No; you had not.

Mr. McCLORY. Would the gentleman yield? I want to assure the gentleman of my desire to protect his right to have the full opportunity under the House rules. And I have been limiting my questions in cooperation with the chairman for various reasons, and I think we might be inclined to do that. But there is no intention to limit any member, I am sure.

Mr. ASHBROOK. Well, I asked the question, and there was certainly no implication on my part that the chairman was trying to cut me. I just thought maybe we generally agreed on something yesterday of which I was not a part of, and I did not know that, and if we had done so, I certainly would want to be a part of that because there are occasions where I might want to ask a few questions, and occasions where I would not ask any, or there may be occasions where I will ask one. But I was wondering whether we had made some agreement of which I was not a part. Thank you very much, Mr. Chairman.

Mr. Metcalfe, you make several statements. I notice on page 5 you indicate that the chance of an individual in Chicago in 1974 of being murdered was four times greater than in 1950. The implication of your testimony is that you feel that is basically because of handguns. Do you think that that is accurate?

Mr. METCALFE. Yes; I think that is accurate, Mr. Ashbrook. And also I would refer you to the statement that was made by Superintendent of Police James Rochford, and the statement that he made. Also the figures will indicate that in Chicago crime has risen. In 1973 the FBI reported that of the five largest, major cities in the United States, Chicago had the highest increase in crime. There was increase in crime throughout the Nation in 1973. We had far more people murdered by handguns in 1974 than we had in 1973, and already the statistics indicate that that number in 1974 is going to be exceeded in 1975.

Mr. ASHBROOK. Well, I certainly did not ask the question for the purpose of arguing. But, it just appears to me that there are certain basic changes in our society that relate to all us that are not necessarily the fault of a handgun. I think we are a different people probably than we were in 1950. I think we are generally a little more lawless as a people, and less concerned with other people's rights, and I would only say that I am not completely certain that it is fair to blame that on the handgun or the possession of a handgun, because it might be the social, moral, or other values of all of us as a people, not just Chicago. And I simply make that point because statistics sometimes standing alone make it look like a handgun is a problem. Maybe it is looking inwardly at us, it is more us, our problems as people than handguns. But I respect your answer.

Also, when you are citing John Mill, and refer to "aberrant action of certain of its citizens," again, I don't think you are saying there that just the ownership of a gun, or the fact that there are guns in the possession of people throughout the country represents an aberrant action of the citizens, do you?

Mr. METCALFE. What I am saying is if a person does not have a gun, he certainly cannot use it, and this is what I am attempting to do in recommending to the committee that we outlaw the manufacture of guns and take them out of the hands of people.

Now, these figures and these statistics that I have on the number of murders committed by handguns are accurate, and they certainly tell the story. I concur, and I gather from your statement, I certainly agree with you 100 percent, that the elimination of handguns in and of itself is not going to eliminate crime.

Mr. ASHBROOK. Your contention is that it would be a start?

Mr. METCALFE. We have to look at all of the socioeconomic factors that cause unemployment, discrimination, you name it, the whole gambit. But I say this committee has an opportunity to address itself to something you can do, and we in the Congress can do in order to address ourselves to one of the major problems.

I might also add to what I have not already said that the crime situation is getting so bad that maybe if the criminal had not gone to the shotgun that the number of handguns would be even larger than they presently are, I mean because many of them commit robberies with shotguns. And we have not addressed ourselves to the shotguns. I think if we can just take this giant step forward with handguns we will make a tremendous step forward in the deterrent of crime and stop the upward spiral.

Mr. ASHBROOK. One last question. Did you happen to by any chance view Governor Walker on this morning's show or know of his recent statements regarding his proposals in the Illinois Legislature?

Mr. METCALFE. Yes. I have not studied them thoroughly. I perused them yesterday in the paper, and I missed him this morning. I guess I was shaving and showering at the time. I wanted to hear him, but I concur. I think they are very innovative ideas and I think they are certainly deserving of consideration, many of the programs that he recommends.

Mr. ASHBROOK. Except that I would say to my friend and colleague that they seem to run counter to your argument in that he is clearly recommending stiffer penalties, mandatory jail sentences as an approach, and what many of us feel probably is more adequate, that is, for the misuse of the firearms against the control, whether it relates to the manufacture or ownership, and he seemed to be very definitely moving into the position of stricter penalties, tougher penalties and longer jail sentences for those who misuse the firearm.

Mr. METCALFE. Mr. Ashbrook, you will note that I indicated that I was not opposed to it. As a matter of fact, I am in favor of stricter penalties, but I said that that is little consolation for the victims. And even if you do inflict those more strict penalties, when they do get out of jail and if the handguns are still available to them, they are going to commit the same crime over again, unfortunately.

Mr. ASHBROOK. I thank my colleague for his testimony.

Mr. METCALFE. Thank you.

Mr. ASHBROOK. Thank you, Mr. Chairman.

Mr. CONYERS. You are more than welcome.

Mr. Metcalfe, it seems to me you focalized a great body of thought in terms of the views and in terms of the legislation that you bring to this committee and urge we support and move through the Congress. Clearly it is controversial, and clearly this entire subject has a certainty of emotionality around it. Clearly there are city considerations, there are ethnic considerations, and I think you brought them up very excellently in your statement here, and we are very, very grateful for your appearance here this morning.

Mr. METCALFE. Thank you very much, Mr. Chairman. I am honored and very pleased to be here to make this presentation. I appreciate the time you have given me.

Mr. CONYERS. You are more than welcome.

[The prepared statement of Hon. Ralph H. Metcalfe follows:]

STATEMENT OF HON. RALPH H. METCALFE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman: The Subcommittee is to be commended for holding these hearings on gun control legislation.

This Subcommittee will have to examine all points of view in the days and weeks ahead. And, indeed it should. You will examine the Constitutional question and the relationship of the Second Amendment to proposed legislation. You will examine the position of citizens concerned about the enlarging of government activity and the diminishing of citizens' rights.

In the final analysis though, you will have to come to grips with the fact that in 1973 alone, there were 10,340 homicides by handguns. You will have to decide how best to provide for the common good.

My own City of Chicago is an example of the problems we confront. Commander Joseph DiLeonardi, writing in the January 1975 official publication of the Chicago Police Department, stated that the City of Chicago in 1974 experienced 970 deaths by homicide and that the "major vehicle of homicide is the handgun. In 1974, there were 669 homicides committed by firearms and 73.24% of these were handguns." Commander DiLeonardi continued to say that this "type of homicide can only be prevented by a total ban on the manufacture and sale of handguns . . ."

The Uniform Crime Report for the United States for 1973 (Issued in September 1974) states that in 1973 there were 19,510 murders committed in the United States. In 1973, firearms predominated as the weapon most often used. If we break down the murder rate by type of weapon used, we find that 67% were killed by firearms in general and 53% of the homicides were committed with handguns. This was an increase of 2% over the preceding years.

How many handguns exist in the United States? The U.S. News and World Report estimates around 40 million handguns, or about one handgun for every five persons. The Task Force on Firearms, in its Staff Report to the National Commission on the Causes and Prevention of Violence, estimated that there were "90 million firearms in civilian hands in the United States . . . 35 million rifles, 31 million shotguns, and 24 million handguns . . ." (in 1968).

The Criminal Justice Coordinating Council of the City of New York issued a report in November, 1973 in which it estimated that there were between 25 and 40 million handguns in the United States at that time and there were approximately 2.5 million handguns sold in the United States every year.

Comparatively speaking, the United States has more owners of handguns per 100,000 population by far than any other country. Great Britain has under 500 handgun owners per 100,000; Israel, 1,000; Canada, 3,000; then, the United States with an estimate of 12,000-20,000 per 100,000.

Mr. Chairman, at this point in the record I would like to include a list of cities and the handgun murder rate in those cities as prepared by the Library of Congress.

HANDGUN MURDER IN SELECTED U.S. CITIES, 1973

City	Total murder		Murder with firearm	Murder with handgun	
	Number	Rate per 100,000		Number	Rate
Atlanta.....	263	53.0	212	191	38.4
Boston.....	135	21.1	83	69	10.8
Chicago.....	864	25.7	614	549	16.3
Cleveland.....	277	36.9	222	202	26.9
Detroit.....	672	44.5	465	343	22.7
Houston.....	263	21.3	200	164	13.3
Los Angeles.....	489	17.4	276	172	6.1
New York City.....	1,680	21.3	851	810	10.3
Philadelphia.....	430	22.1	253	213	10.9
Pittsburgh.....	48	9.2	22	18	3.5
San Francisco.....	107	14.5	63	44	6.1
Washington, D.C.....	268	35.4	161	154	20.3

Source: Basic data were obtained from FBI files. Rates were calculated by CRS, using 1970 census population data.

Is there any public sentiment for handgun control legislation? A Gallup poll conducted in 1974 indicates that 72% of those interviewed indicated that they were in favor of gun registration. There was a break down according to size of city which I found interesting: 85% of those interviewed in cities with a population of 1,000,000 and over were in favor of gun registration, 15% were not; 76% of those who lived in cities with a population over 50,000 and under 500,000 were in favor of gun registration, 24% were not; 62% of those interviewed who lived in towns with a population of under 2,500 were in favor of gun registration, 38% were not.

Also, 78% of the non-white citizens polled were in favor of gun registration, 22% were not; 71% of the white citizens polled were in favor of gun registration, 29% were not; so, there does not seem to be any great disparity of opinion according to race according to this Gallup poll.

The City Council of Chicago passed a resolution (February 24, 1972) in which it called on the Congress to prohibit the ownership and manufacture of handguns.

The Chicago Tribune, in the lead editorial on October 20, 1974, called on the Congress "to prohibit the manufacture of handguns or handgun parts in the United States."

WBBM radio, in an editorial on February 6, 1974, said "We'd like to see all handguns banned."

The Superintendent of the Chicago Police Department is on record in favor of a national prohibition on handgun purchase.

The leading candidates for the Democratic nomination for the Mayor of Chicago have taken a position in favor of stronger handgun control on the national level to "ban the manufacture, importation and sale of handguns" except for law enforcement purposes.

Gentlemen, my assessment of the mood of the citizens from the area which I represent leads me to one inevitable conclusion and that is, the citizens are ready for, if not already demanding, gun control legislation.

Black people are among the greatest victims of handgun crime in America. The people in the First Congressional District of Illinois know the terror of uncontrolled handguns. They know that the only solution to this epidemic of violent handgun crime is an absolute ban on the manufacture, sale and distribution of these weapons throughout the United States.

There are some who say that criminals, not guns, kill and stiffer penalties should be meted out to those who purchase, own, carry or use firearms. The fact that some one will serve a long jail sentence will, in my opinion, not be very helpful to a homicide victim, nor very consoling to survivors of the victim. Nor do I think longer jail terms will deter individuals from using handguns. Further, the Uniform Crime Report for the United States for the Year 1973 states that "In 1973, murder within the family made up approximately one-fourth of all murder offenses." There were 19,510 murders committed during this period and 67% of the homicides were committed through the use of firearms and 53% were committed with the use of handguns.

Chicago's Police Superintendent Rochford pointed out that Americans are dying "from firearm accidents at the rate of about 2,900 per year," and that "another 20,000 persons suffer accidental injuries each year from firearms." Rochford continues by saying that "Firearm accident rates follow the pattern of firearm ownership." Over half of all fatal firearm accidents occur in or around the home and about 40% of the victims are children.

A further point might be made to those who say that people, not guns, kill and who advocate stiffer jail sentences as a result—and that point is an economic one.

Robert Sherrill in his book "The Saturday Night Special" states that "It costs \$4,141 to keep a man in Lorton nine months . . . The Attorney General of New Jersey . . . figured it up [and said] . . . If that punitive motion had been in effect in New Jersey for the past seven years, it would have cost \$6 billion to keep those people in jail." I am not against stiffer jail sentences, but to concentrate on that seems to me to ignore the influence of handguns altogether.

According to an article in the December 1, 1974 *Chicago Tribune*, the chances of an individual in Chicago in 1974 being murdered were four times greater than in 1950; one person out of every 35 who died in Chicago in 1974 was a murder victim and 63% of these murders were committed by handguns.

What is society's responsibility in the area of handguns? John Mill, in his *Treatise on Liberty*, states that: ". . . the fact of living in society renders it indispensable that each should be bound to observe a certain line of conduct towards the rest." And I would think that that statement means that society has a responsibility to protect itself from the aberrant action of certain of its citizens—and, eliminating the means whereby an injurious action is effected, certainly seems to me, at least, to be a legitimate responsibility of the Congress as the elected body having responsibility.

Mr. Chairman, while preparing for these hearings, I briefly reviewed the hearings held before Judiciary Subcommittee Number 5 in June of 1972. The legislation before that Subcommittee then is basically the legislation pending before this Subcommittee now.

On January 16, 1975 I introduced H.R. 1533. This bill would prohibit the importation, manufacture, sale, purchase, transfer, receipt or transportation of handguns except by members of the Armed Forces, law enforcement officials or licensed imports, manufacturers, dealers and pistol clubs.

I strongly urge the Subcommittee to report our legislation which would meet those objectives and sharply curtail handguns in the United States.

Thank you.

Mr. CONYERS. Our next witness is the gentleman from New York, Mr. Jonathan Bingham, who has served with us since the 89th Congress. He is well known to all of the members of this subcommittee.

We do have your statement, and it will be incorporated in its entirety into the record, which will allow you to proceed as you choose, and will maximize the time we will have for discussion if the members would like to engage in questions. Welcome.

TESTIMONY OF HON. JONATHAN B. BINGHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. BINGHAM. Thank you very much, Mr. Chairman, and members of the subcommittee for this opportunity to appear before you. I want to congratulate you, Mr. Chairman, on holding these hearings. I believe they are the first hearings which delve in depth into this whole question of weapons control, and I think it is a great step forward and a great sign of progress that you are holding these hearings.

I would like to testify today on behalf of the bill that I introduced on the first day of the Congress, which was then given the number H.R. 40, and which I introduced yesterday with 17 cosponsors. And I would like you to know, because I am very proud of these cosponsors, who they are. They are: Mr. Rosenthal of New York, Mr. Mitchell of

Maryland, Ms. Abzug of New York, Mr. Moakley of Massachusetts, Mr. Won Pat of Guam, Mr. Edwards of California, Mr. Koch of New York, Mr. Richmond of New York, Mrs. Chisholm of New York, Mr. Badillo of New York, Mr. Rangell of New York, Mr. Daniels of New Jersey, Ms. Holtzman of New York, Mr. Waxman of California, Mr. Vander Veen of Michigan, Mr. Yates of Illinois, Mr. Stark from California, and Mr. Solarz of New York.

Now briefly, this bill not only prohibits the sale and manufacture of handguns, but also prohibits the possession of handguns by all persons except law enforcement officials and members of the Armed Forces, and as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors, and pistol clubs for recreational purposes, with careful security measures for the weapons which would be kept at the clubs.

The bill would allow a period of 6 months after the effective date of the act during which any handgun owner could turn in his gun without legal liability and receive a cash reimbursement. After this period owners could still turn in their pistols voluntarily without risking prosecution, but would not be reimbursed.

I have been actively concerned with this issue, as you know, Mr. Chairman, ever since we both came to Congress. Last year I inserted a series of 55 news items and comments in the Extensions of Remarks under the title "Ban the Handgun," which showed that the majority of crimes with handguns occur between people who know each other, people who have family relationships or other relationships that bring them together.

I do have a sense that the climate of opinion is changing. We had yesterday a press conference on this subject, and to illustrate the kind of support that this sort of a measure has attracted, we had the former police chief of New York, Mr. Patrick Murphy, now head of the Police Foundation, who supports this general approach that we have suggested, and the former police chief of Washington, Mr. Jerry Wilson. We had the mayor of New York City, Mr. Beame, speaking on behalf of the Conference of Mayors which has adopted this position.

The major points I want to make today are that there is such a compelling need for strict handgun control legislation, and second, that such legislation must ban possession as well as manufacture and sale.

On the question of the necessity of legislation, I do not want to go into detail because I know other witnesses have presented that point very effectively. I think it is just a tragedy that we have in this country such ready access to handguns, and so many of them around that crimes occur daily which in all probability would not occur if those handguns were not readily available. I think that the public is more and more sympathetic and favorable to the idea of strong weapons control. Our mail, as Members of Congress, tends to be from those who oppose gun control, but I know from my own questionnaires in my district that 95 percent of my constituents want strong Federal gun controls. I think the other Members have had the same experience.

I heard from one Member yesterday, and I do not want to quote him by name because that would be up to him, that he had recently taken a poll on the very subject of banning handguns from private possession and had found that a large majority of his constituents were

in favor of that. What we are proposing is not an impossible task. Other nations have done it, and what other nations have done has shown how much banning handguns from private possession can do to eliminate and reduce handgun crime. For example, in a recent year, Tokyo, which is a city of 10 million people, larger than the city of New York, had exactly 3 handgun killings in the course of 1 year, because you cannot buy a handgun in Tokyo. You cannot get it. England and Wales, with a combined population of about 50 million, had 35 murders by firearms in 1973, while the United States had 13,000 gun murders of which 10,340 were by handgun. The city of New York alone, my city, had over 800 handgun murders in 1973, 23 times the number of gun murders in England and Wales combined, and in an incredible 266 times Tokyo's record.

Our gun homicide rate is 5 times Canada's, 20 times Denmark's, 67 times Japan's, and 90 times the Netherlands.

Now, as I indicated before, about three out of four murders are crimes of passion where the victim is killed by someone he or she knows during an argument or a fight. A handgun being present makes it a fatal argument in many, many cases. If it were not there, the fight might in all probability not result in death. No other weapon is as deadly or as easy to use. It is a lot harder to use a knife or a blunt instrument, so we must put the family gun out of reach if we mean to end handgun deaths.

Now, that has to do with my second point, which is that we have to attack possession, we have to go after possession. I have the greatest respect for our colleague from Illinois, Mr. Mikva, but I differ with him on this point. The estimate is that there are 40 million handguns in the United States. If we just control the sale and manufacture we are not doing anything about those 40 million, and we can go on for 100 years just limiting the sale and manufacture and not really getting to the heart of the problem. So, tough as it is, and I know it is tough, I know it will take time, there are many problems involved in going after possession, but I think we have to face up to it and we have to start, even though it will take years. I am not saying that it can be done tomorrow or the next day, or the next week or the next year. My own guess is that it might take 10 years under a program such as outlined, but I submit to you, Mr. Chairman, and members of the committee, that if you did not go after possession it would take 100 years to get handguns out of the people's hands and limit the damage that they do every day.

More than half of our murders are handgun murders in this country. I think conceivably we could cut down the murder rate in this country by perhaps half, close to half, if we just made it impossible for the average private citizen to get a hold of a handgun.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Jonathan B. Bingham follows:]

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

Mr. Chairman, members of the Subcommittee, thank you for inviting me to testify before you today. I am here on behalf of a bill that I introduced myself on the first day of the 94th Congress, and again yesterday with 17 cosponsors. HR 40:

(1) Prohibits the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns or handgun ammunition, except for

or by members of the Armed Forces, law enforcement officials, and as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors, and pistol clubs.

(2) Establishes a procedure for the licensing of pistol clubs for legitimate recreational purposes, with careful security measures for members' weapons.

(3) Allows 180 days after the effective date of the Act during which any handgun owner could turn in his gun without legal liability, and receive a cash reimbursement. After this period, owners could still turn in their pistols voluntarily without risking prosecution, but would not be reimbursed.

I have been actively concerned with this issue ever since I came to Congress. Last year I inserted a series of 55 news items and comments in the Extensions of Remarks under the title "Ban the Handgun", to illustrate the need for such action. I will be renewing that series shortly. But never in all the time I have been speaking out for gun control, and particularly handgun control, have I had such a sense that success is imminent. This is the Congress that can finally take action to break the grip the handgun has on America.

In a broad sense, there are only two points I want to make to the Subcommittee today—first, that there is a compelling need for strict, Federal handgun control legislation; and second, that such legislation must ban the possession, as well as the manufacture and sale, of handguns if it is to be effective.

I am very pleased that these hearings are being held. Our presence here is indicative of the steadily growing national consciousness that the time has come to do something substantial about the plague of handgun violence across the nation. That consciousness is evidenced by the proliferation of editorial comments and documentary news pieces on the issue. It is evidenced also by the formation of new local and national organizations dedicated to obtaining legislative action to control handguns, and by the distinguished list of individuals and organizations who have come out for strict Federal legislation.

More and more Americans are becoming aware that there is a way to reduce the number of murders and deaths that we read about in the newspapers each day, or hear of on the TV news in the evening. They are becoming angry that Congress has not moved to do anything effective about the situation. They know that we should not tolerate 10,000 handgun murders a year. We should not tolerate all the robberies and assaults committed with handguns. We should not tolerate the accidental deaths and injuries, or the unpremeditated and often unintentional killings of friends and relatives, which happen because somewhere in the house there is a family pistol. That pistol is nearly useless for self-defense; in fact, it is six times as likely to be used against a family member as it is to be used against an intruder. It is a target for criminals. There is not one good reason for it to be there, and I propose that we remove it.

This is not an impossible task. Most of the other nations in the civilized world have already done so, and the numbers prove the success of the approach. Tokyo, a city of 10 million, had 3 handgun murders in 1973. England and Wales, with a combined population of about 50 million, had 35 murders by firearm. Meanwhile, the United States had 13,072 gun murders, of which 10,340 were by handgun. New York City alone had over 800 handgun murders in 1973—23 times the gun murders in England and Wales and an incredible 236 times Tokyo's handgun murders. Our gun homicide rate is 5 times Canada's, 20 times Denmark's, 67 times Japan's, and 90 times the Netherlands'.

The desperate need for handgun control is further illustrated by this unhappy statistic: about 3 out of 4 murders are crimes of passion, in which the victim is killed by someone he or she knows, during an argument or fight. A handgun makes a point chillingly final. It probably would not be used if it were not on the mantel, or in the closet, or in a dresser drawer. No other weapon is as deadly. Death results from one in 5 gun attacks, compared to one in 20 with a knife. We must put the family gun out of reach if we mean to end handgun death.

This bears out my second major point—only a prohibition on possession of handguns by private citizens will get the job done. Proposals for registration and licensing, or for a ban on sale and transfer only, are halfway measures. A Saturday Night Special bill may eliminate cheap handguns, but cheap handguns are only a single dimension of the problem. The toll of human life taken by handguns is not related to their price or quality, or to their sale or movement. It results directly from the fact that there are about 40 million handguns in private hands. Most of these handgun owners are decent, law-abiding citizens, but their homes represent a vast warehouse for criminals. As long as those guns remain in private

hands, criminals will be able to steal them, and use them to rob and murder. Our job is to close down the warehouse, not merely to stop deliveries to it or to upgrade the quality of its inventory.

I also want to emphasize briefly the need for *Federal* legislation. States and localities cannot do this job on their own. New York City, with one of the strictest handgun laws in the nation, is still beset with handgun problems not because the statute is weak, but because it cannot be effectively enforced in view of the absence of similar laws in nearby jurisdictions. A tough statute, uniform across the nation, is the only tool that will give law enforcement officials the means to attack the problem of handgun violence.

I recognize that even if we could pass this bill today, we wouldn't be rid of handguns tomorrow. It will take time, even with reasonable compliance and intelligent enforcement, to reduce the handgun supply and the attendant crime and death. But I know we can agree that a society free of death by handgun is a goal worthy of great striving. It is incumbent on this Congress to take the first steps down that road.

The vast majority of Americans favor strict Federal gun control; 95% in my district. Unfortunately, this majority is all too silent, and a vocal minority have held the Congress in sway. We ought to listen to the majority we know is there. Not a shred of evidence suggests any necessity for the possession of handguns by private citizens. We can allow it no longer. It is time to move from discussion to legislative action.

Mr. CONYERS. I know that you have had a great deal of experience in this matter, and your testimony now stakes out another position along the spectrum that this subcommittee has to choose from, and I think it is important that you indicated the kind of support that you are getting. How would we begin, Mr. Bingham, the implementation of such a program? That is, would there be in your mind a bounty proposal so that people would be able to turn in the guns that they possess, or would you allow the citizenry to keep the guns they possess and allow no more to come into possession or ownership?

Mr. BINGHAM. My bill would provide that for the first 180 days a gun owner can turn in his handgun and be paid for it \$25 or the market value. I recognize that could be an expensive thing, but I think it would be the greatest investment that we ever made in combating crime in this country. After that 180-day period, any owner of a handgun could turn it in, and would not be prosecuted if he turned it in. In effect, he would have an amnesty for his previous possession. But if he, let us say, were arrested in the course of a crime and had a handgun on him, that would be another offense. That is, he would be charged with the crime he was committing and also the possession of the handgun. So possession after that period of time would be a crime. And obviously the principal means of enforcement would be picking up weapons as they became visible.

I do not visualize any great mass effort by the police to visit every home or every apartment or anything like that. But the fact that the handguns would be illegal means that once the weapon appears in the course of any crime, that would be a second crime. I want to emphasize that I am talking about handguns, not rifles or shotguns, because I recognize that the sportsmen of this country have a tremendous interest in preserving their right to use rifles and shotguns, and I think that is a legitimate interest and should be protected.

Mr. CONYERS. What about the identification of weapons in this country, the registration requirements? New York, of course, we know has had a serious problem in view of the fact that although they have good registration laws, you have the influx of weapons coming

in mostly from Southern States and sometimes from out of the country.

Mr. BINGHAM. That is right.

Mr. CONYERS. Which is in effect self-defeating.

Mr. BINGHAM. That is correct, Mr. Chairman. Mayor Beane testified yesterday that although we have the toughest handgun control law in the country, the so-called Sullivan law, it does not do the job because the guns come in from elsewhere. I think you said that two-thirds of the arrests of people with guns showed that the guns have come from out of the State, and I would go further and say that I do not think registration alone would do the job. I think that registration is just a half measure. I am for it, but I do not think that it alone will do the job.

Mr. CONYERS. What about the question of this tremendous manufacture of guns in this country? Some 2½ million guns are added to the 40 to 50 million that are estimated to be loose in the country right now. The manufacturer and importers, of course, is the ultimate problem, and it seems to me that unless we address ourselves to this, we are in a losing battle, no matter what other curtailment might be brought into effect. It would be very difficult to have any lessening in the incidence of crime or homicide if we are, in fact, adding some 2½ million weapons annually into our society.

Mr. BINGHAM. Mr. Chairman, I could not agree with you more. I think that we are literally out of our minds in this country to allow 2½ million deadly weapons, which have no purpose but to kill people, to be manufactured and sold in in this country every year. We are out of our minds. If visitors from Mars came to see us and looked us over they would say, "What are they doing? They are just allowing the manufacture and sale of these easy to use deadly weapons."

Now, another way to look at it is this: if we were starting from scratch, if there were no handguns in this country at all today, and someone came along with the proposition that somebody should be allowed to manufacture and sell these things, do you think that we would put up with that for a minute? Not at all. We are just going along with this because it is tradition and custom, and I think it is time that we broke away from that tradition.

Mr. CONYERS. Thank you very much.

Mr. McClory?

Mr. McCLORY. Thank you, Mr. Chairman. The gentleman from New York and I have been working on this general subject for some time.

The only problem I have with the gentleman from New York is his zeal to eliminate the accidents which are caused from handguns. It seems to me to go beyond what is possible to achieve in the Congress and perhaps what even is desirable. The whole argument, or the very popular argument against gun control legislation, is that we are trying to take guns way from people; we are trying to confiscate guns. And I recall that I offered an amendment in the 1968 Omnibus Crime Bill to provide for Federal registration of handguns, and I thought we were doing pretty well. The gentleman offered an amendment to my amendment to include rifles and shotguns, which may be consistent with the gentleman's position, but I think that that over-ambitious position really hurt our opportunity to get some handgun

control legislation then and would hurt the opportunity now. Do you want to comment on that?

MR. BINGHAM. Yes, I would certainly like to, Mr. McClory. My own thinking on this has changed. I really do believe that licensing and registration of rifles and shotguns, while it would be a nice thing, and I still would be for it is way off the beam of what we are really trying to do, which is to move toward solutions to the crime problem in this country. And if I had to choose between licensing and registration of rifles and shotguns and doing something real about handguns, there is no question in my mind which way I would go. So you are right, it is obviously going to be difficult to get a bill like this through the Congress. On the other hand, I think we are, by focusing on handguns, by-passing a great part of the opposition of the sportsmen and the conversation groups, who are interested in guns and rifles and shotguns.

I spoke just this morning with a Member of Congress from a Western State. I will not quote him by name, but he is interested in my legislation because it is focusing on handguns and does not touch the problem of rifles and shotguns. So I think we have a chance, and at least we have made a start. I think these hearings are a start. If we can go as far as Mr. Mikva's bill this year, and in another year go to possession, fine. But at least I am stating what I think ought to be done.

I would just like to add this one thing. I am not a positive kind of a person. I often am not sure whether I am right on a subject, but on this one I am just more convinced than on any other issue that this is the right way to go.

MR. McCLORY. Well, the gentleman is a very able person, and a very capable person, and a very persuasive person, so I do not want to question that. But, I do not know that the gentleman is always a realistic person when it comes to his ideology with regard to gun control legislation.

But be that as it may, one of the principal arguments I hear against the Sullivan law, the registration law which applies in the city of New York, is that, well, they do not have such a law in New Jersey, or they do not have it in other States. Do you not feel that a Federal registration law, which would not deprive any individual who feels that he wants a gun for his own protection in his home, or for whatever legitimate purpose or reason he might feel that he wants it, if applied nationally would be an effective way of reducing street crime by identifying, certainly identifying gun owners, identifying those who are involved when a crime has been committed with a gun?

MR. BINGHAM. Mr. McClory, I think it would be a step in the right direction to have national registration of handguns, and, if I interfered with your effort to get that a few years ago, I am sorry.

MR. McCLORY. You are not interfering with it now, though, are you? I mean, if we can get that?

MR. BINGHAM. I do not think it would do the job. I think if we have national registration for every gun that some 10 years from now we will still have the same problem. It leaves the rest of the guns in circulation and around.

One other point is that although the Sullivan law is a registration law, but if adopted nationally it would be a big step forward. This is because in order to get a license you must prove your need for that handgun, and this is made very difficult. But I don't think simple registration will do the job.

Mr. McCLORY. Well thank you very much.

Mr. BINGHAM. Thank you.

Mr. McCLORY. I yield back the balance of my time.

Mr. CONYERS. I do not know how much there was left in the balance, but the interrogation was extremely important.

The gentleman from South Carolina, Mr. Mann.

Mr. MANN. No questions. Thank you, Mr. Chairman.

Mr. CONYERS. The gentleman from Ohio, Mr. Ashbrook.

Mr. ASHBROOK. Yes. Thank you, Mr. Chairman.

I listened with interest to my friend's statement, because over the years I have respected his views, even though on many occasions we obviously have come to different conclusions. There were two things you said, however, Mr. Bingham, that I would like to have you shed a little light on or to further amplify your thoughts, because quite frankly I take a contrasting point of view on both of them.

First of all in your statement, which I thought was a little amazing, knowing your respect for individual differences, preferences, civil liberties, you indicate that you do not think that there is any valid reason for a person to own a firearm. On page 2 you say there is not one good reason for it to be there. I mean, is that a little overstatement, or is that—

Mr. BINGHAM. It may be a little argumentative.

Mr. ASHBROOK. You are obviously putting yourself into other person's minds in the country as to what is good, bad, right, or wrong, and I find it a little strange coming from a civil libertarian.

Mr. BINGHAM. Well let me put it another way. I know that there are many people who sincerely believe that they need a handgun in their home, let us say to protect themselves. But my conviction is that they are wrong in that believe, and that really it is not a valid reason. The statistics show, and this was brought out by our former police chief yesterday, that a handgun in the home is six times as likely to kill someone of the family as it is to do something about repelling an intruder.

Mr. ASHBROOK. Well, I know. But what if I still want one?

Mr. BINGHAM. Well, I would say that civil liberties just do not go that far any more, any more than I would want you to have a nuclear bomb in your home if you felt that was necessary.

Mr. ASHBROOK. This is one place that you would really draw the line?

Mr. BINGHAM. I am afraid so.

Mr. McCLORY. Would the gentleman yield?

Mr. ASHBROOK. Yes.

Mr. McCLORY. There are undoubtedly more accidents on the stairway, or say in the bathtub than there are because of guns. Now, we are not going to get rid of all the bathtubs because people cause accidents to themselves in the bathtub.

Mr. BINGHAM. No, but we try to do what we can to eliminate unnecessary hazards. We try to do what we can to reduce the carnage on the highways, and we have gone a long way in that direction. I think we should do the same with guns.

Mr. McCLORY. We register cars and have licensing of the owners, but we are not doing it by confiscating automobiles.

Mr. ASHBROOK. OK, I accept that from the gentleman because I respect his views, and I guess we just differ.

The other point I think is continually used, and I am not sure I agree, and like you I am not positive on this, I could be wrong, except when I go to New York City I just do not worry so much about whether somebody is going to get to buy a gun, I just worry about whether they are going to get me, by a knife, by a piece of rope, by an arm that is stronger than my neck, or however it is. Do you honestly believe, and to quote what you said to Mr. McClory, that this is to do something about crime? Do you seriously believe that that would cut down the crime problem in New York where you are probably the most knowledgeable, to simply take handguns away?

Mr. BINGHAM. If we could do what this bill aims to do, I just have no doubt in my mind about it. I do not see how anybody could argue with that. I cannot accept the argument that this is going to be ineffective because it will leave the guns in the wrong hands, although that is a problem that we have to face, the difficulty of enforcing this program. But if we could get to the point where nobody has handguns, then we could have a crime rate like that in other civilized countries. Japan is not a nonviolent country. They do have other crimes. They do have murders, but as far as handgun murder is concerned, that most convenient of murder weapons is not available to them, and the results show it.

Mr. ASHBROOK. Let me examine that a minute. You said earlier that there is a tougher law in New York than anywhere else, and yet you have a gun problem. What would lead you to believe if we had a Federal law rather than a State law, or even a New York City ordinance that it would dry up the guns which you say are the major problem in New York?

Mr. BINGHAM. Well, again, I would quote the former police commissioner and the mayor. The problem in New York is that it is simply impossible to enforce the law because it is so easy to bring guns in from outside. That is why we have to have a national law.

Mr. ASHBROOK. You mean your people in New York would respect a Federal law but do not respect the Sullivan law?

Mr. BINGHAM. No. You have to have the means of enforcement nationwide in order to get enforcement in the city. We would have the same problem with people trying to avoid this law, no question about it, if it were on the books.

Mr. ASHBROOK. Well, I would merely say that is one of the statements in your comprehensive statement, and I think that we have a difference on that. I probably would differ with it, and I honestly do not see that it would make that much difference. I think the argument is a little self-defeating where you have a tough law on the books, and yet people do not respect that law, yet if we had a Federal law they would respect that. I guess I just do not buy that.

Mr. BINGHAM. Can I pursue it this way, Mr. Ashbrook? I respect your views very much, but I do not claim that the criminal element would abide by this law if it were placed on the books today. They would probably be thumbing their noses at it, but I would say that over a period of time you could reduce very substantially the number of handguns that are in circulation in the criminal element, and a part of the reason you would do that is that one of their main sources of

supply is stealing guns from honest people, as Mr. Metcalfe indicated before. They steal guns out of cars, they steal them from homes. This is one of the ways that criminals get a hold of them, so that in time you would reduce the availability of guns for the criminal element. I am not claiming for a minute that they are going to be turning over a new leaf and saying, "Oh, well, guns are now outlawed so we are going to turn ours in."

Mr. ASHBROOK. I would just say in closing those are two or three basic arguments that I would question. The last one I was going to raise was the question of whether or not private ownership constitutes an arsenal for the criminal to avail himself of firearms. I happen to believe most criminals, statistics show, go into a house to rob it for other reasons, not in search of a firearm, and if they find one, it is at least at random or by accident, and yet those who propose this continually say that private ownership of handguns constitutes an arsenal, in effect, for the criminal. And again, I guess we would differ on that. I respect your opinion, but I think the record ought to show that some of us question those contingents as making it necessary for your bill.

I thank the gentleman for his testimony, and, Mr. Chairman, again I thank you for recognizing me.

Mr. CONYERS. Mr. Danielson.

Mr. DANIELSON. I thank you, Mr. Chairman, and thank you, Mr. Bingham, for your presentation. I do not recall, Mr. Bingham, whether you are a lawyer or not, and I want to ask you a question.

Mr. BINGHAM. Yes, I am a lawyer.

Mr. DANIELSON. Good. In your bill, how do you propose to enforce the ban on firearms? Through what device?

Mr. BINGHAM. Well, as I have indicated, the first step would be for the first 6 months to offer to pay for all of the handguns that are outstanding. Then after that period any gun that was turned in would not lead to prosecution. Beyond that I would say that the principal focus of enforcement would be picking up all handguns as they become visible. You would be closing down the stores, you would be closing down the sources of supply, and gradually you would be getting to the people that have them. I think that the majority of the people in this country are law abiding.

Mr. DANIELSON. Mr. Bingham—

Mr. BINGHAM. I think the majority of the people would turn them in. As I said to Mr. Ashbrook, I do not suppose for a minute that overnight the criminal element is going to do so, but you get at that problem over time.

Mr. DANIELSON. I thank you. You are being very responsive, but my question was poorly stated. What constitutional basis do you have, and I am not talking about the second amendment. I know that the Federal Government can enact through the Interstate Commerce laws, through the Post Office clause. I suppose we can tax, and the power to tax is the power to destroy. What constitutional basis do you have in your bill which would authorize the Federal Government to declare a weapon to be contraband and, therefore, subject to seizure?

Mr. BINGHAM. I think on the same basis that gives you authority to declare narcotics contraband.

Mr. DANIELSON. Your bill imposes a tax upon the firearms, is that the idea?

Mr. BINGHAM. Well, that might be one way of doing it. I had not thought of that precise problem, frankly, Mr. Danielson. I had thought that the parallel was there in terms of narcotics. If it is necessary to reach it legally through the taxing power, perhaps that is something that should be considered. You on the Judiciary Committee are better qualified than I to answer that.

Mr. DANIELSON. As the gentleman knows, we must either approach this legally or not at all.

Mr. BINGHAM. Of course.

Mr. DANIELSON. And we can tax things out of existence. Now, I do not know whether your bill provides for taxes or not, and obviously it is our responsibility, if we should pass a bill out of this committee, to have it be constitutional. I think that can be done. I am not sure. But you see, let us suppose that within the State of New York, let us say Albany, just to pick a city, somebody today owns a gun. It is no longer traveling in interstate commerce, it is not going to be going through the mail, and we have to hypothesize all of these facts. How can we legally take possession of that gun unless it is voluntarily surrendered? Maybe the tax would be valid. I have not looked into that.

Mr. BINGHAM. Well, I am sorry to say that I have not really confronted the question you raise. I would like to pursue it and submit a memorandum to the subcommittee.

Mr. DANIELSON. We will welcome any aid. I think your objective is excellent, but we have got the practical problem of making it work.

Mr. BINGHAM. You raise a very real problem, and I want to pursue it.

Mr. DANIELSON. Thank you very much.

Mr. CONYERS. Well, we have run out of questioning, and it seems that the thrust of your testimony and your legislation is a new and major consideration that this committee must weigh very carefully in reaching some kind of conclusion on the problem that you have described as one whose time to be dealt with has arrived.

Thank you very much.

Mr. BINGHAM. Thank you, Mr. Chairman.

Mr. CONYERS. The Chair notes that we have three Members of the Congress now waiting to testify, Mr. Sikes, Mr. Collins, and Mr. Drinan, and we are now going to ask the gentleman from Florida, Mr. Robert L. Sikes, if he will join us in testifying now. He is, of course, well known as a subcommittee chairman on our powerful Appropriations Committee. He has been very active in this whole area of gun control legislation and has I am sure strong views on it, although I have not seen his statement. We all have copies of your statement, Mr. Sikes, and it will be incorporated in the record; that will allow you to testify in whatever manner you choose because of the shortness of time which you have indicated.

TESTIMONY OF HON. ROBERT L. F. SIKES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. SIKES. Thank you, Mr. Chairman. You are very considerate, and I do appreciate this opportunity. My Committee on Appropriations is in meeting on rescissions, and that is a very important subject.

Mr. CONYERS. You mean reduction in the defense budget?

Mr. SIKES. This is a full committee meeting on all rescissions that have been proposed by the administration, so it is a rather stormy session, and I do need to get back as soon as I can. As you know the Appropriations Committee has responsibility to concur, to modify, or to reject administration recommendations. But I appreciate this opportunity to appear before you and your subcommittee to express my views and the views of my own constituents, and I think the views of millions of sportsmen across this Nation on the subject of firearms legislation.

I know, Mr. Chairman, some influential persons and groups in the United States are continually seeking to restrict, or even prohibit, the ownership and use of firearms by the ordinary citizen. Their views receive much more recognition by the news media than the views of the general public.

It is my belief that firearms are useful and necessary for millions of American citizens and have proven their value.

Firearms are used by American citizens to protect their lives, families, and property. The need to possess them for self-defense today is as great, if not greater, than in earlier periods of our Nation's history. Antigon interests, however, under the guise of "crime control," would greatly restrict the law-abiding citizen's, and I stress law-abiding citizen's, right to possess firearms—particularly handguns—for self protection. I might point out that fear of crime is, and has been, a major cause for individuals to purchase firearms, handguns in particular.

To the law-abiding, responsible, weapons owner, the clamor for gun control as a law-order-peace answer should be, in reality, a quest for crime control and a solution to the social-economic-political factors attendant to the problem. But firearms controls are easy to call for; crime control is difficult and complex to enforce.

A number of gun laws have been proposed in the current Congress—some good, some bad.

Most of the public clamor surrounding the subject of restrictive firearms controls has been generated by two types of antigun legislation: (1) legislation designed to deal with the so-called Saturday night special and; (2) legislation dealing with the registration and licensing of all handguns.

Now, let us discuss first firearms registration and licensing. Simply put, firearms registration in its basic form could be defined as the recording of firearm serial numbers for the purpose of providing a means of tracing a firearm to the owner. Unfortunately, firearms registration never assumes this pure form. In most cases, registration is coupled with a licensing system which enables police or some other authority to make arbitrary decisions to deny ownership of a firearm by a law-abiding citizen.

Advocates of firearms registration readily admit that criminals will not register their weapons. Furthermore, it is illogical to assume that a central registration list would serve as an effective law enforcement tool. Any such list would contain the names of law-abiding gun owners, not the names of criminals.

Firearms registration would require high financial costs for administration and a registration system could be justified only if it results in significant crime reduction. Along this same line, we must examine such use of finances at a time when our economy is in poor shape.

The cost of firearms licensing was documented in the city of New York where the average cost of processing an application for a pistol permit in 1968 was \$72.87. It would be higher now. Thus, a theoretical initial cost of registering and licensing the guns of every 1 million firearms owners—at that time—would have been approximately \$73 million. If we are to assume there are 100 million weapons in the United States, as some have estimated, the cost to the taxpayers, without inflation, since 1968 would be \$7.3 billion. Certainly, in these troubled economic times, such an overwhelming sum could be spent in better fashion. Perhaps, this money should be used to attack the causes of crime.

Advocates of registration and licensing repeatedly have assured firearms owners that registration lists would never be used to disarm the law-abiding citizenry who use firearms for legitimate purposes. This was not the case when Councilman John Wilson, of Washington, D.C., introduced his measure to confiscate the 52,000 registered firearms in the Nation's Capital. He did not say anything about confiscating the unregistered firearms. I do not know how he would find those.

I am one who believes that law-abiding, responsible citizens have a constitutional right to own weapons, whether for protection of home and family or for legitimate sport. I feel that attempts to deny that right must be resisted very vigorously on the floor of the House. I personally object to licensing and registration. Although many advocate these steps, I do not feel that they are necessary or that it would accomplish any worthwhile purpose except harassment to the citizen and a very considerable expense to the taxpayer. Millions of dollars of costs and ream upon ream of paperwork and form filling with the attendant growth of bureaucracy would be the result. The criminal would ignore such laws, as he does other laws. He would be home free, while the law-abiding citizen is bound by unnecessary restrictions.

I know that your subcommittee and the Committee on the Judiciary is under considerable pressure to report antigun laws to the floor. Let me say that my personal conservation with your distinguished chairman, Mr. Rodino, and with the distinguished chairman of this subcommittee, Mr. Conyers, and with a number of others on the committee have been reasonable, revealing, and helpful. It was indicated that you want to hear both sides of the story; that you are willing to talk with members of representative sportsmen's organizations and they, too, have a side which should be heard.

I feel that individuals and sportsmen's organizations have a responsibility, Mr. Chairman, to work constructively with your committee in areas where there can and should be agreement. One of these areas involves the so-called Saturday night special.

You and I realize that it is the Saturday night special, the normally cheap, short-barreled little gun, readily available throughout the country, which is used in most crimes involving firearms. In Washington, where some of the strictest antigun laws in the Nation are in effect, every criminal or street punk has one of these little weapons which he stole or drove across the District line and bought. These are the weapons which have been used primarily by the news media in their efforts to give all firearms a bad name.

from Florida is very correct and accurate when he says we do have concern about interpretations and definitions.

I think one point that has not been made, and so many people seem to treat this as a casual thing is that all of these guns are owned. As a man who is steeped in the historical tradition of the gun, gun ownership and rights, is it your contention that this is the basic constitutional right we have, not something that is just casual like the ownership of a car or ownership of a washing machine? This is very basic.

Mr. SIKES. May I say to my distinguished friend that there are many people who feel that the Constitution guarantees this right. There are those who say it can be argued both ways, but I certainly feel that it is the basic right of an American citizen who is a responsible and law-abiding citizen to own weapons.

Mr. ASHBROOK. I thank the gentleman. And Mr. Chairman, I have no further questions.

Mr. CONYERS. The gentleman from South Carolina.

Mr. MANN. Thank you, Mr. Chairman.

Mr. Sikes, I think you make an interesting point and one that impresses us with the breadth of these hearings. Although we are dealing with gun control, what we may find is that there are causes of crime which are a lot more significant, and certainly need as much attention, because as you indicate, the average citizen now feels menaced by crime. It is going to be that way, and it is going to be hard to convince him to give up his weapon and prevent him from buying a weapon. Under that type of psychology, it is also perhaps a little late for the Saturday night special law. It might have made more sense 3 or 4 years ago than it does now, because the man who can only pay \$25 is entitled to protect himself too. So I think out of these hearings is bound to come some agonizing and some analysis and recognition of the shortcomings in our criminal justice system in general, our failure to apprehend, our failure to convict, our failure to rehabilitate.

I think even a registration law would have little benefit unless it were also accompanied, for example, by a ballistics profile for each weapon. Now, that might mean something because it would reveal the history of the weapon, in any event, when it surfaced.

Mr. Bingham has made the point that the concern of the citizen in the typical home is to have protection, but that six times as many accidents happen to the members of the family as a result of that weapon being in the home than incidents occur for his protection. I think our commonsense does tell us that live break-ins in the home are fairly rare, that the break-in of the home is in the absence of the homeowner, and the fact that the weapon is in the home does create problems with children and with domestic squabbles, and with the temporary mental problems that cause one to reach for a gun and something happens. What is your response to that contention?

Mr. SIKES. First of all it is very easy to keep weapons out of the reach of children. Second, there should be a more comprehensive effort to educate people in the proper use of weapons, and there are sportsmen's organizations which are making a concerted effort to educate all citizens who are interested in the sound and proper use of weapons. So I go back to my basic premise that the average person today, when crime is as rampant as it is, and with the conviction rate as poor as it is, feels better if he has a weapon in the house and knows how to use it

for the protection that it gives his family and his home. He would resent the legislation which takes this protection away from him.

Mr. MANN. Well, he feels better, but is it not the responsibility of society perhaps to develop other ways to make him feel better?

Mr. SIKES. Of course, if society is not providing protection for him and his family, society should not take his gun away too.

Mr. MANN. One of the preambles of Mr. Bingham's bill says most homicides are committed in altercations with relatives, neighbors, and other acquaintances.

Mr. SIKES. Those relatives and neighbors could just as easily use bottles or knives, or rolling pins if a gun is not handy to settle an argument.

Mr. MANN. But it is less likely to result in death, I think you would agree.

Mr. SIKES. Not necessarily. People get killed with whatever is handy in an argument including ice picks, bricks, and rocks.

Mr. MANN. I guess technology took care of the common existence of the icepick in the average home.

All right. Well, I go back to my original premise that there are laws that we have been neglecting to enforce, and I find a lot of fault in the Federal Government, because I well remember during my first election campaign in 1968 that both Presidential candidates assumed responsibility for law enforcement in this country, taking it away from the local governments and the States, so the local governments and the States sat back and waited for us to do something, and of course, we did not do anything, or we did so little.

Mr. SIKES. We provided the local governments with millions in Federal funds to assist in crime control but the crime rate does not seem to have gone down.

Mr. MANN. Meantime, the quality of their effort did not advance. It went backward, as a matter of fact. But in my area, and I will not even name it, it has made the national news lately, in the way we traffic in handguns. You just can't walk into the store down there and buy one gun, you can walk in the store down there and buy 500 guns. But the laws with reference to the possession of handguns outside of the home are not being enforced. The penalties are not being applied, and the homicide rate in my area, the bar killings, or the joint killings, or the Saturday night killings occur because someone is carrying that gun on his hip.

Mr. SIKES. Well, additional laws are not going to mean more law enforcement. We have laws against every conceivable crime. We don't need more.

Mr. MANN. Absolutely not.

Mr. SIKES. The important thing to me is to try to get some of the guns out of circulation that seem to be causing most of the trouble, and that is why I am ready to support an anti-Saturday night special bill, if we can agree on one that makes sense.

Mr. MANN. Well, I think too many people are sitting around waiting on us to do something while they do nothing, and if we have to pass a law in order to get them to join in the effort, it being their responsibility in the first place, then maybe we will have to pass a law.

Mr. SIKES. That is why I suggested the Saturday night special bill. I think there would be more general support from the public to get

those guns out of circulation than there would be for any other type of gun legislation.

Mr. MANN. Well, it would be a step. Thank you.

Mr. CONYERS. The gentleman from California.

Mr. DANIELSON. Thank you, Mr. Chairman, and thank you, Mr. Sikes.

I would like to observe that we have got a real difficult problem on this gun bill, or with the whole subject of gun legislation. But there is one good aspect of it. I think we all have the same objective in mind. We would like to reduce crime as far as possible.

And the questions we must meet are, first, is gun control an effective way of reducing crime? I think most of us can stipulate that if we can get guns out of the hands of the criminal element that would help, but then, second, how do we do it? And that is the tough problem. I cannot quite agree though with the Saturday night special myth. I mean, a person is just as dead if he is killed by an expensive weapon as he is if he is killed by a cheap one.

Mr. SIKES. There are many more of the cheap weapons. It is much easier for criminals to obtain them.

Mr. DANIELSON. There are more.

Mr. SIKES. And they seem to be in the hands of the people who want a small weapon that can be concealed in a hip pocket, or in a side pocket and used to carry out a crime.

Mr. DANIELSON. I carried a weapon for some 5 years of my life, and I know that you can conceal a .357 magnum about as easily as you can conceal a Saturday night special. It has just about the same bulk, and that is a fine weapon.

Mr. SIKES. A .357 magnum is going to make that side of your pants or coat hang down lower than the other. That makes a more conspicuous bulge than a small weapon like a .22.

Mr. DANIELSON. Well, it is really not going to serve much purpose to argue over the amount of bulge you get out of a magnum or out of a special. But the fact of the matter is that we are trying to face the problem of crime, and I do not think I would be any deader if I were killed with a Saturday night special, whatever that is, than if I were killed with a magnum.

Mr. SIKES. Again, may I make the point that there are many more of the Saturday night specials. They are easier for criminals to obtain, and that increases your chance of being killed by one.

Mr. DANIELSON. And then we run into the only thing on which you and I have taken an oath, the Constitution. Is the cost of a firearm, and that is really what we are talking about, is that a valid constitutional classification upon which the Congress can base legislation controlling firearms?

Mr. SIKES. It should not be. Cost is an our unfair criteria. But crime control may be the more important criteria.

Mr. DANIELSON. I do not think so either.

Mr. SIKES. But you can buy expensive small guns. They do not have to be cheap.

Mr. DANIELSON. And you can buy large cheap guns, so we come out exactly zero on that.

Mr. SIKES. Not if—

Mr. DANIELSON. I said I am with you in philosophy, but I do not think we have got the method here yet. I am more concerned with passing a law that both does the job that we intend it to do and also within our constitutional mandate. And I personally question the validity of a law that would be tailored to fit the so-called Saturday night special, which nobody has ever defined. You can have an expensive gun that is built with a low melting point, and low gross, and so forth.

All right. Another thing is registration. That might have some validity, but I would think the criminal element would pay no attention whatever to registration. If they wanted to have a gun, registration would not mean a thing to them, they would just go ahead and have the gun without registration. So I do not think you would achieve anything necessarily with registration.

On the ballistics—

Mr. SIKES. May I please interrupt? I am very reluctant to do this, and I will be certainly happy to come back for further questions, but I should not delay further in getting back to the Appropriation Committee for important votes.

Mr. CONYERS. If there is no objection, I would like to invite the gentleman to reappear, not only for my friend—

Mr. DANIELSON. Well, I can continue my comments, although I would prefer that the gentleman be here. My colleague from Carolina has mentioned ballistics profiles. I would like the staff to check, but I would respectfully suggest that they have no validity. The use of a firearm repeatedly, I have been informed by the experts, will change the characteristics of the lands and grooves to the point where, after firing say 50 to 100 cartridges, solid cartridges now, you change the marks which provide for ballistic identification. The ballistics profile is good only for a short while, and after some usage it has gone.

Mr. SIKES. Well, I question that a limited number of firings would materially change the ballistic imprint.

Mr. DANIELSON. Well.

Mr. SIKES. I should think that for the average weapons owner who fires only a few boxes of cartridges throughout his lifetime, there would not be a significant change in the ballistic imprint.

Mr. DANIELSON. Well, we can call witnesses who are probably better qualified than you or I, and I have been in the position at times of trying to prove criminal cases, and I know that the ballistics experts I have talked with say they cannot really make a firm, positive identification when there has been a material change.

States could control firearms. States have not chosen to do so, and I really do not know how we constitutionally can. If the gentleman has a suggestion here I would appreciate it.

Mr. SIKES. I made a suggestion. I said we should limit Saturday night specials.

Mr. CONYERS. Well, if the gentleman will yield, let us allow our colleague from Florida to return to his other duties, and I think this discussion should continue. I think that Mr. Danielson has raised some important questions, but more importantly, your testimony here today has shown that there is a chance for us to accommodate the different views on possible legislation. It seems that first we have to agree that we are going to do something at the national level. Having made a positive statement on that point, the question is what is it we are going to do, and I am glad to join the gentleman in this dialog.

On behalf of the subcommittee we thank you very much for this appearance.

Mr. SIKES. And it might also be said from my previous position on weapons legislation this is something of a revolutionary statement.

Mr. CONYERS. It is something like a 179° departure. We will take note of that.

Mr. SIKES. Thank you, gentlemen.

[The prepared statement by Hon. Robert L. F. Sikes follows:]

STATEMENT OF HON. ROBERT L. F. SIKES, A REPRESENTATIVE IN CONGRESS FROM FLORIDA

Mr. Chairman, thank you for the opportunity to appear before your subcommittee to express my views, the views of my constituents, and the views of millions of sportsmen across this nation, on the subject of firearms legislation.

Influential persons and groups in the United States are continually seeking to restrict, or even prohibit, the ownership and use of firearms by the ordinary citizen. Their views receive much more recognition by the news media than the views of the general public.

It is my belief that firearms are useful and necessary for millions of American citizens and have proven their value.

Firearms are used by American citizens to protect their lives, families and property. The need to possess them for self-defense today is as great, if not greater, than in earlier periods of our nation's history. Anti-gun interests, however, under the guise of "crime control", would greatly restrict the law-abiding citizen's right to possess firearms—particularly handguns—for self protection. I might point out that fear of crime is, and has been, a major cause for individuals to purchase firearms—handguns in particular.

To the law-abiding, responsible, weapons owner, the clamor for gun control as a law-order-peace answer should be, in reality, a quest for crime control and a solution to the social-economic-political factors attendant to the problem. But firearms controls are easy to call for; crime control is difficult and complex to enforce.

A number of gun laws have been proposed in the current Congress—some good, some bad.

Most of the public clamor surrounding the subject of restrictive firearms controls has been generated by two types of anti-gun legislation: (1) legislation designed to deal with the so-called "Saturday Night Special" and; (2) legislation dealing with the registration and licensing of all handguns.

Now, let us discuss firearms registration and licensing. Simply put, firearms registration in its simplest form could be defined as the recording of firearm serial numbers for the purpose of providing a means of tracing a firearm to the owner. Unfortunately, firearms registration never assumes this pure form. In most cases, registration is coupled with a licensing system which enables police or some other authority to make arbitrary decisions to deny ownership of a firearm by a law abiding citizen.

Advocates of firearms registration readily admit that criminals will not register their weapons. Furthermore, it is illogical to assume that a central registration list would serve as an effective law enforcement tool. Any such list would contain the names of law abiding gun owners, not criminals.

Firearms registration would require high financial costs for administration and a registration system could be justified only if it results in significant crime reduction. Along this same line, we must examine the use of finances at a time when our economy is in such poor shape.

The cost of firearms licensing was documented in the City of New York where the average cost of processing an application for a pistol permit in 1968 was \$72.87. Thus, a theoretical initial cost of registering and licensing the guns of every one million firearms owners—at that time—would have been approximately \$73 million. If we are to assume there are 100 million weapons in the United States—as some have estimated—the cost to the taxpayers, without inflation, would be \$7.3 billion. Certainly, in these troubled economic times, such an overwhelming sum could be spent in better fashion. Perhaps, this money should be used to attack the causes of crime.

Advocates of registration and licensing repeatedly assured firearms owners that registration lists would never be used to disarm the law abiding citizenry

who uses firearms for legitimate purposes. This was not the case when Councilman John Wilson, of Washington, D.C., introduced his measure to confiscate the 52,000 registered firearms in the Nation's Capital.

I am one who believes that law-abiding, responsible citizens have a constitutional right to own weapons—whether for protection of home and family or for legitimate sport. I feel that attempts to deny that right must be resisted very vigorously on the Floor of the House. I, personally, object to licensing and registration. Although many advocate these steps, I do not feel that they are necessary or that it would accomplish any worthwhile purpose except harassment to the citizen and a very considerable expense to the taxpayer. Millions of dollars of costs and ream upon ream of paperwork and form filling with the attendant growth of bureaucracy would be the result. The criminal would ignore such laws, as he does other laws. He would be home free, while the law abiding citizen is bound by unnecessary restrictions.

I know that your Committee, the Committee on the Judiciary, is under considerable pressure to report anti-gun laws to the Floor. Let me say that my personal conversation with your distinguished Chairman, Mr. Rodino, and with the distinguished Chairman of this Subcommittee, Mr. Conyers, and with a number of others on the Committee have been reasonable, revealing and helpful. It was indicated that you want to hear both sides of the story; that you are willing to talk with members of representative sportsmen's organizations and they, too, have a side which should be heard.

I feel that individuals and sportsmen's organizations have a responsibility to work constructively with your Committee in areas where there can and should be agreement. One of these areas is in the so-called Saturday Night Special.

You and I realize that it is the Saturday Night Special, the normally cheap, short-barrelled, little gun, readily available throughout the country, which is used in most crimes involving firearms. In Washington, where some of the strictest anti-gun laws in the nation are in effect, every criminal or street punk has one of these little weapons which he stole or drove across the District line and bought. These are the weapons which have been used primarily by the news media in their efforts to give all firearms a bad name.

If law-abiding weapons owners can combine their efforts with yours to obtain passage of a sound anti-Saturday Night Special Bill which excludes objectionable features, it would go far to alleviate the controversy for new anti-gun laws. I will support such legislation.

It will not be easy to write sound legislation to curtail Saturday Night Specials. Unfortunately, no one has been able to offer a precise definition of a "Saturday Night Special". Thus far, attempts at defining the term have had shortcomings, either regulatory or technical. Definitions have been based on barrel length, overall size, price, melting point of metal, tensile strength, operating characteristics, firing tests, safety-size criteria, registration and licensing, or any combination thereof. The problem is to define Saturday Night Special so that the legislation would cover only easily concealed handguns which are deemed to have no sporting purpose and little value for home and family protection.

Our very noble and distinguished colleague, John Dingell, has proposed a melting point criteria which would eliminate most of the cheaper, poorly constructed weapons. It should serve as a good beginning. The Bayh bill, which passed the Senate about two years ago, had as its objective the elimination of the Saturday Night Special from commerce, but the bill was so poorly drawn that it would have eliminated even the Colt Frontier which is, as you know, a massive, well-built and moderately costly weapon, not one easily concealed in a hip pocket. In fact, the bill would have made illegal possibly one-half of the handguns now being manufactured.

I recommend that you not confine your effort to anti-gun measures, but that you consider other proposed gun laws which are useful in curbing crime committed with weapons. For instance, a bill has been pending for several years in your Committee to require mandatory sentences for crimes committed with weapons.

What I am emphasizing is that there is constructive work to do in the field of weapons legislation. There should be a studied effort to achieve a meeting of the minds on what can be done as a sound beginning with general support for legislation dealing with weapons.

The press is mounting another campaign to take guns away from the people and blandly ignoring the laws in force and negligible conviction rate. They seek

to perpetuate the myth that guns make criminals and that no guns means no crime. This, of course, is ridiculous. What is needed is prosecution and sentencing of those who commit crimes, regardless of whether the crime involves a gun. Most of the persons who commit crimes are not apprehended. Few who are caught are convicted. Many are never brought to trial.

The enemy we seek to control is not firearms, it is crime and criminals. Extreme anti-gun proposals would simply take guns away from those who are victims of crime, not the criminals.

Mr. CONYERS. Thank you very much.

Our next witness, and I am sure Mr. Drinan will permit us to do this, is the gentleman from Texas, Mr. James Collins.

TESTIMONY OF HON. JAMES M. COLLINS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. COLLINS. If I could, Mr. Chairman, could I just file my statement for the record?

Mr. CONYERS. Yes. We will accept your statement.

Mr. COLLINS. I only have two comments out of the statement. In the District of Columbia they enacted a registration requirement in 1968. Four years later, in 1971, 96 percent of the handguns recovered by D.C. officials were unregistered.

In addition, during the first 9 months of 1974 there were 41 more murders in the District of Columbia than in my home of Dallas, which is almost twice the size, and which has no gun control registration.

I am opposed to the gun registration, but I want to commend very much the work of this committee, because I have found in my district that your subject is considered one of the most timely in the country today.

Thank you.

Mr. CONYERS. I am glad to hear you say that. Does the citing of those D.C. statistics, Mr. Collins, indicate some logic against the consideration of registration?

Mr. COLLINS. Well, it does, because the District of Columbia, when you evaluate statistics, has one of the highest education levels in America, and also has one of the highest per capita incomes, which are both considered measures of progress in a civilization, so I would say that with the District of Columbia, which certainly is the heart of our country, that we have a fair city to compare.

Mr. CONYERS. Well, that is another inference that I would want to go into a little more detail with you. But I suppose the implication then of your remarks is that registration is not successful?

Mr. COLLINS. No, I oppose registration.

Mr. CONYERS. And does not turn upon the intelligence or the wealth of the citizenry in terms of how much crime is being committed?

Mr. COLLINS. Mr. Chairman, if I could I would also like for everybody to go back and study the figures that we found at the Texas State Prison in Huntsville, and we took 389 prisoners and we interviewed them to find out where they got their guns. And very, very few of them were purchased. 9.5 percent were actually purchased guns.

Mr. CONYERS. Then you are in favor of no gun control legislation at all?

Mr. COLLINS. That is right, Mr. Chairman, completely opposed. Thank you.

[The prepared statement of Hon. James M. Collins follows:]

STATEMENT OF HON. JAMES M. COLLINS, A REPRESENTATIVE FROM THE STATE OF TEXAS

Mr. Chairman, I appreciate the opportunity to present my views on the important issue of gun control. During the past several years, I have followed the question closely, and have continually opposed unnecessary legislation which would limit American civil rights.

This year, again, several bills have been introduced calling for varying degrees of handgun prohibition and registration. In addition, the Consumer Product Safety Commission is currently studying the possibility of banning the sale of ammunition for handguns to all but military personnel, police and licensed gun clubs. Gun control proposals have good intentions as possible solutions to our very serious crime problem. However, I think it is important to look beyond the emotional cry for handgun prohibition to the basic source of crime—the criminal.

I do not believe that many people will argue with the fact that a criminal, who is not willing to obey laws against armed robbery or murder, will certainly not be willing to obey gun control laws.

It is therefore only logical to assume that only law-abiding citizens will adhere to any gun control legislation or ammunition control law which may be passed by this Congress. The Crime Control and Safe Streets Act of 1968 already prohibits the possession of firearms by criminals and mental incompetents. However, this well-meaning law has not curbed gun-related crimes committed by previously convicted criminals or mental institution escapees. Studies continue to show that a relatively high proportion of crimes are committed by persons while on parole or out on bail.

Let's look at the success of previously enacted gun control laws. In 1968, the District of Columbia enacted a registration requirement for all firearms. However, four years later, during 1971, 96% of the handguns recovered by D.C. officials were unregistered. In addition, during the first nine months of 1974, there were 41 more murders in D.C. than in my home, Dallas, which is almost twice the size and which has no gun control regulations.

A few years back, during investigations on the question of gun control, a study was made of the inmates at the Texas State Prison in Huntsville. The 389 prisoners that were interviewed, admitted to having possessed a total of 1,122 handguns, 922 rifles, and 447 shotguns since they were 13 years old. Of the handguns owned by the inmates, 23.95% were stolen, 24.3% were purchased from pawn shops, 0.70% were mail ordered, while only 9.52% were inherited, borrowed, homemade, etc. Similar statistics appear in other areas.

The only way to achieve a workable deterrence is to institute a meaningful system of justice in our Country. Let's crack down on the criminal in our society rather than on the rights on law-abiding citizens who own 98% of the handguns.

I am currently drafting legislation designed to reduce crimes committed with weapons by instituting mandatory, strict sentences for any person convicted of using a gun during the commission of a crime. My bill will prohibit the granting of a suspended sentence or a probationary sentence for any Federal felony committed with a firearm.

Gun Control laws will only result in a large criminal network of illegal firearms sales, thereby denying guns to all but criminals. Americans must maintain the right to own guns for the defense of their families and for sporting purposes. Without this right, our Country would be a virtual police state with arbitrary control rights vested in the government. Let us put the criminal behind bars, keep him there, and work to rehabilitate him, instead of trying to pass legislation against the large majority of the solid citizens who own guns because of their interest in sports.

Mr. CONYERS. All right.

Our next witness is the gentleman from Massachusetts, Father Robert Drinan, a member of the Committee on the Judiciary, and former Dean of the Boston College Law School, a person very active in the Congress, and one who is well known to all of the members of this subcommittee.

We will incorporate your statement into the record, which relieves you of the obligation of reading it, and we will allow you to make your

presentation after which we will ask you some questions, friendly questions.

TESTIMONY OF HON. ROBERT F. DRINAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. DRINAN. Thank you very much, Mr. Chairman.

[The prepared statement of Hon. Robert F. Drinan follows:]

STATEMENT OF HON. ROBERT F. DRINAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. Chairman, and Members of the Subcommittee, I am pleased to be here this morning to emphasize the current need for strong and effective gun controls. Of the many vital issues facing this Congress, few generate more controversy, more intensive lobbying, and more diametrically opposed points of view than the issue of federal gun control. Most significantly, however, few issues are more important, more pressing, and more completely related to the quality of life in this country.

Our claim to be a civilized nation can not be sustained until we enact tough, effective, and enforceable federal gun control laws that will put an end to the tragic and scandalous level of violence that permeates life in America.

We are a people who have become habituated to violence in our daily lives. Nothing symbolizes this fact more than the 210 million privately owned firearms in our country. Nothing proves this fact more than the 25,000 gun deaths that occur in our nation each year. The annual record of gun related carnage is a national tragedy and international disgrace. Every year 12,000 homicides, 10,000 suicides, and 3,000 fatal accidents are caused by guns. In addition, some 200,000 people are wounded by firearms resulting in paralysis, sterilization, dismemberment, blindness, deafness, and other disabling effects.

How long will the Congress avoid its clear responsibility to protect the public safety and the general welfare by allowing this gun related slaughter to continue?

Mr. Chairman, in poll after poll the citizens of this country have revealed their overwhelming desire for strong, effective gun control laws. Both the Harris and Gallup polls have found that two thirds of our citizens favor registration of all firearms and the licensing of all gun owners. The people are weary with the dread of violence. They are outraged by congressional inaction. If we do not act swiftly and forcefully to establish federal gun control laws, the Congress will have to share the responsibility for much of the violence and suffering caused by the unchecked proliferation and unregulated use of firearms in America.

WHY THE FEDERAL GUN CONTROL ACT OF 1968 HAS NOT WORKED

The Federal Gun Control Act of 1968 was a sadly inadequate compromise law that was virtually emasculated before its passage. It was further weakened by a 1969 law eliminating the Act's dealer recordkeeping requirements with respect to the sale of long gun ammunition. In its major thrust, the 1968 Act bans the interstate and mail-order shipment of firearms to individuals and forbids over-the-counter sales to minors. It prohibits the possession of guns by convicted criminals and certain undesirables, and also bars the importation of cheap, concealable, foreign handguns, responsible for so much violence in this country.

Unfortunately, however, that 1968 Act is fatally flawed with so many loopholes that there are now more cheap, concealable handguns produced and privately owned in this country than ever before. Some of the most glaring deficiencies in the 1968 Gun Control Act include:

(1) The importation of "Saturday Night Specials" was banned by the law, but the ban did not extend to the importation of their parts. As a result, total domestic assembling and production of these cheap handguns during 1970 exceeded one million—a total far higher than the number of foreign guns that annually flowed into this country prior to the 1968 act.

(2) The interstate ban on gun shipments was rendered meaningless by allowing licensed gun dealers in different states to ship firearms between themselves with no restrictions. Since it is extremely easy to become a gun dealer, many individuals obtain guns from other states merely by ordering them as "dealers" through other federally licensed sellers.

(3) The 1968 act contains no foolproof safeguards for gun dealers to check the background, or even the identity, of would-be gun purchasers. Neither are the purchaser's background or identity checked by local or state police; fingerprints are not even required. The purchaser's signed statement that he is not a felon, minor, or mental incompetent is almost always accepted after a driver's license is produced.

(4) Private individuals can transfer ownership or possession of their own legally purchased firearms to anyone within their own state. And "anyone" means *anyone*—any criminal, juvenile, lunatic, drug addict, or other incompetent who would not otherwise be permitted to purchase a gun. The 1968 law provides no penalty whatsoever for such clearly irresponsible and dangerous private gun transactions.

Because of these loopholes, Mr. Chairman, firearms are still available, in most instances, to any and all who want them. Whether legally or illegally, the ease with which firearms can be purchased in this country means that Congress has failed to exercise its full authority on the issue of gun control. How many more assassinations, how many more years of increasing gun related crimes, how many more friends, neighbors, even relatives have to be gunned down on the streets and in their homes before the Congress will clearly see the need to enact tough and comprehensive gun control legislation?

LEGISLATION PROPOSED—H.R. 1601 AND H.R. 2433

Mr. Chairman, I have sponsored two pieces of legislation which I believe would go far in curtailing the number of freely available weapons on our streets today. My first bill, the "Handgun Control Act of 1975" (H.R. 1601), would ban the possession of handguns and handgun ammunition to all except the police and government agencies, security guard services, licensed pistol clubs, and antique collectors. As a number of my colleagues have already spoken in favor of this legislation, I will simply announce to this Committee my strong support for this bill.

My second bill, the "Personal Safety Firearms Act of 1975" (H.R. 2433), provides for the registration of all firearms, the licensing of all gun owners, and bans the sale or delivery of "Saturday Night Specials."

I would like to take his time to emphasize clearly to the Committee, Mr. Chairman, that we must go further than the enactment of handgun legislation if we are truly to bring about effective gun control. Many of my colleagues have testified on the need for such handgun control, and as my legislation and testimony indicate, I support this approach. However, guns include not just handguns, but firearms of all sizes and lengths. If we address ourselves only to handguns, we will be attacking only part of the problem. Neither will we close the many loopholes in the 1968 act which I have previously outlined.

It is my contention that we will not have accomplished our end of bringing about real gun control until (1) the great majority of firearms are registered in the names of their true owners, and (2) every individual gun bearer is satisfactorily licensed. In this way, we can insure that only competent individuals are able to purchase both firearms and ammunition, and that these firearms are registered in their names.

The gun control goals which I have specified above can be realized through my legislation by licensing gun purchasers and owners only after they have presented proper identification. Included within the identification process would be validating statements by local law enforcement agencies, a physician, and the applicant, stating that the person meets certain minimal standards. Then, these licenses or permits would have to be presented whenever a gun or ammunition is bought. Improving a major deficiency of the 1968 law, new registration certificates would also have to be executed prior to transferring ownership of a weapon.

By enacting tight registration and licensing provisions, I believe that the Congress would go a long way towards remedying major loopholes in our gun control laws. Cities like New York, with the toughest controls in the nation, would no longer be circumvented in their efforts to curtail the free availability of firearms. Incompetents and felons could not buy guns with hardly a question asked. And the federal government would at last be going on record as meaningfully opposing the suicidal increase of firearms on our streets today.

Mr. Chairman, I do feel that the enactment of handgun legislation is important in our gun control campaign. But let us not overlook the great importance of enacting an effective registration and licensing law as well.

Mr. DRINAN. I will make only the points that to the best of my knowledge have not been made earlier in the day. I first commend the subcommittee for holding these hearings, and they recognize, like all of us do, that nothing symbolizes the need for some form of control more than the fact that we have 210 million privately owned firearms, and we have, as is well known, 25,000 deaths each year.

In addition, 200,000 people are wounded by firearms every single year.

I think the public is ahead of the Congress in many ways in this. Both the Harris and the Gallup poll indicate that overwhelmingly the citizens favor registration of firearms and the licensing of all gun owners. And frankly, in all candor, they are outraged at the congressional inaction.

And if I may, Mr. Chairman, at this point in my statement I would like to insert a very penetrating article by James Perry from the National Observer of February 22, 1975. And he concludes this way. He said, "The problem isn't the Saturday night special. The problem is guns. If we want to do something about the problem we must get rid of the guns, all of the guns." He said that, "if we want to play some more games, we can try to get rid of the Saturday night special, whatever they are."

If I may, I would submit that at this point in the record.

Mr. CONYERS. Yes. We will incorporate it into the record.

[The article referred to follows:]

[From the National Observer, Feb. 22, 1975]

CONGRESS SIGHTS IN ON GUN GANG—AGAIN

(By James M. Perry)

Gun lovers, unite, because here comes. . . .

A BILL

To prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns, except for or by members of the Armed Services, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors, and pistol clubs.

It's the legislation gun lovers fear most, and it's the legislation gun-control advocates will push hardest (for a while, at least) in the feisty new 94th Congress. The bill, introduced in the House by Jonathan Blingham of New York and soon to be introduced in the Senate by Phillip A. Hart of Michigan, says no one can buy or sell any kind of handgun, except cops, soldiers, a few collectors, etc. And the bill says it shall be a violation of the law, punishable by a \$5,000 fine and/or five years in prison, for anyone except cops, etc., to own or possess a handgun 180 days after the law takes effect.

If you own a handgun—and it's estimated 40 million of them are in circulation in this country—you're supposed to deliver your weapon voluntarily to any Federal, state, or local law-enforcement agency, for which you "shall be entitled to receive from the United States a payment equal to the fair market value of the handgun or \$25, whichever is more." Let's see now: 40 million guns times \$25. That comes to . . . \$1 billion.

But that's nonsense, of course. No one expects all the guns to come tumbling into police stations overnight. You aren't actually *required* to surrender your roscoe. It's all voluntary. On the other hand, if a cop finds you still have it, you can be arrested and sent to jail for five years.

"We don't expect to get rid of handguns overnight," says Edward O. Welles, the former covert CIA agent who now heads the National Council to Control Handguns. "There will always be some handguns, and I suppose we will always

have a black market. But we can start to bring some kind of control to a situation that's now altogether out of control."

MURDER AND OTHER ATROCITIES

No one—not even the National Rifle Association—denies we have a problem.

In 1973, there were 19,510 murders, and handguns were used in 53 per cent of them.

In 1973, there were 252,569 armed robberies, and handguns were used in 63 percent of them.

In 1973, 127 police officers were killed, 86 by handguns.

In 1973, 2,700 persons were killed accidentally by firearms, perhaps half of them by handguns.

In 1970 (the most recent year I can find), 11,772 people committed suicide, and firearms, most of them handguns, were used in half of them.

The pinch-faced folks down at the National Rifle Association (NRA) concede we've had a hell of a lot of murders, armed robberies, and other atrocities lately because of handguns. Well, not quite *because* of handguns. The problem, says Maj. Gen. Maxwell E. Rich, executive vice president of NRA (actually, he's a National Guard general; his highest rank in the real Army was lieutenant colonel), is *people*. "We think," he says, "we have a crime problem, not a gun problem."

The Constitution, according to General Rich, says the people have a right to bear arms. But, he was asked, haven't the courts said the Constitution meant the *militia* has the right to bear arms? The general waved his hand in airy dismissal. "Regardless of court rulings," he said, "we know what the Constitution says. It's right there. The people have the right to bear arms."

It's this organization, with its one million members, that has turned Congress' occasional effort to give us meaningful gun-control legislation into one of the really great, all-time, classic farces around. The last time Congress lurched into action, it passed the Gun Control Act of 1968 that was supposed to prohibit the importation of those nasty little "Saturday Night Specials." Trouble was, the law didn't prohibit importation of *parts* for Saturday Night Specials. The parts were imported by the millions and assembled in little garage factories all over America.

THE FALL-BACK POSITIONS

The NRA is adamant. It doesn't want any gun-control legislation, except, in a pinch, laws that add a mandatory sentence for thugs who use a gun in the commission of a felony.

Hard-liners on the other side insist they're serious about passing legislation that would ban the handgun outright and make simple possession of it illegal. Realists admit, however, that while this new Congress may be feisty, it isn't that feisty. So the realists have a fall-back position—the kind of legislation already introduced by Rep. Abner Mikva of Illinois. His bill prohibits the sale, purchase, etc., of handguns, except by cops, soldiers, etc. And his bill says people may surrender their guns voluntarily down at the pokie, and get \$25 apiece. But his bill says nothing about possession of a handgun being illegal. It's a grand-father roscoe clause, you can keep your old arsenal, but you can't add anything to it.

The folks at NRA are just as amused at the Mikva idea as they are thigh-slapping stroked out by the Bingham bill. They won't buy it.

SATURDAY NIGHT SPECIALS

So the gun-control forces have still another fall-back position. They come into this battle. It should be understood, with all the confidence of the South Vietnamese militia. Their final fall-back position is a Saturday Night Special bill. It would be pretty much the same kind of hill that Birch Bayh got through a nervous Senate in 1972, only to see it die over in the House. He caught hell from the senators who voted with him for causing them so much unnecessary embarrassment. That's why, this time, Bayh's subcommittee wants to see the House subcommittee (whose chairman is John Conyers of Michigan) move first.

Except for the NRA, almost everybody (including the FBI and the new Attorney General) is in favor of a Saturday Night Special law. They argue that the country is up to its hoisters in what Birch Bayh has called these "cheap, easily concealed, unreliable, dangerous weapons." It's estimated that there are any-

where from 5 million to 10 million of them in circulation. Robert Sherrill, in his bitter but compelling book, *The Saturday Night Special*, calls it "the low-caste gun . . . the nigger, the white trash, the untouchable of gundom."

BUT WHAT IS IT?

All those Saturday Night Special bills would prohibit their manufacture and sale. The law would wipe 'em out, for good and for all. But just what, specifically, is a Saturday Night Special?

"You tell me," says the NRA's General Rich. "Come on, tell me what a Saturday Night Special is." He leans back in his chair, and smiles. Of course I can't tell him what it is. Everybody *knows* what a Saturday Night Special is; but nobody can write it down. In the bill passed by the Senate in 1972, almost seven pages are given over to an extraordinary effort to define the term. That effort includes an elaborate point system, under which every handgun model has to be examined and rated. Any gun that can't collect 75 points ("10 points if the pistol has a double-action firing mechanism; 5 points if the pistol has a drift adjustable target sight") is, *ipso facto*, a Saturday Night Special.

Sherrill argues there's no proof that the SNS is more a threat to society than any other handgun; he argues, too, that one of the reasons lurking behind the effort to ban the cheap handgun is the distaste for it by American manufacturers, who like to sell more expensive guns.

The problem isn't the Saturday Night Special. The problem is guns. Arthur Bremer didn't shoot George Wallace with a SNS; he blasted him with an \$85 Charter Arms Underover-2, a snubnosed .38 that the cops think is a dandy little weapon too. Sirhan Sirhan killed Robert Kennedy with a .22 caliber Iver Johnson Cadet, a nice \$15 item recommended for "plinking" rabbits and beer bottles. Most gunmen don't buy their weapons; they don't have to. The whole country is an arsenal, and the killers go shopping by breaking into our houses and lifting what they need out of our bureau drawers, under the socks.

If we want to do something about the problem, we must begin to get rid of the guns, *all* the guns. If we want to play some more games, we can try to get rid of the Saturday Night Specials, whatever they are. Sherrill concludes we're a trashy society—"the world's greatest experiment in landfill"—and so we'll never reform. I'd like to think he is wrong.

Mr. CONYERS. Then you support the Bingham approach?

Mr. DRINAN. I do.

Mr. CONYERS. And you are a cosponsor of the bill?

Mr. DRINAN. No, but I have sponsored legislation which is very similar to Mr. Bingham's bill. If I may, let me speak very briefly about the features in the two bills that I have sponsored: H.R. 1601 and H.R. 2433. The first, H.R. 1601, would, in effect, ban the possession of handguns, and handgun ammunition to all except the police department agencies, security guard services, licensed pistol clubs, and antique collectors. The second bill H.R. 2433, provides for the registration of all firearms, the licensing of all gun owners and, of course, bans the sale or delivery of the Saturday night special.

It seems to me that guns have to include not merely handguns but firearms of all sizes and lengths. In conjunction with the control of handguns, a satisfactory way of registering them and licensing the owner in a very tight way is, in my judgment, the only way to approach this. And I commend you for approaching this problem, for having all of the bills that are in the committee print, and they are ranging from the mere banning of the Saturday night special to a relatively comprehensive plan as I have proposed in these two bills.

I will entertain questions or comments now, Mr. Chairman.

Mr. CONYERS. I only have one before I yield to Mr. Mann, and that is do you attempt to outlaw the handgun itself, or are you just moving to ban the Saturday night special?

Mr. DRINAN. No, I go beyond the Saturday night special and I say that we should register the gun, and in a specified procedure, spelled out in the law, exactly how the Secretary of the Treasury shall register every gun and license each gun owner.

Mr. CONYERS. You are for total gun registration, but what about the outlaw of guns beyond the Saturday night special? Are you for outlawing handguns in their entirety, or just limiting that to the Saturday night specials?

Mr. DRINAN. Well, certainly on Saturday night specials, and beyond that certainly we would have the registration and licensing of all guns.

Mr. CONYERS. Right. Well then I do see a little area in which you are being relatively liberal, if I may use that phrase. What is the basis, very briefly, for your expansive registration to all guns? You assume then that shotguns are a danger, and that there have been a growing number of incidents with sawed-off shotguns and the like.

Mr. DRINAN. Mr. Chairman, in all of the literature the person with the gun, whether it is on the bureau, in the bedroom, or elsewhere, does not distinguish between what kind of a gun it is. It is there, and it is inherently dangerous. The registration of the gun and the licensing of the person authorized to carry the gun seems to me to be the sensible way to do it. We do that even in connection with automobiles, and I see really no other way by which we can do this job or resolve this problem.

Mr. CONYERS. I said I was not going to ask any more questions, but what about limiting the manufacture of weapons? What is your view on that?

Mr. DRINAN. Well, I think that may be down the line, assuming that the Saturday night special at least clears the Congress, and I am encouraged by the testimony here, and then perhaps we will begin to move in that area. But I think first with 200 million guns out there, let's license them, let's register them, and then assess the problem.

Mr. CONYERS. Very good.

Mr. Mann?

Mr. MANN. No questions. Thank you.

Mr. CONYERS. Mr. Ashbrook?

Mr. ASHBROOK. Yes. Thank you, Mr. Chairman.

I was not going to comment, but I feel a little constrained to comment, not just because of what my good friend from Massachusetts, Mr. Drinan, has said, but everybody has commented on the Gallup poll, and the various polls, and I would only say that I have to believe in this area all of us follow the drums of what we want to hear, and the Gallup poll indicates that the majority of the public is upset by so much Government spending, or too much Government, or they are against busing, but nobody pays any attention to that. But if the Gallup poll says everybody is interested in registration of firearms, then all of a sudden all of my colleagues in the Congress think that there should be an interest in the Congress in that subject. I just do not believe that overwhelming desire is out there that my friend and others have indicated for legislation that would go as far as he has indicated. I think everybody wants some degree of gun control, and I am sure I do also. But I just do not think that the Harris and Gallup poll constituency they talk about is that vital in this area.

Mr. DRINAN. Let me put it this way. Even if they indicated something contrary, I would still be saying that this is a good bill.

Mr. ASHBROOK. I am merely pointing out that almost everyone favorable up to now has used the Gallup poll and the various polls, and as I indicated, I was not going to comment, but I think the other side of the picture should be shown.

Mr. DRINAN. Yes. If you just want to show the National Rifle Association, they have a very small constituency.

Mr. ASHBROOK. Yes. I am sure the NRA does not speak for the entire country, and I am sure that Gallup does not speak for the entire country either.

Thank you, Mr. Chairman.

Mr. CONYERS. Mr. Danielson.

Mr. DANIELSON. I will stay within our few minutes.

Father Drinan, you are one man whom I can pin down as being an expert in the law and the Constitution. Please tell us, how can we legislate validly to distinguish between a Saturday night special and one that costs a little bit more?

Mr. DRINAN. Well, I frankly have my troubles with that, and I have heard your questions before this. It seems to me that you have to go to the objective and the danger of the weapon, independently of whether it is called a Saturday night special at all.

Mr. DANIELSON. Thank you. When I have the same worries as you, I feel a lot better.

The other point concerns the gun that has already come to rest, is out of interstate commerce, it belongs to somebody in Fresno, Calif., and he is not traveling. How can we do anything under our Constitution? How can the Federal Government do something to take that gun out of circulation? I know the State governments could, but how could the Federal Government do so? It is no longer in interstate commerce, and it is not in the post office. How about taxes? Could we tax that gun out of existence?

Mr. DRINAN. I think that it is in interstate commerce, that it is potentially there, and I do not think that when this has the capacity to go across the State border, when any part that is going to fix it up has to come from another State, I think that it is so much in interstate commerce that the Federal law could regulate it, and I say that it does, in fact, have interstate commerce complexions that justify Federal registration.

Mr. DANIELSON. If the gentleman would only smile when saying that I would have a lot more faith in the comment.

Mr. DRINAN. You should see how the Supreme Court has stretched the interstate commerce laws.

Mr. DANIELSON. I understand. You are talking about the faith of a mustard seed when you are saying that, and I understand. Thank you very much. I am really going to lean on you, sir, during these hearings, for your help, because there are some tough constitutional problems here, and I am not talking about the second amendment. If we are going to have a law, I want it to be an effective, valid, practical and enforceable law, and I want to pick your brain, sir, as we go along. Thank you.

Mr. DRINAN. Just cosponsor my bills, Mr. Danielson.

Mr. CONYERS. Thank you, Father Drinan.

Mr. DRINAN. Thank you.

Mr. CONYERS. Your statement, now that I have reviewed it, is an extremely cogent and well thought out one, and it does represent, indeed, an additional view that has not been considered, and you are one of the first to suggest that we extend our considerations beyond the handgun. And to you we are grateful for that thought.

At this time the Chair would like to include in the record a statement by the Honorable Robert J. Lagomarsino and James H. Quillen. [The statements of Hon. Robert J. Lagomarsino and Hon. James H. Quillen follow:]

STATEMENT BY HON. ROBERT J. LAGOMARSINO, A REPRESENTATIVE IN CONGRESS FROM CALIFORNIA

Mr. Chairman, I compliment you on the decision to hold hearings on the issues of firearms regulations and for providing the members with the opportunity to present their views on this important question. I think it's essential that the total range of opinion be made available to the committee in its deliberations, because this is an issue affecting basic rights guaranteed by the Constitution.

Any decision made by the committee is bound to have far-ranging effects, some of them perhaps unforeseen. For this reason, I would also urge that you conduct a reasonable number of field hearings in diverse parts of the nation in order to avail yourself of the full range of public opinion on this issue.

Mr. Chairman, proposals to regulate firearms, their use and ownership have been before this body for many years. Invariably, the volume and intensity of the debate rises and falls in step with public emotion. This is an emotional issue, without question. But it is also a legal issue, and that's why it's before your committee. The existence of the Second Amendment to the Constitution, the United States Bill of Rights, is a fact that cannot be ignored. We cannot pick and choose those rights which may be granted or denied to the people. The people themselves are the only ones who can do that. And the Second Amendment guarantees the right of the people to keep and bear arms.

Certainly, this does not mean that this right cannot be regulated by the government. Reasonable restrictions may be placed on any of the rights guaranteed in the Constitution. But you cannot reasonably expect a free citizen to lay down his arms any more than you can expect a free citizen to forfeit his right to speak his mind. The Bill of Rights is not something designed for the convenience of the government; it's there to safeguard the rights of the people.

Let's examine the basic rationale of those proposals now before the committee. The proponents say that we must restrict firearms as a matter of public safety. I agree, and I think we have already done that. Just as we presently have traffic laws to regulate the use of automobiles, we also have gun control laws to regulate the use of firearms. In fact, the laws already on the books number in the thousands. They cover everything from mental incompetency to the carrying of a concealed weapon. I doubt there is any area they do not touch except for the basic right of the ordinary citizen to keep and bear arms. And it is that basic right that these proposals seek to overturn.

If there existed a guaranteed method to abolish violence and aggression henceforth, I am sure this Congress would be the first to rush it into law. But, of course, no such device exists. If it did, the debate today would be moot, because there would be no need to regulate firearms or any other device or mode of behavior. But somehow the criminal refuses to subscribe to this simple request. He insists on committing violence and aggression. And the ability to mount that resistance is what is implicit in the Second Amendment.

It's true perhaps, but true, that "when guns have been outlawed, only outlaws will have guns." I urge you to keep in mind that what we are trying to control is crime, not lawful activity. This is not the way to do it.

STATEMENT OF HON. JAMES H. QUILLEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. Chairman, on January 23, 1975, I introduced legislation to repeal the Gun Control Act of 1968. This bill—H.R. 1970—was referred to the Committee on the Judiciary and should be before your committee at this time.

Gun control is by no means a new issue, although it seems that every time an important or national figure is killed by a gun, the shouts for gun control become louder. Actually though, the first gun control laws were passed long before we were a nation. The earliest law relating to firearms in the American colonies was enacted in Massachusetts in 1692; it forbade carrying "offensive" weapons in public places. When the Bill of Rights was ratified in 1792, over a hundred years later, our Founding Fathers included the all-important Second Amendment for a reason; they were guaranteeing the specific right of our citizens to bear arms. *They* had had some time to think about the issue.

Our citizens today have a right to possess guns to protect themselves and their families and homes against the growing scourge of crime.

Yet some of our people feel that the solution to crime lies in gun control. To fight crime, they would strictly limit the right of our ordinary citizens to acquire or keep a gun, in order, so they say, to reduce the chance it might fall into the hands of assassins, ordinary criminals or other irresponsible persons.

I feel more gun control would serve to undermine the freedoms of our citizens. As it is, there are those who say that there are presently more guns than people in our United States. And who would give up these guns, law abiding people or hardened criminals who may have procured them illegally to start with? Who would be inconvenienced and lose respect for the law? Not the criminal—he lost his long ago.

I believe the potential value of gun control is simply not worth the cost. According to a 1971 *Wall Street Journal* editorial:

The danger here is that effective gun control might come at too high a price, not so much in money as in liberty and privacy. It's like prohibition; to have really enforced that law you would practically have had to create a police state. Similarly, in the absence of draconian measures applied against the whole populace it is all too probable that the possession and use of guns would be little diminished.

Moreover, we would not want to victimize those among us who use and enjoy firearms for very legitimate reasons. The shooting sportsman does not contribute to crime, he helps fight it. The development of healthy outdoor interests has been the salvation of tens of thousands of youngsters in our troubled society. Yet oppressive gun regulation requirements would harass sportsmen and lower the level of national marksmanship skills.

Perhaps more fundamental to understand is the fact that the gun is not the criminal. If it is the wave of crime we are worried about, gun control is not going to solve that for us. We have to go to the source of the problem—the criminals—and enforce existing laws, rather than add laws which would withhold from responsible Americans the right to own guns.

I urge the committee to consider my views. I believe we should direct our efforts elsewhere to stop the wave of crime that frightens our people. To solve a problem you must get to the source of it, and gun control is not the ultimate answer.

Mr. CONYERS. And on that note the subcommittee adjourns until its next meeting, which will be announced at a later date.

[Whereupon, at 12:13 p.m., the hearing was recessed subject to the call of the Chair.]

FIREARMS LEGISLATION

THURSDAY, FEBRUARY 27, 1975

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

The subcommittee met, pursuant to notice, at 10:35 a.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Danielson, Hughes, McClory, and Ashbrook.

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

Mr. CONYERS. The subcommittee will come to order.

This morning the Subcommittee on Crime is pleased to continue its hearing on firearms legislation and we are very happy to welcome our distinguished witnesses en bloc. We have almost the entire Idaho delegation before the subcommittee today, including the distinguished Senator from the State, the Honorable James McClure, and of course our colleagues, Steve Symms and George Hansen, who serve with us in the House of Representatives.

Gentlemen, we are very pleased that you could join us this morning. We have those statements that have been prepared and they will be entered into the record, and I think I will recognize all of you to determine how you would want to proceed. You may begin your testimony.

TESTIMONY OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM THE STATE OF IDAHO, ACCOMPANIED BY HON. STEVEN D. SYMMS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO. AND HON. GEORGE HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

Mr. McCLURE. I want to thank you for giving us the opportunity to present this testimony today. I recognize how difficult it is to arrange hearing schedules and the fact that you have done so pleases us and we are grateful for the opportunity.

Congressman Hansen, did you have a request you would like to make?

Mr. HANSEN. Yes, Mr. Chairman, following the testimony of Senator McClure and Congressman Symms I would appreciate the opportunity to have my testimony inserted in the record at that point.

Mr. CONYERS. No question about it; without objection it will be done in the manner that you suggest.

Mr. McCLURE. Mr. Chairman, while I have already expressed my appreciation for having the opportunity of addressing the subcommittee on the subject of gun control, to be quite honest, I am quite concerned over the fact that more attention is being given to restrictions on guns than there is being given to restrictions on the criminals who use guns.

There are many millions of Americans who are deeply distressed over our rising national crime rates. Those same millions of our citizens are viewing the current events in this Congress, though, with the same kind of distress. They see an absurd situation—where incredible attention is paid to the damning of the absolute and legitimate rights of law-abiding citizens through restrictive and wholly unnecessary gun controls—but where virtually no serious attention is paid to bringing the desperately needed changes in the law to deal swiftly and harshly with criminals.

The American public has been victimized too long—far too long—by criminals and ultimately by those in the Congress who refuse to take the only sure-fire action that will reduce the violent crime spiral—which is getting criminals off the street and behind bars. Gun controls will not end crime. That is pie in the sky. I am opposed to gun controls. I am against them, and I will fight them because:

1. The Constitution guarantees the right to keep and bear arms. The second amendment is absolute—it is inviolable.

2. Existing gun laws—even the most stringent—have failed to reduce crime. Homicide in this country, for example, has grown 300 percent since the Gun Control Act of 1968.

3. Gun laws principally affect only those of our citizens who are law abiding—those who own firearms for self-defense, for sport and recreation, or any other lawful purpose.

4. Gun laws cost money. Gun controls require excessive administration, the cost of which is borne by the already overburdened taxpayer through millions of dollars in additional taxes.

5. Gun laws create untouchable bureaucracies that only serve to harass law-abiding citizens.

6. Gun laws which move to abolish constitutionally lawful possession and use of handguns will not touch crime. But it will dash the right of all Americans to defend themselves, their homes, and their livelihood.

Mr. Chairman, to possess and use firearms is historically, legally and constitutionally recognized in this Nation. The second amendment clearly proclaims that “the right of the people to keep and bear arms shall not be infringed.” Our second amendment must not and cannot be ignored as is being done by many advocates of strong gun control measures.

Mr. Harold W. Glassen, a noted trial lawyer and past president of the National Rifle Association, summed up in five important points the status of the second amendment and its interpretation:

(1) The Second Amendment does not create the right of the people to keep and bear arms, but it prevents the Congress from infringing such a right—thereby recognizing that such a right exists.

(2) Such a right existed in the English common law and is part of our common law.

(3) The Federal government has no police power but some right of regulation is permissible under the Commerce Clause and I sometimes think our Federal government does not know it has no police power. At this time in history, there is reasonable doubt whether the Supreme Court of the U.S. would determine

whether the Congress was restrained from infringing the right of the individual to keep and bear arms, that is to say, whether the right is collective or individual. This question could come up in the event of legislation providing for confiscation of individually owned firearms.

(4) At this time the Second Amendment applies to the Congress, but there is some indication that the Supreme Court might extend this prohibition to the 15 states not now having a constitutional provision on the matter of the right to keep and bear arms.

(5) Most of the states' constitutional provisions recognize or, if the need existed, create the right to keep and bear arms.

As Mr. Glassen so aptly claimed—the antigun people deny that there is such a basic right to keep and bear arms by the people, but they are wrong and they know they are wrong. Mr. Glassen's five points indicate why.

Some argue that the second amendment only applies to the militia. However, as John Snyder pointed out in the 1971 summer issue of "New Guard" our founding fathers contemplated the role of the second amendment: "Thomas Jefferson in his draft of the Virginia Constitution in June of 1776 stated: 'No freeman shall ever be debarred the use of arms.' [The Declaration of Independence came a few weeks later.]" Mr. Snyder told of what George Mason said in his Fairfax County Militia Plan for Embodying the People—

We do each of us, for ourselves respectively, promise to engage a good Firelock in proper order, and to furnish ourselves as soon as possible with, and always keep by us, one pound of gunpowder, four pounds of lead, one dozen gunflints, and a pair of bullet moulds, with a cartouch box, or powder-horn, and bag for balls.

Thus Mr. Snyder illustrates a key fact—"Mason clearly indicated that persons individually armed at their own expense constituted a source of personnel from which militia could be drawn." Mason thus considered the individual right to bear arms to be conceptually prior to a militia. As pointed out by John Snyder,

Mason's statement carried the definitive implication that it is because the people have the individual right to keep and bear arms, are capable of exercising it, and in fact to exercise it that an active militia can exist. The mere fact that there is a militia depends on the people's individual right to keep and bear arms.

George Washington declared in 1790 that

A free people ought not only to be armed and disciplined, and their safety and interest require that they should promote such manufactories as tend to render them independent of others for essential, particularly military, supplies.

How tragically ironic it would be as our 200th anniversary approaches if this Congress were to desecrate the intent and power of the second amendment by passing gun controls which are in direct conflict with the individual freedoms guaranteed by the framers of our Constitution.

I observe with interest that rarely does anyone argue with the inviolability of the first amendment guaranteeing freedom of speech and the press but yet many times those same champions of the first amendment are often the first to recommend restrictive legislation which moves to disregard those guarantees of the second amendment. This is seen by the fact that the public has been bombarded by network news often showing only one side of the gun control issue—that in essence handgun registration and even confiscation will accomplish less crime and safe streets. Where it is obvious to everyone that the first amendment is untouchable, that same status of the second amendment seems

to be forgotten. Pushing aside the second amendment in an effort to control crime by the imposition of restrictions on inanimate objects—guns—is dangerous and in many respects is outright arrogant.

Purported “facts” and figures are widely cited by proponents of restrictive controls to show that firearms are a major factor in crime and that, therefore, the most effective way to reduce crime is to restrict sharply the availability of firearms, particularly hand guns. This “fact” is simply not so. The Gun Control Act of 1968 stands as the most prominent example of the fact that gun controls have not worked. This act is ineffective in preventing crime as witnessed by the staggering increase in the crime rate that has taken place within the 7 years this law has been on the books. Crime statistics clearly indicate, for example, that it is the cities, not the hunting areas, where the misuse of firearms occurs. The FBI reports that in 1973 two-thirds of all robberies occurred in the big cities. These statistics also show that our less densely populated areas have the lowest homicide rate. Coincidentally, these areas usually have the least restrictive laws on the possession of firearms. It is unnecessary to penalize the outdoorsman for the crime-in-the-streets problem that exists elsewhere. Further, it has been proven in many cities that restrictive gun legislation has not solved their problem. The fact is that the number of times a gun was used in the commission of murder has increased since the 1968 Gun Control Act was passed. All of the data indicates that firearm laws seem to have little in preventing the illegal acquisition of firearms for use in illegal activities.

Dr. Alan Krug of Pennsylvania State University in his 1968 analysis of FBI statistics in comparison to State firearms laws concluded that there is no significant difference in crime rates between States that have firearms licensing laws and those that do not.

There has been a series of witnesses before this committee extolling the wonders of handgun registration and handgun confiscation. Their logic is as fallacious as it is simple—that there is a direct relationship between the legitimate and lawful ownership and use of handguns by American citizens and our soaring rate of national crime. It just is not so.

For example, there are, according to estimates made before this committee, 40 million handguns owned by Americans, but in a nation of 210 million souls, the total of homicides by firearm last year was 10,340. Assuming a different handgun was used in each of those murders, we are talking about a total of two one-hundredths of 1 percent of the Nation's handguns used in homicide. Turn around that figure and it says, or should say something very staggering to those who advocate confiscation—that 99.98 percent of the handguns in the country are not used to commit murder. But that 40 million figure may be misleading. The New York Times claims there are 200 million handguns in the Nation. That would work out to .005 percent—five-thousandths of 1 percent of the total handguns in the Nation are used to commit murder.

That is by no means a statistical mandate for the kinds of controls being considered in this Congress. But there is and there has been for a long time, a serious mandate from the American people to this Congress to deal with crime directly by dealing with those who commit crime—dealing swiftly, justly, and where guilt is obviously and fairly

established, deal harshly. To paraphrase an oft-repeated television editorial: Get the criminals off the streets. That is what the American people want. Get the criminals off the streets.

If we in Congress can do that, we will have done more to help our nation of beleaguered victims than any number of gun controls. Flat out—gun controls do not work and they will not work. Criminal control does work—and will work if we provide it.

Thus, I feel it is a myth that no guns means no crime. As John R. McClory recently stated in an article on gun control in "Shooting Times":

You are treating the symptom, not the cause, by attempting to reduce crime by focusing upon one of the many instruments which may be used to commit crime. The answer to violent crimes, if one exists, is a change in the desire in any man to injure or to kill another.

Mr. McClory points out that Switzerland "makes every male citizen above the age of 16 a member of the militia and requires that each keep a firearm and ammunition in his home. Yet the incidence of the use of firearms in the commission of crimes in that country is almost nil. The difference is not the availability of weapons but the general sociological attitude toward crime."

Gun control advocates conveniently forget that crime flourishes when courts are lenient and when the controls on police officers hamper effective law enforcement. All of the firearm laws in the world are not going to deter crime until there is a change in the attitude toward the role of law enforcement and a rekindling of a universal respect of the laws of the land. I do not minimize for a moment the seriousness of the crime situation in this country. Neither do I minimize the danger of the 1968 gun control laws on our personal liberties or the threat further firearms control can bring as an effort by those who want to disarm the private citizen.

Some law enforcement officials desire that there be no handguns in the possession of our civilian citizens. Understandably, police officials would hope to gain some advantage against hostile forces—criminals. However, this would put the ordinary citizen at the disadvantage vis-a-vis criminals. He would be in the opposite position after giving up his handgun. He would not have a gun with which to defend himself against criminal assault and the criminal would now he did not. Besides, the police would still face an armed criminal force without the backup of an armed law-abiding citizenry. I am convinced, as are many of my fellow Idahoans, that legislation curbing the purchase of guns will neither prevent a man bent on committing a crime from doing so, nor promote safety by disarming the law-abiding citizen.

I mentioned earlier the enormous cost of administering gun controls. For example before the 1968 Gun Control Act was enacted the present Bureau of Alcohol, Tobacco and Firearms was merely a division of the IRS. Since the enactment of the 1968 act this division of the IRS has grown to a separate bureau of the Treasury Department. There has plainly been a considerable increase in manpower and thus an appreciable increase in the cost to the taxpayer as a direct result of a law that has not met the test by any measure. The Citizens Committee for the Right To Keep and Bear Arms very adeptly pointed out this factor of increased costs in a letter to the New York Times recently. In that letter it was shown that a repeal of the 1968 Gun Control Act

would reduce the financial burden on the taxpayer. This certainly makes common sense, for the tax dollars used in administering an ineffective law during times of great economic stress might be more effectively used elsewhere in the fight against crime.

Gun control laws serve to only harass the law-abiding citizen. These laws, which set up administrative agencies for their enforcement, leave the law-abiding firearms owner and dealer at the mercy of regulation-happy bureaucrats. Current gun control laws impose endless redtape on the ordinary gun-owning citizen. This individual is not a criminal but faces the hazard of legal penalties resulting from often understandable omission or error in filling out ridiculous forms and complying with asinine Federal filing requirements.

Mr. Chairman, I must leave the committee with this thought. On the eve of congressional approval of the 1968 Gun Control Act, Congressman William Bray warned the Congress that it should legislate and put new laws on the books only under the following condition:

One, when new laws are really needed, because old ones are unworkable, not merely because old ones have never been enforced; Two, to meet specific objectives and not be detracted by "Red Herring" legislation; Three, only after sound arguments have been employed, free of taint or fear and hysteria; Four, within the framework of the Constitution; some rights can not be guaranteed if legislation takes other rights away; and Five, only if it can be unequivocally and unquestionably said that the new laws, considered in the context of our history, our heritage, our role in the world, and our people as a whole, are really what would be best for the United States and its citizens.

Congressman Bray's words were absolutely appropriate in 1968 and they apply just as strongly today. I hope this subcommittee and the Congress will take heed of these points.

Congressman Bray concluded his eloquent remarks on the 1968 Gun Control legislation by stating that

The drive for more gun laws is a drive that will never really stop until the ultimate, extreme goal of total personal firearms confiscation, and total civilian disarmament has been attained. Total law-abiding civilian disarmament and confiscation—there is a real distinction to be made, as surely no one is so naive to believe that the criminal will voluntarily surrender his weapons, or will voluntarily cease his attempts to get them in any way he can.

I wholeheartedly agree, for it is likely the criminal will get hold of a gun regardless of any law passed. Legislation imposing further restrictions on the ownership and possession of hand guns is not the answer to our law-enforcement problem. Attention should be focused on the criminal, not the gun.

In this regard, the Congress should do its part along with the States in providing laws to help combat and prevent crime in this country. I realize that in determining how to fight against crime the question of firearms use become inherent—mainly because firearms are used for legitimate purposes not just in the commission of crime. It is estimated that 200 million firearms are owned by between 40 and 50 million people. At least 50 percent of the American households own at least one gun. It is completely understandable why many Americans have serious questions about any attempt to control firearms. Guns are part of our national heritage and their presence is intertwined to the extent that the right of possession is specifically mentioned in our Constitution. Thus, in any debate on firearms and violent crime, the factors of firearm use, the traditions of universal

fearm possession, and constitutional guarantees of that possession must not be ignored. It must be remembered that efforts to regulate and control the tools of crime and violence are digressions from the primary task of controlling criminals and perpetrators of violence.

Thank you, Mr. Chairman.

Mr. CONYERS. Thank you, Senator. It is clear that you have some strong views on this subject.

Mr. McCLURE. I hoped you would notice.

Mr. CONYERS. I have a couple of questions that I hope will help us provide some dialog on this matter. But I would like to hear from our colleague, Steve Symms. If he would proceed now, we can then engage in some discussion.

Mr. SYMMS. Thank you very much, Mr. Chairman. I would like to make a speech. Thanks to you, Mr. Chairman, for having these hearings this morning. I know you had them canceled at one time yesterday, due to a scheduling problem, and you went to some personal effort to be here this morning and we do appreciate it and want you to know we especially appreciate it.

In conjunction with what the Senator has just said, I would like to associate myself with his remarks. At one point, before I start my testimony, Hawaii which has the lowest rate of gun ownership of any State, has twice the rate of serious crime as Wyoming, which has the highest gun ownership. I think it gives a specific example to show that it is not necessarily the guns that are causing the problem.

As you know, I have introduced legislation in this session of Congress to repeal the Gun Control Act of 1968. I have done so in the sincere belief that this legislation was hastily passed during a period of national panic and hysteria without due consideration of its short- and long-range implications. Since that time, a more objective and sober-minded analysis of this measure has been possible, in terms of its practical effects, both on criminals and on the American people in general. Examination of the facts leads one to the conclusion that the 1968 Gun Control Act failed dismally in its aim of curbing violent crime and getting firearms out of the hands of criminals. In the past 7 years the homicide rate nationwide has risen dramatically, with criminal possession of firearms at an all time high. The only apparent accomplishment of this legislation is that it fathered a myriad of rules and regulations to plague law-abiding citizens and to further burden the American taxpayer who must foot the bill for the administrative costs.

Is there not a lesson to be learned from the failure of this well-meaning, yet superficially conceived legislation? Yes, indeed there is—for those who are to learn it. It is a lesson in the futility of trying to control crime by treating it as a function of inanimate objects. It exposes the colossal folly in thinking that criminals are somehow the tools of guns, instead of the other way around. Moreover, the history of this gun control act should have taught us to beware of simplistic solutions which inevitably spring up during periods of emotional stress; that as national legislators we must resist the natural human impulse to "do something quick" about crime in America and to instead take time to delve deeper into the true causes and cures for criminal behavior in this country.

I will not dwell any further this morning on my own legislation, except to say that repeal of the Gun Control Act of 1968 is probably the most merciful thing this Congress can do for American citizens in the area of gun control. It has not worked and will not work in stemming the rising tide of crime. We as Congressmen are only human. We make mistakes. The important thing to the American people is that we admit our mistakes and have the courage to take the proper corrective action. The Gun Control Act of 1968 was unwise legislation and has proven to be not only ineffective, but totally counterproductive. The time for its repeal is now.

This subcommittee will of course be considering numerous other gun control bills, most of which point in the opposite direction from my own. Such measures deeply concern me. For this reason, I would like to briefly address myself to these proposals and to the broader issue of gun control in general.

I am opposed to Federal gun control on three grounds—constitutional, practical, and moral. I shall discuss each in turn, realizing however that time does not permit me to treat each area with any degree of thoroughness. Therefore, I will merely attempt to plant a few seeds of new thought in hopes they will land on fertile soil.

The second amendment of the U.S. Constitution states: "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed." I am no constitutional lawyer, in fact I am no lawyer at all. Yet commonsense tells me that our Founding Fathers were trying to tell us something there—and in no uncertain terms. In contrast to other portions of the Constitution, there were no qualifiers in this amendment, no "buts" or "excepts", just a straightforward statement regarding the people's right to possess firearms.

Men such as Samuel Adams and Patrick Henry were very emphatic about the need for such an amendment prior to ratification of the Constitution, protesting that as first submitted, the document did not guarantee "the right of having arms in your own defense." So important was the right to bear arms to our forefathers, that it was placed second in the Bill of Rights, with freedom of expression the only amendment ahead of it. Recognition of the individual's right to bear arms was by no means a new idea, however. In fact, it dates all the way back to 17th Century English common law.

Those who deny this constitutional right to do so on the contention that the phrase "well regulated militia" was referring to the National Guard, not private citizens. They seem to forget that our National Guard was not even established until the 20th century. Furthermore, title 10, section 311 of the U.S. Code states:

The militia of the United States consists of all able-bodied males at least 17 years of age and—under 45 years of age who are or who have a declaration of intent to become citizens of the United States.

Yes, we as private citizens do possess the constitutional right to keep and bear arms, unincumbered by the central Government. In fact, 37 State constitutions contain sections which reaffirm the individual right of honest citizens to own firearms if they so choose. These facts cannot be denied—they can only be ignored, as all too often they are.

My second objection to Federal gun laws is purely practical—they do not work. In fact, they have a record of only compounding and

worsening our crime problems. Let's set aside our personal assumptions for a moment and examine the hard facts about gun control.

Let me begin by assuring you that I am all in favor of keeping guns out of the hands of criminals, although I must confess that I am much more concerned about the commission of a crime than I am about the method or weapon employed. Nevertheless, disarming criminals of firearms is a worthy goal. Unfortunately, it is also completely unrealistic. Those who attempt to impose strict registration requirements or outright bans on firearms as ways of keeping them away from criminals are fighting a losing battle. Commonsense tells us that the reason they are classified criminals in the first place is because they are in the habit of breaking laws. There is no reason to assume that they will obey Federal gun laws any more than other laws they have broken.

The question of Federal gun registration goes even beyond this argument, however. As a result of the *Haynes* decision by the Supreme Court in 1968, criminals would not be legally obliged to register their guns—only honest citizens would. The Court ruled that since persons who possess firearms illegally would be incriminating themselves if they came forward and registered them, that they were in effect exempted from gun registration.

Some proponents of Federal firearms registration continue to maintain that a registration system would greatly aid law enforcement officers in tracing down weapons used in crimes, leading to speedier apprehension of criminals. Again, this contention ignores the facts and the laws of logic. The vast majority of criminal-owned firearms are either stolen, completely unregistered, or have had their registration numbers ground off. How in the world could these weapons be traced back to the criminal offender?

My greatest fear where Federal registration is concerned is that it would be nothing more than a prelude to confiscation. Once it became evident that gun registration alone was not curbing violent crime, it would be the logical next step to order the confiscation of the registered weapons. We see this course of events unfolding now in Washington, where D.C. Councilman Wilson has gained much support for his proposal to confiscate all 52,000 legally registered handguns. What would be the ultimate effect of a drastic measure such as this nationwide? To disarm all honest citizens who dutifully registered their guns with Uncle Sam. Meanwhile, every two-bit thug would retain possession of his, having never registered them to begin with. And while the police are busy enforcing gun laws on the lawful, the criminal element would be ravaging a now disarmed and defenseless society.

The desire to ban firearms as a solution to crime is very analogous to the desire in the 1920's to ban liquor as a solution to intemperance. Gun prohibitionists and liquor prohibitionists both reach their conclusions by convoluted logic about human behavior. Their assumption is that human beings are victims—mere pawns of the inanimate objects around them. Remove the objects and all will be well. The prohibition period should have taught us that this kind of reasoning is nonsense, that deviant behavior is primarily a function of human free will. And just as whiskey was readily available in the 1920's to whoever chose to break the law, so will firearms be easily obtainable through illegal channels by the crime community. The black market opportunities for organized crime would be staggering. Ultimately, any ban on firearms

would have the effect of funneling huge amounts of money into the coffers of those who the law was originally intended to control.

I am not going to play the statistics game with you today, and would hope that you will likewise show me the same consideration. Too often, statistical data selectively cited can be used to prove any point one wishes to make. Nevertheless, there are some little known facts about guns and gun control which I would like to bring to your attention:

(1) According to FBI reports, firearms are used in less than 4 percent of all serious crimes nationwide.

(2) While firearms ownership has gone up steadily over the years, the rate of homicides involving guns has been declining significantly.

(3) Over the past 10 years, less than one-fourth of the aggravated assault cases across the Nation were committed with firearms.

(4) There are perhaps 200 million privately owned firearms in the United States today, of which only one-sixth of 1 percent are used in the commission of crimes annually, including less than 1 percent of all handguns.

(5) Firearms and shooting sports are ranked 15th on the list of sports most likely to cause accidents. There are 20 times more accidental deaths with cars, eight times more through falls and three times more through drowning.

What strict Federal gun controls in effect will do is severely penalize the 50 million law-abiding gunowners in this Nation while attempting, unsuccessfully, to get at the one percent who use firearms for illegal purposes. Is this the kind of legislation this Congress should be passing?

There has been much talk about the so-called Saturday night special and about legislation specifically directed toward this type of handgun. Allow me to make just a few observations in this regard.

First of all, the term Saturday night special is, to anyone who understands firearms, almost completely meaningless. Attempts to define Saturday night specials based on barrel length, overall size, price, melting point, tensile strength, operating characteristics, firing tests, safety-size criteria, and so on, have all proven to be inadequate and arbitrary.

What would be the effect of outlawing these so-called Saturday night specials? The only lasting effect would be to once again disarm the law-abiding citizen. But in this case, primarily the poor would be penalized—the people who generally live in high-crime neighborhoods but who can scarcely afford an expensive Smith and Wesson for protection. By outlawing inexpensive handguns, we would in effect be denying lower income people their basic right to self defense. Only the wealthy would be able to defend themselves and their families from crimes of violence.

Meanwhile, criminals would have no trouble manufacturing home-made firearms with only basic mechanical ability and readily available materials. Zip guns can be fashioned out of rubberbands and umbrella tubing to serve the purpose of any murderer or thief. Federal legislation can in no way prevent criminals from making firearms in this way.

All the evidence available to us points to the fact that firearms do not cause crime. The decision by an individual to be violent is the

primary factor involved. His decision as to a choice of the weapon is very much secondary. Homicide studies show that where the will to murder exists, if a gun is not available, a knife or club will certainly suffice. If the tide of violence is to be turned, we must get down to the level where the original decision to be violent is made. Banning a particular weapon does not deter the criminal in making that decision. More efficient law enforcement and tougher penalties on criminal activity will. When one considers that only 3 percent of those who commit serious crimes in this country are sent to jail for doing so, there is obviously some need for improvement. It is here where we have really fallen down in deterring criminal activity.

My final objection to Federal firearms control rests on moral and philosophical grounds. Gun owners, hunters, sportsmen, collectors, and shooters are, as a group, probably the most law-abiding people in the entire United States. They are not potential killers and menaces to their communities as the antifirearms campaign portrays them. Virtually every gun organization and club in the United States sponsors, conducts, staffs, and supports training and safety courses in firearms. To penalize these people who use firearms for lawful purposes because of the criminality of a minute number is not in conscience with the fundamental American principle of justice and fairness. Nor does it set well with our heritage and our history as a free people.

Mr. CONYERS. You are not suggesting it is immoral, are you?

Mr. STUMS. Yes, I am. The point of it is, Mr. Chairman, I think is improper to infringe on the rights of an individual who is a law-abiding citizen who uses the gun for such things as target shooting or other types of use, such as protection. In our State it may take 5 hours for a sheriff to get to a man's house. He should not be restricted from protecting himself.

The present furor over gun control has become a bubbling caldron of emotionalism. People in my home State of Idaho are watching this latest drive with fear and confusion. Most Idahoans have grown up around firearms and therefore share none of the hysteria over guns which they hear emanating from Washington, D.C. Their familiarity with firearms has taught them how to handle guns with care and respect, and has given them an appreciation for their many legitimate uses by the private citizen. When they hear national leaders declaring that "the only purpose of handguns is to kill," and that "there is no reason for individuals to own them," they wince with pain.

In Idaho as elsewhere, sidearms are widely used for hunting, for protection in the field, and for target shooting. They also serve a valuable function in defending one's home and family from criminal assault. How do you think my constituents feel, standing idly by watching Members of Congress, most of whom have no appreciation for the legitimate use of fire arms, systematically legislate away their second amendment rights? How do I tell these people that they should continue to trust and respect their Government while watching Congress pass laws on the basis of rank ignorance, raw emotion, and ruthless political power? What shall I say to these good people? How shall I explain what is being done to them and why? You tell me. I might just add that we have our law enforcement people tied up chasing people for victimless crimes instead of being concerned with crimes where victims are present. I think if we would be more in-

volved with law enforcement in the court system, we could go a long way toward solving this problem.

The foundation of the American system of justice is built on the presumption of innocence until proven guilty. This is a tenet by which we all claim to live. Yet it appears that many of my colleagues are prepared to throw this principle out the window where gun owners are concerned and are anxious to declare these people guilty of some crime by mere virtue of their owning a firearm. Spurred on by the abuses of a very small minority, the gun haters in our midst look upon firearms possession as a crime in and of itself, and upon gun owners as latent killers and vicious perverts. When one considers that about 50 percent of all households in America have at least one gun, that is a lot of people.

But I ask you, is this what American justice is all about? Before this Congress becomes a kangaroo court, ready to pass judgment on every gun owner in this country, we had better reflect upon these things for a moment. Ultimately, this issue goes much deeper than six guns and Saturday night specials. It gets to the very root of our American institutions and the underpinnings of our free society. Moreover, it demonstrates how fragile liberty can really be. If one group can, by popular political demand, be denied its rights and sacrificed on the altar of legislative authoritarianism, then one by one all groups can receive the same treatment. In the end, no rights will remain sacred nor freedoms safe. The end result is tyranny—and with a disarmed and defenseless population, very likely that tyranny would be here to stay. Think about it. I thank you very much, Mr. Chairman.

Mr. CONYERS. Well, gentlemen, I appreciate the very strong views that you have articulated quite ably here before the subcommittee and I would like to just share with you some observations and invite your reaction.

Before I do, how large is the State of Idaho?

Mr. McCLURE. It is 83,000 square miles, about 720,000 people.

Mr. CONYERS. Is that an increasing rate of population?

Mr. McCLURE. Yes. The population growth, some say unfortunately, is above the national average.

Mr. CONYERS. I see. That is not much different from the size of Washington, D.C., is it?

Mr. McCLURE. That is right.

Mr. CONYERS. Let me tell you what is going on in my mind as I listened carefully to your statements and tried to put myself in your place. It is not surprising that, because of the nature of the activities in your State, that there would be the kind of proclivities that you articulated here.

But now we have to figure out what to do with a very serious problem. If we repeal the law we may be repealing some things that you might not support. For example, within the 1968 Federal guns laws is a requirement that no juveniles or persons then under 18 years of age would be able to purchase firearms. We tax excessively short-barreled rifles and shotguns because they have been trafficked so frequently and also other destructive devices.

We have also passed a number of provisions that if we repeal this law we might be opening up the way for some States to engage in conduct that I am not sure you would approve of in terms of the sale and possession of firearms.

So that what I am asking you is, is it your premise that if a law does not work we do not examine how and in what particular manner it failed, but that we just repeal the law? I mean, are we not going to replace it with something? Are there any redeeming features in the 1968 gun law at all, in your judgment?

Mr. McCLURE. Mr. Chairman, I might respond first and then turn the microphone over to my colleagues for response.

First, I do not think we would ask that you repeal without looking at why the law has not worked. We would ask you to look at why it has not worked and we believe that you would conclude that it is based on the wrong premise. That it could not work.

With respect to some of the details of the legislation, some might desire retention of certain provisions and others would not. For example, we have not found that juvenile purchase of ammunition has really been a problem. I grew up buying .22 caliber ammunition myself and that was one of the things that was prohibited in the original draft of the 1968 Gun Control Act.

I think we would work with you in trying to determine whether or not there are some items within the 1968 act that the majority would think should be kept. But I would remind the committee that the primary responsibility for the exercise of the police power lies with the States and not with the Federal Government. I think we sometimes lose sight of the fact that under our constitutional form of government the States have certain responsibilities that were not delegated to the Federal Government, and this is one of them.

Mr. CONYERS. Now, there are a number of provisions before this committee.

One of them, of course, is to abolish cheap handguns. Another is to get some understanding of how many guns are in circulation. We all have varying estimates, as you suggested yourself, that we ought to have some registration pattern. Our experience has shown that it might be at a national level. There are other remedies that we might engage in, even to the point of removing the handgun from civilian use in its entirety.

There are at least four or five remedies. Another idea that is gaining some currency is the notion of restricting ammunition sales. Now, in any of those suggestions are there any redeeming features? We admit it is not working effectively in terms of turning back crime, but would we want to consider any of the possibilities at all? None of these possibilities that have been presented to us in bill form have any redeeming merit to any of you?

Mr. SYMMS. Mr. Chairman, if I could comment on that, I think the problem is, and I do not doubt the sincerity of Councilman Wilson, for example, here in the District, who has a surprising amount of support for his idea to confiscate the 52,000 legally registered handguns here in the District of Columbia. It is not surprising considering the support he gets from the two papers in town.

The problem is his premise, in my judgment, is a faulty premise. It is based on a premise that is utopian, if we get the guns we are going to solve the problem. I think what we are trying to tell the committee is that problem is the criminal. If you take the 52,000 registered guns out of the District the people who have them registered are not the people who plan to use them illegally. It is not only control that

this premise is based upon but it is the whole syndrome of things that we are trying to intervene in.

I think the Senator, who is the attorney here with us this morning, I am not the lawyer, but the point is criminal law is not to be handled by the Federal Government in this regard anyway.

Mr. CONYERS. Well, how many guns are being manufactured and introduced annually into the society in which we live?

Mr. HANSEN. May I inject one remark? I would like to say that the number of guns do not seem to be the problem. The misuse of the gun and the weapon, whether it is one or 10,000 or whatever the number might be, is the problem. It seems to me, what we tried to do, when we tried to impose some kind of regulation of firearms on the Federal level, is try to umbrella the whole country, whatever the diverse conditions might be, under one type of regulation. I do not think it will work. We found there were too many occasions where umbrella legislation from the Federal level just cannot work out in the peculiar circumstances that you find at each local area.

Mr. CONYERS. Is that true all over the world, in other countries?

Mr. HANSEN. How did other countries apply here, Mr. Chairman?

Mr. CONYERS. We are one of a number of countries on the planet Earth, right? There are people killed with guns in other parts of the world. What I want to suggest to you, is that consistent with the experience of other countries of the world?

Mr. SYMONS. In the other countries in the world they do not allow drunk drivers to drive on the highways but in America we let them do it.

Mr. CONYERS. That answers the question on the drunk drivers but what about the use of guns? Do not other nations in the world at the national level exert a strong control over guns and are not their homicide rates embarrassingly lower than ours?

Mr. McCLURE. I think that is a worthy premise to analyze because if you analyze it, it fails. Just as we looked at the question of Switzerland in which every adult male over 16 maintains a gun in his home, the crime rate is embarrassingly lower than ours. So you are looking at the wrong relationship, when you look at the relationship of guns to crime. The relationship you ought to look at is what is the attitude of those criminals and the enforcement of laws.

Mr. CONYERS. You do not see a relationship between the national gun laws in other countries who have lower homicide rates with guns but you see it as the way they apply their criminal laws?

Mr. McCLURE. That is a fundamental premise I would imagine. Let me also make this comment as you look at other countries and their laws. We are one of the few countries in the world that guarantees minority rights as a matter of the constitutional right. So we can look to the other countries and lower crime rates but you will also find they do not have the writ of habeas corpus, the right of trial by jury, the freedoms that we enjoy guaranteed by our Constitution. One of which is the right to keep and bear arms.

Mr. CONYERS. I have only two more questions.

Mr. HANSEN. May I inject one thing here? I think another analogy we have to watch out for when we compare ourselves to other nations, not only the freedom that exists and the law enforcement problems but the fact that in the United States of America we are almost a combina-

tion of Americans in the 50 States we are talking about with adverse conditions somewhat akin to all of Europe being combined under one country. We are trying to create legislation that would cover that. I suggest that it would be more appropriate if these things were left to the State and the local conditions where they can handle the specific problem rather than trying to institute a large Federal mandate. If a person in Washington, D.C., needs penicillin, maybe they do not need it in Idaho. To prescribe one treatment across the Nation for a disease is a fatal mistake.

Mr. CONYERS. That is as good an argument on behalf of States rights as I have ever heard.

Let me repeat, gentlemen, do you have any notion of how many guns are introduced annually into the American society?

Mr. McCLURE. I do not have the figure on the tip of my tongue, I have it in my file. I can provide it, I assume you have it too. Is that not an effect of the growing criminal use of handguns but the growing fear of more and more people concerned with the security of their homes, families and businesses who find that because law enforcement has failed to protect them and give them the protection they are entitled to have, that they are trying to do it for themselves.

Mr. CONYERS. How many, 2½ million, 3 million new guns?

Mr. McCLURE. How many are being bought or how many feel that compulsion?

Mr. CONYERS. How many are being bought; I guess you suggest that everyone buying them feels that compulsion.

Mr. McCLURE. I do not think you can look at the number of guns that are being purchased and say that is the problem. The problem lies in the fear that the people have that their rights will be taken away by the criminal rather than depending on society to protect them.

Mr. CONYERS. You find no relationship in the rate of homicide in which guns were used and the fact that we are introducing 2½ to 3 million additional guns per year into society?

Mr. McCLURE. No necessary correlation. Again if every 16-year-old male in this country had to have a firearm in his home, would our statistics be the same as Switzerland?

Mr. CONYERS. I do not know. If you think I should consider that along with all the questions, I will.

Mr. SYMMS. If I could just make one comment. I do not have the figures that you are asking for, but as an interesting point, in Japan 94 percent of all major crimes are solved. In Washington, D.C. by comparison three out of four robberies go unsolved. Only in 3 percent of our national crimes is somebody actually sent to jail for committing the crime. So I think that is really the problem. The amount of guns has nothing to do with it.

Mr. CONYERS. Maybe the Japanese police are more effective than the American police; is that the conclusion?

Mr. SYMMS. The criminal laws are tougher, the social attitude toward crime is tougher and once they commit a crime they are not apt to be back on the street committing another one, that is true.

Mr. CONYERS. I got a call yesterday from a lady in New Jersey, Mrs. Bradshaw, who called me to be cheered up. Although I did not know what she was talking about, I thought it was a very pleasant

call. But her brother's son living in New York, who was 17 years old and who had been accepted for admission to Boston University, had been shot—mugged and shot over the weekend. It was apparently a cheap handgun but she was not sure of that. But she felt very very badly that this young life was snuffed out, it was a senseless killing and we talked a little bit about it. I am just wondering what you would say to a woman in that circumstance who feels as she indicated to me about this availability, this proliferation of handguns in our society? You know, in the area that I come from we get these kinds of tragic stories day after day after day. Frequently they are not even crimes, they are people who know each other—sometimes they are even in the same family.

But do you think her feelings might bear in this discussion we are having today? I ask you, Senator, and my colleagues?

Mr. McCURE. There is no question that there are tragic instances in which a gun has been misused by someone who possessed it. But trying to outlaw that, does not really reach the problem. It would be somewhat the same to a very similar tragic consequence. Say you get the same kind of phone call from somebody whose son or daughter was killed or maimed in an auto accident. We do not even take the actions that we know could be taken to further reduce traffic fatalities on the highways. We know if we mandated and endorsed the 35 miles-per-hour speed limit or 10 miles-per-hour speed limit there would still be further reductions in traffic fatalities but we do not do that. Certainly the tragic and senseless loss of life resulting from the misuse of firearms needs to be addressed, and we urge that it be addressed, but not by a concentration on the minority who misuse firearms to the detriment of the rights of those who do not misuse them but still own them.

I think it is worthy of notice that a couple of the nations that have the strictest gun laws against the use and possession of firearms, England and Ireland, their crime statistics are very similar to ours. I do not think this crime rate is imbedded in the existence of the right to own firearms, it is imbedded in the social attitude toward crime and the enforcement of laws concerning crime.

Mr. HANSEN. As tragic as this matter is, it would have been just as tragic if a knife had been used or some other device. You see all the time, the misuse of anything, a shovel or a fork or a butcher knife or anything else and again it gets to the point where the matter of the weapon is not a problem, it is the impulse to do harm or violence to someone that is a problem. How do you address yourself to this without violating the rights of the majority to have certain freedoms.

Mr. CONYERS. Thank you, Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman and I want to join in welcoming three-fourths of the Idaho delegation here to our committee this morning. You are articulating a very definite point of view with regard to gun control legislation.

Mr. Symms, in your extemporaneous remarks about some person in the District of Columbia you were much more generous than you were in your formal statement with regard to the motives of those who are supporting some kind of gun control legislation.

I would not want the suggestion to be conceded that some, at least, who are supporting some kind of meaningful gun control legislation are not motivated by a desire to help in the reduction of crime or that they

have misread in any way the opportunities for reducing crime with respect to some legislation.

I would just like to ask you this: Your measure, which would repeal the 1968 law, would also have the effect of repealing virtually all of the gun control laws because in 1968 we repealed the 1930 laws outlawing sawed-off shotguns, machine guns, bombs, grenades and things of that nature. So I am confident that you would want to revise your measure before final enactment by the House of Representatives, would you not?

Mr. SYMMS. I would have to be careful to see what it was that the Congress was passing, Mr. McClory. We would have to defend ourselves from Washington, D.C. back here if that was the case. Facetiously I say that. But when we get to that point I would talk to you about what we would have to put back into effect. Remember it is very easy to make a sawed-off shotgun. You can file the seer on a semi-automatic rifle and make it into an automatic rifle. It is not too hard to make handgrenades.

Mr. McCLORY. Well, we should not legalize these destructive devices, should we?

Mr. SYMMS. No, I am not advocating that.

Mr. McCLORY. So with respect to some firearm legislation, would you not feel it was appropriate for the Federal Government—

Mr. SYMMS. I do not want to leave a misimpression here. The point is whether we are dreaming in some kind of a Utopian thing that we can legislate out this problem. I do not think we can. The Sullivan law that Mr. Hansen brought up, New York City has 43 percent of the State of New York's population but 74 percent of its murders and 82 percent of its aggravated assaults. So you see, it is the social attitude.

Mr. McCLORY. You would not feel, would you, that the individual citizen in our country, in order to guard against an attack which might be supported by the kind of sophisticated weaponry, should be permitted to be armed with cannons, machineguns, antiaircraft guns and that sort of thing?

Mr. SYMMS. My faith lies in the individual, not in the Government. So we have a very different point of view on this. I am not saying that I am advocating that everybody carry a handgrenade up and down Main Street. I think the point, however, is being missed. In Switzerland they have the machineguns right in their houses. In our National Guard in Los Angeles they cannot even let the troops take their uniforms home because they do not get back to drill with them.

Mr. McCLORY. Let me understand your position on this. Is it your position that we should repeal all Federal laws then and leave this up to the individual citizen and his judgment?

Mr. SYMMS. No, to the State's.

Mr. McCLORY. And the Federal Government should not assume any role, then?

Mr. SYMMS. Well, in most cases except for, you know, some extreme case. I would say we should probably not allow people to carry—you know, I think the 1930 gun control law possibly had—you know, it missed the point, too. Just like I say, how hard is it to get a sawed-off shotgun?

Mr. McCLORY. Well, I am not suggesting that by enacting laws that you can prevent illegal action. We certainly cannot get into that line.

But the question that I have is whether or not we should continue to use the FBI, for instance, with regard to apprehension of criminals which we were able to do when we enacted the gun control laws of 1930. But if we permit organized crime to operate across State lines without the opportunity of the FBI to apprehend them, I am wondering where you leave this country, Mr. Symms?

Mr. SYMMS. I think if you support the local police you will find out the county sheriff can take care of this problem. We pay the elite force \$25,000 a year and pay the county sheriff \$500 a month. I think we have it backwards.

Mr. McCLORY. I do know something about Switzerland. My son-in-law serves as part of the Swiss National Guard and does possess his rifle. However, he has to go to the arsenal to get the ammunition, you know. The other thing is these are long guns which are available to them. Moreover, every gun is registered and the Swiss Government knows where every gun is. You would not object, would you, to having all firearms registered so that we would know where all the handguns are, at least?

Mr. SYMMS. Absolutely, that is why I am here this morning.

Mr. McCLORY. You made the reference to automobiles being very dangerous and there is no question about it. But you are not opposed to registration of automobiles or the licensing of drivers.

Mr. McCLURE. They are not registered in order to confiscate them, either.

Mr. McCLORY. I am not talking about confiscation, all I am asking you is whether you are opposed to the registration of handguns.

Mr. McCLURE. Absolutely.

Mr. McCLORY. Would you object to registering your handgun?

Mr. McCLURE. Yes, I would. My handgun is registered, but I think the principle is wrong. What business is it of yours whether I have a handgun?

Mr. McCLORY. Well, I am interested in the enforcement of law. I am interested in—

Mr. McCLURE. Are you really or are you interested in whether I have a handgun?

Mr. McCLORY. I am interested in apprehending criminals.

Mr. McCLURE. I am not a criminal.

Mr. CONYERS. But you are a member of the other body?

[Laughter.]

Mr. CONYERS. Some very fine distinctions are drawn here.

Mr. SYMMS. I would like to say Will Rogers said that Congress is the only native class of criminals in America.

[Laughter.]

Mr. HANSEN. I would like to say, the registration of handguns, whether I like it or the Senator or whatever, I think it still should be a matter of the local crime problems. Maybe they feel they can use that as a weapon in Detroit and that should be their business but we should not have to use it in some other area.

The second point is that if you do not trust the citizen with the use of his gun and you want to register it, what about the police? The police are human beings and some of them make mistakes. Can you depend on the fact that there will never be a time that police will not misuse this information to the detriment of the average citizen?

Mr. McCLORY. I am not suggesting that there is not going to be misuse of firearms or automobiles or knives or anything else. The thing I am interested in is knowing where the firearms are so that the firearms are in the hands of a person who should legitimately have it. So it is not in the hands of a criminal. So that it is not in the hand of a juvenile. So that the homeowner who feels that he wants a firearm will have it registered. If it is stolen from him and a crime is committed, at least the law enforcement people have the opportunity to trace the last owner of the firearm.

Mr. HANSEN. If a person wishes to use a firearm, if it is an impulsive crime he is going to use another weapon, if it is not impulsive he is going to find a way of getting an unregistered gun. So either way you have not solved the problem.

Mr. McCLORY. What you are saying is inconsistent with what those in the law enforcement field feel.

Mr. McCLORE. That is not correct. You will find some people who feel that way in law enforcement, you will find others who disagree.

Mr. McCLORY. I am interested in legislation which is supported by the International Association of the Chiefs of Police and the Director of the F.B.I. and other law enforcement people.

Mr. McCLORE. There are some people in the law enforcement agencies who feel this gives them a competitive advantage over the criminal without regard to the fact that it puts the citizen at a competitive disadvantage with the criminal.

Mr. McCLORY. Let me say this. There is a need for some meaningful gun control legislation in this country. I would agree that offenses committed with a handgun, for instance, between 80 or 90—over 90 percent of the various kinds of robberies and aggravated assaults and homicides are committed with handguns and increasing penalties for offenses committed with handguns would be one way of helping to reduce that.

Mr. McCLORE. I agree with that but there you are dealing with the right target. You are dealing with the person who misuses the firearm.

Mr. McCLORY. That is one part of it. But when you support, as you do, Mr. Hansen, local and State registration and oppose Federal legislation, it seems you leave a vast loophole with people who traffic in arms across municipal and State lines without the opportunity of getting the advantage of registration laws.

Mr. McCLORE. I want the record to be clear on one point and that is that I do not support local laws on registration of firearms.

Mr. HANSEN. That is also true of me.

Mr. SYMMS. I would like to be included in that.

Mr. CONYERS. I would like to recognize the gentleman from New Jersey, Mr. Hughes.

Mr. HUGHES. Thank you, Mr. Chairman. I also want to thank our distinguished colleagues for their articulate presentation this morning. I just have a couple of questions.

Mr. Symms, you made a statement that I am interested in. You indicated that ownership has gone up steadily over the years and the rate of homicides involving guns has been declining specifically.

That does not square with the information that I have. I wonder if you could furnish me, not today, when you are back in the office, with the source of that information?

Mr. SYMMS. Yes. It may be a ratio instead of an absolute factor, but I will submit that to you. I think this information came from an FBI source.

Mr. HUGHES. I have the years 1968 through 1973 and I do not see a significant reduction. As a matter of fact, it was an increase in the rate of homicides committed with handguns.

Mr. SYMMS. Alright, I will submit that for the record.

[The information referred to follows:]

SUPPLEMENTAL STATEMENT OF HON. STEVEN D. SYMMS

In my testimony before the House Judiciary Subcommittee on Crime, clarification and documentation of the following statement was requested:

(2) While firearms ownership has gone up steadily over the years, the rate of homicides involving guns has been declining significantly.

The original source for this statement was a floor speech by former Congressman William G. Bray of Indiana on July 18, 1968. Rep. Bray stated in part:

"For the country overall, firearms ownership has gone up steadily since 1910 and the rate of guns used in homicides has been going down. There were 3,243,370 serious crimes committed in the United States in 1966, and handguns were used in 3.4 percent of these. Rifles and shotguns were used in 0.005 percent.

"The grand total of all crimes in 1966—not including traffic offenses—was over 31 million. Serious crimes involving handguns came to 0.0035 percent of the total; rifles and shotguns to 0.0005 percent. If all handguns were completely eliminated and no substitutes were available to a criminal, we would still have 96.6 percent of our serious crime and 99.6 percent of total crime. If all rifles and shotguns were eliminated, as well, there would still be 99.5 percent serious crime, 99.9 percent of all crime."

Since Mr. Bray is no longer in Congress, it is difficult to trace back his source material. Congressman Bray was regarded as an authority on the gun control-crime control issue. One may assume that he used reliable sources, including the Uniform Crime Reports of the F.B.I.

It should be noted that Cong. Bray and I are speaking of a 30 to 40 year time frame and that by "rate of homicides", we are referring to a per capita relationship. Certainly the number of homicides has increased over the years, but population has increased significantly more. Accordingly, the homicide *rate* has been declining. Gun control advocates continue to claim that murder is on the increase, but fail to mention that the *rate* of murder has gone down—a very crucial omission of fact.

In specific terms, the rate of murder per 100,000 residents of the United States today is only 70 percent of what it was in 1933. Although reliable nationwide data on crime is not available before that year, the rate of homicides in the 1880's and 1890's was probably even higher than in the 30's. During this time period, the number of firearms in private hands has increased by many millions.

These figures do not discriminate between gun and non-gun homicides. However, the Uniform Crime Reports indicate that over the years, the percentage of homicide where firearms are used has remained fairly constant, relative to other means. One may infer then, that since the homicide rate has declined 30% since 1933, that the gun homicide rate has likewise declined.

Gun control proponents assert that the number of guns in private hands is directly proportional to the gun homicide rate. However, the above data suggests that if anything, the exact opposite is true; i.e. that the rate of murder nationwide is *inversely* proportional to private firearms possessions. No reliable studies have ever been undertaken to determine how gun ownership for defense *discourages* homicides and crime in general. How many stores were *not* robbed because the potential offenders had knowledge of the storekeepers' owning guns? How many homes were not burglarized for the same reason? These kinds of determinations must be made for Congress to act wisely on the gun control issue.

Experience has shown that in States where the rate of gun possession is high, the crime rate is generally low. Where gun possession is low, crime rates are generally higher. Moreover, wherever gun confiscation programs have been

implemented, murder rates have invariably gone up. The most recent example of this is the City of Baltimore bounty program, where the city paid \$600,000 to get 12,000 guns out of private hands. Gun-related crimes went up over 50 percent since that project began.

It is my belief that Members of Congress have often too quick to accept the supposition that murder is a direct function of the number of firearms in society. No one has ever been able to prove this. The facts I have presented here lead one to precisely the opposite conclusion.

Clearly, it is time to separate myth from reality and to discard all the simplistic notions not supported by fact. Before Congress surges ahead on gun control legislation—it owes the American people that much.

Mr. HUGHES. Also I have another question. I do not know whether any of you gentlemen were connected in any way with law enforcement?

Mr. McCLURE. Yes.

Mr. HUGHES. I was too. I am interested in some of your comments concerning repeal of the 1968 gun law. I do not know what your experience was in Idaho. But, in New Jersey, we benefited greatly as the 1968 law related to the tracing of weapons. Before 1968 we did not have the capability that was formulated in the 1968 bill and it has been a great assistance to law enforcement in New Jersey. As I understand it, you would repeal that law and would not want to revive those facilities to trace handguns?

Mr. McCLURE. There is only one way the law will assist in tracing them and that is by registration and I am opposed to registration. There is no question that registration of firearms aid law enforcement in the solution of crime once it has been committed. But let's compare that again with the loss of the rights of individuals and on that point I have to disassociate myself from registration.

Mr. HUGHES. So you object to the procedure that requires the dealers to take the information, name and address?

Mr. McCLURE. Yes.

Mr. HUGHES. Of course that is just a matter of weighing the balance. I do respect your beliefs in that regard. I can say in the 10 years I tried cases I benefited immeasurably by the ability of law enforcement people being able to trace weapons.

I am a hunter also and the sportsmen in my area have not generally been opposed to the registration of handguns.

Mr. McCLURE. Let me comment, if I may. Law enforcement would find it beneficial to have a complete dossier on everybody in the United States. But I think most of us are repulsed by that idea, in spite of the fact that law enforcement might get some benefit from it.

Mr. HUGHES. I think you agree it is a matter of degree. I would be the last one to deny the personal freedoms but as you know we are a society and we try to balance and weigh and determine when the interest of society comes first where we have to impose some imposition on personal freedoms.

Mr. HANSEN. I would like to inject one thing. Even if we were to adopt certain measured devices to try to handle weapons and try to identify them or whatever, this may be a factor that may be more necessary under the reasoning you suggest in your area than it would in someone else's area. Again I suggest that these things should be considered on either a State or local basis. The reason I say this is because I can stand anywhere on any street, in my State, for instance, and a fellow could have a whole range of guns and everything else

and it does not make me a bit nervous. So I think that you have different applications of the situations in Washington than you do in our State. While you may decide that even the measure you are talking about, registration of firearms or whatever is necessary, it may be something that would work more feasibly in a certain area than another area and flatly it should not be considered at all.

Mr. HUGHES. The difficulty with that, as you know, with the interstate transportation of firearms, it is a particular problem. If one State adopts registration laws and another State does not, you have a problem. We in New Jersey have a fairly strict registration law. I do not agree with much of the manner in which they endeavored to register, particularly shotguns and rifles, but we have had a law. But when you talk about permitting the States to do it, the unfortunate part about it is that the State legislation may discover that once it registers, if the adjoining State does not, you have a problem. I think the tracing mechanism has been a great assistance to law enforcement. I do not think you can talk in terms of building dossiers and putting that in balance, I think it is a matter of degree.

Thank you very much.

Mr. CONYERS. Mr. Ashbrook.

Mr. ASHBROOK. Thank you, Mr. Chairman. I thank my three colleagues for their testimony. I find several interesting theories developing because, after all, most legislation we know comes from a theory or philosophy every bit as much as a felt need. Following up this point on using tracing or registration as an aid to law enforcement, there are many aids to law enforcement. The thing I find rather interesting, the bulk of those who want limited use of aids in law enforcement, surveillance, wire tapping, infiltration of subversive or radical groups, come out on the other hand and want total or maximum use or control in this area. I happen to believe in limited use in all categories. We could have aid to law enforcement, if we would have more wire tapping and surveillance or more of those things which my colleague from Idaho refers to as repugnant, I think it is repugnant. I think the people who come down very heavily on this area and say we want maximum use of control, confiscation, whatever the proposal might be, but only very limited in the other area. Again to repeat I find myself as one who wants limited inconsistency with our various freedoms, limited use of awesome power of government. Many times I think if we could only have wiretapping on that group we could break it, but I believe in limited or careful use of that. When our friends keep mentioning it is necessary for law enforcement, again I think we get into a matter of what is necessary for law enforcement and I do not believe law can only be enforced if we have a maximum use of the power of the government in this particular area.

One theory that I heard on these hearings, which are very fine hearings, very open, very good exchange is the so-called arsenal theory. Because there are so many guns in private ownership throughout the country that they in effect constitute a warehouse or arsenal, that the criminal in effect goes into your home, takes the gun and then uses that gun in perpetuating the crime.

Of course that is one way that the proponents push the theory of registration or control of some type, that you have to get at this

arsenal of guns; 100 million or 50 million handguns, whatever. Private ownership constitutes a clear and present danger, in effect, because it is the warehouse or arsenal available to the criminal coming into your home.

I would like to have the comments of the gentleman from Idaho on that respect?

Mr. McCLURE. I agree with you in your fundamental analysis and I would also agree with Mr. Hughes that it is a matter of degree. How you weigh it. Because I think you, in your remarks, indicated a limited use of these tools. Limited use of surveillance, limited use of wiretapping, limited use of dossiers. I think we should very carefully limit what we do in the field of firearms control. There is only one way in which you can eliminate the arsenal and that is confiscate all firearms. Otherwise the arsenal exists. You can register the guns, but the only way you can keep it from being stolen is to keep the private individual from owning one. Then you can keep it from being stolen. I think that is why a great many of us are opposed to this registration, just as Councilman Wilson said he was in favor of confiscation in the District of Columbia and he would start with the 52,000 that are registered.

Mr. HANSEN. The second thing, in light of this, if there happened to be a leak in the police files or wherever the registration files were kept, would it not be possible for criminals to make sure of the fact that they could identify every home that did not have any self protection, which would make it easier for them.

Mr. ASHBROOK. Again I could not help reflect, as the Senator from Idaho was being questioned by my colleague from Illinois, getting back again to the question of law enforcement, it is my basic philosophy that the problem of law enforcement only arises as the gentleman from Idaho would misuse or illegally use these guns. Up to that point is it really constituting a clear and present danger to make it necessary to register or confiscate or whatever we might do.

At what point would you gentlemen feel that the so-called arsenal of guns throughout the country become a problem of law enforcement? I think sometimes we get psyched to thinking all guns are a problem of law enforcement.

Mr. SYMMS. None whatsoever, the guns I own are not. They may be an asset to law enforcement, some day, you never know.

Mr. McCLURE. I think the existence of the right to own firearms is an asset because the fact that you have the right may be a deterrent to a criminal.

Mr. SYMMS. I would respond to the philosophic question. For example, the Washington Post, the only freedom they are concerned about is freedom of the press. They are not concerned about the freedom of people to own guns, freedom of people to set their own price for fuel at the gas stations, I do not care what it is. All they holler about is freedom of the press, which I share their concern for that. But we have other freedoms that must be protected.

Mr. ASHBROOK. I share your concern over Government and I think in this area and all areas it seems to me we, the collectively "we" in Washington, most every time we see a problem we end up saying the problem is too much freedom and we end up taking away the freedom.

I thank the gentlemen for their testimony and obviously subscribe to what they say and I am glad they are here today to make those statements.

Mr. CONYERS. Mr. Danielson.

Mr. DANIELSON. Thank you Mr. Chairman and thank you gentlemen for giving us your help on this problem.

Mr. SYMMS. during the colloquy with one of my colleagues reference was made to the Firearms Act of 1968 as to whether or not it would be proper to have machine guns or grenades or something of that nature. I remember you saying, Mr. Symms, something to the effect that we will, perhaps, it should not be proper and then it sort of faded off. Can you pick that up?

Mr. SYMMS. I think the basic premise even of the 1930 act misses the point. If we can get this committee to agree with us to repeal the 1968 Gun Control Act, then I will be willing to sit down with the committee and talk about what places would be the proper place. Whether it would be taking hand grenades that might be manufactured by Dow Chemical and not selling those in the drugstores, I am not talking about an unsafe situation. I am not advocating that we should allow a private citizen to walk up and down the streets with an atomic bomb on his back.

Mr. DANIELSON. How about a submachinegun?

Mr. SYMMS. You can take any standard semiautomatic rifle and with a little bit of work make it into an automatic fire weapon and put a clip on it to hold 30 rounds and I have an automatic weapon.

Mr. DANIELSON. Then you are not opposed to submachineguns being carried around by citizens, I gather?

Mr. SYMMS. That is not the point.

Mr. DANIELSON. I am trying to get down to some real specifics here. I am going to shift gears but we will come back. I believe, Senator McClure, in your statement you commented that the Federal Government does not have a broad police power or you questioned whether we have any police power at all. I tend to agree with you there and it is a matter of some concern in this legislation. I think you would agree that the Federal Government could under the commerce laws regulate interstate commerce of firearms.

Mr. McCLURE. They have the power to do so, yes.

Mr. DANIELSON. I am not talking about the guns that are already out of commerce. Likewise under our post office jurisdiction we could regulate the transportation of firearms through the mails.

Mr. McCLURE. I would say that is a very inefficient way to get them there.

Mr. DANIELSON. I am talking about the power to do so, am I right?

Mr. McCLURE. Yes.

Mr. DANIELSON. Do you know of any other constitutional basis on which we can regulate the commerce of firearms?

Mr. McCLURE. The commerce of firearms has been the most often one that we have used.

Mr. DANIELSON. Aside from commerce and post office.

Mr. McCLURE. They have the right to regulate what are Federal crimes, crimes committed in interstate commerce.

Mr. DANIELSON. We are back to commerce.

Mr. McClure. Yes, it is a little different thing than just regulating the commerce itself. I wanted to make that distinction.

Mr. DANIELSON. Well, we do have a 1968 law that eliminates fully automatic weapons—

Mr. McClure. And the Supreme Court in looking at the 1930 law has defined the right to keep and bear arms as excluding the right to carry sawed-off shotguns and automatic fire weapons.

Mr. DANIELSON. That is very interesting. As you know, prior to the 1968 law you and I could own a cannon, if we wanted to. In fact I have a clear recollection that in 1960, approximately, of firearms magazines carried ads for surplus antitank guns. Although they did not have much of a supporting purpose. Theoretically you could have a bazooka, an antitank weapon used successfully during World War II. The tommyguns were notorious in the 1930's but nevertheless it was permissible prior to that 1930 act.

But in the second amendment the language says the right of the people to keep and bear arms shall not be infringed. I have a problem distinguishing between one arm and another. There is nothing in there that indicates what kind of arms.

Now, we talked about commerce, we talked about the post office, how about the power to tax?

Mr. McClure. It has been adequately stated before that the power of tax is the power to destroy and I assume somebody might desire to place a tax on for the purpose of destroying a right. I think the courts are capable of looking behind the law to look at its purpose and the courts might well declare a law that had that obvious intent as being invalid.

Mr. DANIELSON. Let's go back almost 200 years, John Marshall was the first one to enunciate that rule. We use that extensively, do we not, in our Federal criminal laws? The Federal criminal laws against most narcotics are based on taxation, are they not? You have the right to own narcotics provided you pay the tax, which is enough to destroy the traffic, of course. It is intended to be. How about bookmaking. We have Federal laws against bookmaking which is based upon a license tax. Would that not suffice for firearms if the Federal Government sought to do so?

Mr. McClure. I suppose the Federal Government could tax all newspapers, radio and television stations, too, without violating the first amendment.

Mr. DANIELSON. I am not going to get into that colloquy, I am trying to explore a constitutional basis for this kind of legislation. Maybe the courts would say if you put a tax on arms that would be infringing the right to keep and bear arms. I do not know. Of course, a tax on newspapers could be a breach of the freedom of the press.

Mr. McClory. Would the gentleman yield?

Mr. DANIELSON. Yes.

Mr. McClory. I sort of anticipated the gentleman's questions. I think the gentleman's questions were directed at earlier witnesses and I wanted at this meeting to call to the committee's attention the case of Perez against the United States which supported the Federal legislation against loan sharking on the basis that it was a dangerous activity related to organized crime which the Federal Government should have

authority to outlaw. Even though the activity prohibited may not have been interstate commerce, the Supreme Court did in the *Perez* against the U.S. case in 1971 hold that we were exercising a lawful constitutional authority because the class of activities affected interstate commerce. If you would permit, Mr. Chairman, I would like to justify my statement and put that decision at this point in the record.

Mr. DANIELSON. I would request that that be done because, here is my problem with this—

Mr. CONYERS. Without objection it will be in the record.
[The document referred to follows:]

STATEMENT OF HON. ROBERT McCLORY

POWER OF THE CONGRESS TO REGULATE FIREARMS UNDER THE COMMERCE CLAUSE

Mr. Chairman: In our last hearing as well as in our hearing today Mr. Danielson raised a question as to the power of Congress under the Constitution to regulate the traffic in firearms. Specifically, Mr. Danielson questioned whether or not the commerce clause (Article I, Section 8, clause 3) provides sufficient jurisdictional base on which the Congress might act.

The pertinent decisions of the Supreme Court clearly establish the Congress' power under the commerce clause to regulate criminal activities which affect interstate commerce. The most important decision is *Perez v. United States*, 402 U.S. 146 (1971) which upheld the constitutionality of the extortionate credit provisions of the Consumer Credit Protection Act. The Court held that extortionate credit transactions though purely intrastate may in the judgment of Congress, affect interstate commerce. The constitutional propriety of the Act depended on the sufficiency of the congressional finding of such an effect.

In my view, the illicit traffic in handguns clearly may be regulated by Congress under the commerce clause. I bring the *Perez* decision to the attention of the Committee, and particularly to Mr. Danielson, and I ask that it be inserted in the record.

[Opinion of the Court—402 U.S.]

PEREZ V. UNITED STATES

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

No. 600. Argued March 22, 1971—Decided April 26, 1971

Petitioner was convicted of "loan sharking" activities, *i.e.*, unlawfully using extortionate means in collecting and attempting to collect an extension of credit, in violation of Title II of the Consumer Credit Protection Act, and his conviction was affirmed on appeal. He challenges the constitutionality of the statute on the ground that Congress has no power to control the local activity of loan sharking. *Held*: Title II of the Consumer Credit Protection Act is within Congress' power under the Commerce Clause to control activities affecting interstate commerce and Congress' findings are adequate to support its conclusion that loan sharks who use extortionate means to collect payments on loans are in a class largely controlled by organized crime with a substantially adverse effect on interstate commerce. Pp. 149-157.

426 F. 2d 1073, affirmed.

Douglas, J., delivered the opinion of the Court, in which Burger, C. J., and Black, Harlan, Brennan, White, Marshall, and Blackmun, JJ., joined. Stewart, J., filed a dissenting opinion, *post*, p. 157.

Albert J. Krieger argued the cause for petitioner. With him on the briefs was Joel M. Finkelstein.

Solicitor General Griswold argued the cause for the United States. With him on the brief were Assistant Attorney General Wilson, Beatrice Rosenberg, and Marshall Tamor Golding.

Mr. Justice Douglas delivered the opinion of the Court.

The question in this case is whether Title II of the Consumer Credit Protection Act, 82 Stat. 159, 18 U.C.S. § 891 *et seq.* (1964 ed., Supp. V), as construed and applied to petitioner, is a permissible exercise by Congress of its powers under

the Commerce Clause of the Constitution. Petitioner's conviction after trial by jury and his sentence were affirmed by the Court of Appeals, one judge dissenting. 428 F. 2d 1073. We granted the petition for a writ of certiorari because of the importance of the question presented. 400 U.S. 915. We affirm that judgment.

Petitioner is one of the species commonly known as "loan sharks" which Congress found are in large part under the control of "organized crime."¹ "Extortionate credit transactions" are defined as those characterized by the use or threat of the use of "violence or other criminal means" in enforcement.² There was ample evidence showing petitioner was a "loan shark" who used the threat of violence as a method of collection. He loaned money to one Miranda, owner of a new butcher shop, making a \$1,000 advance to be repaid in installments of \$105 per week for 14 weeks. After paying at this rate for six or eight weeks, petitioner increased the weekly payment to \$130. In two months Miranda asked for an additional loan of \$2,000 which was made, the agreement being that Miranda was to pay \$205 a week. In a few weeks petitioner increased the weekly payment to \$330. When Miranda objected, petitioner told him about a customer who refused to pay and ended up in a hospital. So Miranda paid. In a few months petitioner increased his demands to \$500 weekly which Miranda paid, only to be advised that at the end of the week petitioner would need \$1,000. Miranda made that payment by not paying his suppliers; but, faced with a \$1,000 payment the next week, he sold his butcher shop. Petitioner pursued Miranda, first making threats to Miranda's wife and then telling Miranda he could have him castrated. When Miranda did not make more payments, petitioner said he was turning over his collections to people who would not be nice but who would put him in the hospital if he did not pay. Negotiations went on, Miranda finally saying he could only pay \$25 a week. Petitioner said that was not enough, that Miranda should steal or sell drugs if necessary to get the money to pay the loan, and that if he went to jail it would be better than going to a hospital with a broken back or legs. He added, "I could have sent you to the hospital, you and your family, any moment I want with my people."

Petitioner's arrest followed. Miranda, his wife, and an employee gave the evidence against petitioner who did not testify or call any witnesses. Petitioner's attack was on the constitutionality of the Act, starting with a motion to dismiss the indictment.

The constitutional question is a substantial one.

Two "loan shark" amendments to the bill that became this Act were proposed in the House—one by Congressman Poff of Virginia, 114 Cong. Rec. 1605-1606 and another one by Congressman McDade of Pennsylvania, *Id.*, at 1609-1610.

The House debates include a long article from the New York Times Magazine for January 28, 1968, on the connection between the "loan shark" and organized crime. *Id.*, at 1428-1431. The gruesome and stirring episodes related have the following as a prelude:

The loan shark, then, is the indispensable 'money-mover' of the underworld. He takes 'black' money tainted by its derivation from the gambling or narcotics rackets and turns it 'white' by funneling it into channels of legitimate trade. In so doing, he exacts usurious interest that doubles the black-white money in no time; and, by his special decrees, by his imposi-

¹ Section 201(a) of Title II contains the following findings by Congress:

"(1) Organized crime is interstate and international in character. Its activities involve many billions of dollars each year. It is directly responsible for murders, willful injuries to person and property, corruption of officials, and terrorization of countless citizens. A substantial part of the income of organized crime is generated by extortionate credit transactions.

"(2) Extortionate credit transactions are characterized by the use, or the express or implicit threat of the use, of violence or other criminal means to cause harm to person, reputation, or property as a means of enforcing repayment. Among the factors which have rendered past efforts at prosecution almost wholly ineffective has been the existence of exclusionary rules of evidence stricter than necessary for the protection of constitutional rights.

"(3) Extortionate credit transactions are carried on to a substantial extent in interstate and foreign commerce and through the means and instrumentalities of such commerce. Even where extortionate credit transactions are purely intrastate in character, they nevertheless directly affect interstate and foreign commerce."

² Section 891 of 18 U.S.C. (1964 ed., Supp. V) provides in part:

"(6) An extortionate extension of credit is any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time it is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

"(7) An extortionate means is any means which involves the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person."

tion of impossible penalties, he greases the way for the underworld takeover of entire businesses. *Id.*, at 1429.

There were objections on constitutional grounds. Congressman Eckhardt of Texas said:

Should it become law, the amendment would take a long stride by the Federal Government toward occupying the field of general criminal law and toward exercising a general Federal police power; and it would permit prosecution in Federal as well as State courts of a typically State offense.

* * * * *

I believe that Alexander Hamilton, though a federalist, would be astonished that such a deep entrenchment on the rights of the States in performing their most fundamental function should come from the more conservative quarter of the House. *Id.*, at 1610.

Senator Proxmire presented to the Senate the Conference Report approving essentially the "loan shark" provision suggested by Congressman McDade, saying:

Once again these provisions raised serious questions of Federal-State responsibilities. Nonetheless, because of the importance of the problem, the Senate conferees agreed to the House provision. Organized crime operates on a national scale. One of the principal sources of revenue of organized crime comes from loan sharking. If we are to win the battle against organized crime we must strike at their source of revenue and give the Justice Department additional tools to deal with the problem. The problem simply cannot be solved by the States alone. We must bring into play the full resources of the Federal Government. *Id.*, at 14490.

The Commerce Clause reaches, in the main, three categories of problems. First, the use of channels of interstate or foreign commerce which Congress deems are being misused, as, for example, the shipment of stolen goods (18 U.S.C. §§ 2312-2315) or of persons who have been kidnaped (18 U.S.C. § 1201). Second, protection of the instrumentalities of interstate commerce, as, for example, the destruction of an aircraft (18 U.S.C. § 32), or persons or things in commerce, as, for example, thefts from interstate shipments (18 U.S.C. § 659). Third, those activities affecting commerce. It is with this last category that we are here concerned.

Chief Justice Marshall in *Gibbons v. Ogden*, 9 Wheat. 1, 195, said:

The genius and character of the whole government seem to be, that its action is to be applied to all the external concerns of the nation, and to those internal concerns which affect the States generally; but not to those which are completely within a particular State, which do not affect other States, and with which it is not necessary to interfere, for the purpose of executing some of the general powers of the government. The completely internal commerce of a State, then, may be considered as reserved for the State itself.

Decisions which followed departed from that view; but by the time of *United States v. Darby*, 312 U. S. 100, and *Wickard v. Filburn*, 317 U. S. 111, the broader view of the Commerce Clause announced by Chief Justice Marshall had been restored. Chief Justice Stone wrote for a unanimous Court in 1942 that Congress could provide for the regulation of the price of intrastate milk, the sale of which, in competition with interstate milk, affects the price structure and federal regulation of the matter. *United States v. Wrightwood Dairy Co.*, 315 U. S. 110. The Commerce power, he said, "extends to those activities intrastate which so affect interstate commerce, or the exertion of the power of Congress over it, as to make regulations of them appropriate means to the attainment of a legitimate end, the effective execution of the granted power to regulate interstate commerce."

Wickard v. Filburn, 317 U. S. 111, soon followed in which an unanimous Court held that wheat grown wholly for home consumption was constitutionally within the scope of federal regulation of wheat production because, though never marketed interstate, it supplied the need of the grower which otherwise would be satisfied by his purchases in the open market.³ We said:

[E]ven if appellee's activity be local and though it may not be regarded as commerce, it may still, whatever its nature, be reached by Congress if it exerts a substantial economic effect on interstate commerce, and this irrespec-

³ That decision has been followed: *Beckman v. Mall*, 317 U. S. 597; *Bender v. Wickard*, 319 U. S. 731; *United States v. Haley*, 358 U. S. 644; *United States v. Ohio*, 385 U. S. 9.

tive of whether such effect is what might at some earlier time have been defined as "direct" or "indirect." 317 U. S., at 125.

In *United States v. Darby*, 312 U. S. 100, the decision sustaining an Act of Congress which prohibited the employment of workers in the production of goods "for interstate commerce" at other than prescribed wages and hours, a *class of activities* was held properly regulated by Congress without proof that the particular intrastate activity against which a sanction was laid had an effect on commerce. A unanimous Court said:

Congress has sometimes left it to the courts to determine whether the intrastate activities have the prohibited effect on the commerce, as in the Sherman Act. It has sometimes left it to an administrative board or agency to determine whether the activities sought to be regulated or prohibited have such effect, as in the case of the Interstate Commerce Act, and the National Labor Relations Act, or whether they come within the statutory definition of the prohibited Act, as in the Federal Trade Commission Act. And sometimes Congress itself has said that a particular activity affects the commerce, as it did in the present Act, the Safety Appliance Act and the Railway Labor Act. In passing on the validity of legislation of the *class* last mentioned the only function of courts is to determine whether the particular activity regulated or prohibited is within the reach of the federal power. (*Italics added.*) *Id.*, at 120-121.

That case is particularly relevant here because it involved a criminal prosecution, a unanimous Court holding that the Act was "sufficiently definite to meet constitutional demands." *Id.*, at 125. Petitioner is clearly a *member of the class* which engages in "extortionate credit transactions" as defined by Congress⁴ and the description of that class has the required definiteness.

It was the "class of activities" test which we employed in *Atlanta Motel v. United States*, 379 U.S. 241, to sustain an Act of Congress requiring hotel or motel accommodations for Negro guests. The Act declared that "any inn, hotel, motel, or other establishment which provides lodging to transient guests" affects commerce *per se.*" *Id.*, at 247. That exercise of power under the Commerce Clause was sustained.

[O]ur people have become increasingly mobile with millions of people of all races traveling from State to State; . . . Negroes in particular have been the subject of discrimination in transient accommodations, having to travel great distances to secure the same; . . . often they have been unable to obtain accommodations and have had to call upon friends to put them up overnight . . . and . . . these conditions had become so acute as to require the listing of available lodging for Negroes in a special guidebook. . . . *Id.*, at 252-253.

In a companion case, *Katzenbach v. McClung*, 379 U. S. 294, we ruled on the constitutionality of the restaurant provision of the same Civil Rights Act which regulated the restaurant "if . . . it serves or offers to serve interstate travelers or a substantial portion of the food which it serves . . . has moved in commerce." *Id.*, at 298. Apart from the effect on the flow of food in commerce to restaurants, we spoke of the restrictive effect of the exclusion of Negroes from restaurants on interstate travel by Negroes.

[T]here was an impressive array of testimony that discrimination in restaurants had a direct and highly restrictive effect upon interstate travel by Negroes. This resulted, it was said, because discriminatory practices prevent Negroes from buying prepared food served on the premises while on a trip, except in isolated and unkempt restaurants and under most unsatisfactory and often unpleasant conditions. This obviously discourages travel and obstructs interstate commerce for one can hardly travel without eating. Likewise, it was said, that discrimination deterred professional, as well as skilled, people from moving into areas where such practices occurred and thereby caused industry to be reluctant to establish there. *Id.*, at 300.

In emphasis of our position that it was the *class of activities* regulated that was the measure, we acknowledged that Congress appropriately considered the "total incidence" of the practice on commerce. *Id.*, at 301.

Where the *class of activities* is regulated and that *class* is within the reach of federal power, the courts have no power "to excise, as trivial, individual instances" of the class. *Maryland v. Wirtz*, 392 U.S. 183, 193.

⁴ See n. 2, *supra*.

Extortionate credit transactions, though purely intrastate, may in the judgment of Congress affect interstate commerce. In an analogous situation, Mr. Justice Holmes, speaking for a unanimous Court, said: "[W]hen it is necessary in order to prevent an evil to make the law embrace more than the precise thing to be prevented it may do so." *Westfall v. United States*, 274 U.S. 256, 259. In that case an officer of a state bank which was a member of the Federal Reserve System issued a fraudulent certificate of deposit and paid it from the funds of the state bank. It was argued that there was no loss to the Reserve Bank. Mr. Justice Holmes replied, "But every fraud like the one before us weakens the member bank and therefore weakens the System." *Id.*, at 259. In the setting of the present case there is a tie-in between local loan sharks and interstate crime.

The findings by Congress are quite adequate on that ground. The McDade Amendment in the House, as already noted, was the one ultimately adopted. As stated by Congressman McDade it grew out of a "profound study of organized crime, its ramifications and its implications" undertaken by some 22 Congressmen in 1966-1967. 114 Cong. Rec. 14391. The results of that study were included in a report, *The Urban Poor and Organized Crime*, submitted to the House on August 29, 1967, which revealed that "organized crime takes over \$350 million a year from America's poor through loan-sharking alone." See 113 Cong. Rec. 24460-24464. Congressman McDade also relied on *The Challenge of Crime in a Free Society. A Report by the President's Commission on Law Enforcement and Administration of Justice* (February 1967) which stated that loan sharking was "the second largest source of revenue for organized crime," *id.*, at 189, and is one way by which the underworld obtains control of legitimate businesses. *Id.*, at 190.

The Congress also knew about New York's Report, *An Investigation of the Loan Shark Racket* (1965). See 114 Cong. Rec. 1428-1431. That report shows the loan shark racket is controlled by organized criminal syndicates, either directly or in partnership with independent operators; that in most instances the racket is organized into three echelons, with the top underworld "bosses" providing the money to their principal "lieutenants," who in turn distribute the money to the "operators" who make the actual individual loans; that loan sharks serve as a source of funds to bookmakers, narcotics dealers, and other racketeers; that victims of the racket include all classes, rich and poor, businessmen and laborers; that the victims are often coerced into the commission of criminal acts in order to repay their loans; that through loan sharking the organized underworld has obtained control of legitimate businesses, including securities brokerages and banks which are then exploited; and that "[e]ven where extortionate credit transactions are purely intrastate in character, they nevertheless directly affect interstate and foreign commerce."⁸

Shortly before the Conference bill was adopted by Congress a Senate Committee had held hearings on loan sharking and that testimony was made available to members of the House. See 114 Cong. Rec. 14390.

The essence of all these reports and hearings was summarized and embodied in formal congressional findings. They supplied Congress with the knowledge that the loan shark racket provides organized crime with its second most lucrative source of revenue, exacts millions from the pockets of people, coerces its victims into the commission of crimes against property, and causes the takeover by racketeers of legitimate businesses. See generally 114 Cong. Rec. 14391, 14392, 14395, 14396.

We have mentioned in detail the economic, financial, and social setting of the problem as revealed to Congress. We do so not to infer that Congress need make particularized findings in order to legislate. We relate the history of the Act in detail to answer the impassioned plea of petitioner that all that is involved in loan sharking is a traditionally local activity. It appears, instead, that loan sharking in its national setting is one way organized interstate crime holds its guns to the heads of the poor and the rich alike and syphons funds from numerous localities to finance its national operations. *Affirmed.*

Mr. Justice Stewart, dissenting.

Congress surely has power under the Commerce Clause to enact criminal laws to protect the instrumentalities of interstate commerce, to prohibit the misuse of the channels or facilities of interstate commerce, and to prohibit or regulate those intrastate activities that have a demonstrably substantial effect on inter-

⁸ See n. 1, *supra*.

state commerce. But under the statute before us a man can be convicted without any proof of interstate movement, of the use of the facilities of interstate commerce, or of facts showing that his conduct affected interstate commerce. I think the Framers of the Constitution never intended that the National Government might define as a crime and prosecute such wholly local activity through the enactment of federal criminal laws.

In order to sustain this law we would, in my view, have to be able at the least to say that Congress could rationally have concluded that loan sharking is an activity with interstate attributes that distinguish it in some substantial respect from other local crime. But it is not enough to say that loan sharking is a national problem, for all crime is a national problem. It is not enough to say that some loan sharking has interstate characteristics, for any crime may have an interstate setting. And the circumstance that loan sharking has an adverse impact on interstate business is not a distinguishing attribute, for interstate business suffers from almost all criminal activity, be it shoplifting or violence in the streets.

Because I am unable to discern any rational distinction between loan sharking and other local crime, I cannot escape the conclusion that this statute was beyond the power of Congress to enact. The definition and prosecution of local, intrastate crime are reserved to the States under the Ninth and Tenth Amendments.

Mr. McCURE. I think there is also a growing tendency on the part of some to look at the public welfare clause of the Constitution, in order to expand the Federal Government so it can do certain things in the public welfare. I think this gets back to some of the more explicit statements in recent court decisions.

Mr. DANIELSON. If it is the desire of the Congress, and we are not at that point in the legislation, but if the Congress wishes to regulate firearms I think we can reach them through taxation. With all respect to my colleague, Mr. McClory, I have a grave doubt as to whether you can stretch interstate commerce to the point of reaching firearms which have already left interstate commerce and repose in the hands of citizens throughout the country. Maybe we can, but I cannot help reserving that, I have a doubt in my mind that we can reach that point.

Mr. McCLORY. I would like to make this further observation, that is there is substantial legal authority for the constitutional right to own and possess arms, whatever it is, is limited to the establishment and maintenance of a State militia.

Mr. DANIELSON. I am aware of that. I am not at all unmindful of that. You cannot read the second amendment without being mindful of that.

Yet I do not find there a distinction between a 22-pistol and an anti-tank cannon. It would require judicial construction to change that. If we are going to put out legislation here I just hope we are on a very sound footing and I want to raise this point if and when necessary to be sure it is well aired.

Thank you very much, I have no further questions.

Mr. CONYERS. Well, gentlemen, we have heard from three-fourths of the Idaho Delegation. I think it is fair to presume that the other 25 percent might testify along these same lines.

This interchange has been extremely important. I do not know how many opinions may have been altered here, but I think some extremely important issues have been ventilated and deserve our continuous attention and in that respect your statements here have been very important in terms of us working toward some legislative decision.

Mr. McClure. Might I just reiterate our appreciation that Mr. Symms brought up earlier, to again opening the panel so we could testify today. I appreciate that courtesy.

Mr. Conyers. The committee is grateful for your appearance here. We stand adjourned, subject to the call of the Chair.

[The prepared statements of Hon. James A. McClure and Hon. Steven D. Symms follows:]

STATEMENT OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM THE STATE OF IDAHO

Mr. Chairman: I appreciate having the opportunity to address this Subcommittee on the subject of gun control, but to be quite honest with you I am very concerned over the fact that more attention is being given to restrictions on guns than there is being given to restrictions on the criminals who use guns.

There are many millions of Americans who are deeply distressed over our rising national crime rates. Those same millions of our citizens are viewing the current events in this Congress, though, with the same kind of distress. They see an absurd situation—where incredible attention is paid to the damming of the absolute and legitimate rights of law abiding citizens through restrictive and wholly unnecessary gun controls—but where virtually no serious attention is paid to bringing the desperately needed changes in the law to deal swiftly and harshly with criminals.

The American public has been victimized too long—far too long—by criminals, and ultimately by those in the Congress who refuse to take the only sure-fire action that will reduce the violent crime spiral—which is getting criminals off the street and behind bars. Gun controls will not end crime. That's pie in the sky.

I am opposed to gun controls. I am against them, and I will fight them because:

The Constitution guarantees the right to keep and bear arms. The Second Amendment is absolute—it is inviolable.

Existing gun laws—even the most stringent—have failed to reduce crime. Homicide in this country, for example, has grown 300 percent since the Gun Control Act of 1968.

Gun laws principally affect only those of our citizens who are law-abiding—those who own firearms for self-defense, for sport and recreation or any other lawful purpose.

Gun laws cost money. Gun controls require excessive administration, the cost of which is borne by the already overburdened tax-payer through millions of dollars in additional taxes.

Gun laws create untouchable bureaucracies that only serve to harass law-abiding citizens.

Gun laws which move to abolish constitutionally lawful possession and use of handguns will not touch crime. But it will dash the right of all Americans to defend themselves, their homes and their livelihood.

Mr. Chairman, to possess and use firearms is historically, legally and constitutionally recognized in this nation. The Second Amendment clearly proclaims that "the right of the people to keep and bear arms shall not be infringed." Our Second Amendment must not and can not be ignored as is being done by many advocates of strong gun control measures.

Mr. Harold W. Glassen, a noted trial lawyer and past President of the National Rifle Association, summed up in five important points the status of the Second Amendment and its interpretation:

(1) "The Second Amendment does not create the right of the people to keep and bear arms, but it prevents the Congress from infringing such a right—thereby recognizing that such a right exists."

(2) "Such right existed in the English common law and is part of our common law."

(3) "The Federal government has no police power but some right of regulation is permissible under the Commerce Clause and I sometimes think our Federal government does not know it has no police power. At this time in history, there is reasonable doubt whether the Supreme Court of the U.S. would determine whether the Congress was restrained from infringing the right of the individual to keep and bear arms, that is to say, whether the right is collective or individual. This question could come up in the event of legislation providing for confiscation of individually owned firearms."

(4) "At this time the Second Amendment applies to the Congress, but there is some indication that the Supreme Court might extend this prohibition

to the 15 States not now having a constitutional provision on the matter of the right to keep and bear arms."

(5) "Most of the States' constitutional provisions recognize or, if the need existed, create the right to keep and bear arms."

As Mr. Glassen so aptly claimed, the anti-gun people deny that there is such a basic right to keep and bear arms by the people, but they are wrong and they know they are wrong. Mr. Glassen's five points indicate why.

Some argue that the Second Amendment only applies to the militia. However, as John Snyder pointed out in the 1971 summer issue of "New Guard" our founding fathers contemplated the role of the second amendment. "Thomas Jefferson in his draft of the Virginia Constitution in June 1776 stated: 'Now freeman shall ever be debarred the use of arms.' (The Declaration of Independence came a few weeks later.)" Mr. Snyder told of what George Mason said in his Fairfax County Militia Plan for Embodying the People—"We do each of us, for ourselves respectively, promise to engage a good Fire-lock in proper order, and to furnish ourselves as soon as possible with, and always keep by us, one Pound of Gunpowder, four Pounds of lead, one Dozen Gun-Flints, and a pair of Bullet Moulds, with a Cartouch Box, or powder-horn, and Bag for Balls. Thus Mr. Snyder illustrates a key fact—"Mason clearly indicated that persons individually armed at their own expense constituted a source of personnel from which militia could be drawn." Mason thus considered the individual right to bear arms to be conceptually prior to a militia. As pointed out by John Snyder, "Mason's statement carried the definitive implication that it is because the people have the individual right to keep and bear arms, are capable of exercising it, and in fact do exercise it that an active militia can exist. The mere fact that there is a militia depends on the people's individual right to keep and bear arms."

George Washington declared in 1700 that "A free people ought not only to be armed and disciplined, and their safety and interest require that they should promote such manufactories as tend to render them independent of others for essential, particularly military, supplies." How tragically ironic it would be as our 200th anniversary approaches if this Congress were to desecrate the intent and power of the Second Amendment by passing gun controls which are in direct conflict with the individual freedoms guaranteed by the framers of our Constitution.

I observe with interest that rarely does anyone argue with the inviolability of the First Amendment guaranteeing freedom of speech and the press but yet many times those same champions of the First Amendment are often the first to recommend restrictive legislation which moves to disregard those guarantees of the Second Amendment. This is seen by the fact that the public has been bombarded by network news often showing only one side of the gun control issue—that in essence handgun registration and even confiscation will accomplish less crime and safer streets. Where it is obvious to everyone that the First Amendment is untouchable, that same status of the Second Amendment seems to be forgotten. Pushing aside the Second Amendment in an effort to control crime by the imposition of restrictions on inanimate objects—guns—is dangerous and in many respects is outright arrogant.

Purported "facts" and figures are widely cited by proponents of restrictive controls to show that firearms are a major factor in crime and that, therefore, the most effective way to reduce crime is to restrict sharply the availability of firearms, particularly hand guns. This "fact" is simply not so. The Gun Control Act of 1968 stands as the most prominent example of the fact that gun controls have not worked. This Act is ineffective in preventing crime as witnessed by the staggering increase in the crime rate that has taken place within the seven years this law has been on the books. Crime statistics clearly indicate, for example, that it is the cities, not the hunting areas, where the misuse of firearms occurs. The FBI reports that in 1973 two-thirds of all robberies occurred in the big cities. These statistics also show that our less densely populated areas have the lowest homicide rate. Coincidentally, these areas usually have the least restrictive laws on the possession of firearms. It is unnecessary to penalize the outdoorsman for the crime-in-the-streets problem that exists elsewhere. Further, it has been proven in many cities that restrictive gun legislation has not solved their problem. The fact is that the number of times a gun was used in the commission of murder has increased since the 1968 Gun Control Act was passed. All of the data indicates that firearm laws seem to have little effect in preventing the illegal acquisition of firearms for use in illegal activities. Dr. Alan Krug of Penn State

University in his 1968 analysis of FBI statistics in comparison to state firearms laws concluded that there is not significant difference in crime rates between states that have firearms licensing laws and those that do not.

There has been a series of witnesses before this committee extolling the wonders of handgun registration and handgun confiscation. Their logic is as fallacious as it is simple—that there is a direct relationship between the legitimate and lawful ownership and use of handguns by American citizens and our soaring rate of national crime. It just isn't so.

For example, there are, according to estimates made before this committee, 40-million handguns owned by Americans, but in a nation of 210-million souls, the total of homicides by firearm last year was 10,340. Assuming a different handgun was used in each of those murders, we are talking about a total of two-one-hundredths of one percent of the nation's handguns used in homicide. Turn that figure and it says, or should say something very staggering to those who advocate confiscation—that 99.98 percent of the handguns in the country are not used to commit murder. But that 40-million figure may be misleading. The New York Times claims there are 200-million handguns in the nation. That would work out to .005 percent (five thousandths of one percent of the total handguns in the nation are used to commit murder.)

That is by no means a statistical mandate for the kinds of controls being considered in this Congress. But there is and there has been for a long time, a serious mandate from the American people to this Congress to deal with crime directly by dealing with those who commit crime—dealing swiftly, justly, and where guilt is obviously and fairly established, deal harshly. To paraphrase an oft repeated television editorial: Get the criminals off the streets. That's what the American people want.—Get the criminals off the streets.

If we in Congress can do that, we will have done more to help our nation of beleaguered victims than any number of gun controls. Flat out—gun controls don't work and they won't work. Criminal control does work—and will work if we provide it.

Thus, I feel it is a myth that no guns means no crime. As John R. McClory recently stated in an article on gun control in "Shooting Times": "You are treating the symptom, not the cause, by attempting to reduce crime by focusing upon one of the many instruments which may be used to commit crime. The answer to violent crimes, if one exists, is a change in the desire in any man to injure or to kill another."

Mr. McClory points out that Switzerland "makes every male citizen above the age of 16 a member of the militia and requires that each keep a firearm and ammunition in his home. Yet the incidence of the use of firearms in the commission of crimes in that country is almost nil. The difference is not the availability of weapons but the general sociological attitude toward crime."

Gun control advocates conveniently forget that crime flourishes when courts are feeble and when the controls on police officers hamper effective law enforcement. All of the firearm laws in the world are not going to deter crime until there is a change in the attitude toward the role of law enforcement and a rekindling of a universal respect for the laws of the land. I do not minimize for a moment the seriousness of the crime situation in this country. Neither do I minimize the danger of the 1968 gun control laws on our personal liberties or the threat further firearms control can bring as an effort by those who want to disarm the private citizen.

Some law enforcement officials desire that there be no handguns in the possession of our civilian citizens. Understandably, police officials would hope to gain some advantage against hostile forces—criminals. However, this would put the ordinary citizen at the disadvantage vis-a-vis criminals. *He* would be in the opposite position after giving up *his* handgun. He would not have a gun with which to defend himself against criminal assault and the criminal would know he didn't. Besides, the criminal would still face an armed criminal force *without* the backup of an armed law-abiding citizenry. I am convinced, as are many of my fellow Idahoans, that legislation curbing the purchase of guns will neither prevent a man bent on committing a crime from doing so, nor promote safety by disarming the law-abiding citizen.

I mentioned earlier the enormous cost of administering gun controls. For example before the 1968 Gun Control Act was enacted the present Bureau of

Alcohol, Tobacco and Firearms was merely a division of the IRS. Since the enactment of the 1968 Act this Division of the IRS has grown to a separate Bureau of the Treasury Department. There has plainly been a considerable increase in manpower and thus an appreciable increase in the cost to the taxpayer as a direct result of a law that has not met the test by any measure. The Citizens Committee for the Right to Keep and Bear Arms very adeptly pointed out this factor of increased costs in a letter to the New York Times recently. In that letter it was shown that a repeal of the 1968 Gun Control Act would reduce the financial burden on the taxpayer. This certainly makes common sense for the tax dollars used in administering an ineffective law during times of great economic stress might be more effectively used elsewhere in the fight against crime.

Gun control laws serve to only harass the law-abiding citizen. These laws, which set up administrative agencies for their enforcement, leave the law-abiding firearms owner and dealer at the mercy of regulation-happy bureaucrats. Current gun control laws impose endless red tape on the ordinary gun-owning citizen. This individual is not a criminal but faces the hazard of legal penalties resulting from often understandable omission or error in filling out ridiculous forms and complying with asinine Federal filing requirements.

Mr. Chairman, I must leave the Committee with this thought. On the eve of Congressional approval of the 1968 Gun Control Act, Congressman William Bray warned the Congress that it should legislate and put new laws on the books only under the following conditions:

One, when new laws are really needed, because old ones are unworkable; not merely because old ones have never been enforced;

Two, to meet specific objectives and not be detracted by "Red Herring" legislation;

Three, only after sound arguments have been employed, free of taint or fear and hysteria;

Four, within the framework of the Constitution; some rights can not be guaranteed if legislation takes other rights away; and

Five, only if it can be unequivocally and unquestionably said that the new laws, considered in the context of our history, our heritage, our role in the world, and our people as a whole, are really what would be best for the United States and its citizens.

Congressman Bray's words were absolutely appropriate in 1968 and they apply just as strongly today. I hope this Subcommittee and the Congress will take heed of these points.

Congressman Bray concluded his eloquent remarks on the 1968 gun control legislation by stating that "the drive for more gun laws is a drive that will never really stop until the ultimate, extreme goal of total personal firearms confiscation, and total civilian disarmament has been attained. Total law-abiding civilian disarmament and confiscation; there is a real distinction to be made, as surely no one is so naive to believe that the criminal will voluntarily surrender his weapon, or will voluntarily cease his attempts to get them in any way he can." I wholeheartedly agree, for it is likely the criminal will get hold of a gun regardless of any law passed. Legislation imposing further restrictions on the ownership and possession of hand guns is not the answer to our law-enforcement problem. Attention should be focused on the criminal not the gun.

In this regard, the Congress should do its part along with the States in providing laws to help combat and prevent crime in this country. I realize that in determining how to fight against crime the question of firearms use becomes inherent mainly because firearms are used for legitimate purposes not just in the commission of crime. It is estimated that 200 million firearms are owned by between 40 and 50 million people. At least 50 percent of the American households own at least one gun. It is completely understandable why many Americans have serious questions about any attempt to control firearms. Guns are part of our national heritage and their presence is intertwined to the extent that the right of possession is specifically mentioned in our Constitution. Thus, in any debate on firearms and violent crime, the factors of firearms use, the traditions of universal firearm possession, and Constitutional guarantees of that possession must not be ignored. It must be remembered that efforts to regulate and control the tools of crime and violence are digression from the primary task of controlling criminals and perpetrators of violence.

STATEMENT OF HON. STEVEN D. SYMMS, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF IDAHO

Mr. Chairman: Before I begin my remarks, allow me to thank you for the opportunity to address your subcommittee this morning on the crucial issue of federal gun control. I commend you for conducting these initial hearings and trust that you will continue to solicit a wide range of input on this topic in the months ahead.

As you know, I have introduced legislation in this session of Congress to repeal the Gun Control Act of 1968. I have done so in the sincere belief that this legislation was hastily passed during a period of national panic and hysteria without due consideration of its short and longrange implications. Since that time, a more objective and sober minded analysis of this measure has been possible, in terms of its practical effects, both on criminals and on the American people in general. Examination of the facts leads one to the conclusion that the 1968 Gun Control Act failed dismally in its aim of curbing violent crime and getting firearms out of the hands of criminals. In the past seven years the homicide rate nationwide has risen dramatically, with criminal possession of firearms is at an all time high. The only apparent accomplishment of this legislation is that it fathered a myriad of rules and regulations to plague law-abiding citizens and to further burden the American taxpayer who must foot the bill for the administrative costs.

Is there not a lesson to be learned from the failure of this well-meaning yet superficially-conceived legislation? Yes, indeed there is—for those who care to learn it. It is a lesson in the futility of trying to control crime by treating it as a function of inanimate objects. It exposes the colossal folly in thinking that criminals are somehow the tools of guns, instead of the other way around. Moreover, the history of this gun control act should have taught us to beware of simplistic solutions which inevitably spring up during periods of emotional stress; that as national legislators we must resist the natural human impulse to "do something quick" about crime in America and to instead take time to delve deeper into the true causes and cures for criminal behavior in this country.

I will not dwell any further this morning on my own legislation, except to say that repeal of the Gun Control Act of 1968 is probably the most merciful thing this Congress can do for American citizens in the area of gun control. It has not worked and will not work in stemming the rising tide of crime. We as Congressmen are only human. We make mistakes. The important thing to the American people is that we admit our mistakes and have the courage to take the proper corrective action. The Gun Control Act of 1968 was unwise legislation and has proven to be not only ineffective, but totally counterproductive. The time for its repeal is now.

This subcommittee will of course be considering numerous other gun control bills, most of which point in the opposite direction from my own. Such measures deeply concern me. For this reason, I would like to briefly address myself to these proposals and to the broader issue of gun control in general.

I am opposed to federal gun control on three grounds—constitutional, practical, and moral. I shall discuss each in turn, realizing however that time does not permit me to treat each area with any degree of thoroughness. Therefore, I will merely attempt to plant a few seeds of new thought in hopes they will land on fertile soil.

The Second Amendment of the U.S. Constitution states: "A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed." I am no Constitutional lawyer, in fact I am no lawyer at all. Yet common sense tells me that our founding fathers were trying to tell us something there—and in *no* uncertain terms! In contrast to other portions of the Constitution, there were no qualifiers in this Amendment, no "buts" or "excepts", just a straightforward statement regarding the people's right to possess firearms.

Men such as Samuel Adams and Patrick Henry were very emphatic about the need for such an Amendment prior to ratification of the Constitution, protesting that as first submitted, the document did not guarantee "the right of having arms in your own defense." So important was the right to bear arms to our forefathers, that it was placed second in the Bill of Rights, with freedom of expression the only Amendment ahead of it. Recognition of the individual's right to bear arms was by no means a new idea, however. In fact, it dates all the way back to the 17th Century English Common Law.

Those who deny this Constitutional right do so on the contention that the phrase "well regulated militia" was referring to the National Guard, not private citizens. They seem to forget that our National Guard was not even established until the 20th Century. Furthermore, Title 10, Section 311 of the U.S. Code states, "The militia of the United States consists of *all* able-bodied males at least 17 years of age and . . . under 45 years of age who are or who have a declaration of intent to become citizens of the United States."

Yes, we as private citizen *do* possess the Constitutional right to keep and bear arms, unincumbered by the central government. In fact, thirty-seven State Constitutions contain sections which reaffirm the individual right of honest citizens to own firearms if they so choose. These facts cannot be denied—they can only be ignored, as all too often they are.

My second objection to federal gun laws is purely practical—they do not work. In fact, they have a record of only compounding and worsening our crime problems. Let's set aside our personal assumptions for a moment and examine the hard facts about gun control.

Let me begin by assuring you that I am all in favor of keeping guns out of the hands of criminals, although I must confess that I am much more concerned about the commission of a crime than I am about the method or weapon employed. Nevertheless, disarming criminals of firearms is a worthy goal. Unfortunately, it is also completely unrealistic. Those who attempt to impose strict registration requirements or outright bans on firearms as ways of keeping them away from criminals are fighting a losing battle. Common sense tells us that the reason they are classified criminals in the first place is because they are in the habit of breaking laws. There is no reason to assume that they will obey federal gun laws any more than other laws they have broken.

The question of federal gun registration goes even beyond this argument, however. As a result of the Haynes decision by the Supreme Court in 1968, criminals would not be legally obliged to register their guns—only honest citizens would. The Court ruled that since persons who possess firearms illegally would be incriminating themselves if they came forward and registered them, that they were in effect exempted from gun registration.

Some proponents of federal firearms registration continue to maintain that a registration system would greatly aid law enforcement officers in tracing down weapons used in crimes, leading to speedier apprehension of criminals. Again, this contention ignores the facts and the laws of logic. The vast majority of criminal-owned firearms are either stolen, completely unregistered, or have had their registration numbers ground off. How in the world could these weapons be traced back to the criminal offender?

My greatest fear where federal registration is concerned is that it would be nothing more than a prelude to confiscation. Once it became evident that gun registration alone was not curbing violent crime, it would be the logical next step to order the confiscation of the registered weapons. We see this course of events unfolding now in Washington, where D.C. Councilman Wilson has gained much support for his proposal to confiscate all 52,000 legally registered handguns. What would be the ultimate effect of a drastic measure such as this nationwide? To disarm all honest citizens who dutifully registered their guns with Uncle Sam. Meanwhile, every two-bit thug would retain possession of his, having never registered them to begin with. And while the police are busy enforcing gun laws on the lawful, the criminal element would be ravaging a now disarmed and defenseless society.

The desire to ban firearms as a solution to crime is very analogous to the desire in the 1920's to ban liquor as a solution to intemperance. Gun prohibitionists and liquor prohibitionists both reach their conclusions by convoluted logic about human behavior. Their assumption is that human beings are victims—mere pawns of the inanimate objects around them. Remove the objects and all will be well. The Prohibition period should have taught us that this kind of reasoning is nonsense, that deviant behavior is primarily a function of human free will. And just as whiskey was readily available in the 1920's to whoever chose to break the law, so will firearms be easily obtainable through illegal channels by the crime community. The black market opportunities for organized crime would be staggering. Ultimately, any ban on firearms would have the effect of funneling huge amounts of money into the coffers of those who the law was originally intended to control.

I am not going to play the statistics game with you today, and would hope that you will likewise show me the same consideration. Too often, statistical data

selectively cited can be used to prove any point one wishes to make. Nevertheless, there are some little known facts about guns and gun control which I would like to bring to your attention:

(1) According to FBI reports, firearms are used in less than four percent of all serious crimes nationwide.

(2) While firearms ownership has gone up steadily over the years, the rate of homicides involving guns has been declining significantly.

(3) Over the past ten years, less than one-fourth of the aggravated assault cases across the nation were committed with firearms.

(4) There are perhaps 200 million privately owned firearms in the U.S. today, of which only one sixth of one percent are used in the commission of crimes annually, including less than one percent of all handguns.

(5) Firearms and shooting sports are ranked 15th on the list of sports most likely to cause accidents. There are 20 times more accidental deaths with cars, 8 times more through falls and three times more through drowning.

What strict federal gun controls in effect will do is severely penalize the 50 million law abiding gun owners in this nation while attempting, unsuccessfully, to get at the one percent who use firearms for illegal purposes. Is this the kind of legislation this Congress should be passing?

There has been much talk about the so-called "Saturday Night Special" and about legislation specifically directed toward this type of handgun. Allow me to make just a few observations in this regard.

First of all, the term "Saturday Night Special" is, to anyone who understands firearms, almost completely meaningless. Attempts to define "Saturday Night Special" based on barrel length, overall size, price, melting point, tensile strength, operating characteristics, firing tests, safety-size criteria, and so on, have all proven to be inadequate and arbitrary.

What would be the effect of outlawing these so-called "Saturday Night Special"? The only lasting effect would be to once again disarm the law-abiding citizen. But in this case, primarily the poor would be penalized—the people who generally live in high crime neighborhoods but who can scarcely afford an expensive Smith and Wesson for protection. By outlawing inexpensive handguns, we would in effect be denying lower income people their basic right to self defense. Only the wealthy would be able to defend themselves and their families from crimes of violence.

Meanwhile, criminals would have no trouble manufacturing homemade firearms with only basic mechanical ability and readily available materials. "Zip guns" can be fashioned out of rubber bands and umbrella tubing to serve the purpose of any murderer or thief. Federal legislation can in no way prevent criminals from making firearms in this way.

All the evidence available to us points to the fact that firearms do not cause crime. The decision by an individual to be violent is the primary factor involved. His decision as to a choice of the weapon is very much secondary. Homicide studies show that where the will to murder exists, if a gun is not available, a knife or club will certainly suffice. If the tide of violence is to be turned, we must get down to the level where the original decision to be violent is made. Banning a particular weapon does not deter the criminal in making that decision. More efficient law enforcement and tougher penalties on criminal activity will. When one considers that only 3 percent of those who commit serious crimes in this country are sent to jail for doing so, there is obviously some need for improvement. It is here where we have really fallen down in deterring criminal activity.

My final objection to federal firearms control rests on moral and philosophical grounds. Gunowners, hunters, sportsmen, collectors, and shooters are, as a group, probably the most law-abiding people in the entire United States. They are not potential killers and menaces to their communities as the anti-firearms campaign portrays them. Virtually every gun organization and club in the U.S. sponsors, conducts, staffs and supports training and safety courses in firearms. To penalize these people who use firearms for lawful purposes because of the criminality of a minute number is not in conscience with the fundamental American principle of justice and fairness. Nor does it set well with our heritage and our history as a free people.

The present furor over gun control has become a bubbling cauldron of emotionalism. People in my home state of Idaho are watching this latest drive with fear and confusion. Most Idahoans have grown up around firearms and therefore share none of the hysteria over guns which they hear emanating from Washington, D.C. Their familiarity with firearms has taught them how to handle guns

with care and respect, and has given them an appreciation for their many legitimate uses by the private citizen. When they hear national leaders declaring that "the only purpose for handguns is to kill", and that "there is no reason for individuals to own them," they wince with pain. In Idaho as elsewhere, sidearms are widely used for hunting, for protection in the field, and for target shooting. They also serve a valuable function in defending one's home and family from criminal assault. How do you think my constituents feel, standing idly by watching Members of Congress, most of whom have no appreciation for the legitimate uses of firearms, systematically legislate away their Second Amendment rights? How do I tell these people that they should continue to trust and respect their government while watching Congress pass laws on the basis of rank ignorance, raw emotion and ruthless political power? What shall I say to these good people? How shall I explain what is being done to them and why? You tell me.

The foundation of the American system of justice is built on the presumption of innocence until proven guilty. This is a tenet by which we all claim to live. Yet it appears that many of my colleagues are prepared to throw this principle out the window where gun owners are concerned and are anxious to declare these people guilty of some crime by mere virtue of their owning a firearm. Spurred on by the abuses of a very small minority, the gun haters in our midst look upon firearms possession as a crime in and of itself, and upon gun owners as latent killers and vicious perverts. When one considers that about 50 percent of all households in America have at least one gun, that's a lot of people!

But I ask you, is this what American justice is all about? Before this Congress becomes a kangaroo court, ready to pass judgment on every gun owner in this country, we had better reflect upon these things for a moment. Ultimately, this issue goes much deeper than six guns and Saturday Night Specials. It gets to the very root of our American institutions and the underpinnings of our free society. Moreover, it demonstrates how fragile liberty can really be. If one group can, by popular political demand, be denied its rights and sacrificed on the altar of legislative authoritarianism, then one by one all groups can receive the same treatment. In the end, no rights will remain sacred nor freedoms safe. The end result is tyranny—and with a disarmed and defenseless population, very likely that tyranny would be here to stay. Think about it.

STATEMENT OF HON. GEORGE HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

Mr. Chairman, I am most concerned about pending Federal gun control legislation and the possible restriction of sales and manufacturing of firearms and ammunition by the Consumer Product Safety Commission (CPSC).

To deal with these threats I have taken two legislative approaches. I have sponsored an outright repealer of the Gun Control Act of 1968 and have also introduced a bill which would prohibit the CPSC from promulgating arbitrary regulations to limit sales of handguns, ammunition or black powder components used by sportsmen. It is essential these measures receive early and favorable consideration.

I have fought against Federal gun controls for 10 years since first entering the Congress and will continue to strongly oppose attempts at the Federal level to regulate, register, or ban the private ownership and use of firearms and ammunition.

The hazards these represent are as follows:

1. Regulation penalizes the innocent owner of a weapon while the criminal by his very nature would freely disobey such regulation.
2. Registration would provide an accessible shopping list for burglars and be a tip-off on the degree of protection any home might have.
3. Banning would render every home vulnerable to armed robbery and other crimes of force and violence.

Crimes of passion wait for no particular device—any weapon available will suffice; removing guns doesn't remove the potential act of violence. Firearms are not the problem—people are. Misuse of weapons should warrant serious punishment. We should have the toughest possible laws and strict enforcement to keep criminals off the streets.

I have strong constitutional reservations over the imposition of any gun ownership limitations on law-abiding sportsmen and citizens who wish to own a firearm for basic self-protection of family and property. I have strong constitutional criticism for judicial circumvention of Congress where gun controls can be imposed upon the American people by judicial decree as in the case of the Federal district court order to the CPSC. I have strong constitutional concern for the effort in Congress to invade traditional areas of law enforcement jurisdiction of State, county, and city governments where crimes of violence are generally handled—an erosion of authority which should also concern officials at those levels and constitutional scholars.

The 1968 Gun Control Act has not seen reduced crime, but increased crime. Again, isn't it time to quit side-stepping the issue and deal practically and effectively with the real cause of crime—people and their relationship to one another. And let's remember that concentrations of people and conditions vary greatly across the Nation, causing such diverse complications that no standard Federal prescription can effectively treat the local problems. Umbrella laws covering the entire Nation are too rigid to properly deal with the diversity of our people and their living situations. We must deal with people selectively at State and local levels, not en masse at the Federal level.

Again, Mr. Chairman, I strongly oppose Federal interference with our private ownership and use of firearms and ammunition and urge your subcommittee to keep the citizen free and control the criminal.

[Whereupon at 12:10 p.m. the committee adjourned subject to the call of the Chair.]

FIREARMS LEGISLATION

WEDNESDAY, MARCH 5, 1975

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

The subcommittee met, pursuant to notice, at 10:35 a.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, Danielson, Hughes, McClory, and Ashbrook.

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

Mr. CONYERS. The subcommittee will come to order. Today we are honored to have the police superintendent of Chicago, Ill., join us in presenting his testimony and we are further honored to have the distinguished Congressman from the First District of Illinois, Mr. Ralph Metcalfe, introduce him.

We remember our colleague from an earlier hearing in which he presented very effective testimony on this same subject. So welcome back, Mr. Metcalfe. You may make your presentation.

Mr. METCALFE. Thank you very much. Mr. Chairman, I am very pleased to introduce to you and to the members of your subcommittee our superintendent of police, Mr. James M. Rochford. Mr. Rochford is a man who came up through the ranks. He is considered a policeman's policeman, and even now that he is a superintendent, he goes out into the areas and wears the same attire that the other men wear in order to get firsthand information.

He has publicly expressed a very keen interest in the need for Federal legislation on gun control and I am very happy and I am sure the committee is that he has taken the time to come to Washington and testify on such a very important issue, because all of us are concerned about the high rate of crime today and certainly Superintendent Rochford is very conversant with that. I think his testimony will be very enlightening to us.

I am happy to present to you Superintendent Rochford.

Mr. CONYERS. Thank you. Before you begin, I will yield to the gentleman from Illinois, Mr. McClory.

Mr. McCLORY. Thank you. I, as a Representative from the 13th District of Illinois want to join my colleague from the First District, Mr. Metcalfe, in welcoming you as a most distinguished witness to our hearing today. I am looking forward to Superintendent Rochford's testimony.

TESTIMONY OF JAMES M. ROCHFORD, SUPERINTENDENT OF
POLICE, CHICAGO, ILL.

Mr. ROCHFORD. Thank you, Congressman Metcalfe, for your warm welcome and thank you to the committee.

As police superintendent of the second largest city in the United States, I welcome the opportunity to discuss with you the problem of the increasing criminal misuse of handguns.

Both as superintendent and as a member of the Chicago Police Department, I have consistently sought Federal legislation which would control the manufacture, sale and possession of handguns.

As of last Monday, 556,143 guns were registered with the city collector in the city of Chicago. My own estimates have been made that at least another half million guns exist in Chicago, and are not registered. Too many guns are available in our city and other cities throughout the Nation. They are misused every hour of every day by immature, emotionally maladjusted, irresponsible and intoxicated individuals.

In 1974, 970 people were murdered in the city of Chicago. In 71 percent of the homicides, the offender and the victim were either friends, relatives, or acquainted with each other.

In 524 these murders, or 54 percent of the total, the killing took place in an indoor location, leading to the conclusion that murder is not a type of criminal offense which can be prevented by aggressive police patrols, but is most affected by readily available firearms. Because of this ready availability of firearms, most of which were handguns, arguments between friends and relatives too often resulted in a murder or serious injury by shooting.

Of the 970 murders, 669, or 69 percent, were perpetrated by the use of firearms. Four hundred and ninety of these were committed by the use of a handgun. Handguns play a significant role in the incidence of murders in our city.

While 669 people were murdered with a firearm during 1974, an additional 4,055 people were wounded, some of whom will remain crippled for the balance of their lives.

An analysis of armed robberies in Chicago from January 1 through October 31, 1974, discloses that out of 11,626 reported armed robberies, 10,646, or 91.5 percent, were committed while the offender was armed with a firearm. In 95 percent of these cases with a handgun.

During 1974, 18,867 guns were seized by Chicago police officers. Since World War II, the number of guns seized by the Chicago Police Department has increased 2,300 percent from 870 in 1944 to 18,867 in 1974.

The city of Chicago has good ordinances and fair State statutes dealing with the legality of firearms. These not only proscribe illegal possession and usage but, at the State level, require the registration of firearms owners and, at the local level, the registration of the firearm itself.

Persons arrested for State or local firearms violations are prosecuted but generally to no avail. More than a thousand cases are sent to the court each month, but convictions are rare. When there are convictions, the penalty, if imposed by the court, is generally probation, supervision, a suspended sentence or a small fine.

Prosecution of these cases is seriously hampered by liberal interpretations of the exclusionary rule and other evidentiary interpretations most favorable to the defendant. Too often the matter is suppressed in a preliminary motion. Judges seem reluctant to impose the stringent penalties permitted or required by law, when convictions are obtained.

People are purchasing an increasing number of guns from many sources. Local ordinances controlling the sale and possession of firearms are easily circumvented by people crossing city limits or State boundaries and purchasing the weapons in other communities.

At present, no local ordinance or State statute can constitutionally have a positive impact on the interstate transportation of firearms. Even persons who are not legally qualified to purchase a firearm in Chicago or Illinois still can do so without leaving the city or the State because of the availability of weapons through black market sources and, also, through the commission of burglaries and thefts.

Public clamor and need for national gun control has increased significantly during the past decade. Despite this, we are faced with more firearms on our streets, more murders being committed by the use of firearms, more people being seriously wounded every day and more armed robberies.

State legislatures and local city councils have been helplessly trying to stem this burgeoning increase by passing legislation which theoretically would at least have local impact, but in practice has little effect. The public seems to be arming at an alarming rate. Where are we going?

We have developed a local "patchwork quilt" of legislation to cope with a national problem. It is an understatement to say this has proven ineffective. While this desperate but futile exercise has been going on at the local level, Congress has not been sensitive to the problem and has not passed strong national gun control legislation.

Special interest groups have thus far been able to convince Congress that its interests are far greater than the concerns of public officials regarding the slaughter that is going on in our communities. Until such time that Congress passes legislation dealing with the manufacture, sale, and possession of handguns, the problem will only escalate. Deaths and injuries will mount. Police agencies are now equipping their personnel with armoured vests for protection. What next?

The law enforcement profession has never advocated, nor are they now advocating the confiscation of all guns, participation in licensed gun clubs and the sport of hunting are recognized as legitimate activities. Traditionally, youngsters in rural areas have looked forward to the gift or purchase of their first rifle. This tradition has become an American way of life. Overshadowing these traditionally legitimate activities is the development of a new and another American way of life, the continuing increase of handgun violence in our urban communities.

We have not as yet been able to fully identify the legitimate uses of handguns. Experience has taught us that people use handguns against other people. The results of these confrontations between people with handguns is sadly demonstrated by the data previously presented.

The violence depicted statistically can never fully portray the tragic consequences of handgun violence because numbers are generally impersonal. The sadness of individual cases never really manifests itself in a simple reporting of numbers. The tragedy of accidental shootings involving youngsters who are playing with guns kept in the home for protection is one that is most difficult for all of us to face. Unfortunately, these accidental shootings in the home, especially among children, occur all too frequently. The aches in the hearts of the relatives never goes away.

Many times criminal confrontations between individuals or groups of individuals not only result in death or serious injury to the participants, but very often to innocent bystanders. This situation was most vividly exemplified recently in Chicago when two groups of youth confronted each other for a gun fight. Shots were fired, and all of the combatants escaped injury.

However, a 13 year-old girl, playing nearby had her face torn open and her brain ripped away by a stray .22 caliber bullet. She died a short time later in a hospital.

In the same incident, a 12-year-old boy was likewise playing a short distance away. His chest was ripped open, also by a .22 caliber bullet and he was dead on arrival at a nearby hospital. No one there can fully appreciate the grief of the two families who each had a part of themselves extinguished in this senseless youthful encounter.

No one here can appreciate the summary denial to both of these children of the pursuit of life, liberty and happiness which they had a right to look forward to as they approached adulthood. They are no longer here because of the ready availability of firearms to irresponsible, reckless and immature individuals.

The criminal misuse of firearms is more than a local problem. In the past 10 years, handgun homicides in the United States have more than quadrupled in number. If the present rate of handgun homicides is to continue, we will have more people killed in the United States in the next 4 years than American soldiers died on the field of battle in the Vietnam conflict during the 12-year period of 1961 to 1973.

The argument might be advanced that if we were to have Federal handgun control, only the criminals would have firearms and the law-abiding citizens would be left to the mercy of these criminals. However, in a 5-year study of victim/offender relationships conducted in Chicago, we found that 71 percent of the homicides had some acquaintanceship or relationship with the offender. In essence, the danger of being shot and killed is greater as a result of an altercation between a friend, neighbor or relative than it is as a result of arousing the ire of a criminal.

Congress is the only legislative body that can effectively and constitutionally impair the present, unhampered flow of handguns to the people in our communities. Congress is the only legitimate legislative body that could effectively and constitutionally bring about the changes necessary to reduce the mayhem, slaughter and overall violence being perpetrated on our streets, and in every community in the Nation.

These hearings are not precedent setting. Congress has held previous hearings concerning handgun violence. Despite these past attempts to cope with the problem, strong Congressional action has not been codi-

fied into law. Timeliness is not an issue, because the situation in our communities maudates that action must be taken now.

The question to be answered is whether or not the Congress will meet its responsibility or will it continue to avoid the issue.

We in the urban community look to you gentlemen with your insights, with your wisdom, and with your leadership to unravel this complex national dilemma, to remove this national disgrace. Our Nation is watching what is done here. What will your response be?

Gentlemen, I have brought with me some documents for your analyses and information, which contains a 5-year murder analysis in the city of Chicago from 1965 to 1969, and also a murder analysis of the homicide cases that occurred in Chicago 1970, 1971, 1972, 1973 and 1974.

Mr. CONYERS. What are they about?

Mr. ROCHFORD. They are statistical analyses of all of the homicide cases that occurred within the city of Chicago.

Mr. CONYERS. Do they cover statistics that include what weapons were used?

Mr. ROCHFORD. Yes.

Mr. CONYERS. What other kind of facts do they include?

Mr. ROCHFORD. The ages of the people, where the crime occurred, the clearance rate, the frequency of murders by day and by month and—

Mr. CONYERS. Well, we will receive it and after some scrutiny, we will decide whether it goes in the record or in the files.

Mr. ROCHFORD. I just submitted it for your information.

Mr. CONYERS. Yes, and that will be received.

It sounds like it may be more information than anything else. Does that conclude your statement?

Mr. ROCHFORD. Yes, it does, Congressman.

Mr. CONYERS. Thank you very much.

I recognize the gentleman from Illinois, Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman.

I want to compliment you, Mr. Rochford, on the very excellent statement you presented here this morning, together with the statistical information and the background of experience that you have with this subject.

I am confident that the chairman and hopefully other members of this subcommittee and the full committee will see fit to enact some meaningful, effective Federal legislation such as you have indicated may be required. I am certain that you would want to support legislation which would outlaw and prohibit the possession, manufacture, distribution or sale, of the so-called Saturday Night Special, that is, the cheap handgun that is so frequently used in crime and which I might say the mayor of Chicago testified on about 2 years ago. Mayor Daley did testify in support of legislation which would outlaw the Saturday Night Special, did he not?

Mr. ROCHFORD. Yes, Mr. Congressman, but the Saturday night special is only a part of the problem.

Mr. McCLORY. Yes, it is only part of it, I realize that. Now, I would like to go further and ask this. While we have registration of hand-

guns in the State or registration of owners in the State and registration of handguns in the city, I just wonder if a Federal law requiring registration of handguns at a Federal level is necessary, or if the State and local law is sufficient to comply with the Federal standards?

In other words, I wonder if that would be an important step forward, insofar as law enforcement is concerned and insofar as street crime is concerned?

Mr. ROCHFORD. Well, I am reasonably certain that it would have an impact. Now, to what degree I am not able to predict.

Mr. McCLORY. You would like to go further?

Mr. ROCHFORD. Yes.

Mr. McCLORY. Would it also help, though, to have, for instance, a clearinghouse in the Federal Government which would be able to advise at the Federal level what legislation is needed in the enjoining areas and communities and States, so that we could help beef up those laws and prevent persons from going across the citylines or the statelines in order to get the advantage of a weaker gun control law?

Mr. ROCHFORD. Again, my answer would be the same as the prior statement.

Mr. McCLORY. It would help?

Mr. ROCHFORD. It would help, but I think it would be far short of the crying need of the communities.

Mr. McCLORY. Where, in your opinion, do most of these guns come from that are in the city of Chicago now, and which are not licensed that you pick up. Where do they come from mostly?

Mr. ROCHFORD. Well, they come from the manufacturer. You can buy them through—

Mr. McCLORY. No, I mean to buy a handgun does the handgun purchaser go to the suburbs or into Indiana or where? Does he go out to Lake Bluff, the county I represent?

Mr. ROCHFORD. Well, principally through the black market really. The availability of handguns is so great, as I indicated, it is an estimate that there are one-half million of these guns circulated in our community. Its main source, I couldn't say though.

Mr. McCLORY. Well, let me ask just one more question. We have our distinguished chairman here today, Mr. Rodino, who is going to speak to us shortly.

Your testimony seems to lay an awful lot of blame on the courts in that the courts are not giving effect to existing law, that is, they are not enforcing it. They give probation and they give weak penalties and they don't seem to realize the importance of stiff penalties for those who commit crimes with guns. Yet we are receiving demands here and giving serious consideration to increasing the penalties for offenses that are committed with guns.

Now, it seems to me it wouldn't do much good for us to increase the penalties if the existing penalties are not being applied by the courts. What is your opinion on that? How could we help correct that?

Mr. ROCHFORD. I think really what the courts are looking for is for direction from the Federal Government. There seems to be a feeling permeating judges that there is a constitutional right to possess a handgun in this country.

In addition, there is a developing attitude in the community that "I need a handgun for my own protection and I need to carry my own artillery." The judges seem to understand that attitude and are therefore reluctant to put out harsh penalties for the possession of a handgun.

Congressman Metcalfe has just reminded me here that there is no Federal law, no Federal direction which will provide the leadership to the local communities.

Mr. McCLORY. A Federal law of whatever type, and especially of a substantial nature, such as a Federal registration law, it would beef up and give support to the enforcement of the local gun control measures, wouldn't it?

Mr. ROCHFORD. It would be helpful.

Mr. McCLORY. Thank you very much.

Mr. CONYERS. I would now like to recognize our distinguished gentleman from South Carolina, Mr. Mann, for any interrogation he has.

Mr. MANN. Thank you, Mr. Chairman.

Mr. Rochford, I know that every little bit helps—

Mr. ROCHFORD. Yes.

Mr. MANN [continuing]. and when we are talking about a Federal law, whether it involves registration, manufacture, or transportation, I am certain every little bit helps and I am certain we are talking about it to some degree here.

Now, do you really believe, though, that a Federal law, which slows down those things, will have any substantial effect on the use of handguns in the city of Chicago?

Mr. ROCHFORD. I am optimistic that it will have impact.

Mr. MANN. Because you have described here a tragic shortcoming, a tragic failure of local law enforcement, and it is such a shortcoming of local law enforcement which has led to certain Federal actions which in turn have encouraged the States and local governments to look to the Federal Government to do something about this, and therefore nobody does anything about it.

Now, what is being done in Chicago and the State of Illinois with reference to getting the courts and the judges to exchange ideas or recognize this problem? The Law Enforcement Association, has the Law Enforcement Association called upon the State and the high court to do anything in that connection?

Mr. ROCHFORD. Congressman, I beg to differ with you about the word "shortcoming of local law enforcement" because law enforcement officers in the city of Chicago every day of their lives put their lives on the line out in the streets.

And as I mentioned in my testimony, we took 18,000 guns off the streets. If that is a shortcoming, then I'd better go into another business. I think that is effective, and aggressive law enforcement.

But law enforcement is only one segment of the total criminal justice system, and I think that the police effort, the law enforcement effort has been very good. The failure is on the other parts of the system, in my opinion.

There are strong feelings in the United States and I would estimate that 85 percent of the public is crying to the Federal Government to stop this bloodshed. I would only say that you, as representing the

Congress and all of the people of the United States, ought to take a good look at the situation and in your wisdom, I am hopeful that you are going to come up with some solutions.

Mr. McCLORY. Would the gentleman yield for an observation?

Mr. MANN. Fine.

Mr. McCLORY. I am informed that the Illinois General Assembly at this time, which is in session, and at the recommendation of Governor Walker, is endeavoring to beef up the gun control laws in the State and to impose a greater requirement on the part of the courts to impose severe penalties to those who commit offenses with guns.

Mr. MANN. Well, thank you. I repeat my observation, though, and I use the term "law enforcement" broadly, but the tragic failure of local law enforcement, and that includes the courts, has resulted in exactly what you say; a national outcry that somebody do something about it. And the necessity will breed a national police force that might do something about it, if local courts and local law enforcement agencies don't do a little bit more about it.

Now, you described a tremendous number of guns being already on the streets in Chicago. Now, is a Federal law controlling the trafficking going to have a substantial effect on the existence of those guns?

Mr. ROCHFORD. I am optimistic that it would, yes.

Mr. MANN. Would a Federal law cause the fear of the people because of the failure of local administration of justice on the local and State level, would it cause them to cease wanting to own a gun when the situation still exists on the local level and will exist for years, of all these guns at the local level, in spite of any Federal law enforcement or Federal gun control legislation?

In other words, there will still be a market, won't there?

Mr. ROCHFORD. Well, we live in a society of voluntary compliance, and I am convinced that if the Federal Government sets the tone, the majority of the citizens will comply voluntarily with the Federal legislation. Then, as a direct consequence, there will be a decreasing number of thefts and injuries to our citizenry.

Mr. MANN. Do you recommend the outright outlawing of the sale of a handgun?

Mr. ROCHFORD. Yes, I see no value for either the possession or use of a handgun, except to destroy lives.

Mr. MANN. The Federal Government, of course, can deal in the interstate transportation, the interstate sale of handguns, but there is some question of whether or not we can deal in the direct local transactions. The power of the Government there is somewhat in question.

But, do you think that mandatory sentences for the possession of a handgun, is part of the answer?

Mr. ROCHFORD. I am sorry, would you repeat that?

Mr. MANN. Would you favor mandatory sentences for the possession of a handgun?

Mr. ROCHFORD. Yes, if the Congress passes a law and then violators of that law should receive strict penalties. We either mean business or we don't mean business.

Mr. MANN. I believe that is all. Thank you.

Mr. CONYERS. The Chair recognizes the gentleman from Ohio, Mr. Ashbrook.

Mr. ASHBROOK. Thank you, Mr. Chairman.

Superintendent Rochford, I want to get this straight. Is it your contention that the firearm in the possession of a private citizen not suspected of a crime or with no past history or record of a crime, constitutes a threat to law enforcement in Chicago?

Mr. ROCHFORD. Not as a direct threat to law enforcement, no, but—

Mr. ASHBROOK. Well, then, why would you want to register that firearm if they are not a threat to law enforcement?

Mr. ROCHFORD. It is a threat to life and not to law enforcement, but to life itself.

Mr. ASHBROOK. Which you are generally charged to protect, you know, life and property? In other words, I don't get the distinction.

From what you said, Mr. Rochford, you must consider the private ownership of a firearm to be a threat to the policeman on the beat and to your job as a Superintendent of Police in Chicago, correct?

Mr. ROCHFORD. To some degree I think Congressman, if you had a firearm and it is accessible to the members of your family, the fact that you have that firearm in your home is a threat to the members of your family.

Mr. ASHBROOK. It might also be my business.

Mr. ROCHFORD. Sir?

Mr. ASHBROOK. It might also be my business, since it is in my home and I generally have supervision of my home, don't I?

Mr. ROCHFORD. That is right. That is exactly right. Most people feel that you have a constitutional right to have that gun in your home.

Mr. ASHBROOK. You are testifying here, evidently, that the threat of a firearm in a home, such as mine or someone's in Chicago, a person who has not been involved in a crime, a person who is not suspected of a crime, a person who does not have a past record of a crime, but it still constitutes an important enough future problem and imminent danger so that my firearm should be registered or maybe in some cases, taken away. Is that your testimony?

Mr. ROCHFORD. That is correct.

Mr. ASHBROOK. I was interested in your reply to Congressman Mann saying that the failure is not in law enforcement but other parts of the system. I guess I just don't jump from that to see where the advocacy of a Federal firearms statute would make that much difference in your law enforcement. I guess I just don't follow that.

If you have a registration of firearms in Chicago now, and you indicated there was some constitutional problem where the judges were waiting for direction—and as I read the Supreme Court decisions, the U.S. Supreme Court has made it very clear over a long period of time that local registration statutes are consistent with the Constitution, so, in other words, I am not sure I know what cloud that you refer to hangs over this whole problem.

What causes this problem of local judges and cases before their courts relating to violations of the law with regard to the registration of firearms? I am not sure what you meant by that.

Mr. ROCHFORD. Well, sir, the legal interpretation of the exclusionary rule causes it. The guns are there and the violence is there and the result is there and police officers are effective in taking from the community 18,000 guns, but it is almost impossible to get a conviction for the carrying of a concealed weapon, so—

Mr. ASHBROOK. Well, how would a Federal statute change that, in your opinion?

Mr. ROCHFORD. Well, I am hopeful that it will correct a misunderstanding, or what I feel is a misunderstanding on the part of local jurists that they have a constitutional right to bear that gun and carry that gun. This is the direction at the national level that I hope we can set.

Mr. ASHBROOK. You mentioned also in reply to a question from Congressman Mann you figured there would be voluntary compliance. Do you think Chicago and Chicagoans will do a little better on this than they did on prohibition? Is that your contention?

Mr. ROCHFORD. Well, I hope so.

Mr. ASHBROOK. Well, I certainly sympathize with your problem in law enforcement. I wonder whether this is the right answer, though. As a matter of fact, I would probably doubt that it is the answer.

One last question. You did use some statistics I found interesting in your testimony when you referred to the general phrase or the general feeling, rather, that registration of firearms would leave firearms in the hands of the criminal. You indicated that some survey had been taken that showed that 71 percent of the murders or homicides committed by firearms were amongst people that knew each other. I wasn't sure how that built up your point.

Are you implying criminals don't know each other? It just happens in the home or in street fights, is that what you are implying? It would seem the criminal element would know each other also. How would that be effective in promoting your contention that we need registration of firearms?

Mr. ROCHFORD. The point is that the great fear, you know, of violence, the perception and fear is not exclusively with the criminal. The danger with handguns is more often in the hands of friends and relatives more than it is in the hands of criminals.

Mr. ASHBROOK. Well, I can understand that point and I am sure there are certain fights or altercations at a bar where the man goes back into his house and brings a gun and has the last say in the argument which occurred, and I know there is that type of situation, but I just wondered if that is not more of a social problem, more or less, than the registering of firearms?

Mr. ROCHFORD. Well, if the gun were not accessible, readily accessible, I am convinced the violence would be greatly reduced.

Mr. ASHBROOK. Thank you, Mr. Chairman.

Mr. CONYERS. The Chair recognizes the gentleman from California, Mr. Danielson.

Mr. DANIELSON. Thank you, Mr. Chairman. Thank you, also, Mr. Superintendent.

As I listened to your testimony, it sounded like—and this is just to try to distill it down to its essence—what you are saying, what you are doing, is you are requesting this committee to recommend Federal legislation to control handguns, to control the trafficking in them and possession of them, for the reason that you feel that although there are State laws and local laws in effect relating to this subject, they have not proven to be an effective or efficient means of controlling handguns. You base that on the fact that local laws are necessarily fragmented; they are limited in their geographical jurisdiction, at

least, and they are varied, since each locality has its own type of law; and that, second, you feel that enforcement of those laws through the courts, the application of the law, has been token or timid or reluctant, and the courts have really not measured up to the mandate of the laws to control the traffic and possession of firearms, correct?

Is that about the essence of your testimony, as I understand it? Am I about right there?

Mr. ROCHFORD. I wish I had the ability to distill it as well as you have.

Mr. DANIELSON. Well, thank you. I am trying to save some time under our rules, because we do have another distinguished witness coming along, so I will move along.

But, as a corollary to that reasoning, we have to assume that it is your belief, and I am sure it is shared by many, many people, that a Federal law would remedy these defects because it would be uniform rather than varied and it would extend throughout the country, rather than being fragmented, and it would apply to interstate traffic, which you cannot control by local laws. Second, I think you must believe that the Federal courts would be less timid and would be less reluctant and more aggressive in applying the laws to the facts than a State or local court would be.

Now, on that, maybe you are right and maybe you are wrong. I don't know, but I think that we have to pause and think carefully. You have also brought out that you feel that most people, being law-abiding citizens, are going to respect the law and obey it to a higher degree than they do the local laws, and you may be right there. I wish I could say I am sure you are right, because that is the ideal we live under, but the facts are different. You've got to remember we have Federal laws against the possession of marijuana, yet it is found everywhere.

We have Federal laws against the possession and use of narcotics and certain dangerous drugs, but I think they are found wherever you go. So you find these evils everywhere.

I am old enough to remember the prohibition laws, which were not only statutory, but constitutional, and you could buy booze, you know, anywhere you looked. I think they even had some in Chicago.

So while I don't quarrel with your goal here, I have some serious reservations as to whether or not this means would be effective. I am not writing it off, though. I am just telling you that I've got a serious doubt in my mind.

Now, then I will go on a little bit further. I am not asking questions here, you see. I am just talking about it, just like you, but I want you to stop me if you are in disagreement.

You provided us, and I thank you, with some analyses of murder. Do you mean just homicide generally, or are you literally restricting it to murder?

Mr. ROCHFORD. Homicides.

Mr. DANIELSON. Second, under your figures you are picking up about 50 guns a day, which would be 18,000 a year. Now, that is very good—

Mr. ROCHFORD. About 60.

Mr. DANIELSON. In your statistics, have you made a breakdown or an analysis as to the origin or the brand of these guns? My question is

directed to this. I think that the American public is laboring under a myth that only the Saturday night special guns kill people. I think all guns kill people. I think we would be hard pressed to purely and accurately define the Saturday night special.

Have you made a breakdown as to who manufactured the guns that you confiscated, that you picked up?

Mr. ROCHFORD. We have not.

Mr. DANIELSON. Or the price range of them?

Mr. ROCHFORD. No.

Mr. DANIELSON. Some people feel that you can define a Saturday night special by holding it under \$30 or some other arbitrary figure. You haven't done that?

Mr. ROCHFORD. I have not.

Mr. DANIELSON. Just a friendly and hopefully helpful suggestion, I would like to suggest that you ask your statistical people to grind that factor in. It might give us a lead as to where the guns come from. I mean, where were they manufactured? Are they domestic or foreign? Do they come in interstate commerce? What is the quality of the construction? What was probably the original price? These things may help us in either adopting the theory of the Saturday night special, or destroying it as a myth which is frustrating us.

Lastly, you have mentioned that most of these guns seem to be available through the black market, and by that I would say that you probably mean by people outside of the normal channels of commerce. You don't have to go to a store and buy one, in other words. You can buy one from Joe or you can buy one from Bill; is that basically correct?

Mr. ROCHFORD. That is true. There is a general availability through the nonrecognized, licensed dealer.

Mr. DANIELSON. That is what I mean. They are just available anywhere. An individual sells them to an individual and where the first individual got it, you have no idea; correct?

Mr. ROCHFORD. That is correct.

Mr. DANIELSON. And I am not criticizing you, because I think that is a fact.

Lastly, I want to commend you on your department. I think you've got one of the toughest assignments in law enforcement and I think you do a very good job. I don't share your almost innocent faith that a Federal law is going to stop these things, though. I wish I did. I think I am going to follow my brother Mann, Congressman Mann here and say that perhaps the courts ought to get together and decide whether they are really doing their job in applying the law to the facts in many of our cases.

With that I thank you and yield back my time.

Mr. ROCHFORD. If I may, Congressman, let me say I agree with you. You know, I am optimistic in that I think the passage of the legislation and the backup of the Justice Department and some other Federal law enforcement agencies working with us can help us and we at the local level, of course, will continue to be aggressive. And I am optimistic that that is where the impact will be made, not by mere passage of Federal legislation.

Mr. DANIELSON. Well, since you reopened a thought here, my questioning is for the purpose of obtaining information and does not necessarily reflect what I may eventually do, but I do not share a com-

mon belief that making something criminal is going to necessarily enforce a public policy. I think one reason that the courts fail or refuse to impose sentences is because they don't want to impose a criminal sanction in order to carry out a public policy.

I don't think any of them ever articulate it that way, but I have been in courts a lot and I am convinced that many courts are just reluctant to impose a meaningful criminal penalty in order to carry out public policy. I think if we are going to confiscate guns, and that is what you are really talking about, although maybe it is a dirty word, but let's call it a fact, I think maybe a better way is, instead of having a law that says you put people in jail for possessing a gun—and the courts won't put them in jail—just declare the guns to be contraband. Contraband means there is no legal way you can own them. You see a gun and you pick it up. There is no recourse there. It is like counterfeit money. If you pick up counterfeit money, nobody owns that.

Mr. CONYERS. Would the Congressman yield?

Mr. DANIELSON. Sure, I will yield. I am groping for some solutions here.

Mr. CONYERS. But, weren't you the other day groping with the constitutional question on that?

Mr. DANIELSON. Surely. I am not going to impose constitutional questions, however, on Mr. Rochford, although he may be an expert on them, but I am going to save the constitutional question for the gentleman who comes in here thinking he is a good lawyer.

Mr. CONYERS. Well, that is why I raised it.

Mr. DANIELSON. Well, I do not say I am a good lawyer. Today I am playing, in other words, a different string on my fiddle.

Mr. CONYERS. I see.

Mr. ROCHFORD. When you mention the word "contraband" I have a warm feeling, because I, myself, don't think the gun has any use or value to our society.

Mr. DANIELSON. I am not going to say whether I agree with you or not. Maybe I agree with our brother, Mr. Ashbrook, in his thinking that—

Mr. ROCHFORD. All I am saying is that, Congressman, that is my response to that word.

Mr. DANIELSON. Yes, my point is that if the objective is to get rid of guns, then you don't Mickey Mouse around registering them or licensing them or something like that. If you want to get rid of guns, then you get rid of guns, and there is only one way to do that. That is to constitutionally declare them to be contraband and thus pick them up. Nobody can own a gun then. So if you see a gun nobody owns, you take it.

Thank you.

Mr. CONYERS. The Chair now recognizes the gentleman from New Jersey, Mr. Hughes, who will question you and then you will be excused for the day.

Mr. HUGHES. Thank you, Mr. Chairman. And thank you. Superintendent Rochford.

I found your testimony most enlightening and I would like to join with those members who feel that you in Chicago and law enforcement generally have done a good job throughout the country. I just have a couple of brief questions.

I am interested in your suggestion that perhaps the judges in your area are not interested in following through the sentencing process those offenders who are apprehended carrying weapons. I wonder, do they reach the prosecution stage?

Mr. ROCHEFORD. Oh, yes.

Mr. HUGHES. The prosecutors indict and it is just at the stage where they are dismissed in court?

Mr. ROCHEFORD. The evidence is usually suppressed in motions of counsel.

Mr. HUGHES. Are they mostly because of exclusionary rules where we run into these problems, that is, because it wasn't a valid search?

Mr. ROCHEFORD. That is correct.

Mr. HUGHES. Let me just ask you, do you plea bargain in your jurisdiction?

Mr. ROCHEFORD. Yes, we do.

Mr. HUGHES. Do you find that that is any impediment at this point to the prosecution of those possessing weapons?

In other words, what I am asking is are prosecutors not bringing out indictments because they are mindful of the attitude of the courts there?

Mr. ROCHEFORD. The general statement—a general answer would be that the criminal justice system is overburdened and breaking down with the aggressive arrests of the police department. For example, I would suspect that there are 3,000 pending indictments, you know, for a variety of criminal offenses.

A man commits a robbery and he plea bargains it for theft, and then he goes to trial under theft and then later on, after the third or fourth time he is arrested, it looks like the poor offender was arrested only for theft when really he had been arrested for robbery.

Mr. HUGHES. Well, I must say that I have experienced the same thing. I am not a great admirer of plea bargaining. It is not just applicable to handguns, but to other offenses generally. It seems to me the courts are becoming more concerned about statistical data than they are about the prosecution of defendants. I find that the expedient way to get rid of cases under 6 months old or 1 year old is to plea bargain. That is the attitude, at least in some areas that I am aware of.

I just wondered if you had that problem in Chicago, because I think that has a lot to do with some of the things we have been talking about. I happen to believe gun registration is essential as an aid to law enforcement, but I separate that from the problem we have generally in trying to avoid the increasing homicides that we have in this country, which are caused by weapons.

Do you find that the gun tracing that was provided in the 1968 Gun Control Act has been helpful to you as a law enforcement agency?

Mr. ROCHEFORD. I couldn't answer that question.

Mr. HUGHES. You don't know? How about insofar as registration as an aid in attempting to determine ownership and chain of custody and what have you in a prosecution; do you find that that is helpful?

Mr. ROCHEFORD. Well, it is really—well, it has really been ineffective. We have a gun registration ordinance in the city of Chicago. We have a minimum penalty of \$500 and judges who are reluctant to impose that heavy fine on individuals. As a consequence they discharge the case or annul it.

Now, we have a new ordinance that judges can give a 10-day jail sentence for a second offense of possessing a handgun. This was just passed at the end of February of this year. I think it will have some impact.

Mr. HUGHES. Are you saying in effect that you have a rather ineffective gun registration law?

Mr. ROCHFORD. That is correct.

Mr. HUGHES. If your jurisdiction has gun registration and the next one does not, obviously you could not have an intelligible gun registration law?

Mr. ROCHFORD. You can't control it; yes.

Mr. HUGHES. Do you find that you work at a handicap in not being able to determine who owns a particular weapon that is found in connection with an offense?

Mr. ROCHFORD. Oh, definitely, definitely. We recover a number of guns that have been used in criminal offenses, which we cannot put in somebody's hand, even though we might have a registered owner because, you know, the gun was taken in a burglary or theft from an individual.

Mr. HUGHES. But are there a number of instances where you don't have a registered owner to begin with, so you have no place to start?

Mr. ROCHFORD. Oh, yes.

Mr. HUGHES. So, there is no question in your mind but that a gun registration law would be helpful as an aid, as a tool in the detection and prosecution of offenses?

Mr. ROCHFORD. It would be helpful.

Mr. HUGHES. I am sure you could say a lot of things would be helpful, but I am asking whether it would be a significant contribution as an aid or a tool?

Mr. CONYERS. Would the gentleman yield?

Mr. HUGHES. Yes.

Mr. CONYERS. Why don't we put it this way. What do you want, Superintendent, assuming that we could grant it to you? Would you have us impose a Federal registration law upon all weapons, including rifles and shotguns as well as pistols? Would you have us prohibit handguns in their entirety or abolish Saturday night specials, or would you restrict ammunition or what?

I mean what admonitions are you going to leave with us now?

You are from the second or third largest city in the Nation. The problems have exacerbated there, as elsewhere. We would like to pin you down on this as the members of this committee have in the past been attempting to do with other witnesses.

Mr. ROCHFORD. If I may be permitted the opportunity to tell you how I feel down deep, it is that I think that guns should be classified as contraband and should be not available to the American public.

Mr. CONYERS. Well, that is the Danielson theory.

Mr. ROCHFORD. That will save a lot of lives. Anything short of that, if it does save lives, I am in favor of. That is why we have this committee.

Mr. HUGHES. Mr. Superintendent, let me just say this. Of course, it becomes a matter of balancing here; a balance of the interests of those who do feel secure in some instances and who do want to possess guns

legitimately, against the interests of society at this time to try to do something about the criminal problem, particularly in urban areas.

Let me just ask another question, moving away from registration, which I view in a little different category. I don't think that registration necessarily is a significant preventive, but just an aid or a tool.

Let me ask you if, in fact, there was a ban on the exporting, manufacture, and transportation of guns at this point, in the future, would that be a significant contribution?

Mr. ROCHFORD. I think it would be; yes.

Mr. HUGHES. Because what is happening is that with every 50 handguns that you pick up during a day, there are 50 more back on the market.

Mr. ROCHFORD. Maybe 60.

Mr. HUGHES. Yes, and more often than not, they are found in the hands of people who should not have them, but that would be a significant contribution in your judgment?

Mr. ROCHFORD. I feel that it would be.

Mr. HUGHES. Thank you.

Mr. CONYERS. Do you have any final observations, Superintendent? We don't mean to crowd you in any unfriendly fashion at all, but there is a mandate upon the Congress to act in the face of the senseless slaughter that you have reported here. We know this happens in every city in the country, and we appreciate the testimony that you have given today from the highest ranking police officer of the city of Chicago.

Do you have any other—

Mr. DANIELSON. Mr. Chairman, may I add this?

Mr. CONYERS. Yes.

Mr. DANIELSON. Mr. Chairman, may I ask the gentleman two very short questions? I mean questions susceptible to a short answer?

Mr. CONYERS. Please.

Mr. DANIELSON. The first is, we have a Federal law and have had it now for about 15 or 20 years requiring bookmakers—well, making it a Federal offense to make book unless the bookmaker first buys a tax stamp. Has that been of any help in controlling bookmaking in the area under your jurisdiction?

Mr. ROCHFORD. Yes, the Federal tax stamp has had a great impact on reducing the amount of gambling and bookmaking that has occurred. I think it has greatly reduced it because of the Federal law.

Mr. DANIELSON. In other words, that is valid?

Mr. ROCHFORD. Of course, they are still betting and gambling is going on—

Mr. DANIELSON. Well, there will always be some, but you feel it is a valuable tool?

Mr. ROCHFORD. Yes.

Mr. DANIELSON. You also expressed your opinion that loss of life, that killing, was the main objection—well, at least this was the main thrust of your testimony—is the main objection to handguns. In other words, it is the main danger of handguns, correct?

Mr. ROCHFORD. That is correct.

Mr. DANIELSON. How about the use of handguns in committing other crimes, such as robbery; are they not the most commonly used instrument in a robbery?

Mr. ROCHFORD. That is my testimony; yes, 95 percent.

Mr. DANIELSON. And there are far more robberies than killings?

Mr. ROCHFORD. That is correct.

Mr. DANIELSON. And seldom do you find a robbery with any family unit in it, I mean intra-family robbery?

Mr. ROCHFORD. That is correct.

Mr. DANIELSON. Thank you.

Mr. CONYERS. We are all grateful for your helpful appearance here today. Please feel free to furnish this subcommittee with any additional material and particularly statistics along the lines that have been raised in your interrogation. Again, thank you very much for coming. I appreciate my colleague from Illinois joining you in testifying here today.

Mr. ROCHFORD. Thank you for the opportunity of being here and giving me a chance to express my general views. I would like to in closing say that my only interest, my only concern is to save some lives, and I feel, and my personal feeling—if I may be permitted to say it—is that unless we act now on this important issue, that we are going to hand this terrible problem on to our children who are eventually going to have to face it. I thank you for this opportunity.

Mr. CONYERS. Our next witness is the police director of Newark, N.J. We will have him introduced to this subcommittee by none other than the distinguished chairman of the full committee, the Honorable Peter Rodino who himself represents Newark, N.J. Welcome, Mr. Chairman.

**TESTIMONY OF HON. PETER W. RODINO, JR., A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW JERSEY, ACCOMPANIED
BY HUBERT WILLIAMS, POLICE DIRECTOR, NEWARK, N.J.**

Mr. RODINO. Thank you very much, Mr. Chairman.

Mr. CONYERS. I would point out that it is absolutely ordinary that the full subcommittee is here at work and it is always like this even when you are not around, and we of course, welcome you here before us today.

Mr. RODINO. Thank you very much, Mr. Chairman. I must say that I am not only impressed but awed by the industry of the subcommittee. Of course, I think this is something that reflects the high marks of the Judiciary Committee, and I am very delighted that I could be here this morning. Thank you for the opportunity to be available to sit in for some while here and hear the testimony of Superintendent Rochford.

I would like to present a constituent of mine and a man who has a background in the area of law enforcement and a degree in law from Rutgers University, which I share with him as my alma mater. He was a fellow at Harvard University and has considerable experience in political science and in criminal justice. He served for a period of time as the director of the high crime impact program, which was and is a pilot program of the city of Newark, and then because of his excellence and his work in that area was appointed as the director of the police department of the city of Newark by Mayor Kenneth Gibson.

As you know, and without taking up the time of this subcommittee, because I believe the director has a very studied document to present to

the committee and has the expertise which is going to be invaluable to the committee, I would merely like to state, Mr. Chairman, that for many years while I have been a member of this committee, that I have been concerned about and anxious about the problem of guns and gun control. And I was one of those who supported the measure which we finally did adopt, which we hoped might have an impact on the question of the bearing of arms which are used unfortunately to maim and to do violence in most instances and to take lives. And the city of Newark has suffered greatly as the result of our inability to be able to cope with this question despite the fact that we have dedicated and devoted law enforcement individuals. We have a police force of 1,600 in the city of Newark, N.J. and a dedicated director and a mayor who is interested and Congressmen who have been trying to be helpful in this area of fighting crime in every way possible. Unfortunately it still goes on though and we lose people. Only a week or so ago we lost a police officer who was killed in the line of duty with a handgun. These things, of course, only reflect how we feel in the city of Newark, N.J. and throughout the country.

But as a member of this committee, I must say that I think that this area that you are now covering is tremendously important and I am hopeful that this committee does report to the full committee a proper vehicle so that we may be able to at least put an end to the maiming and killing and violence and the deaths that occur as the result of carrying guns which are not regulated.

With that, I am happy to present to this committee, Mr. Chairman, the director of the police department of the city of Newark, N.J., Mr. Williams.

If you will excuse me, I do have other places to go.

Mr. CONYERS. Thank you, Mr. Chairman, for not only an excellent introduction but a fine statement accompanying that. The committee is honored that you were able to spend some time with us.

Director Williams, we welcome you to the subcommittee. We have your statement, and it is a very thorough one and will be entered into the record at this point, which will enable you to proceed in any way that you want to.

Mr. WILLIAMS. Thank you. I would prefer to read the statement, Mr. Chairman.

My purpose in being here today is to express a deep and growing concern about the uncontrolled proliferation of handguns throughout our country and the dramatic increase in violent crimes against persons.

As the administrator of a police department with over 1,600 sworn officers, it is my public responsibility to protect the lives and property of 386,000 residents of Newark and the 150,000 nonresidents who commute into our city to work on a daily basis. In carrying out that mandate, I have a dual responsibility to both the public and to the officers whom I command, and for both of these groups the threat of violence by handguns is alarmingly great. The level of violent crime involving handguns and the fear of such crimes has a pervasive effect on the quality of life in Newark and other cities throughout the country. And in addition, the extent of such violence and the frightening prolifera-

tion of handguns immeasurably complicates the job of providing basic police service to the public.

These general opening remarks lead directly to two important conclusions. There can be little disagreement with the first conclusion that violent crime, particularly crime involving handguns, must be reduced drastically if our cities and towns are to be safe and livable. Second, to reduce the level of violent crime, strict control on the availability, possession, and use of handguns must be introduced.

As the subcommittee opens its hearings today, it must surely be noted that in no other country could the merits of these two conclusions be debated as endlessly and as fruitlessly as has occurred in the United States during the past several years. And we must ask whether our Nation can continue to permit the virtually free and uncontrolled commerce which presently exists in handguns, a commodity which is carefully designed and skillfully manufactured with one basic purpose, and this is to provide an instrument of death which can be concealed readily, drawn with no warning, and used with awesome speed and effectiveness on friend and foe alike.

If we are to reduce and control crime in America and if we are to reduce the fear of crime which saps the strength of our cities, we must examine the nature of crime and the circumstances under which it is committed. Indeed, such an approach is essential if we are to avoid the confusing rhetoric with which most discussions of crime are carried out.

No one knows better than the police officer that handguns and crime are closely related. Robberies do not succeed without the use or threat of force, and handguns contribute to a significant portion of robberies; assaults, atrocious assaults, and murders can become almost synonymous terms when a handgun enters the picture and turns a minor altercation and minor physical assault in a moment of anger into a deadly offense.

The correlation of handguns and crime is an easy relationship to document, particularly if one doesn't lose oneself in a futile debate about whether guns cause crime or whether people cause crime.

The inescapable facts are that handguns are used in a large and increasing proportion of violent crimes and that handguns are terribly effective in accomplishing their intended purpose. Nationally, according to the FBI, 53 percent of the 19,510 murders reported in 1973 were committed with a handgun. Studies have shown that a gun is five times as likely to cause death than is a knife, and it can thus be said that the presence and use of a handgun as a choice of weapon converts many atrocious assaults into murders because of the handgun's greater effectiveness.

Such a conclusion is consistent with an observation that is well known to the police. Many murders are not premeditated, and FBI statistics show that in 72.6 percent of homicides in 1972, the victim and perpetrator were either members of the same family, acquaintances, or lovers. The term "crime of passion" is very descriptive of a substantial portion of assaults and murders, and while reducing the number or rate of such crimes is a very difficult law enforcement problem, reducing the severity of such incidents could be accomplished by

reducing the availability and possession of handguns. A study in New York City supports such a conclusion through statistics showing that 73 percent of the murders in 1972 were committed by persons who had never before broken the law. [Lindsay, "The Case for Federal Firearms Control."]

It is difficult to avoid the conclusion that handguns directly contribute to increasing the severity of crimes, if not the actual number. Statistics from Newark certainly bear out the general conclusions concerning violent crime. During 1974, officers in my department responded to 2,977 incidents in which a firearm was used, and this figure included 52 homicides, 1,332 armed robberies, 331 aggravated assaults with a gun, 237 cases in which a life had been threatened with a gun, and 74 cases of vandalism. Forty percent of the homicides were committed with a handgun, and approximately half of all homicides occurred in family disputes or brawls. In addition, we arrested 469 persons for possession of a dangerous weapon, and confiscated 358 illegal guns. And these general statistics tell only part of the story, because our research staff has only during the last year established improved reporting procedures and begun to analyze carefully the patterns and trends in handgun and firearm usage.

An even more ominous trend which can be seen in Newark and other cities is the rapid increase in gun violence by juveniles. In 1974, the Newark police arrested 18 youths between 12 and 18 years of age for homicide committed with a gun. These 18 juveniles constituted approximately 25 percent of the total of 75 perpetrators of homicide with a gun. Like many cities, in Newark the level of violence by juveniles has been increasing steadily and dramatically, and the availability of handguns is an important factor in the growing seriousness of juvenile crimes.

Officers in my department estimate that there are over 50,000 illegal guns in Newark. While it is difficult to know exactly where these guns come from, we do know that a significant portion of them are brought in illegally from South Carolina, Virginia, Georgia, and Florida. Many others are stolen from manufacturers, retail outlets, and private residences. Unfortunately, there is presently no requirement that forces people to report theft or losses of their firearms to the police department.

Firearms, particularly handguns, contribute directly to a significant portion of violent person-to-person crime. To reduce the amount and severity of such crime, we must drastically reduce the availability of handguns. How can this be accomplished?

My State, New Jersey, has what is considered by most standards to be a strict gun control law. Under this law, which was passed in 1966, a person must apply to his local police department for a permit to purchase a handgun and for a special firearms identification card to purchase a long gun. The applicant must be photographed and fingerprinted and a character investigation is conducted as to criminal convictions, mental incompetence, or narcotics addiction. A 7-day waiting period is stipulated between the date of application and receipt of the permit. A separate permit is needed to carry a concealed weapon. As of 1972, approximately 134,000 applications for the purchase of pistols and revolvers had been approved by local and State police in New Jersey. At the same time, 2,500 were denied, of which 48.6 percent involved persons with criminal records.

While this law deters a certain amount of gun proliferation, it has not solved our gun problem in New Jersey. At the present time, for instance, manpower shortages in police departments have caused a backlog of 16,000 gun permit applications to be processed. But a more serious matter is that residents of New Jersey continue to buy firearms in other States and bring them back illegally. Also, this law does not mandate registration of all firearms in circulation, nor does it effectively regulate the private transfer of guns between citizens. And, as I mentioned before, there is no system to account for stolen or lost guns. One major concern that I share with the police officers in my department is the need to control the source of the firearms, be they retail merchants, wholesalers, or the manufacturers themselves.

I find no comfort in looking ahead to the resolution of this tragic gun problem when I look at Federal legislation. In my mind, the 1968 Gun Control Act contains so many loopholes as to make it almost ineffective. Handguns with a "sporting purpose" pour into this country at a rate of half a million each year. Even worse, handguns assembled from imported parts number over 1 million each year. These guns, I might add, are in addition to the more than 2 million pistols and revolvers made in this country each year. Where do all these guns go? Who has these guns? I know that in Newark we process only about 1,500 applications for handgun purchase a year. This leads me to conclude that many people that we don't know about have these guns, and that many of these people are people who do not know how to use them, who keep them in unprotected places, who use them to terrorize their fellow citizens, and who—as I said before—kill their friends, loved ones, strangers, and, yes, police officers.

Crime is a local problem, but handgun control is a national problem. Dealing with crime effectively at the local level is dependent to a great degree on whether or not strict Federal controls on handguns will be introduced.

The history of the debate on Federal handgun control reads like a sorry soap opera acted out by masked players portraying with great enthusiasm and ingenuity the roles of protector of the gun industry, and protector of the mythical right to bear arms. Such energetic roles have been acted with great skill and with even greater waste of the time and energy of the large segment of the public which is in agreement on the severity of the handgun problem. After more than 10 years of off again-on again national debate, the problem has only gotten worse and the level of rhetoric only gotten greater.

The fact of the matter has been and continues to be that State and local efforts to control handguns and handgun violence cannot be reduced without strong national controls. The issue at the national level is not one of crime, however. It is a question of commerce.

Crime, handguns, and commerce in handguns go together appallingly well. Although 37 States have some form of gun control laws in effect, not even the strictest of these statutes can affect the interstate commerce in handguns. And we are clearly talking about commerce on a large scale. During the 10 years examined in an Eisenhower Commission study, from 1959 through 1968, 10.2 million handguns were added to the civilian population. This is a frighteningly high portion of the 29.4 million total of all firearms, both long guns and handguns, added to the civilian population during those years.

However, my basic observation is that 10.2 million handguns is big business, and it is a big business which is almost self-perpetuating. As a police administrator, it is my conclusion that the proliferation in handguns contributes to more serious crime, which contributes to more fear of crime, which contributes to more handgun sales, supposedly for protection, which in turn contributes to another round of the same cycle. The only winners on this self-perpetuating cycle are the handgun manufacturers. The public is the clear loser. And the police are caught in the middle with a massive problem which is beyond their present powers to control.

This commerce in handguns simply cannot be controlled at the local level. It is an interstate commerce problem; it is an interstate transportation problem; it is an interstate law enforcement problem. To control the local problem of crime we must also control the national problem of the manufacture, sale, transportation, and distribution of handguns to civilians. Only then can we at the local or State levels begin to control within our jurisdictions the possession, sale, and criminal use of handguns, and through such control improve the prevention and control of crime.

It is my opinion that handgun control must be approached by looking first at the source of guns and how they enter into and remain in circulation. In examining the problem from both the local and national perspectives, I have become convinced that the lack of even minimal monitoring and regulation of the firearms industry constitutes the beginning of an impossible enforcement situation. For example, we do not know with any precision how many guns are manufactured and placed on the market; nor do we know how many of these weapons are stolen during manufacture and shipping from factory to wholesaler to retailer; nor do we have any accurate system for numbering consecutively the number of guns which are manufactured. It seems futile to talk about methods of handgun control without first discussing such basic questions. As a law enforcement officer, it appals me that pharmaceutical drugs are controlled more stringently during manufacture and distribution than are handguns.

A second focus of attention should be upon the sale transaction. It would be reasonable to assume that the responsible dealer and the public have a common interest in restricting sales of guns to responsible citizens. Yet one must wonder to what extent anyone at the Federal, State, or local levels knows enough about the practices of gun selling and the effectiveness of existing laws designed to insure honest dealers and honest sales practices, particularly in interstate commerce.

Although I cannot talk with great expertise to this aspect of the problem, studies I have seen concerning the illegal interstate flow of handguns from several Southern States lead me to recommend this is an area for intensive exploration by this subcommittee.

However, I am not sure your attention to developing more effective reporting or controls on the manufacture and interstate distribution of handguns will lead to any significant reduction in the proliferation and violent use of such weapons. In the end, we must raise and face up to the more basic question: Do handguns serve a useful purpose sufficient to justify continuation of their manufacture and sale to the civilian public. In 1934 the National Firearms Act restricted access

to machineguns, which were then a serious problem in a few jurisdictions. In 1975, handguns are a serious problem in virtually every major city and many other jurisdictions in this country. I am persuaded that the hazards of handguns are so great that they should no longer be manufactured or sold to the public and that a mechanism should be created to drastically reduce the supply and possession of existing handguns. Proposals for registration and licensing cannot accomplish this, certainly not without very strong national controls on manufacture and interstate sale and distribution. Even more important, licensing and registration do not affect the significant portion of crime that falls in the "crime of passion" category.

A national ban on the manufacture, sale, and possession of handguns has the greatest potential for halting the proliferation of such weapons and thereby reducing violent crime. Whether or not an outright ban on handguns is presently feasible is an important question for this committee. I would suggest that a ban is the only truly viable solution and that a ban on handguns will be the ultimate wisdom of the American people. The sooner this ban is accomplished, the sooner our law enforcement and criminal justice system can begin to reduce and control crime and the fear of crime.

To conclude, I will again emphasize that we are confronting the interrelated problem of crime and the commerce in handguns. We cannot permit the profits of such commerce and the strength of commercial interests to stand in the way of effective handgun control and the public good.

Mr. CONYERS. That was a powerful statement and it raises a host of more complex questions that this subcommittee must grapple with. Unfortunately, we see that the House is in session now, and our questions probably won't be as detailed as we would want, but I recognize now the gentleman from South Carolina, Mr. Mann.

Mr. MANN. Thank you Mr. Chairman. I wish to express my admiration for the well reasoned statement just presented. I think you have really identified our alternatives and the question will be for us and the American public to resolve those alternatives.

The fact, as you indicated, the severity of crime is increased by the availability of handguns and the vicious cycle to which you refer, those facts are so true these days. It is so true that the perception of the average citizen that it is wrong to have a gun is not there, or it is not there substantially. That makes it all the more difficult for us to attack the ultimate problem that you put at the bottom line and that is the elimination of the demand and possession of weapons.

But I do appreciate the reasoning that went into this statement. Certainly you have pointed to one area that needs our immediate attention and is certainly subject to control, and that is the interstate sale of handguns without any controls. My State of South Carolina is one of the greatest offenders I know, and I know that the committee will be looking into ways to improve that situation. But once again for your statement today, I do wish to commend you.

Mr. CONYERS. The gentleman from Illinois, Mr. McClory.

Mr. McCLORY. Well I thank the gentleman for his statement. He has made a very forceful statement. He has expressed himself very force-

fully on the subject. I tend to feel that the gentleman is looking for an easy solution, and I think he is following a line of talk that tends to make the manufacturer, the industrial community the scapegoat for a lot of the problems that we have in our society. In this instance, I think he is tagging the manufacturer of handguns as being the culprit and that there is some kind of design or purpose. As a matter of fact, the gentleman states right in the opening part of his statement that the sole purpose, the intended purpose of the manufacture of handguns is to kill people. I am confident that that could not be sustained by any authority. In other words, that the manufacturers of handguns are not making the guns for the purpose of people going out and shooting other people.

I would also question the statement that you make on page 15—and I would like you to support that statement and let me know what the basis is for that statement—that the 1968 law does not require manufacturers to keep accurate and complete records. Because the 1968 law does require manufacturers to keep accurate and complete records with regards to all handguns that they manufacture. We do have that in the law right now. And if you are not able to get access to that kind of information, then you should inquire at the Treasury Department with respect to it. If that material in the long paragraph on page 15 is accurate, I would like you to support it with reference material that would convince me that it is accurate.

Mr. WILLIAMS. OK, we would be happy to provide the supporting documentation, Congressman, on the second point. On the first point as to the intended purpose of manufacturers developing guns to kill people, I simply made the statement that guns have the purpose of killing people. You manufacture guns and the ultimate end of that is to kill people. I am not making the inference that the manufacturer who designs guns only intends to kill people, but certainly those guns are used throughout this country to an alarmingly high degree to kill civilians as well as policemen and we all know that.

And I hope that is responsive to the issue that you raise. But I did not mean to give the impression that a manufacturer, that is, that manufacturers of handguns are doing it with the intent to kill people, but I think that we should all recognize that guns are lethal weapons and if this Nation has seen fit to ban heroin from its shores and refuse to allow any pharmaceutical company to develop it here in this country, I don't think that heroin is any more dangerous than guns. I think we ought to be moving down towards, as the Commissioner that testified before me said, to try to place into perspective our values. And it seems to me that human life will prevail over any interest that a manufacturer will have.

Mr. McCLEARY. Mr. Williams, let me just make this further observation. I want you to know that the members of this committee, or at least I feel all the members of this committee are interested in effective handgun control legislation and particularly in the area which would help reduce street crime.

I would ask you this further question. Since you have supported a complete ban without qualifications on handguns, I wonder whether you would want that also to apply to law enforcement officers and to the military since you didn't say that you wanted to except either category.

Mr. WILLIAMS. I would think that as a general proposition, Congressman, that we ought to consider a complete ban. I would recognize the necessity of some exemptions. Certainly during this period of time we would want to exempt police agencies. I certainly state in my statement that we are talking about civilians, so that is completely exclusive of the military.

I would even go so far as to say that licensed gun clubs might have privileges under the law, but we start out with a general rule that handguns should be banned and that no civilians should be allowed to have them except perhaps those civilians or perhaps organizations like gun clubs that could justify it if there are very strong regulatory controls over the use of guns by those organizations.

And this it would seem to me would charge the organizations with the responsibility, by licensing them, Congressman, to control it and if they violated that, they could lose their privileges of ever having the right to have guns.

Mr. McCLORY. You support a complete ban on the manufacture then? Now, of course, we can't ban the manufacture of guns overseas so that would only apply nationally. Now with respect to the exemption that you would have for police officers and the military and considering that you have a complete ban on the manufacture, would they then be required to use imported guns? You didn't say anything about a ban on importation.

Mr. WILLIAMS. It is my view that this committee has a public duty to thoroughly investigate the propositions that are raised here and to develop reasonable rules of law as the result of the testimony that is obtained from witnesses. I don't intend to come here with a package of goods for you that you can adopt as the ultimate solution to a very complex problem, but what I do intend to give is my experience as a police director of a city of almost 400,000 people where police officers are now dying, police officers are being killed, and they are the only real defense that the public has. It is not the gun that an individual citizen may have in his home that is his defense. If a police officer gets killed when he pulls a gun on a criminal, then what chance is some civilian going to have that hasn't had the experience or training of a police officer? What chance does he have? So the gun really doesn't serve any protection for protecting anybody. It doesn't serve that purpose at all.

But what I have tried to raise, Congressman McClory, is what I believe to be the direction that the committee should take. As far as breaking down the details and developing the rules. I think in the infinite wisdom of this committee, that this subcommittee will be able to do that.

Mr. McCLORY. Even though I criticized your statement and parts of it, you have spoken very forcefully, and I appreciate the earnestness of your feelings. Thank you.

Mr. CONYERS. Mr. Ashbrook of Ohio.

Mr. ASHBROOK. Yes, thank you, Mr. Chairman. Let me say also that I respect your testimony but I would disagree with your conclusions, and I would also disagree with many of the areas where you sweep what I think are basic arguments aside referring to them as a "futile debate" and so forth. I think it is a very appropriate debate

and I think it is appropriate that we have a debate over these things. I am not sure whether it is futile or not.

I am somewhat interested in your statement that you feel that New Jersey has a very strict gun control law. What is the failure of Newark, N.J. in this area then? Is it the police department or the prosecution or the courts? Evidently it is not working right now and you are turning to us saying that we need a Federal law. What is the basic problem in Newark, N.J.? I have a little concern with people who come in and give us what you have referred to as the need for a Federal law and yet you have what you appear to be an adequate tool in New Jersey. I guess your testimony is it is not working. What seems to be the problem?

Mr. WILLIAMS. Well Congressman, the issues that I raised concerning my city are merely a reflection of cities similarly situated across this country and it is a reflection of problems that cities throughout the various States of our Nation are faced with, and that is that no matter how strong the laws of any city—and the city does not make the laws of course—but no matter how strong the laws of any State, those laws cannot reach nor deter citizens from other States in what they are doing. It is up to the Congress under the powers vested in it through the interstate commerce clause to control commerce that occurs between and amongst the various States. The city of Newark, N.J. does not, nor does the State of New Jersey have power in that area.

If the Congress fails to act, then it is clear to me that there will be no change in the problems that we are faced with with respect to handguns in America.

Mr. ASHBROOK. I am sorry, but I just don't follow that at all. The fact that you are registering firearms has nothing to do with commerce. I mean you people are—I mean if people are violating the law, what are you doing to enforce the law in New Jersey? Commerce wouldn't have anything to do with that. As a matter of fact, I think it is a rather questionable argument as to how much the public knows about whether a law is a State, Federal, or local law. I think when I was younger about the only Federal law anybody knew anything about was the Mann Act. I think everybody knew that was a Federal law, but I think for the most part very few people know whether laws are State or Federal or local ordinances.

I just don't see this mystical thing happen the minute we have a Federal law where all of a sudden 300,000 some people in Newark, N.J. say a Federal law is now on the books so we better all of a sudden do these things we didn't do in New Jersey when New Jersey had the law.

Mr. HUGHES. Would the gentleman yield?

Mr. ASHBROOK. Yes.

Mr. HUGHES. I think the gentleman is talking about two different things. We are talking about registration. Registration has been an aid to law enforcement in New Jersey and I am sure the police commissioner would agree. That really is the aim of our registration law. It has been effective to a degree. The problem is that Pennsylvania, for instance, does not have a registration law. We receive a lot of weapons I know in the South Jersey area from States that do not

have these laws. So it is still difficult to trace weapons as an aid to law enforcement.

So we don't have a sufficient ban on these weapons. Most of the permits, as the superintendent's testimony stated, have been issued and it is just a small percentage of the cases where they have been denied, and in those cases it was because of police records.

Mr. ASHBROOK. I guess I just don't get the thrust of either the previous testimony or this testimony. The thrust I gather from Mr. Rochford was that there are probably 500,000 that are not registered in Chicago which are required by law to be registered. Mr. Williams is evidently holding up the same idea that there are tens of thousands of guns amongst the 386,000 in the Newark, N.J. area, which legally, regardless of how they got there, are required to be registered and are not registered. That is why I don't think the commerce argument is good because regardless of how they got there, you have a New Jersey law, which says that guns are supposed to be registered but by your own estimate there are many that are not registered. I guess I just don't see how turning them over under a Federal statute will help that.

Mr. HUGHES. Would you yield again?

Mr. ASHBROOK. Yes.

Mr. DANIELSON. Well, what are the rules under which we are operating. Mr. Chairman?

Mr. CONYERS. Well, the rules of Congress, of course.

Mr. ASHBROOK. Mr. Chairman, I would be glad to let Mr. Hughes have some of my time if he wishes.

Mr. DANIELSON. Well, may I yield my time? I am apparently not going to get any.

Mr. CONYERS. Let's not be precipitous, Mr. Danielson. I am going to give you as much time as you need.

Mr. ASHBROOK. I still have about 2 minutes by my calculation and I will yield to Mr. Hughes.

Mr. HUGHES. Well, I would be happy to talk to you about this matter at some other point, Mr. Ashbrook, about the registration of firearms.

Mr. ASHBROOK. Well then, getting back to Mr. Williams, is it a major problem in your city that a substantial number of the citizens have not registered their firearms?

Mr. WILLIAMS. We deal with two separate issues here, Congressman, and Congressman Hughes brought them out. One, of course, is the registration of weapons. The Newark, N.J. law has I believe proven relatively effective in that area. The other—

Mr. ASHBROOK. Relatively effective or ineffective?

Mr. WILLIAMS. Relatively effective. In the requirement of all dealers in weapons that they have a gun permit and all purchasers of guns to have a gun permit we have been effective, but the law does not deal with the transfer of guns so it has some problems. I think the New Jersey law could be strengthened.

But even if the law were strengthened and it was the best law that probably could be made regarding the registration of weapons, it is a law that could not possibly be enforced. You cannot possibly enforce the transfer of weapons between individuals you don't know anything about. It never becomes a matter of public exposure, in other words.

Mr. ASHBROOK. When you say "never" would you imply it could not be enforced if we had a Federal statute as to this same problem?

Mr. WILLIAMS. No, I just believe that we must begin to deal with the force of the problem. I presented an analogy earlier with respect to narcotics and when we talk about heroin in this country, which is a very, very dangerous substance, and when we talk about the people that produce it and bring it into the country, we talk about trying to distinguish between—that is, distinguish in our laws—in penalties for people that bring heroin in and that manufacture it and that produce it. So we will not allow it to be manufactured here. But when we begin to talk about gun control laws, all of a sudden we turn from placing the basic onus on the person who creates the problem, the gun, the person that manufactures the weapon, and try to place that now on the individual that has the gun. I think if there is to be consistency in our laws, we must as a very minimum charge the manufacturer of the guns with this responsibility. That is number one.

Number 2, we must begin to develop laws that will have some uniformity amongst the States. No matter how strong the law is in the State of New Jersey we cannot control what happens in South Carolina. If we develop laws regulating handguns, people could still purchase them in South Carolina. It is only when the Congress acts that the transfer and the transportation of guns between the States will be alleviated, which is a problem that we are faced with in urban cities like Newark.

Mr. ASHBROOK. Thank you.

Mr. CONYERS. My friend California has been exceedingly patient and the Chair now recognizes him.

Mr. DANIELSON. Thank you, Mr. Chairman. I truly wish to thank you, Mr. Williams. The information you have given us I am most pleased to receive. You have thought it out well and you obviously know your subject and I just wish all witnesses could do as good a job. We have had some excellent witnesses, but from now on yours is a standard that the others are going to have to conform to.

You understand law enforcement and a lot of people do not recognize the problems inherent to law enforcement. I have done a little myself in this area and I feel an affinity with you.

I have two observations I want to make. I can't ask you a question about your statement because everything you said I think is sound. If we agree with your ultimate conclusion of banning handguns, I can't find anything really to quarrel with your logic there. It may be that there are some of us who wouldn't agree with that conclusion, but you put your finger right on the nerve I think.

One thing I wanted to emphasize though is this. The question was raised about can we hold manufacturers responsible? I submit that we must hold manufacturers responsible. Anybody who creates, who manufactures, a substance or an object which is either inherently evil or which through its abuse is evil, such as narcotics and pharmaceutical drugs, must be held responsible for the manufacture and the introduction of that substance into commerce. If we are going to assume, as probably was true a few years ago, that drug manufacturers could manufacture millions of pharmaceutical drugs which were sometimes 100 times in excess of their therapeutic need and send them out into in-

terstate commerce and expect us naively to assume that all of these were going to doctors to treat patients when there was no way on earth that the whole human population could use them for therapeutic purposes, if we assume that, then I say we are just kidding ourselves and the same is true with guns. If we can say that a gun manufacturer anywhere can manufacture these objects and put them into interstate commerce and blindly assume that they are going to no one except those who need them for police purposes or for whatever purpose they wish, like collectors and people who go to a gun range on Sunday afternoon, we are just kidding ourselves. I think the worst sin we can commit here is the sin of self-deception.

I think the analogy of dangerous pharmaceutical drugs is excellent and I think we ought to keep it in mind in our hearings. And the last point I would like to make—and I am testifying I guess just like you have and not asking questions—but I think maybe in this committee we ought to be careful to avoid what could be a problem we may be falling into. I do not diminish your testimony, Mr. Williams, but I found that many witnesses of late have been pointing out that maybe one of the justifications here is not the criminal use of firearms but the accidental intrafamily use, the crime of passion, the situation where a noncriminal—and I use that in a qualified sense—commits murder as a crime of passion. Now there is some validity in that but I think that what we are really doing here is we are getting too heavily involved on that one point, putting too much emphasis on that, and we are failing to face the gut issue of criminal use of these firearms. We are tempering our position and saying that the purpose of gun control legislation is to try to reduce crime and that we are trying to protect people against their own intrafamily weaknesses. The point has some validity I admit, but I am fearful we may be giving too much weight to it. That is just a friendly suggestion, and you can do with it what you want.

Along that line, and to illustrate my point, we have a lot of killings every year with handguns. But we probably have a vastly larger—and I don't know how much larger—but a larger number of uses of the handgun for other criminal purposes, namely, putting fear in the minds of individuals. The armed robber is a classic example, and kidnaping and rape, and any use of the handgun to put the victim in fear of losing life—not necessarily that the guy is going to pull the trigger, but he might—and there aren't any accidental robberies of course. They never take place within the family as a crime of passion for instance. There are no accidental rapes. There is no accidental kidnaping that I know of. So I think we can disabuse ourselves of arguing that the prevention of the accidental use of firearms is our major purpose here. It is a supportive purpose, a corollary purpose, but essentially it is crime we are talking about.

I was once involved in law enforcement. I was taught, and I was taught it to where it became a maxim, that if anybody pointed a gun at me, I must assume that he intended to use it. Thank God they don't always use it, but you must assume that. I am sure you instruct your officers accordingly. Can you imagine the fear put into the mind of a nonpolice trained individual when an individual points a gun at him? As far as I am concerned it is almost equivalent to shooting or to the killing.

Well, that is the end of my comments, and I thank you and I thank you, Mr. Chairman.

Mr. CONYERS. Did you have any reactions directly to the comments of our distinguished colleague?

Mr. WILLIAMS. Well the only comment that I want to make is that although I emphasize the problems that are faced with individuals having handguns and didn't deal perhaps as strongly as I could with the criminal element, it is only because I think that we should know exactly how deeply ingrained that problem is now in our society and that the basic problem, the basic issue covers both the individual use of guns and the criminal use. The basic problem is that guns are too readily available and accessible.

There is approximately 210 million guns in our country and about 40 million are handguns. These are the weapons used by the criminals. We must limit the accessibility of these guns. And to limit the accessibility of these guns we must deal therefore with the manufacture of the guns.

Mr. DANIELSON. I can't quarrel with that. In fact I can only agree with it if that does become our ultimate policy. And that is the path we have to take I am convinced. I think what you are saying, and I think I am in agreement, is that although there are accidental and crimes-of-passion type killings, although there is this kind of damage done by guns, the main thrust has to be the criminal use of firearms but the two are so integrated that you can't resolve one without resolving the other.

My father used to tell me that in World War I someone came up with the great idea that we should invent a poison gas that would kill only the enemy, but somehow or other we couldn't implement that. The gas was indiscriminate. I think that is what we are talking about here. If you are going to remove guns for criminal purposes, you darn well have to remove them for other purposes. Isn't that correct?

Mr. WILLIAMS. That is precisely correct.

Mr. DANIELSON. Shooting at tin cans is fun, but most people don't spend much time doing that.

Mr. CONYERS. I thank the gentleman for his usual erudite comments. I would like to recognize the staff counsel, Mr. Barboza.

Mr. BARBOZA. Does your Department have any information on the number of legitimate dealers in the city of Newark, N.J., that is, dealers in handguns?

Mr. WILLIAMS. We could probably readily ascertain that information. I don't have it with me here. Newark, N.J. does not have a large number of legitimate dealers in handguns.

Mr. BARBOZA. Do you have any reason or could you speculate as to the reason why?

Mr. WILLIAMS. I would assume that most of the people that are purchasing guns now—well, it is just not a big business in Newark, N.J.

Mr. BARBOZA. Is it a big business in the State of New Jersey do you find with your registration law?

Mr. WILLIAMS. No; I don't think it is a big business in the State of New Jersey.

Mr. BARBOZA. Do you think it has something to do with the registration law?

Mr. WILLIAMS. I think it has something to do with the registration law, yes.

Mr. BARBOZA. Then you feel that many of the guns that are coming into the New Jersey area are coming from your neighboring States without strict laws or even States from the South like South Carolina?

Mr. WILLIAMS. That is precisely the problem, and that is why it is my very strong feeling that the issue is an interstate commerce issue and that the States have no power individually to deal with those problems that are currently in their borders with respect to handguns.

Mr. BARBOZA. Has your office had any contact with the Alcohol, Tobacco, and Firearms bureau in tracing handguns?

Mr. WILLIAMS. Very limited contact. I think they have the responsibility to handle from the Federal perspective the gun problem. I don't know if they have ever made an arrest in the past 30 years in that area.

Mr. BARBOZA. So their presence is not felt in the city of Newark?

Mr. WILLIAMS. No; it is my personal feeling from what I know about the agency that it is very ineffective in dealing with the problem.

Mr. BARBOZA. Do you have any idea of how many agents they have in the city of Newark?

Mr. WILLIAMS. I don't think they have any, but that may be incorrect.

Mr. BARBOZA. You may be correct because they only have about 50 in the city of New York in comparison to about 1,500 FBI agents, and I think your statement places into perspective the massive nature of the interstate problem in handguns. I mean, an agency having only about 50 agents in a city of the size of New York, with 1,500 FBI agents, well, that probably speaks very well for the rest of the country, too. Thank you.

Mr. CONYERS. I would like to try to capitalize on the experience of your being a lawyer and a law enforcement officer yourself, Mr. Williams, doing probably an excellent job under very difficult circumstances in Newark given the economic circumstances that your city is in. Let us try to put this whole problem in perspective. I would like to try to elicit some comment from you in connection with the whole subject of crime, the rate of crime, and the availability of guns and the misinformation that generally surrounds this subject.

I agreed to do a television program with three other members of Congress last night and a number of citizens in the community and a number of people that represent the pro and con arguments of gun possession and I was frankly amazed by the fact that the myths are more dearly held than the facts and merely repeating the facts to the citizens is ineffective. Many of these citizens are not persuaded that having a gun in your home increases the chance that you or your family may become the victims of that firearm. So that, among many other concepts, is apparently difficult to grab hold of.

Now what about the education aspect of this thing, which has seemingly gone neglected for so long, and what about the overemphasis on the recreational purposes of firearms? I would daresay that there are not many gun clubs in Newark or in many inner-city communities across the Nation. Could you comment on this point?

Mr. WILLIAMS. On the issue of education my assumption is that you mean that if we develop an effective education program for controlled

use of firearms, that there would be less accidents in the home, especially with people that have such weapons?

Mr. CONYERS. That and the consideration that the old romantic notion of carrying a gun enhances your protection and the lack of awareness of the danger of carrying a weapon that accrues to the person that does that and the danger that accrues to those who live in a home where a weapon is there.

Mr. WILLIAMS. OK, My personal feeling on the matter is that a weapon does not really offer the protection that people think it offers, and in many times it places lives in more jeopardy because they are likely to take a chance that they wouldn't take if they didn't have the weapon. It might be a better method to just run if somebody is robbing you or just give him everything he wants. If you are going to challenge the authority of a criminal that is determined to take what he wants, then he might get more than what he came for and you might get more than what you intended. That is in other words that I don't believe that the average John Q. Citizen is capable of defending himself against a criminal with a weapon and who is seriously committed to robbing him. I think that the chances are better for survival if the citizen would just give him whatever he wants and that he should leave the responsibility for enforcing the law in the hands of the police.

And it is a reaction to fear, it is a fear syndrom that is created here, and people are not responding to facts or logic. They are acting out of fear. They feel in many instances the police are not capable of protecting them because of the increasingly high crime rates and violent crime rates. So what is happening in our country is the police are becoming more militaristic and they are getting stronger and heavier weapons, heavy-nosed guns, and we hear about hollow-nosed bullets with more kill power. I think that this in some degree is a reaction to the armament and the arms that the criminals have and the citizens have in reaction to the arms that the criminals have. So John Q. Citizen now is going to carry his own gun to protect himself.

Now the problem with respect to education especially is that when a person is acting emotionally, what he has thought about educationally does not mean very much. He goes for gut feelings, gut reactions. In most of these crimes, especially homicide, in most of the homicides that are committed someone is in an emotional state. There are very few crimes that are premeditated where someone is lying in wait with the intended purposes of killing someone. That is a very small percentage of the crimes. So I don't believe that education is going to do much to alleviate the problem.

I feel that the instrumentality is so dangerous that we need to limit the accessibility to guns and only to certain exclusive groups who we should allow the authority to carry guns. And if we fail to do that, it seems to me that we are going to be living in a society where the police are going to become much more militaristic and that our Nation would at some point in time begin to contradict some of the basic premises upon which it was founded.

The earlier Pilgrims and people who founded the Republic were very concerned about police power suppressing the rights of the people, and I think that we have approached that, and I don't say that guns

are the sole and exclusive means or reason why we are approaching that direction and why we appear to be moving in that direction, but I do believe it is a big part of the problem. And I seriously personally can't understand how many of our most distinguished citizens will have to be slaughtered before we reach the point in this country where we develop adequate controls of firearms.

Mr. DANIELSON. May I ask the gentleman a question.

Mr. CONYERS. Yes.

Mr. DANIELSON. You were talking about premeditated homicides—murder. Is it not a fact that quite a large number of homicides are committed without traditional premeditation but as an accident in the commission of a crime of violence?

Mr. WILLIAMS. That is correct.

Mr. DANIELSON. For instance, the killing of a police officer I would say, except in the execution type case, is normally not premeditated. It results from a gun fight between the officer on the one hand and the person who has been apprehended in the commission of a crime on the other hand. Do your figures give us any help on what number of the homicides or murders, what number is committed as an accident or as what we call in California a felony murder?

Mr. WILLIAMS. First I wanted to deal with the underlying theory upon which that proposition is predicated. Number one, I was trying to cut the distinction between a civilian that has a gun, whether or not that civilian is going to use the gun, as to whether or not education will affect the use of the gun, which is basically the question that was raised. And in that instance we have to deal with questions of premeditation, or passion. When you get to the point of determining what the criminal is going to do, I distinguish that behavior and—

Mr. DANIELSON. I see. Sure.

Mr. WILLIAMS. The criminal will act out of premeditation because in the commission of a particular offense—and that is why we have the felony murder rule—because the nature of the initial crime is so heinous that we naturally attach to that the homicide in cases of felony especially—

Mr. DANIELSON. OK, so you are distinguishing a homicide committed by a person involved in committing crime as being a separate class, you might say, from that of the kind of murder you see on the TV and on the movies?

Mr. WILLIAMS. That is right. The distinction between the civilian who has a gun and holds it on his premises and is likely to use that gun as a crime of passion as opposed to a person that is bent on criminality; that is, bent on owning and possessing a gun is going to use that gun if someone attempts to thwart him in his efforts to perpetrate a crime he intends to commit.

Mr. DANIELSON. And he intends to do that by fear, right?

Mr. WILLIAMS. Right.

Mr. DANIELSON. And he is usually successful if he has a gun?

Mr. WILLIAMS. It seems to me he would be.

Mr. CONYERS. Well, let me go back to the question of education in a different light then. Let's look now at the relationship of education of our citizenry and the necessity to restrain the uncontrolled distribution of weapons in our society as a factor in reaching some kind of legislative result in that direction. In other words, what I am suggest-

ing to you is that aren't there things that could have been going on across the years in the country as we all sat back and watched this escalation of homicides with handguns in terms of separating out some of the myths that go on? One of the largest questions this subcommittee is to resolve, in my judgment, is to separate out the truth from the romantic notions that attach to weapons from a culture and from a historical basis in America going back to our earliest days. You know, with the development of the West, we got this whole romantic culture around guns and the whole ego trip of having a weapon at your side, which supposedly brings one protection. Now somewhere along the line we have to begin to get people to see how this is wrong.

I am suggesting there may have been a lack of education across the years that led to this point, where there is a great deal of confusion and a great deal of misunderstanding and a great deal of misapprehension about the whole thing.

Mr. WILLIAMS. Well I share that view. The media has educated the public. It has educated them in the myths and the myths to bear arms and the things that grew out of that is deeply embedded in the country because of the whole fact of the country being a frontier state. So the media does portray that and it is kind of communicated to the people. So I think to some degree the need to bear arms is communicated through the media. The media was very much implicated in this.

And I think as we are all in this problem we must recognize there has been no real effort made by any group that I know of to really get the facts out about weapons and the use of weapons. But it seems to me that when the hue and cry of crime is raised, then what we say as a Nation is that "We will get more police." Everyone looks to the police you know. It is only in the past decade, it was only about until 10 years ago that this society began to recognize that the police are not the only component in what we now call a system of criminal justice, which involves everybody and every agency of government. They all play some role in that respect. But as long as we can yell, "We will get more police," as long as we yell, "We will give the police more money," and as long as we yell, "We will put more police out there," then the public assumes, because they really believe that the police can control crime, that crime will automatically cease. The police can't control criminals unless bodies of government like this committee support what the police are doing. And the educational aspect I think is a critical component of that.

I would look to that as what I would conceive as a major part of what this committee's responsibility is and especially as these hearings develop and you are able to get information from a cross section of our citizens.

Mr. CONYERS. The final area I would like to ask you deals with the reluctance on the part of black citizens inside the ghettos to release handguns. I am turning back to my experience of last night in which a number of citizens here in Washington were on a talk show, a town meeting type show, supposedly to air the views of everyone. I listened to a number of citizens say well, you know, "It is fine for some of you fellows living in different parts of Washington to talk about sur-

rendering your handguns, but I live on H and 8th Streets, and if you think I am giving up my gun, you are out of your mind." I heard other people continue to voice that sentiment. And it led me to try to put myself in their place in a very realistic way. And what I began to think I was hearing was the statement that we get inadequate police support in the inner-city and therefore, we are compensating in the best way that we can.

While there may be areas of the city that you can approach this subject in terms of let's everybody-turn-in-their-weapons, in places where crime is concentrated obviously we don't expect the criminals to turn in their weapons. So these people feel a greater reluctance than in other sections of the population in terms of cooperating with this principle of everybody giving up his handgun. Your comments please.

Mr. WILLIAMS. I think that the ghettos in our Nation closely approximate the frontier state in terms of the danger to human life and the feeling that people have a need for a gun to protect themselves. But the gun isn't protecting them because more people are getting killed now than ever before and each year that number goes up and increases. That that psychology I think will be reproduced more in ghetto areas than in any other neighborhoods.

The source of the problem is the very thing that they refuse to give up, the gun. People don't believe that you can disarm the American public you know. What we have to show America and the people that live in the ghettos is that we can disarm the American public. And I have no doubts in my mind that if the Congress saw fit to do that, that it would be a fact accomplished swiftly. But if people in the ghettos feel comfortable about the ability we have to disarm the criminal as well as them, they wouldn't mind giving up their guns so much I think. If they felt assured that the police could provide the protection that is needed, they wouldn't feel so strongly about owning guns.

And it is difficult for the police to allocate its manpower to dealing with problems of that nature because we have so many killers going around and all the killers that we have running around, they are killing people with guns. So the gun becomes the basic source of the problem. You eliminate the gun and everything else will begin to fall like the domino theory. The fears of the people will no longer be there because the criminal won't have his gun. He will think, "I don't need my gun if the criminal doesn't have his gun and—"

Mr. CONYERS. But the criminal doesn't give up his gun. What I am beginning to hear these people saying is that we want more and better police protection before we enact an abolition of the handgun. Isn't it true that the most unprotected areas of any city is regrettably that place which has concentrations of black people living in uninhabitable housing in the main and who are victims of a poor school system accompanied by a rate of the highest unemployment that can be found in metropolitan areas and all the other social indices that would put it at the bottom of any kind of sociological statistical scale? Isn't it also true that those are the precise areas that are in fact underpoliced?

Mr. WILLIAMS. OK, three points on that. No. 1, the question of whether or not the criminals would give up their guns, I have no doubt in my mind that if Congress wanted the criminals to give up their guns, they would give them up. That is No. 1.

Mr. CONYERS. In what way?

Mr. WILLIAMS. Just making it too expensive to keep them. You make it so that when they have a gun, it is going to cost them a lot more than they will steal, and they will give up the gun. As a matter of fact, just to take a very simplistic solution because I don't have any answers to this thing, but if I knew I was going to get 20 years for possession of a handgun I was going to use in a robbery, I would use a shotgun. I mean, you might not solve the whole problem of robbery but you eliminate the notion of supplies and the notion that people need to protect themselves by handguns concealed under their coat for instance. So I believe if it was costly enough to criminals or anybody else, they would give up those guns and give them up in a hurry. There are other things that could be done along that line if the committee would investigate this matter thoroughly.

But your second point is I think even more critical and that goes to whether or not people that live in the ghetto receive the same quality and nature of police protection that other people do that live in other sections of the city. Unfortunately I would have to say no, but I would have to temper my remarks by saying that the people that live in the ghettos get a greater proportion of police manpower and services than people who don't live in the ghettos. But unfortunately the intensity of the problem is such in the ghetto that even with a greater amount of police service it does not deal with the problem because the problem of crime is a problem that is rooted in education and in housing and a lot of other factors and things that police have completely no control over. That is point No. 2.

Point No. 3 as to whether or not people in the ghetto deserve adequate service or better protection than they are getting, I completely concur with that, and I think that we have to, within our society, develop better alternatives to doing what we are now doing in policing. You know we are faced with the same type of law enforcement system in structure that we had in the early 1900's. I mean very little has changed. The cop still has a gun and nightstick. That is all he has. He hits the guy on the side of the head or he shoots him. You know, if we could develop all the sophistication to do interplanetary probes and go to the Moon and all of these other things, it just seems to me we ought to be able to develop some sophistication in the area of law enforcement to provide some support for police officers who are tied to basic functions—

Mr. CONYERS. Do you have any suggestions in that area? I mean, in terms of real life circumstances, do you have any suggestions of how we can humanize police-community relationships in the inner cities across the country, which are in fact the focus of a great number of homicides and crime? Do you have any suggestions in terms of how we deal with this question of police support and community relations?

Mr. WILLIAMS. There are just too many tiers and too much history, too many layers of tradition that are imposed that have given rise to the development of our system of criminal justice to think that without some abrupt change, Congressman, that things will be different. A simple example is the power of a police administrator to handle and lead the police department is severely limited by restraints imposed by civil service. That to me denies the historical progression and that is that the essence of our police services, the very essence of it is that

the people are the police. Whenever you get to the point where your police system, your structure, is made of people that do not adequately reflect those citizens that reside in their communities, then you have the kind of turmoil and problems that you have allowed to take place.

Mr. CONYERS. Yes, but do you have some suggestions in terms of improving it? You see now we are not in the congressional arena. We are talking about a city with a black mayor and a black police chief admittedly operating under restrictions that have been in place long before either of you got to that position, but what I am saying is is there not a way that sensitive chiefs of police across the country can develop supporting programs as the Feds move into this area of gun control and programs that will deal with the fears which both of us apparently agree are real in terms of getting the majority of black inner-city citizens to realize that they are going to get some increased support, even though we may pass a 10-year mandatory additional sentence for anybody carrying a gun?

I think a penalty like that would perhaps have the deterrent effect that you suggest, although it is not going to stop the carrying of handguns completely. Wouldn't the development of programs on the part of you and your counterpart along with the Federal control over this subject do even more in terms of making people in the inner cities of Detroit and Newark perceive that they are going to have a strengthened police force to give them the support which they need?

Mr. WILLIAMS. The essence of any program—I mean the efficacy of any program would depend upon the resources that a community has. Right now the major urban cities like Newark are stripped to the bone. Their budgets are stripped to the bone. Many of them are laying off police officers and cannot afford to do much more than retain the most basic of police services. I think that this will grow increasingly worse across the country until the economic trend changes. And I don't believe that police commissioners, though they may be sensitive and dedicated and committed, will be able to deal sufficiently with the problems that you are raising until there are more resources involved, because it takes resources to develop alternatives to the current procedures that we have been using.

I do believe and I do think that the real core issue which you raise here is it seems that police commissioners need to be getting together and talking about some of these concerns, which they haven't really done. You see, our basic thing is something different from that. But I do see that as the direction that we ought to go, yes. It is something I am going to take a look at along with some of the other people I know in this field.

Mr. CONYERS. Well, attitudinal changes don't require large budgetary considerations. For example, a police chief like yourself probably can effect more understanding and garner more support in areas where people have long become so paralyzed with just the nature of existing on a day-to-day basis—I mean, I have people in black communities telling me, "How can you possibly talk about us giving up our handguns? You must have forgotten where you come from. There is no way in the world you can talk about giving up your handguns and be living in Washington. You've forgotten what it is like to live on the East Side of Detroit or to live in Harlem or to live at or around Watts."

And it seems to me that we have to begin in terms of taking that into consideration and doing what must be done here. Somebody has to get in there and say that we can develop police support that is adequate and we welcome citizens working with the police, which is unfortunately not the case, as you know. Somebody has got to say we want community control and we want young people and we want citizens patrols and youth patrols all augmenting the enormous job that everybody now dumps on cops in every city of this country. I would like you to not be halted or disappointed by the budgetary considerations, which are everywhere, of course, but to begin to forge ahead and develop the kinds of far-ranging programs that must necessarily be accompanying the notion that we are now going to perhaps some day, not in this legislation, but some day remove handguns from our society.

Mr. WILLIAMS. There are a number of things that can be done and are being done right now in the city of Newark. I think that the point is a valid one that whenever you have young people, young people especially, to take control of the police departments, that they can begin to effectuate the way police officers think and the way police officers act. It is a difficult and a complex job because you are dealing with so many people and therefore it takes time. But I really believe in the city of Newark with the support that the mayor has given to the police department under my leadership, I really believe that we are beginning to reach a point where the police department, its top leaders, are becoming sensitive to new things. I mean the simple fact that I wear a beard and have an afro constantly forces my top executives to deal with a black man who has a beard and has an afro. I think it is this sensitivity that would normally occur in the regular processes of police officers living within the communities where they work, which does not, in fact, occur now because we have so many police officers living outside of these communities, but it is this type of thing which would help. Unfortunately, as I say we have them living outside of the communities, and they don't really understand or appreciate the mores and folkways of a people within a local city like Newark.

So I think that there are things that can be done and are being done and I think that the biggest thing that the police officers in my department, especially the top brass, need to have is direction and once they understand who is running the show, then what they want is some direction. And they expect fairplay. And if they get fairplay and get good reasonable direction, then they have demonstrated that they can walk down that road. And that is where we are going in Newark right now. I would like you incidentally to come up there and check us out.

Mr. CONYERS. Mr. Danielson.

Mr. DANIELSON. Yes, well I don't want to interrupt here. This has been an excellent exchange of information. You mentioned, Mr. Chairman, the attitudinal changes which seem to be necessary to give a greater feeling of security within the ghetto areas and so forth. Mr. Williams, how about a greater or a higher degree of visibility of police within those areas as to instilling a greater feeling of security in those communities?

Mr. WILLIAMS. The people have to understand that the police are there to service their needs and to protect them against the criminal.

Mr. DANIELSON. Well that is correct, and I agree with your comment, which I haven't heard for a long time, that the police are the people and that the people are the police. Those of you who are sworn—and I think you used that term in the earlier part of your testimony—are simply the professionals who are discharging a function that belongs to the citizenry in the first place. But I am talking now about law enforcement and the feeling of security. You mentioned a limitation of resources, which I know is real.

But if you simply have more police, you would have a greater ratio maybe in the ghettos of police but that still isn't enough when you are considering the magnitude of the problem. What I am saying is perhaps if you had more police so that you have actually a somewhat higher ratio and also if you have a greater visibility of those police so that the citizenry living there would feel that they are not too far away from police help if they need it, and I am asking would that be of any help in your area?

Mr. WILLIAMS. You have raised several points, Congressman, I would like to comment on.

Mr. DANIELSON. I know I have.

Mr. WILLIAMS. When I raised the issue that the policeman must be the people and the people are the police, I meant it—just to distinguish that from the regular notion of our Federal system where the powers of our government arise from the people, to say that the police must come from the communities that they service and must be a part of that community and their children should go to the school system and they should be a part of the block club organizations and they should be a part of the fabric and life of that community. Then when the policeman is out there on that corner, the people will know that he is there to service them.

The difficulty comes in in our system when people are allowed to become police officers in a particular community and who do not live there and know nothing of the folkways of the community. They become policemen there and they serve there as a matter of professional responsibility and when the tour of duty is over they go back to the community of their interest where they raise their children and where they are involved in the school system and the PTA and the block clubs and the fabric that underlies and give rise to a viable community. That is the community that they are part of, in other words.

Mr. DANIELSON. You have answered a third question which I haven't even asked yet, but anyway you are talking about an identification of the police officer with the community?

Mr. WILLIAMS. Right. But I want to get to your overriding question of more policemen. New York City increased dramatically the number of policemen they have. I think they have the 26th largest army in the world. They brought in about 5,000 more policemen. The experience is, it certainly had a beneficial effect and more people were arrested and it gave greater police presence, but the court system broke down. You see our judicial system will not function without plea bargaining and what happened there was that the hood knew that they had to let him go. They didn't have any place to put him, in other words. As a matter of fact, you may recall this, that about 4 or 5 years ago when John Lindsay was the mayor, he made a statement he wasn't going to send anybody else to jail and he retracted it the next day but he made that

statement because there was no room in jail. They didn't have any place to put the people and the courts were sending them back on the streets as fast as the policemen were locking them up.

Mr. DANIELSON. What I am really talking about, and I fully understand your testimony, believe me, and I have read those stories too and I know they are true, but I have a different thrust here. I am thinking of prevention of crime rather than the detection and solution of the crime, and apprehension of the criminal, after the event. It is my opinion right or wrong that—

Mr. CONYERS. It is right of course.

Mr. DANIELSON [continuing]. That a greater visibility of law enforcement in our society would have a deterrent effect and that just the presence of the police, being armed and in the community, tends to deter the hoodlum from committing a crime. In the first place, it reduces fear. We are talking about attitudinal changes, and police visibility reduces the fear of the citizenry. You reduce the problem of insecurity and you reduce crime also too.

I am not talking about criminal arrests now, because I know if every criminal surrendered today why we would have no place to put them. We would have to build a fenced camp someplace and put them there.

But I have another question. We have the Law Enforcement Assistance Administration, the LEAA, through which we try to attack the problem of lack of resources. We try to inject some money into the police systems around the country. In our debates on LEAA last year, Mr. Chairman, it is my recollection that many of us were concerned that more of that money ought to go into personnel, into salary, into wages, so as to have a greater effect in strengthening law enforcement, rather than so much money going into helicopters and some of the other technological gadgetry which we find many police departments spending their money on. Would you comment on that?

Mr. WILLIAMS. Oh, now that I understand your thrust—

Mr. DANIELSON. Yes, that is my thrust. You see I asked my questions seriatim, in a series. I am giving you No. 3 now.

Mr. WILLIAMS. I certainly believe that if you have an efficient and committed and dedicated police department with a proper number of police officers, if you can have that we can have a serious impact on people that intend to commit crimes because the opportunity will not be there.

Mr. DANIELSON. Right.

Mr. WILLIAMS. The more pervasive the police presence is, the less opportunity for crime because people are not likely to commit a crime while a police officer is standing there.

Mr. DANIELSON. Everybody isn't a darn fool.

Mr. WILLIAMS. That is right.

Mr. DANIELSON. And that gets back to the chairman's comment that in the black communities there seems to be a reluctance to give up their handguns because they are fearful they don't have enough police protection and therefore they are going to take care of their own needs. So I think there is validity here. I think we ought to keep it in mind when we consider LEAA.

Now one other comment, and I can make this real short because I think we are in total harmony here. You said that within, for example,

a black community, why don't we have largely, if not almost exclusively, black officers or at least people who have grown up in the community and understand the community and understand the way people live and their habits and whatnot and I agree. Not only will there be better acceptance of the police by the community—and in fact that is the most important thing, to have a greater acceptance, but they will also understand what is going on a lot better. Isn't that true?

Mr. WILLIAMS. The tradition in the American system has been to have police adequately reflect the community which they represent.

Mr. DANIELSON. Yes, and in which they are working.

Mr. WILLIAMS. Yes, in which they are working. And this tradition has begun to break down and very few blacks are members of police departments. There have been court cases recently that have accelerated the numbers of blacks that gain entry into the service, but in the city of Newark, if I can make this comment, if we could bring on more Puerto Rican police officers immediately, it would substantially alleviate the problem. That is just an example.

Mr. DANIELSON. It has to do with firearms, too, so it is a related field.

Mr. WILLIAMS. Definitely it is related and there is definitely the argument that it would be effective in bringing more policemen on and also more firemen. As a matter of fact I believe that an affirmative action case to require proportionate representation in the hiring process grew out of a dispute in the city of St. Paul where their fire department was disproportionately represented in the community and that failed to, I believe, meet certain standards with respect to discrimination and that resulted in this case.

Mr. DANIELSON. If police visibility is important. I found an interesting experience in the highway traffic problem in California about 2 weeks ago which relates to this. We have a stretch of highway which is some 280 miles, I believe, from San Bernardino to Las Vegas. You know, Las Vegas is a very important spot. This is a wide highway with four lanes each way. Usually there is a lot of slaughter there on weekends, a lot of accidents. So what happened was this: The California Highway Patrol came up with a simple and extremely effective solution whereby they simply called out their black and white police cars and had them go along the highway at 55 miles an hour with a sign on the cartop saying, "It is 55 miles an hour." They were stationed every so often, and these cars simply followed an oval circuit and they would relieve each other, but anybody who passed the highway patrol vehicle got a ticket, and that is anybody. And in that 3-day weekend with thousands and thousands of automobiles there were only 17 tickets issued and I think they were all issued the first day. After that the people got the word, and there was only one accident in that whole weekend and that was a minor one where somebody had too much to drink and mistook an irrigation canal for an off ramp.

But the thing I am getting at is, this is a good example of police visibility preventing crime and in this instance preventing accidents and the only people who were annoyed were a few people who couldn't wait to lose their money in Las Vegas and a few Las Vegas hotel owners who were complaining that the speed limit cut short the weekend time.

And this is the last point I want to make. You need not comment on it unless you want to. Just one more point. In this morning's

radio news I heard some comment to the effect that Mayor Washington of the District is considering asking for legislation to require all municipal employees to live within the District, which would tie in, to some extent with some of your observations here. You need not comment on that, but you are certainly welcome to.

Mr. WILLIAMS. That legislation should include police and firemen.

Mr. DANIELSON. I think it was intended to do that. Would you feel maybe that is a step in the right direction?

Mr. WILLIAMS. I certainly do if he can win that battle. I think he has a lot of hurdles to get over. But if it just includes municipal employees and not the police and firemen—

Mr. DANIELSON. I think it is more important also to have police and firemen within the city than to have pencil pushers. Thank you.

Mr. CONYERS. Director Williams, your prepared statement was very impressive, but I think your colloquy with this panel was even more important, if I may say so. I suppose the ultimate demonstration of how my colleague and I, who has remained here far beyond the normal time that these hearings would last, would feel about your suggestion or your invitation that this whole subcommittee go to Newark, N.J. and spend a day with the police chief examining the problems of guns and the community and the visibility question and the attitudinal changes that have all been developed at this hearing. I think that might be a very, very important part of our understanding of what kind of legislation we ought to present to our full committee and to the House as a whole.

Mr. DANIELSON. My attitude will be one of feeling secure as long as the chief is my bodyguard.

Mr. WILLIAMS. I guarantee your security in Newark, Congressman.

Mr. DANIELSON. That was just a joke.

Mr. WILLIAMS. Yes.

Mr. DANIELSON. You don't mind a joke now and then?

Mr. WILLIAMS. No.

Mr. CONYERS. Well thank you very much.

The subcommittee stands in adjournment.

[Whereupon, at 1:20 p.m., the subcommittee recessed subject to the call of the Chair.]

FIREARMS LEGISLATION

THURSDAY, MARCH 6, 1975

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

The subcommittee met, pursuant to notice, at 10:50 a.m., in room 2226, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee], presiding.

Present: Representatives Conyers, Mann, Danielson, and McClory.

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

Mr. CONYERS. The subcommittee will come to order.

This morning we are privileged to continue our hearings on firearms legislation. And we have with us today the public safety commissioner of Atlanta, Ga., Mr. A. Reginald Eaves. Mr. Eaves is a new and recent acquaintance of mine. We had been on a workshop together at Michigan State University, and I am delighted to see him again so soon.

He is a lawyer. He has served on the Human Relations Commission to the city of Boston as its chief commissioner. For 2 years prior to becoming the chief police officer of Atlanta, he had been the penal commissioner for the city of Boston in the county of Suffolk, in the State of Massachusetts, and we extend to you, Mr. Eaves, a very warm welcome, and I am delighted to see you.

We have your well prepared statement with references, which we will incorporate at this point into the record, which will free you to proceed in anyway that you choose. You may begin.

[The prepared statement of Mr. Eaves follows:]

STATEMENT OF A. REGINALD EAVES, COMMISSIONER OF PUBLIC SAFETY,
ATLANTA, GA.

I come here today as Commissioner of the Department of Public Safety of the city of Atlanta, within which is housed the Bureau of Police Services. I administer this bureau containing over 2,000 persons with a budget of over \$22,000,000, and prior to becoming Commissioner, I was Commissioner of Penal Institutions for Boston and Suffolk County, Massachusetts. During that two year period, I directed the Deer Island House of Corrections and set penal system policy, including rehabilitation and work-training programs. As a result of those policies, the recidivism rate dropped from 80 to 35 percent and the inmate population was cut in half.

I tell you this because I want to point out that I am no newcomer to the criminal justice system, to criminals, to police, or to weapons used in crime. I believe in the preciousness of life and in the Constitution of the United States, but what was appropriate in 1776 in some areas is inappropriate today. This is why there were 16 amendments added to the Constitution since that time and why

I believe the second article to that document is being misinterpreted today and used to justify a dangerous and explosive armed camp of Americans.

"A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed." In 1792, there was no Department of Defense, no standing army of nearly 2,000,000, no National Guard, or hundreds of police forces. This article addressed itself to military arms and specifically, to the right of citizens to support and join the army, which at that time, was the Minutemen. Today, we have a well-regulated militia. In fact, there are times when I feel my own police department is too well regulated. The fact is, however, that we cannot look to the America of 1792 for the problems of America in 1975. The climate, the situation, the society were all different. It is a different time and a different problem.

As I hope to demonstrate today, there is a strong need for gun control legislation, national legislation. The city of Atlanta has passed legislation governing the use of Saturday night specials, which was later ruled unconstitutional, because State action preempted city action.

The Georgia General Assembly has not even permitted gun control legislation to emerge out of committee this year, although five separate bills were introduced. It is clear to me that the cities and States either will not or cannot pass laws governing the obtaining and use of handguns. It must therefore, be done by the Congress.

In the city of Atlanta, during 1974, there were 248 homicides or deaths from other than natural causes. In 161 of those homicides, handguns, nearly twice as much as other weapons, were used. The motives for these homicides ranged from anger and drunken arguments to jealousy and revenge, and represented 74 percent of all motives. When people are careless or highly emotional, having a gun handy and loaded is like throwing a match on gasoline. The result is too often death—a senseless death. Of those 248 homicides, 160 occurred in residences and 180 between 4 p.m. and 4 a.m. Out of the total of 248, only 38 were related to robbery or rape. The vast majority of the others were, in my opinion, preventable—if the perpetrators did not have the guns with which to commit the homicide.

Legislation will help prevent those homicides by people acting on impulse, not the criminal who plans his crimes. However, I believe we should have companion bills that would require mandatory sentencing for persons found committing a felony with a handgun.

What the average citizen must understand, and what law enforcement officers already know, is that citizens have two chances to beat would-be robbers or assailants to the draw—"slim and none". It is impractical and dangerous as well as illegal, to carry a loaded gun cocked all the time in public or lying around the house, especially with children around. Secondly, the element of surprise is almost inevitably present in the commission of a crime and thus puts a citizen at a tremendous disadvantage. Even armed police officers are in a dangerous position, when confronted with an armed adversary. How much more risky is a citizen in that same position? This is not merely my opinion as commissioner of a large urban police force, but, I believe, expresses the majority opinion of police officials and officers throughout the country.

It is important for us to understand that private ownership of handguns, per capita, is higher in the United States than in any other country. At the same time, the criminal homicide rate is higher in the United States than in any other industrial nation. Polls taken nationally have consistently shown majority support for firearms control, by a margin of 66 percent or more. The national advisory commission on criminal justice standards and goals, has recommended that each state should: (1) prohibit private possession of handguns for all persons other than law enforcement and military personnel; (2) terminate the manufacture and sale of handguns; (3) acquire existing handguns; and (4) modify and render inoperative all handguns used as collectors' items.

The commission did not recommend laws regarding rifles and long guns. The commission recommends the penalties attached to committing a crime with use of a handgun be increased, that states prohibit the manufacture, importation or sale of all handguns other than those for use by law enforcement or military personnel, that states should also establish agencies authorized to purchase handguns from private individuals for a just price. But so far, few states have heeded the commission's recommendations. I trust congress will take the leadership here!

Nationally, statistics show there is a strong correlation between the number of privately owned handguns and the corresponding use of guns in crimes of

violence. The handgun, it should be noted, both locally and nationally, is the principal weapon used in criminal homicide. In both 1972 and 1973, one-fourth of all homicides in the United States were within the family, 7 percent were lovers' quarrels and 41 percent were arguments.

In Atlanta, last year, 75 percent of all aggravated assaults were committed between persons who knew each other. Of this number, 73 percent were committed by handguns. Nationally, of 400,000 aggravated assaults committed in 1973, most occurred in the family or among acquaintances. One out of four the weapon used was a firearm, with handguns comprising 80 percent of the firearms.

In a review of some important research on the relationship between firearms, homicides and the effect of gun control legislation, Seitz has suggested that there already has been established a direct relationship between firearms, violence and the availability of firearms.

Gun control laws will, it is expected, reduce gun ownership, in the first place, with purchasing restrictions and procedures, the cost and effort for persons to acquire guns will increase. Second, such laws in operation over a long period of time will cause a reduction in firearms due to wear, loss, breakage, confiscation and destruction. Finally, such laws tend to instill a cultural "control," in some cases at least as powerful as institutionalized law, which proscribes penalties for interpersonal violence and thus serves somewhat as a deterrent. Social pressures, through a climate of gun control legislation, could be far more effective. This is illustrated graphically when one sees large differences among various subcultures in their attitudes as well as practices with regard to the ownership and use of weapons.

Other countries, which have restrictive laws pertaining to the private possession of handguns, have far lower homicide rates than the United States. In Tokyo, a city of over 11 million people, only one homicide committed with a handgun was reported in 1971. It is illegal to own, possess or manufacture handguns in Tokyo. Since 1964 Japan prohibited all firearms and has had a consistent annual drop in the number of crimes committed with firearms.

The State of Georgia's Governor's Commission on Criminal Justice Standards and Goals, last fall, called for legislation which requires a handgun owner's license in order to purchase any type of legal handgun and requires a registration permit for all handguns owned in Georgia. Additionally, the Commission said there should be a mandatory 5-day waiting period from the date an application to purchase a handgun is made until possession is taken. It isn't much, but it isn't law.

A study of handguns confiscated in crimes in Atlanta for the second half of 1973 showed that the "Saturday night special" accounted for 71 percent of the handgun-related crimes, with a total of 592 specials confiscated during that 6-month period. The survey showed most of the specials confiscated were originally purchased locally, primarily from 12 licensed dealers in Atlanta. And what criminals cannot buy, they steal. 500,000 guns are stolen every year across the country, many ending up in the hands of organized crime operations.

There are, today, approximately 40 million handguns in America. They are owned by both criminals and by law-abiding citizens. Almost three million new guns are manufactured each year. One handgun is sold every 13 seconds.

The South, with the Nation's weakest gun laws, has the highest gun ownership, the highest percent of murders by gun, and the highest accident rate by gun causing death. Of the 53 metropolitan areas with 12 or more homicides per 100,000, 42 are in the South.

Guns, gentlemen, do kill people. Emotionally charged slogans to the contrary. Until we can educate Americans, from the cradle to the grave, until we stop glorifying violence, in movies and TV, we must cut down the opportunity to kill each other. This opportunity must begin now. As the director of Atlanta's law enforcement effort, and as a human being concerned about the lives of police officers as well as of citizens, I cannot sit idly by and watch this insanity spread. We are losing precious time and precious lives each day we delay in passing gun control legislation. I urge you to consider the effects of not passing such laws. It is no longer a question of desirability. It is a question, gentlemen, of survival.

REFERENCES

1. A National Strategy to Reduce Crime: National Advisory Commission on Criminal Justice Standards and Goals. 1973. Chapter 9. "Handguns in American Society".

2. Firearms: Published Ordinances, 1974 Edition. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms.
3. Governor's Commission on Criminal Justice Standards and Goals. Georgia State Crime Commission. Recommendation Memo No. PV-6. "By what means can handguns-related crimes be prevented or reduced?"
4. A Shooting Gallery Called America, The Massachusetts Council on Crime and Correction Inc., 3 Voy Street, Boston, Massachusetts 1974.
5. Law and Society Review May 1972.

TESTIMONY OF A. REGINALD EAVES, COMMISSIONER OF PUBLIC SAFETY, ATLANTA, GA.

Mr. EAVES. Thank you very much, Mr. Chairman.

I am very pleased and honored, obviously, to be afforded the opportunity to testify before the subcommittee. And I just want to point out a couple of things to reiterate the fact that I did serve as penal commissioner for the city of Boston, Suffolk County, and I am now serving as the chief law enforcement person in the city of Atlanta. So, I want you to understand that what I am saying is not just new, it is a part of a history of my being involved in the criminal justice system.

I was on a TV debate program with some members from a group that I dare not mention, talking about gun control, and the effort given by that group to talk about gun control was centered around the second amendment. I would hope that the committee, in its wisdom, will clearly understand that the second amendment, in my opinion, spoke not to today's problem. I think it spoke to the problems of 1776, as they related to a militia, but as far as I am concerned, they did not talk to the fact that you have an army of almost 2 million people, that you have National Guards throughout the country, that you have a series of State patrols, sheriffs, police departments and et cetera. So when they talk about the right to bear arms, they were talking about a militia instead of an armed America and Americans being armed to go against one another. So, I hope that somewhere along the line the committee will take this into consideration as it discusses this very important subject of gun control.

I hope to also prove, as I move along, and explain why I believe it is so important that we develop some national legislation affecting gun control. Cities have tried it. We tried it in Atlanta, for example, but we were declared unconstitutional simply because the State had preempted the position, the State had, for example, had three bills introduced this year about gun control, but they may never emerge out of the committee. And I think it is a very serious thing, because if we leave it up to individual States or to cities, it will never be effective.

But, I am convinced that we must talk about and in terms of a genuine effort on the part of the Federal Government to regulate this very dangerous weapon. I would like to become personal for a moment.

In Atlanta, for example, last year we experienced 248 homicides. Of the 248 homicides, 161 of those homicides were the result of a variety of weapons, but the vast majority were committed by handguns, nearly twice as many as with other weapons considered. The motives for these killings ranged from drunken arguments and et cetera, but for the most part they were domestic related, people who knew each other, people who were well acquainted, and if they did not have at their disposal this lethal weapon, it is my opinion that it would have been preventable.

And so we are going to suggest that that is one reason that we need to consider, because of the number of homicides committed in-house, and because of the availability of that weapon, consider legislation.

People are always indicating that legislation does not, in and of itself, prevent homicides, or prevent people from acting on impulse. I agree. But, if we can remove that instrument from the presence of our people, I certainly think that we will reduce the opportunity considerably.

What the average citizen must understand, and what law enforcement officers already know, is that citizens have two chances to beat the would-be robber or assailant to the draw, and that is slim or none. And yet people are always talking about we need guns for protection. It is impractical and dangerous, as well as illegal to carry a loaded gun around on our sides, cocked all of the time, and it is also dangerous to leave a gun like that around the home because of the possibility of accidents with our children and et cetera.

So, the element of surprise is ever present when people are talking about gun control and robbers or would-be muggers, and, therefore, if you are going to be surprised, the possibility of getting to your gun to protect yourself is very slim. So, I think there is a false sense of security that we need to address ourselves to again.

I think I expressed the opinion of most law enforcement personnel, officials, and others throughout this country, when I say that there is a dire need for gun control. It is important for us also to understand that private ownership of handguns per capita is higher in the United States than in any other country.

At the same time, the criminal homicide rate is higher in the United States than any other industrial nation. Polls taken nationally have consistently shown that the majority of the American people would prefer seeing some form of gun control, and this has been by a margin of about 60 percent against whatever the other might have been.

The National Advisory Commission on Criminal Justice Standards and Goals has recommended that each State should No. 1, prohibit private possession of handguns for all persons other than law enforcement and military personnel; No. 2, terminate the manufacture and sale of handguns; No. 3, acquire existing handguns; No. 4, modify and render inoperative all handguns used as collectors' items. The Commission did not recommend laws regarding long guns and rifles.

The Commission recommends the penalties attached to committing a crime with the use of a handgun be increased substantially, that the States prohibit the manufacture, importation and sale of all handguns other than those for use by law enforcement or military personnel, and that the States should also establish agencies authorized to purchase handguns from private individuals.

Now, I would just add one other thing. It is impossible for States to do that unless they are doing that uniformly. But, I would hope that Congress would provide the kind of leadership that is needed in this field.

Nationally, statistics show that there is a strong correlation between the number of privately owned handguns and the corresponding use of guns in crimes of violence. The handgun, it should be noted, both locally and nationally, is the principal weapon used in criminal homicide.

In both 1972 and 1973, 25 percent of all homicides in the United States were within the family. A number of these were between lovers in their quarrels, and 41 percent were the basis of arguments between people who knew each other.

In Atlanta last year, 75 percent of all aggravated assaults were committed between persons who knew each other, and of this number, 75 percent were committed with handguns. Nationally, up to 400,000 aggravated assaults were committed in 1973. Most occurred in the family or among acquaintances. One out of four weapons used again was the handgun.

In a review of some important research on the relationship between firearms, homicides, and effective gun control legislation, Seitz has suggested that there already has been established a relationship between firearms, violence, and the availability of arms, and that is the reason we are saying if you are going to cut down on the number of homicides in our domestic area that are between friends, we must seriously consider gun control.

I would just like to point out one thing about other countries. Other countries which have restrictive laws pertaining to private possession of handguns have far lower homicide rates than in the United States. For example, in Tokyo in 1971 there was only one reported homicide involving a handgun. And in Atlanta, we experienced 273. A big difference.

And in Japan it is illegal to own, manufacture, or possess a handgun, and as a result of that we have seen, in Japan, the number of homicides relating to handguns steadily on the decrease since 1964.

A study of handguns confiscated in crimes in Atlanta for the second half of 1973 showed that the Saturday night special accounted for 71 percent of the handgun related crimes, 71 percent, with a total of 592 Saturday night specials confiscated during that 6-month period. The survey also showed that most of the specials confiscated were originally purchased locally, primarily from about 12 licensed dealers in Atlanta. And what criminals cannot buy they steal. Over half a million guns are stolen every year across this country, many ending up in the hands of organized crime operators.

And I might add that most of these handguns are stolen from law-abiding citizens, quote, unquote, who purchased these weapons for protection.

There are an estimated 40 million handguns in America today. They are owned by both criminals and law-abiding citizens and almost 3 million handguns are produced or manufactured each year. One handgun is sold every 13 seconds.

The South, with the Nation's weakest gun laws, has the highest gun ownership, the highest percentage of murders by gun and the highest accident rate by guns causing death. Of the 53 metropolitan areas with 12 or more homicides per 100,000, 42 are in the South.

Guns, gentlemen, quite to the contrary, do kill people. Until we can educate Americans from the cradle to the grave, until we stop glorifying violence in movies and on TV, we must cut down the opportunity to kill each other. This opportunity must begin now. As the director of Atlanta's law enforcement effort, and as a human being concerned with lives of police officers as well as citizens', I cannot sit idly by

and watch this insanity spread. We are losing precious time and precious lives each day we delay in passing gun control legislation.

I urge you to consider the effects of not passing such laws. It is no longer a question of desirability. It is a question, gentlemen, of survival.

Thank you very much, Mr. Chairman.

Mr. CONYERS. Thank you for your statement. I think you have gone over some material that it is important we consider, Mr. Commissioner.

What was the problem, just so that we may not run into any constitutional questions, with the legislation that attempted to prohibit Saturday night specials that was found unconstitutional?

Mr. EAVES. The State constitution clearly indicates that if the legislature, the general assembly of Georgia, takes on a subject, it preempts it from any city or town, and that is what had happened. They had considered gun control, but had taken no action, so the city, faced with this horrendous problem, then decided to pass its own law, and they tried to pass a law banning the possession of Saturday night specials, and it was declared unconstitutional because the State had preempted that role.

Mr. CONYERS. So there was nothing inherently defective with the legislation itself that the city had passed?

Mr. EAVES. That is right.

Mr. CONYERS. It was just merely that the State had begun its consideration first, and that was interpreted as a ban on any municipal ordinances on the subject?

Mr. EAVES. That is right.

Mr. CONYERS. Was there any opportunity to have the Atlanta ordinance go into effect to get any kind of an impression about its impact on the subject to which it was directed?

Mr. EAVES. No. We were enjoined immediately, and it was finally passed on, or ruled on, by the courts that it was unconstitutional.

Mr. CONYERS. You were stopped cold?

Mr. EAVES. Absolutely.

Mr. CONYERS. All right. Let me ask you, as a police chief, how you put this whole question of violence and guns in perspective? I mean, what kind of legislation would you recommend to us in an ideal situation?

Suppose we were just going to handle this matter and your advice was going to be determinative. How would you approach the matter?

Mr. EAVES. I tell you, I wish I was that powerful.

Mr. CONYERS. I wish I were, too.

Mr. EAVES. I would suggest the banning of the manufacturing, the shipping, and the possession of handguns would be ideal. There is a tendency in this country for us to react to one another, and speaking from a law enforcement point of view, I am consistently under pressure from many of my men in my bureau to issue stronger weapons because of what the criminal might have on the outside—.38's were sufficient years ago. Now, because criminals are carrying not only Saturday night specials, but .38's, and shotguns, and handguns, and have them of all magnitude, like the 357 magnums, et cetera, they want to carry the same kind of weaponry, and obviously it is becoming a war of who is going to have the strongest weapon in order to fight crime.

And I think we have got to stop this madness before it escalates out of control, and to me, it is headed in that direction.

So, if I had my way, I would ban the manufacture and the sale and the shipment of handguns anywhere in the country except for police officers and military personnel.

Mr. CONYERS. Well, we have heard that expression before; to me it is important that we understand what we would like ideally to have happen.

Let me go to a second question. What are the operative facts of life that prevent that from occurring, in your view?

Mr. EAVES. I think the people who are lobbying against gun control have a fairly good control on a lot of people, or at least they tend to frighten a lot of folks when they talk about gun control. And people are a bit hesitant to go against the strong lobbies.

The second thing people honestly believe that having a gun in their possession is a safety factor for them. I think it is false security, because most of the people, 9 out of 10 people who have guns when they are attacked are never able to get to those guns, and as a result many of them lose their lives trying to become Wild Bill Hickock, you know, they try to reach up on the shelf and show that they are faster on the draw. But the man who comes in with a gun does not give you that opportunity to do that, he is nervous or skilled, one of the two, and the trigger goes off awfully quick, and as a result we lose a lot of people. We had two homicides in Atlanta within the last 2 weeks, and one was a storeowner, and he was killed at the counter, and right under the counter was his gun. The gun did not save his life. So I am suggesting to you that there is a false security attached to that.

And third, I think some people honestly believe it is in violation of the Constitution to take guns away, but I disagree with that.

Mr. CONYERS. I have here an article from the New York Times that to my surprise pointed out that the Saturday night special, an inexpensive type of handgun, is no longer the No. 1 illegal pistol in the city as it was during the late 1960's, which suggests that, to be effective in this area, we may have to go beyond the prohibition of what is loosely described as the cheap handgun that is so frequently used. Do you have any views about that?

Mr. EAVES. I agree. In our city it is just the opposite. The Saturday night special represents about 71 percent. But obviously it is going to change there as well, and if you come up with the Saturday night special law, then that means that they are just going to have to gather a little bit more money, and get a .38 or something that does not meet the description of a Saturday night special. So I would think just the banning of Saturday night specials would not be sufficient, that you really have to talk about the banning of handguns.

Mr. CONYERS. Would there be any advantages in knowing who was in legal possession of all weapons in this country; that is to say, should we not know who is manufacturing, who is wholesaling, who is retailing and who is actually purchasing which weapons in this country? And would you limit them to handguns alone or would you extend this to the long-barreled weapons as well?

Mr. EAVES. Ideally, you would include all weapons. I know that is almost unrealistic to talk about all weapons, but I would certainly

think that the least we can do is require the registration of all handguns if you are going to allow them to be manufactured from the manufacturing to the possession, all the way.

Mr. CONYERS. Well, one matter that has come to my attention particularly is that many people in the inner cities, black people in particular, a number of them who live in high crime areas are particularly reluctant to have to yield their weapons. Have you met and talked with citizens in Atlanta who are in a similar position, and if so, what are your views about that?

Mr. EAVES. There are some legitimate concerns which is that if you take away the weapon, what assurance do they have that they will be protected. We cannot, you know, insure anybody to that extent. We can assure you that what we would do is provide I think much better law enforcement because officers would not be terrified to make certain kinds of approaches. The problem is that a lot of the officers killed over the last 10 years have been killed in routine traffic violation checks, and when they reach into the window to get the license, instead of getting the license, they have gotten a gun in their face. And it has terrified a lot of police officers, and I think that that has a bearing on how people approach certain areas. And my argument to them is that I am not suggesting that we are going to go into homes now and confiscate weapons. I am saying that over a period of time it is going to wear out, and so if you stop the sale of them now, and the sale of the bullets, over a period of time they will wear out and they will be inoperable, and as a result of that you will be able to eliminate a significant number, a significant number of these weapons. But then I also think we need to talk about companion bills when we talk about that, and that would be stronger bills that will make it mandatory for people to be sentenced to jail for a period of time if they are found committing a felony with the possession of handguns. I mean, stiff, mandatory sentences as opposed to the possibility of what is going on now, which is that it depends on where you are, and who you are, and how much money you have as to whether or not you are going to be sentenced to a very stiff penalty in jail.

Mr. CONYERS. Well Commissioner Eaves, do you feel that there is a relationship between socioeconomic conditions and the commission of crime in our society?

Mr. EAVES. I certainly do.

Mr. CONYERS. Well if you believe that, then it would follow that more crimes are going to be expected to be committed in those areas in which poverty, lack of public facilities, unemployment, and poor housing are involved. Is that not correct?

Mr. EAVES. I certainly think that thesis is correct. I would further add, however, I am concerned about the violence attached to guns, and I think we need to reduce the opportunity. As I pointed out to you, most of the violent crimes that are committed are committed by people who have in their possession a handgun or handguns. Now, these are innocent folk, but most of our homicides are domestic related, and now throughout the country it is very high. In our cities it is about 80 percent. And what we are trying to do is cut down on the opportunity of taking away a person's life, and that is by the removal from their possession, if possible, of these handguns.

Mr. CONYERS. Well, are not the people who live under these circumstances in which increased crime occurs or may occur which is related to socioeconomic conditions under which they live, logically entitled to a better way of life? For example, the creation of jobs which I think would fit into our socioeconomic considerations? I remember reading that in Atlanta when they offered some 300 positions for public service employment, some 3,000 people showed up and created a disturbance and that they all pressed so hard against the windows in front of the building in which they were lining up that there were people who were just pushed right through the glass. What I am getting at is somewhere along the line somebody might say that, if we really want to reduce the number of criminal acts, including violence, it is about time that we create a society that deals with these kinds of problems from which violence and illegal activity are found to flow especially in higher percentages in inner cities. I mean, is there a point somewhere along the line where we owe some corresponding obligation to citizens, especially in view of the fact that you say that policemen are reluctant to go into the inner cities, which in some ways validates the reservations that people in the inner city might have about giving up their weapons for security. Is there any way that we could provide them with better law enforcement in advance so that they would not be taking our word for it that they are going to get better protection?

Mr. EAVES. Well, there are several ways I think you can do it, but I think the main way is to deal with the causes of crime, and you are right, you have to talk about unemployment, underemployment. And a good example of what you are talking about is the fact that we experienced a phenomena last month, in the month of January in part I crimes, which are the violent crimes, homicides, robberies, burglaries, we experienced a decrease in every one of those categories as opposed to a year ago, and we just do not believe that we can maintain that. It is my effort and goal to reduce crime in that city and we are doing that, but with unemployment moving from 8 percent in Atlanta to currently around 11 percent, and God knows how high it is going to get especially in certain areas where it might be 30 and 40 percent, I do not think we can maintain that kind of an effort very long, because people have to survive. There are those of us who will say I do not care how hungry I get, I would never steal. Well, there are a lot of people that do not possess that strong a will, and they are not going to go home and go to sleep hungry every night. And even though you and I might be working, we become the victims, because if they see us they are going to take from us, and it does not make any difference whether you are black or white or whether they are black or white, they are going to do it. They have to survive. And you have to deal with the causes, you have to create more jobs, you have to talk about the slum conditions, poor health, the poor education. You have to talk about the poor housing. I did not address myself to that in this paper, but obviously that is a major concern for a lot of us who are involved in law enforcement.

Mr. CONYERS. Well, I am glad to hear you present that kind of an overview to us, because too frequently people think that we consider this legislation in a vacuum, that we compartmentalize our minds in

a way that we see guns in isolation. But I think that your development of this theme is extremely important.

And I would like at this point to reserve any of my further questions and yield to my good friend and colleague from South Carolina, Mr. Mann, for any observations or any interrogatories that he might put to you.

MR. MANN. Commissioner Eaves, I am particularly interested in your reference to companion bills and of the reference in your statement to the cultural climate which could perhaps be more effective than the gun control legislation itself. For example, I think we are a little bit optimistic if we think that guns are going to wear out fast enough to get ahead of the imports or whatever technique or device used to get around the gun control laws.

And in that connection, it would seem to me that with Atlanta's problems, and I realize that Atlanta does not run the State of Georgia, that the Georgia State Legislature should be a little more responsive. Now, maybe it is your duty and maybe it is mine, or maybe it is the church's or the civil groups or some others, the duty of other organizations to do a little educating.

But there is also another ingredient to which you indirectly referred, and that is that people do not now perceive any moral wrong in possessing a gun. They are possessing that gun for their own protection, or at least the 70 odd percent who account for that many homicides so perceive it. What do you think we can do about that? Now, gun control legislation, indicating that the national legislative body or the National Government has discerned a need and has done something will perhaps provide the basis for a cultural change, but that alone is not going to do it. We are going to have to have an educational effort, an organizational effort, and I would say a law enforcement educational effort with the involvement of citizen groups more in the problems of law enforcement perhaps so as to have a better outreach in the community. What do you see as a way to try and develop an acceptance of "giving up my gun"?

MR. EAVES. Most of the people in our country are law abiding, the vast majority, and if such a law existed I am sure that they would comply.

MR. MANN. Yes, but excuse me for interrupting. Is it realistic, and it may be, because the Congress has been known to assert leadership, is it realistic to believe, and I will just pick a figure out of the air, with 95 percent of the people in the country not seeing any moral wrong in having that gun, is it realistic to think that these 2-year elected Representatives are going to shove one down their throat?

MR. EAVES. No. I agree that you are going to have to educate the public, and I am sure that many of us in law enforcement, and there are many folk who are opposing the use of guns, would assist in developing a strong educational program to indicate to folks that number one, they must obey the law, and second, that it is in their best interests, especially when we are just beginning to get the forum in our city, and we are pointing out to them that most folks are killed when they try to get that gun. You just are not that experienced, and even if you had it in your hand you would become so nervous on the surprise that many people are rendered ineffective, and we are

suggesting that what you have got to do is get people to understand that it is really false security. And what we need to do in order to protect them is to take the other man's gun as well as his gun. And that, indeed, is an educational process.

Mr. MANN. And I will say that very little education along that line has seeped through to the public, and I agree that that is the approach.

Now, you mentioned that until we stopped violence on movies and TV and the like, until we can educate Americans from the cradle to the grave, and until we stop glorifying violence in movies and TV, we must cut down the opportunity to kill each other. There have been going on for many years studies of that problem, commissions of one sort or another. Do you assert that, and I know this is not a fair question to ask, but is there in the annals of the Atlanta police department, for example, any direct evidence of the correlation between any particular movie violent hero and the action of some criminal?

Mr. EAVES. I would like to respond to that because I think that is a good question. We ran a survey at a high school asking young boys what they wanted to be, and 9 out of every 14 indicated that they wanted to be a pimp. They wanted to be like Superfly. And I do not know if you have seen the film, but if you have not, it is an education to see a man who is a hero, who is trying to beat the system, who is involved in drugs, and I am suggesting to you that the box office clearly indicates that Americans respond to the Godfather. Everybody goes to see the Godfather, a violent kind of movie. And people tend to appreciate this form of violence. Some people say that is good therapy, because if they see it then they would not want to act it out. But if kids see this from zero age up, and that is all they experience in a lifetime, and if they believe the only way that you are going to satisfy a difference is through killings, if that is all we see all of the time, then obviously the natural thing to do is if a man becomes angry and you have to settle an argument, you take up your gun and you shoot him, and that is what happens in our movies. Now, there is nothing in the records that would indicate that I killed him because I saw a movie last night. But it is natural to understand that if that is all you have had drilled into your mind for a period of time, it is an automatic reaction when you have to call on instinct.

Mr. MANN. Thank you, Mr. Chairman.

Mr. CONYERS. Could I just ask before recognizing Mr. McClory for you to repeat that statistic about the percentage of young people that wanted to be pimps? Where did that study come from?

Mr. EAVES. It was one of the local schools, and I do not want to identify the school for obvious reasons; but one of the local high schools.

Mr. CONYERS. An Atlanta high school?

Mr. EAVES. Right.

Mr. CONYERS. I see, in which that kind of a survey was made?

Mr. EAVES. That is right. And the reasons were very simply that they saw the man with the flashy suit, with the fancy car, with the flashy money et cetera, and that is the man, he is a success story, and we read about, we see him in the movies and we see it on our TV programs.

Mr. CONYERS. Well, that suggests that perhaps the Federal Government, and that is who I always name when I cannot think of anybody else, ought to be investigating the whole question of the impact of our media in terms of the movies and television in particular, and its relationship to the violent propensities that seem to be increasing at an alarming rate.

Mr. EAVES. I concur.

Mr. CONYERS. We have had national commissions that have been doing this, but they are all advisory, they are precatory, and few if any of us read or study them with any serious intentions of doing more than saying well, I thought so, or I am glad to find somebody has done it. But perhaps, in connection in dealing with guns that kill, there ought to be some movement made toward impacting on this whole question of the tremendous impressions that support and condone and encourage criminal conduct among our citizens. I mean, the first amendment must have some reasonable limitations.

Do you have any views on that, or are there any activities underway in Atlanta or in Georgia that would deal with these kinds of considerations?

Mr. EAVES. Well, I am trying to, through the pressure of my office, trying to organize community folk to start addressing themselves to this issue as it affects our city, in terms of what is going to be shown on TV. I think that people who pay for the sponsors, the sponsors that are used to sponsor these programs should have something to say about what is coming into their home, and the people are quite upset about that. But we sit individually and talk about it, and I have said to them that if you are really sincere about what the impact is on your children, and if you are sincere about what the impact is on our city, then you have got to organize as a group and say that if I am going to pay you to bring something into my home, you are going to bring something into my home that I think is beneficial to both me and my children.

Mr. CONYERS. What I hear you say Commissioner Eaves, is that there is an element of hypocrisy about people who want a safe, non-violent environment, but apparently have no objection to or unable to protest in any organized way the fact that many elements in our culture are condoning, approving, glorifying violence and the conduct that grows from it, illegal activity, so that we are caught in a whipsaw. We are trying to ask everyone to be nonviolent, and not blow each other's brains out. We found that there is a development of a new kind of homicide called recreational murders, where gangs kill for the thrill of it. There is clearly no robbery intent, there is no intent to take someone's personal property, but it is just from the thrill of killing. So we have these conflicting kinds of assumptions, and young people pick up these vibrations so that it almost sounds sanctimonious to be talking about not being violent in a society where by the time a kid reaches public school he has seen more hours of television than he is going to in fact ever spend inside of a schoolroom in his entire lifetime. He has been completely conditioned to the whole notion of violence as a way of life, and has seen that it is indirectly admired by many adults. So that, you know, it is like swimming upstream when we all of a sudden start looking at the escalating crime rate that causes us to have 47 more times the homicide rate of countries like England and Wales, but at the

same time we find that there are very broad and clear signs to children and adults as well that say violence is acceptable, violence is admired, it is a lifestyle that is well understood and accepted in 1975 in the United States of America.

Mr. EAVES. And our cartoons are violent. I do not know if you have noticed it lately, but on Saturday mornings when I do not have anything to do I watch them, and they are very violent. It is just violence which is shown all across the screen all of the time to everybody, and I think we just need to look at that.

Mr. CONYERS. Of course you do not restrict cartoon watching to Saturday, do you?

Mr. EAVES. Well, those are the official cartoons.

Mr. CONYERS. Well, I would like to yield to my colleague and friend from Illinois, Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman. And I want to compliment you, Commissioner, on your statement, and also to observe that extremely important testimony is being presented to this committee by those of you in police departments who head up public safety divisions in your various communities. Your testimony is extremely beneficial to this committee. You are the ones who are dealing day by day and hour by hour with the subject of street crime, of crimes of violence, and you are knowledgeable on the subject as to what this Congress might do to help you in doing your job better.

I would like to revert just for a moment to some of the philosophical discussion which has taken place here, because I would like to express a slightly different point of view than has been expressed by some. I am not satisfied myself that Federal programs to provide housing, Federal funds that have been directed towards education have contributed in any way toward the reduction of crime in America. I have a feeling that perhaps we have done a disservice in many areas by suggesting that the Federal Government through some magic, or through some people say throwing money at a problem can really do anything substantially toward helping resolve it. I am convinced myself that poverty in and of itself is not a contributing factor toward crime. I have seen too many poor families, completely honorable and honest, where the family relationship or the family standards are such that suggestion of crime in such a household is as much or more remote than the affluent communities in the suburbs. I am aware of the fact that as a matter of fact the rate of crime is increasing much more rapidly in the affluent suburbs than it is in the inner city.

We are conscious of the fact that we have given too little attention to so-called white collar crime, which is increasing, and many, many Federal programs, urban renewal, public housing, and as I mentioned, most of the Federal aid to education programs I think have not contributed, or if they have at all, have contributed very, very little toward helping to reduce crime in America. At least while these programs have been going on the rate of crime and the volume of crime has been escalating.

Mr. EAVES. Congressman, may I just say one word about that?

Mr. McCLORY. Sure.

Mr. EAVES. I do not know if it is proper. I have never been before a committee before.

Mr. McCLORY. Absolutely.

Mr. EAVES. First of all, the percentage of crime on the increase in the suburban areas is extremely misleading.

Mr. McCLORY. The rate of crime?

Mr. EAVES. The rate. They used to talk about the percentage in terms of how it is increasing. Let me just make one thing clear. If you increase crime let us say in the city of Atlanta by 100 percent in the area of homicides, you are talking about doubling 248. But when you read blasting headlines that in the suburban areas crime has increased by 100 percent, you are probably talking about increasing it from two to four, so you know, that is kind of misleading when you say it is really rampant out in the affluent communities.

Second, I do not think there has been a commitment, and that is the reason you have not seen the reduction in crime in certain areas. I headed a poverty program once, and there just was no genuine commitment to wipe out poverty. Now in 1958 when Sputnik was launched by Russia, there was a commitment on the part of this country to catch up and surpass, and a lot of money went into turning a whole lot of Americans into scientists. And if that kind of a commitment could prove true—you had the Senate committee I think under Senator McGovern which indicated that you still had millions of Americans going to sleep hungry at night, and if there was a total commitment to wiping out poverty, if there is that total commitment to having jobs available to any and every man who wants to work—I will never say that you are going to wipe out crime, but I think you will reduce it considerably if that commitment is there. And I think that is what the difference is. But if you are going to give me \$50 to patch up my house, I might be able to cover the window, but I cannot do anything about the roof, I cannot do anything about the basement, or the leaky walls or whatever the case may be. So I do not think we have the commitment when we put in just a handful of dollars. There has to be a total commitment if there is, in fact, a genuine effort to rid ourselves of that problem.

Mr. McCLORY. Frankly, I feel, myself, and this is the area of our disagreement, that somehow or other through a commitment or whatever, since poverty has been with us since time immemorial, and may be with us into the indefinite future, that somehow or other these Federal programs are going to resolve problems that I think have to be found in the home and in the family, and in the church, and not even in the school. And certainly not in my opinion in some Federal expenditure which is going to be devoted to the community. Not that there are not useful programs that can be provided to aid people as far as supplementing the family environment and that sort of thing, but when we have the breakdown of the family, when we have the breakdown of parental guidance and the direction of parental guidance, and we do not have the emulation of the good example and that sort of thing, it seems to me that then we find the deterioration of our society and the resort to well, all sorts of what we might consider as immorality, and even illegal action. And I think that the fact that the blacks historically have had the family unit broken up has contributed to their great disadvantage, whereas where there is a good family circle, where there is a good family environment we find progress, and we find advantages that you just cannot get anyplace else. Even educa-

tion was only necessary originally because the parents were illiterate, but with literate parents we ought to have a lot more education in the home.

Mr. EAVES. But I agree with you, Congressman, but it is pretty hard to emulate an unemployed daddy, is it not?

Mr. McCLORY. Well, an unemployed daddy can be an honorable and law abiding daddy, and if he is, he is an inspiration to the children if he is not one that would encourage lawlessness behavior in my opinion.

Mr. EAVES. I am not saying he would encourage it, but when the child sees every American should have a nice home and two cars, and the daddy is unemployed, and he is needing—

Mr. McCLORY. I guess you are referring back to the TV programs that may mislead some people, and I guess that is another area that also suggests some extreme difficulty because of the constitutional system under which we live.

But let me get to the more direct point, and that is that I am very impressed by your statement that 71 percent of the crimes were committed with Saturday night specials, which suggests to us that a complete ban on a Saturday night special should be a first order of business insofar as this committee is concerned. And your further statement on the registration, a law which would require the registration of all handguns so that we would know the whereabouts of all handguns would be a factor contributing toward better law enforcement, and perhaps discouragement on the part of some to acquire handguns. Those seem to me to be very, very useful recommendations. And also your further suggestion that a mandatory sentence with regard to crimes committed with firearms be imposed is also extremely useful. As a matter of fact, your recommendations for legislation seem to me in the area of firearms to be very practical and very realistic, and I would hope they would be along the lines of what this Congress might achieve.

Insofar as these sociological changes, we express some differences of opinion, and while I express some doubts as to how much we would get from them in looking at some programs we have had in the past, I recognize too that there are many who feel as you do, and many who feel as I do.

Mr. CONYERS. Well I would like to recognize the subcommittee counsel, Mr. Maurice Barboza, for a line of inquiry.

Mr. BARBOZA. Commissioner, how easy or how difficult is it to buy a handgun on the streets of Atlanta, say around the night spots, the Peachtree Street area, a person who needs one in a hurry?

Mr. EAVES. You do not have to go on the corner. You do not have to be illegal about it. You can walk into one of the licensed dealers in our city and in 3 minutes you can walk out with a gun. All you have to do is produce your driver's license, indicate who you are, they ask you a few questions and then you walk out with the gun in your hand, and it is cheaper that way. If you buy it on the corner you have to pay a lot of money for it.

Mr. BARBOZA. Approximately how many dealers operate in the city of Atlanta?

Mr. EAVES. I do not know the exact number, but most of the weapons are purchased from about 12 different dealers in our city.

Mr. BARBOZA. Are they located on interstate highways?

Mr. EAVES. I would have to check that one out.

Mr. BARBOZA. What about advertising? Do they advertise on large billboards and signs outside?

Mr. EAVES. No, that is not necessary for them.

Mr. BARBOZA. What are the percentage of guns that are confiscated in Atlanta which are used in crimes that come from outside of the State?

Mr. EAVES. That would be relatively low, the reason being that it is so easy to get a gun in Atlanta.

Mr. BARBOZA. What about manufacturers of handguns, are there any in the Atlanta area?

Mr. EAVES. No, not in the immediate area, no.

Mr. BARBOZA. Any other parts of the State where there may be a concentration of manufacturers?

Mr. EAVES. Not in Georgia, no.

Mr. BARBOZA. No further questions.

Mr. CONYERS. Mr. Danielson, do you desire to ask any questions?

Mr. DANIELSON. No. I apologize for being late. I have been in another full committee meeting, and that is inevitable, but I am reading your statement, sir, and I appreciate your contribution.

Mr. EAVES. Thank you very much.

Mr. CONYERS. Well, Mr. Commissioner, I want to thank you for joining us. Your points made here have served to emphasize certain highlights that are beginning to develop in the law enforcement officers' testimony, and I share all of my colleagues' deep appreciation for your joining us here today. We hope that you will be kind enough to keep these hearings in mind as we go along, and bring to our attention any matters that might be relevant to our determinations, ultimately in the form of legislation. Thanks again for coming before this subcommittee, and I am sure you will be testifying many times before Congress again in the course of your official duties in Atlanta.

Mr. EAVES. Thank you very much for having me. I really appreciate it.

Mr. CONYERS. We have another chief of police, this time from Minneapolis, Minn., Mr. John R. Jensen. We welcome him and ask him to come forward and take a seat.

By way of introduction, Mr. Jensen has come through the ranks starting as a patrolman. He has also been a sergeant, a detective, lieutenant, deputy chief, and has been cited for meritorious service numerous times. I think he brings a kind of experience to his office that makes him a particularly qualified witness to be before the subcommittee this morning. We welcome Chief Jensen. I do not know if we have a prepared statement from you. We do, and it will be incorporated into the record, and you may read it or talk from it if you choose, and then we will have some questions for you afterwards.

**TESTIMONY OF JOHN R. JENSEN, CHIEF OF POLICE,
MINNEAPOLIS, MINN.**

Mr. JENSEN. Thank you very much, Mr. Chairman, and members of this committee.

My name is John R. Jensen, and I am chief of police of Minneapolis, Minn. My appearance today is to explain the existing Minneapolis Weapons Ordinance and two local proposed State handgun control bills and my support of them and to furnish you with the background for my support of your efforts. I would like to make some suggestions which I feel will make this worthwhile and laudatory endeavor even better.

On the city level—and I'm addressing myself now, obviously, to Minneapolis—we have a weapons ordinance. We've had it since 1968. The need for it was obvious in view of our previous ordinance provisions which were wholly inadequate. Our present city ordinance is a comprehensive one, in that it controls sales and purchases, uses of, and possession and carrying of weapons. You will note I said "weapons." We include all types of firearms, even BB guns; military weapons; knives; ammunition; and other personal assault weapons, such as blackjacks and brass knuckles.

Our control over sales and purchases is relatively complete. In that there are reporting requirements, a waiting or "cooling off" period, and restrictions on persons who can buy weapons, and an obligation on the seller not to sell to those types of persons who cannot purchase. Additionally, the recordkeeping and reporting requirements in Minneapolis give our personnel the time and the information necessary to make at least a record check on the buyer, and an in-depth investigation if it appears necessary.

Our ordinance restricts the use, possession, and carrying of weapons. We restrict places, and we restrict persons. For example, you simply do not carry or possess a weapon in drinking establishments, public meetings, amusement places, and so on. We restrict persons by requiring a permit to carry. Our local ordinance is, as I said, a comprehensive one. The problem is—and perhaps you don't need to have it emphasized by me—is that it applies to Minneapolis only. Once you leave the city, we lose jurisdiction. Which brings us to the topic of State efforts at what I'll call gun control.

My concern, first, is as a law enforcement officer, and as the chief of Minnesota's largest enforcement agency. The bills under consideration by the Minnesota State House Subcommittee on Crime, and the Senate's counterpart, prohibit handguns from untrained minors, those under sentence for crimes of violence in the past 10 years, and those with current alcohol, drug, or mental problems.

The bills require police checks of handgun purchasers; a 14-day waiting period for handgun purchases; police checks of those desiring to carry handguns in public. The five types of prohibited persons and applicants without a need to carry a handgun are denied permits.

The bills also require dealer licenses.

The four main differences in the details of the Senate and House bills are:

One, the House bill defines alcohol, drug, and mental problems more narrowly; a commitment is necessary. The Senate definitions include those not formally committed.

Two, the Senate bill permits the police to waive the 14-day waiting period although purchasers must still be checked after the permit is issued. The House bill does not permit waiver.

Three, the House bill prohibits the five types of prohibited persons from obtaining, purchase or carrying permits for handguns after the bill goes into effect. The Senate bill also makes it illegal for prohibited persons to continue to possess handguns they now own after the bill goes into effect.

Four, the House bill permits judges to impose extra punishment for crimes committed with handguns. The Senate bill does not.

I would like to take a moment to go over items which I feel are of my greatest concern.

First, our State bills require two permits before one can lawfully possess a handgun outside his home or place of business; that is, the permit to purchase, for which there is a 21-day period of time, then another period before which the lawful purchaser may carry the pistol in public. These provisions will give law enforcement agencies, and mine in particular, the time in which to conduct the necessary background checks of those persons who feel they must carry a pistol in public. This will give us, that is, the time in which to make those necessary local and Federal agency checks to determine whether the applicant is of the several classes of persons who are not authorized to carry a pistol. After all, in our mobile society, the ease of travel from one locale to another makes such a thorough, time-consuming check necessary so that we will not make errors. The Minnesota bills give us that time.

Additionally, the requirements for out-of-State persons to register their guns in Minnesota upon moving to our State is for the same reason commendable.

Another favorable aspect of our bills is the virtual elimination of pistols from the hands of youths under the age of 18. With the rise in juvenile crime—and I see its effects daily—the necessity for this type of provision is manifest.

The statewide standardized licensing of gun dealers—perhaps I should say pistol dealers because that is the term used in the legislation—is an improvement in the current legal standard variation from locale to locale. With such uniform standards, then, the ease with which a prospective pistol purchaser may avoid more stringent requirements of one municipality merely by going to another will be eliminated within the State.

I would now like to direct my comments to the two features of these bills which make them somewhat less forceful than I, as a police administrator, would like to see. In the first place, the bills do not make any reference to the so-called Saturday night special, which by my own definition, is a gun made of inexpensive pot metal, and as a result, is able to be manufactured and procured for a price which virtually anyone can afford.

Further, under the provisions of our dangerous offender statute, a felon with multiple convictions might have rather severe prison sentences imposed; the frequency with which this is used is not known to me, but I believe that in my county, at least, it is minimal. In addition, under the provisions of our minimum terms of imprisonment statute, there is a possible 3-year confinement for second-time offenders, if they are not placed on probation. This is where the bills, with

slight changes, would be of the utmost benefit to society, generally, and to the law enforcement profession, specifically. And in the latter vein, I am speaking as a man who has had four fellow officers shot to death with handguns in the past 12 years.

The item in our bills that I would like to see altered is to increase their effectiveness is the changing of one word: A small word, a very simple word, a word of which there is little room for interpretation. Change the word "may" to the word "must." That is, to provide that persons who commit crimes of violence as defined in the bills will, not just might, go to prison.

It is my sincere belief that the mandatory sentencing provision which I have advocated for even the first offender will not to regulate human behavior most effectively. If you use a pistol in the commission of a crime of violence, you go to the penitentiary. Particularly palatable to my professional judgment is the increased severity of such sentences provided in the bills. But this must be, as I have stated, a mandatory and not just a permissive provision.

On the Federal level, I strongly advocate stricter Federal controls for the interstate transfer of handguns, the ban of the Saturday night special to which I previously alluded, and control over the importation of handgun parts.

In conclusion, then, let me state that I am in full support of local proposed legislation requiring mandatory sentencing of armed offenders, and careful consideration of who may and may not possess a pistol. Federally, I support stronger controls for interstate transfer of handguns, regulation of the importation of handgun parts, and the banning of the Saturday night special. To put teeth into the law would deter the potential criminal. What "teeth" do we need? Locally, strong State statutes and city ordinances buttressed by strong Federal supportive legislation. That is, you on the Federal level can best support us by mandatory sentencing and banning the Saturday night special. We can best support you by complementary legislation. My plea is for such mutual support for the benefits of all citizens of this country.

Thank you for your kind attention.

Mr. CONYERS. Thank you, Chief Jensen.

I think you have come directly to the point, and I am going to ask the gentleman from California to lead off in the questioning.

Mr. DANIELSON. Thank you, Mr. Chairman, and thank you, Chief Jensen.

I do not have much if any quarrel with your statement, and I am not going to waste a lot of time on it. I am just going to ask for a little added information. Do you have much experience in the Minneapolis area with picking up of homemade handguns?

Mr. JENSEN. No; not of late. We have a sufficient level of the kinds of modified weapons that we find, shotguns, for instance, cut down to make a handgun out of it, or a rifle sawed off so that it can be carried on the person perhaps to commit a crime such as a robbery and the like.

Mr. DANIELSON. Or a semiautomatic converted to an actual automatic or something of that nature?

Mr. JENSEN. Or something of that nature; a filed down saw or something of that nature.

Mr. DANIELSON. But the homemade gun, you do not have much of a problem with that?

Mr. JENSEN. The homemade or the zip gun, we are just not experiencing a great deal of that right now.

Mr. DANIELSON. You have come out loud and clear on mandatory sentencing for a crime committed with the use of a weapon. Some people limit to a handgun. Personally, I feel that if we are going to do that we ought to not only cover the handgun or other gun, but also a cutting or stabbing weapon. I do not see any reason why, if we are going to go this way, we should not or might as well not go the whole way.

Mr. JENSEN. Absolutely, sir.

Mr. DANIELSON. What are they doing? The person committing the crime is committing the crime by putting in fear, putting in fear of loss of life or severe physical injury, so you would certainly have no criticism of the concept of covering all of these weapons at one time I imagine?

Mr. JENSEN. Absolutely not. You know, it does not make any difference whether you get robbed with a gun or a club.

Mr. DANIELSON. It would not make any difference to me. Lastly, and here maybe we have a semantic difference, I do not quite buy the Saturday night special distinction, since in my opinion it is not possible adequately to define it. And as far as I am concerned I would be just as dead shot with an expensive weapon as I would be with a cheap weapon, and so I do not adhere to just going after the Saturday night special. I think there is also one hazard involved, and that is this: Emphasizing the Saturday night special tends to weaken the concept of gun control because some people believe the myth that if you just get rid of the Saturday night specials it is all right to leave all of the good Smith & Wessons, the Colts and whatnot floating around the country, that it is just these little cheap guns that cause the problem, and I cannot agree with that. I think if you are going to get rid of one you might as well get rid of them all.

Mr. JENSEN. I think one has to set priorities in what one wants to try to get accomplished, and I guess in terms of the Saturday night special that seemed, by my frame of reference, to be a good starting point. One of the things I am concerned about in the Saturday night special which I would like to point out, if I might, is that we find that increasingly the juvenile or the youthful offender will turn up with that kind of a weapon. And I think I might even be able to supply you with some statistics relative to that when I get back home, if I might.

Mr. DANIELSON. Thank you. And incidentally, this would tie into the testimony of a witness who was with us yesterday, Director Williams, of Newark, an excellent presentation. Do the folks in your record- and statistic-keeping division make any type of analysis as to the kind of weapon that you recover? By that I mean is a gun a gun, or can you break them down by origin, where they come from? To what extent they have come in interstate commerce is what I am thinking about.

Mr. JENSEN. Yes. I can do that for you now if I might.

Mr. DANIELSON. You can do it now?

Mr. JENSEN. Yes. I would like to if I might.

Mr. DANIELSON. Oh, yes, and put that into the record, please, Mr. Chairman.

Mr. CONYERS. Absolutely.

Mr. JENSEN. And I can provide you with a copy of that, Mr. Chairman, if you would like, as long as I can retain my copy to take back with me, because I think I might have the central file copy with me.

Mr. DANIELSON. I want to point out, Chief, I think this is valuable to this committee to give us some idea of to what extent there is interstate commerce traffic, and I am sure it is probably pretty great, but I would like to know about it.

Mr. JENSEN. This probably is also available through the Department of Treasury, ATF. We did a Project I study, a 90-day study in the city of Minneapolis with respect to the origin of weapons, and we just recently had a city ordinance where we destroyed 1,000 weapons of the "cheap Saturday night specials" and with the definition of that term there are problems, there is no question. But this report is a 90-day project wherein we participated with the ATF, and during that time 195 handguns were traced, and the following was disclosed: 48 percent were purchased in the Minneapolis metropolitan area; 42 percent were the Saturday night special variety, and we have problems with the definition of that term; 22 percent were originally purchased out of State; 16 percent were reported stolen; and 11 percent were purchased from one local firearms dealer.

There was no pattern of firearms from out of State. However, more originated from Kansas City, Mo., Chicago, Ill., New York City, N.Y., Tuscaloosa, Ala., than any other cities. From the attached statistics, the average of 65 handguns per month were brought in. Half of these were the Saturday night special. Half of the firearms had been purchased in Minneapolis and from Minneapolis firearm dealers and approximately one of every five handguns were picked up for a violation of the city weapons ordinance, and 16 percent of the handguns obtained were involved in violent crimes.

The report goes on to show that of total handguns traced, major brands were 114 and other brands 81. Handguns purchased in the Minneapolis metropolitan area, 94, and handguns originally purchased out of State 4, handguns reported stolen 32.

Mr. DANIELSON. You said "purchased in Minneapolis." You are talking about retail sales?

Mr. JENSEN. Retail sales: yes.

Mr. DANIELSON. Do you have any records as to where they were manufactured?

Mr. JENSEN. No, not at this point we don't.

Mr. DANIELSON. I think, and I am guessing, I think you are going to find that Connecticut is probably the birthplace of most of these.

Mr. JENSEN. In that area I am sure. And I will go down, I have the list of the destroyed ordinance here.

Mr. DANIELSON. That might be too long. I do not want to impose myself on the committee this long. I think this is valuable information though, and I would ask, Mr. Chairman, that it be included among our records, and we could put it into the record to the extent that it is useful.

Mr. CONYERS. I think that is a very good way to put it, and we would like to see that. I would like while we are requesting, if the gentleman would yield, to get a copy of the city ordinance.

Mr. JENSEN. Yes. I will provide that also.

Mr. CONYERS. I think that might be good appendix-type material.

Mr. JENSEN. Yes. I do, by the way, Mr. Chairman, also have a copy of my address to the State legislature, both the house and the senate with respect to those two bills, what I said about those bills, and those bills themselves, and I have provided that to your staff, so you can have that for your reference.

Mr. DANIELSON. Mr. Chairman, I have a question, and I have not finished. Do I still have the floor for this?

Mr. CONYERS. Of course.

Mr. DANIELSON. I would like to respectfully suggest that on future statistics could you possibly list among other things the State of manufacture? We are concerned here with interstate commerce, and retail sales are one thing, but if you can show where these guns originate, I mean from the point of manufacture either in a foreign country or in some State. it will help us probably approach the jurisdictional problems here.

Mr. JENSEN. Yes, I particularly, myself, was interested in that. Unfortunately, the ATF study did not come back with that data, and I am going from the study that we participated in. But it did indicate 22 percent were purchased out of State, but as to their manufacture we do not know. But we could get that together.

Let me finally close this very briefly on this one subject: 26 percent of the guns were taken for safekeeping; 21 percent for weapons ordinances; 9 percent were involved in aggravated assault; 7 percent in domestics; 7 percent in robberies; 3 percent stolen; and there are some miscellaneous categories beyond that.

Mr. DANIELSON. Thank you.

Mr. CONYERS. What does that mean? What is the significance of those statistics in your judgment, Chief?

Mr. JENSEN. The significance is No. 1, I think very strongly that we have to have some sort of complementary Federal legislation to help us in the area of Saturday night specials and interstate trafficking in manufactured firearms, particularly the handguns is what I am speaking to right now. When you look at 22 percent coming into the State from out of State, that makes it difficult for the State or city to deal with the problem without some complementary Federal legislation to back us up at the State and local level.

Mr. CONYERS. Mr. Mann.

Mr. MANN. I find your support of State and local efforts vis-a-vis Federal efforts interesting. Of course, Mr. Danielson finds it interesting from a constitutional point, but philosophically most people look to the Federal Government to solve this problem. You seem to recognize the State and local government is where the action is, and that is where the effective legislation is going to have to be enacted.

Your city ordinance on firearms has a graduated penalty for second and third offenses?

Mr. JENSEN. No; unfortunately it does not. It only states that possession of same is a misdemeanor, where the State statute goes beyond that and defines possession without a permit as a gross misdemeanor. But when we get to the State legislature in terms of mandatory sentencing, the House bill provides for mandatory sentencing, whereas the Senate bill has no such provision.

Mr. MANN. All right. I find your observations about the enforcement of the Habitual Offender Act interesting, because I do not believe that it is used any more anywhere else than it is apparently used in Minnesota, and it applies generally to felonies only. I know we have trouble selling it. But what do you think of the idea of including as a gross misdemeanor, a firearms violation not connected with the commission of a felony, but merely a firearms violations as showing a proclivity toward lawlessness, let us say, or potential toward dangerous felonies as one of the offenses to be counted under the Habitual Offender Act?

Mr. JENSEN. I think definitely it should be in there.

Mr. MANN. It might be a little harsh, but it is a possibility I guess we should consider.

Mr. JENSEN. Well I think, sir, that we have to make a clear statement about violence in this country, and to make a statement at the front end in terms of licensing and registration without making an equal statement at the other end seems to me to not really address the problem of violence in this country, particularly as it affects the use of handguns in our society.

Mr. MANN. Thank you.

Mr. CONYERS. Mr. McClory.

Mr. McCLORY. Thank you very much for your very helpful statement, chief. And I merely want to commend you on your support of strong State and local legislation, and also that part of your statement in which you indicate that support in the form of strong Federal legislation would also contribute to helping reduce street crime. And I think I get the message as to what you are recommending generally to this committee, and I am hopeful that we can fulfill your needs in that respect.

Thank you very much.

Mr. JENSEN. Thank you, Mr. McClory.

Mr. CONYERS. Now, my colleague from South Carolina said that you said that the State and local level is where the action is, and that you thought we ought to be operating on that. Is that the thrust of your remarks here today?

Mr. JENSEN. I think that is part—no, I do not think—if I might, it is not the thrust, the total thrust, of my argument. My argument is for a balanced presentation. I think that the local governments have the responsibility to take such action as they can at the local, county, and State level to do what they can in their States, but when you have the Federal system that we have, you have to have Federal complementary legislation in the laws to support and to buttress those local efforts that are being made, particularly when one of the sovereigns may take upon itself not to have any kind of controls which then could have a detrimental effect on another State. That is where I see the Federal Government's role in this.

Mr. CONYERS. So the States and locals must act as well as the Feds?

Mr. JENSEN. Absolutely.

Mr. CONYERS. Just the Federal Government to be acting against a casual or an even negligent local attitude would still leave us in trouble. Mr. McClory has referred to the massive failure of Federal programs as he sees them, and we might be dooming any of our activity to failure were we not to contemplate and expect strong local reinforcement.

Mr. JENSEN. Absolutely. And I am very much encouraged to see local initiative, because that provides a joining of the hands between our Federal Government and our local government to meet a common problem which has nationwide scope in terms of trying to deal with it. It is just like dealing with crime, you know. We get into the area where we talk about operation identification in the sea of crime, but we have not done anything about urban planning or specific crime operations in the field, and directed patrol with community input into those programs, and the same thing happens when you get into these kinds of problems. Any one-shot approach, Federal or local, is not going to solve the problem of street crime.

Mr. McCLORY. Would the chairman yield for an observation?

Mr. CONYERS. Certainly.

Mr. McCLORY. I think what is rather implicit in what the chief is stating—is that along this line—that a Federal clearinghouse, for instance, of State statutes and local ordinances which can help municipalities and local areas do a better job for themselves could be helpful. Possibly also some modification of the Law Enforcement Assistance Act to provide Federal direction and encouragement for better State and local laws and regulations with respect to firearms would be an area or a way in which the Federal Government might provide the complementary support which the local and State law enforcement officials could utilize beneficially.

Mr. JENSEN. Yes. Again, Mr. McClory, it is a question of the States and local governments taking the initiative, and that their initiative be complementary to what federally exists, and that the Federal legislation that exists, if it does not address in a complementary fashion what the State and local governments have done, ought to be modified.

Mr. McCLORY. Right.

Mr. CONYERS. Finally, how big is your city? You are the first of the small cities chiefs. I mean, we have had the big fellows coming here telling us about the crime problem. I mean, what is it like out in the—I do not want to say out in the sticks, that might be offensive, but I mean—

Mr. McCLORY. I think you want to modify your whole statement, Mr. Chairman.

Mr. CONYERS. I mean, what is the crime situation like out there as compared with the urban situation which we are all quite familiar with? Can you give us some distinctions? I mean, you talked about losing four officers in several years. We lost 17 in a year in Detroit. Maybe your perceptions of the crime problem would be very helpful to this subcommittee in terms of us understanding whether there are similar or dissimilar threads between the kinds of problems depending on the size of the population.

Mr. JENSEN. Mr. Chairman, Minneapolis is considered one of the major cities in the United States.

Mr. CONYERS. Well, I am happy to hear that.

Mr. JENSEN. We have a population of 434,000 and we are located across the river from our sister city of St. Paul, with a population of approximately 350,000. And the total metropolitan area goes well in excess of 2 million in terms of population density. The situation with respect to crime is 40 homicides in our city last year. I know that is probably not significant by District of Columbia standards, but it is

significant enough for me not to want to talk about it a great deal in public. And you are correct when you compare Minneapolis with shall we say Chicago or Washington, D.C. Certainly we are a small city, and that is only obvious.

Our problems, however, are basically the same as theirs. If you are talking about not degrees and kinds, but you are talking about quantity, the quality of our criminal activity is as good as any in the country. We just do not have quite as much of it.

Mr. CONYERS. In other words then, the kind of legislation we might contemplate federally would be relevant, regardless of the size of the city that we are trying to impact on? In other words, prohibiting the Saturday night special would have as much validity in a small city as in a large one?

Mr. JENSEN. Absolutely, and particularly when I look at the increase of crime to the suburban areas. You know, it is the first, second, and third ring suburban areas, and then rural crime is on the increase, and then we talk of the question of course, that it is in the area of property crime in many cases, but it is going to move, I think, as we move to a megalopolis, and it is just going to continue to spread out from the urban center. So there is a direct relationship between what your problems are and ours and what rural communities are facing and what the larger major cities are facing.

Mr. CONYERS. You would not be offended by registration concepts implemented at a national level?

Mr. JENSEN. I think registration concepts, and I differentiate, of course, between registration and licensing, and I guess I come on strong in the licensing area and a little less strong in the registration area. Again, however, it should be complementary.

Mr. CONYERS. How do you distinguish the licensing concept from the registration concept?

Mr. JENSEN. Licensing concepts are predicated for the most part on being directed toward the control of who sells and who gets and who possesses. Registration is mainly to record who has, and that is about as simple as I can put it.

Mr. CONYERS. Well, how can we approach this problem if somewhere in the country—and Alcohol, Tobacco and Firearms are supposed to be the ones who are doing this already according to our 1968 gun laws, there is some question about it, but what is wrong with someone in this country knowing all of those questions rather than some of them?

Mr. JENSEN. I have no problem with the clearing house kind of thing that would have to deal with the question of handguns and where they emanated from, where they were manufactured from, and who possesses.

Mr. CONYERS. Well, that seems to cover the whole waterfront.

Mr. JENSEN. Uh huh.

Mr. CONYERS. Your State is doing it, and if Minnesota does it and everyone else does it, that is really going to create the problem that we are all in now where the Sullivan law in New York does not get at it, and the Minnesota statute in and of itself is not going to do anything unless it is complementing a Federal program.

Mr. JENSEN. Absolutely.

Mr. CONYERS. Well, thank you very much, Chief, for joining us.

If there are no further questions then, this committee stand in adjournment.

Mr. DANIELSON. Mr. Chairman, unless somebody else has one, I have already had one helping, but can I have a very brief one? I will defer to anybody else.

Mr. CONYERS. Well, let us hear from the gentleman from California by all means.

Mr. DANIELSON. I want to add to my chairman's comment and the chief's comment. I think it is important that whatever we wind up with, if we wind up with anything, it be a complementary relationship between Federal and local levels of government. I think there is a tendency in this country that once the Federal Government invades a field, even though we expressly let the world know we are not preempting it, that on the local level the attitude seems to be well, that is the problem of the Feds now, let them worry about it. We simply do not have and can never have enough manpower to have effective law enforcement, and anyway police power belongs with local government. And it should, properly, because local government is better acquainted with what is going on and with the needs of the community. But I think if we can work out complementary legislation, things in which we work together harmoniously, we can do some good.

I would like to ask, you are probably a member of the National Association of Chiefs of Police. Do they have a proposed model law on this?

Mr. JENSEN. They have something. I am not sufficiently familiar with it to speak of it at this time. I could research that for you, Mr. Danielson, and get back to you.

Mr. DANIELSON. If you would I would appreciate it.

Mr. Chairman, I would suggest that that is one of the things that we should look into, is there a proposed model gun control law or a proposed uniform law that we might think about. We could, as Mr. McClory says, conceivably tie it together with LEAA material. At least it is something we should look into.

Mr. JENSEN. If I might make an observation, Mr. Chairman, and Mr. Danielson, when I talk about licensing, and all of the factors attendant to that, there is a very good recordkeeping as to who has it and so on and so forth, so it would be beneficial to us at the national level if we had a clearing house or some registry as to what the results of this process were so that we did have some place that we could get our hands on to trace a particular weapon at a national level, and that is complementary, as I see it, to what the local needs are, but does not supplant it. So it ought to be enabling and complementary and supporting as opposed to supplanting.

Mr. McCLORY. Mr. Chairman, I was just going to say as you know, Mr. Chairman, I have had a draft proposal put together. And with your permission, Mr. Chairman, I will circulate that proposal. It is not a bill that has been introduced, but it is in the form of a bill, and I will distribute to the other members of the committee just for their perusal comment.

Mr. CONYERS. You know, I think our colleague from California has hit upon probably a very intelligent way to proceed in this matter. Of course, traditionally, we all throw bills at each other. We had over 100 bills on gun control introduced in the 93d Congress, and there is no

doubt in my mind that that is going to escalate like the crime rate itself in the 94th Congress. But I think the idea of thoughtfully passing among ourselves particular projects, where we are not necessarily in the formal strictures of a hearing with witnesses and that sort of thing where we can reflect with our staff and our other help that we are receiving on this matter so that we can begin to come to some conclusions informally about what kinds of sections would be envisioned in any potential legislation that would emerge. And to that extent I begin to see great merit in this idea.

Now, with regard to LEAA, again the gentleman from California yesterday somehow got it into discussion with our witnesses, and I think it is highly appropriate because this subcommittee has oversight and legislative jurisdiction over LEAA, and so many times we will get that question coming up. I was just wondering if that project you had going in terms of tracing guns was an LEAA funded operation myself. Chief Jensen.

Mr. JENSEN. Yes. The funds on that, as I recall, came from LEAA, or there was some spurring of it. I will have to retract that. I am not exactly sure. I do not see it in the literature that I have, but it was a project, a ATF program, and I suspect it probably came through their funds. I would have to get back to you on that.

Mr. CONYERS. I yield to counsel.

Mr. GEKAS. Well, just for the purposes of information for the members of the committee, the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department has in the last 12 months undertaken a study which they code as Project I, shorthand for Project Identification. They have taken, I think 16 cities, 4 at a time, and constructed by a detailed tracing effort a profile of handguns, used in crime, including type, place of retail sale, and by offense. They are in the process of finalizing now the results of 12 cities. I think including Minneapolis, and they are just about to publish it. They have already published that little booklet there for the first four cities.

Mr. CONYERS. Thank you, Chris. We are going to have the ATF before the committee very soon and it has been discussed informally among us about some of the places where we might want to travel. And I might just say for the benefit of our committee members, Detroit, Chicago, Newark, and Los Angeles have been identified so far. And if any of the other members think that there would be some logic in including other parts of the country in terms of moving these hearings out of Washington we, of course, would be happy to entertain those suggestions as well.

Mr. DANIELSON. I hope that you will put down the twin cities of Minneapolis and St. Paul, for your information, as potential places to visit. You know, although you had but 40 homicides this last year, for which I commend you, and you say the quality of your crime is as good as any, but there just is not that much of it, but that has not always been true. About the time that you were born the Twin Cities were probably the hotbed of crime in the United States, and you got away from crime there by actually providing an asylum where any criminal went, and could do that so long as they did not commit crimes in Minneapolis.

Mr. JENSEN. We call those institutions for the criminally insane.

Mr. DANIELSON. That is right, and that was about as wild a spot as we had in the United States at one time.

Mr. JENSEN. And there was also a book published called *The Shame of the Cities* written at one time on Minneapolis, and it was awful and shameful relating to the conditions in our city at one time, but I hope we have progressed, and I hope we will have some models, or at least some guide models which would certainly be something that would be good.

Mr. CONYERS. Chief Jensen, you have sparked a new line of discussion in this whole consideration of gun legislation and to that extent we are very grateful that you were able to come before us today. Thank you very, very much.

Mr. JENSEN. My pleasure, Mr. Chairman.

[The prepared statement of Mr. Jensen follows:]

STATEMENT OF JOHN R. JENSEN, CHIEF OF POLICE, MINNEAPOLIS, MINN.

Mr. Chairman: members of this committee; my name is John R. Jensen, and I am chief of police of Minneapolis, Minn. My appearance today is to explain the existing Minneapolis weapons ordinance and two local proposed State handgun control bills and my support of them and to furnish you with the background for my support of your efforts. I would like to make some suggestions which I feel will make this worthwhile and laudatory endeavor even better.

EXISTING CITY ORDINANCE

On the city level—and I'm addressing myself now, obviously, to Minneapolis—we have a weapons ordinance. We've had it since 1968. The need for it was obvious in view of our previous ordinance provisions which were wholly inadequate. Our present city ordinance is a comprehensive one in that it controls sales and purchases, uses of, and possession and carrying of weapons. You will note I said "weapons." We include all types of firearms, even BB guns, military weapons, knives, ammunition, and other personal assault weapons, such as blackjacks and brass knuckles.

Our control over sales and purchases is relatively complete, in that there are reporting requirements, a waiting or cooling off period, and restrictions on persons who can buy weapons, and an obligation on the seller not to sell to those types of persons who cannot purchase. Additionally, the recordkeeping and reporting requirements in Minneapolis give our personnel the time and the information necessary to make at least a record check on the buyer, and an in-depth investigation if it appears necessary.

Our ordinance restricts the use, possession, and carrying of weapons. We restrict places and we restrict persons. For example, you simply do not carry or possess a weapon in drinking establishments, public meetings, amusement places, and so on. We restrict persons by requiring a permit to carry. Our local ordinance is, as I said, a comprehensive one. The problem is—and perhaps you don't need to have it emphasized by me—is that it applies to Minneapolis only. Once you leave the city, we lose jurisdiction, which brings us to the topic of State efforts at what I'll call gun control.

STATE BILLS

My concern, first, is as a law enforcement officer, and as the chief of Minnesota's largest enforcement agency. The bills under consideration by the Minnesota State House Subcommittee on Crime, and the Senate's counterpart, prohibit handguns from untrained minors, those under sentence for crimes of violence in the past 10 years, and those with current alcohol, drug, or mental problems.

The bills require: Police checks of handgun purchasers; a 14-day waiting period for handgun purchases; and police checks of those desiring to carry handguns in public. The five types of prohibited persons and applicants without a need to carry a handgun are denied permits. The bills also require dealer licenses.

The four main differences in the details of the senate and house bills are: (1) the house bill defines alcohol, drug, and mental problems more narrowly; a commitment is necessary. The senate definitions include those not formally com-

mitted; (2) the senate bill permits the police to waive the 14-day waiting period although purchasers must still be checked after the permit is issued. The house bill does not permit waiver; (3) the house bill prohibits the five types of prohibited persons from obtaining purchase or carrying permits for handguns after the bill goes into effect. The senate bill also makes it illegal for prohibited persons to continue to possess handguns they now own after the bill goes into effect; and (4) the house bill permits judges to impose extra punishment for crimes committed with handguns. The senate bill does not.

I would like to take a moment to go over items which I feel are of my greatest concern.

First, our State bills require two permits before one can lawfully possess a handgun outside his home or place of business; that is, the permit to purchase, for which there is a 21-day period of time to pass. Then another period before which the lawful purchaser may carry the pistol in public. These provisions will give law enforcement agencies, and mine in particular, the time in which to conduct the necessary background checks of those persons who feel they must carry a pistol in public. This will give us, that is, the necessary time in which to make those necessary local and Federal agency checks to determine whether the applicant is of the several classes of persons who are not authorized to carry a pistol. After all, in our mobile society, the ease of travel from one locale to another makes such a thorough, time-consuming check necessary so that we will not make errors. The Minnesota bills gives us that time.

Additionally, the requirements for out-of-State persons to register their guns in Minnesota upon moving to our State is for the same reason commendable.

Another favorable aspect of our bills is the virtual elimination of pistols from the hands of youths under the age of 18. With the rise in juvenile crime—and I see its effects daily—the necessity for this type of provision is manifest. The statewide standardized licensing of gun dealers—perhaps I should say pistol dealers—is an improvement in the current legal standard variation from locale to locale. With such uniform standards, then, the ease with which a prospective pistol purchaser may avoid more stringent requirements of one municipality merely by going to another will be eliminated.

I would now like to direct my comments to the two features of these bills which make them somewhat less forceful than I, as a police administrator, would like to see. In the first place, the bills do not make any reference to the so-called Saturday night special, which, by my own definition, is a gun made of inexpensive pot metal, and as a result, is able to be manufactured and procured for a price which virtually anyone can afford.

Further, under the provisions of our dangerous offender statute, a felon with multiple convictions might have rather severe prison sentences imposed; the frequency with which this is used is not known to me, but I believe that in my county, at least, it is minimal. In addition, under the provisions of our minimum terms of imprisonment statute, there is a possible 3-year confinement for second-time offenders, if they are not placed on probation. This is where the bills, with slight change, would be of the utmost benefit to society, generally, and to the law enforcement profession, specifically—and in the latter vein, I'm speaking as a man who has had four fellow officers shot to death with handguns in the past 12 years.

The item in our bills that I would like to see altered to increase their effectiveness is the changing of one word. A small word. A simple word. A word of which there is little room for interpretation: The word "may" to the word "must." That is, to provide that persons who commit crimes of violence as defined in the bills will—not just might—go to prison.

It is my sincere belief that the mandatory sentencing provisions which I have advocated for even the first offender will act to regulate human behavior most effectively. If you use a pistol in the commission of a crime of violence, you go to the penitentiary! Particularly palatable to my professional judgment is the increased severity of such sentences provided in the bills. But this must be, as I have stated, a mandatory and not just a permissive provision.

FEDERAL LEGISLATION

On the Federal level, I strongly advocate stricter Federal controls for the interstate transfer of handguns, the ban of the Saturday night special to which I previously alluded, and control over the importation of handgun parts.

CONCLUSION

In conclusion, then, let me state that I am in full support of local proposed legislation requiring mandatory sentencing of armed offenders, and careful consideration of who may and may not possess a pistol. Federally, I support stronger controls for interstate transfer of handguns, regulation of the importation of handgun parts, and the banning of the Saturday night special. To put teeth into the law would deter the potential criminal. What teeth do we need? Locally, strong State statutes, buttressed by strong Federal supportive legislation. That is, you on the Federal level, can best support us by mandatory sentencing and banning the Saturday night special. We can best support you by complementary legislation. My plea is for such mutual support for the benefit of all citizens.

Thank you for your kind attention.

Mr. CONYERS. And on that thought, the subcommittee stands in adjournment.

[Whereupon, at 12:21 p.m. the hearing was recessed subject to the call of the Chair.]

FIREARMS LEGISLATION

THURSDAY, MARCH 13, 1975

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

The subcommittee met, pursuant to notice, at 10:15 a.m. in room 2141, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Danielson, Hughes, McClory, and Ashbrook.

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

Mr. CONYERS. The subcommittee will come to order, and we will continue the hearings of the Subcommittee on Crime on gun control.

Our witness this morning is an assistant professor of psychiatry from the Georgetown University School of Medicine, Dr. Stefan Pasternack. He is also director of the Mental Health Care Unit, Georgetown University Medical Center, and he is a consultant psychiatrist for the Department of Human Resources in Washington. I will include his brief resumé into the record.

We welcome him here this morning, and note that he has a statement, which will be inserted in the record, without objection [see p. 231]. Dr. Pasternack you may proceed.

TESTIMONY OF DR. STEFAN A. PASTERNAK, GEORGETOWN UNIVERSITY SCHOOL OF MEDICINE

Dr. PASTERNAK. Thank you, Mr. Chairman, members of the committee. I greatly appreciate the opportunity to appear before you today to discuss the American connection of handguns and homicide.

I would like to proceed by reviewing some of the contents of this paper, and then have time available to answer any questions that you care to ask.

I came to this work through 10 years of experience with violent patients, with convicts in various work release and parole programs; with experience with soldiers who had committed atrocities during their experience in the Vietnam conflict, and with the general population of Americans who have experienced various mental problems.

It was astonishing to me, in the general practice of psychiatry, to recognize that many Americans, regardless of their socioeconomic class, were concerned with the issue of losing control over themselves, and who feared injuring someone. There were police officers concerned

about misusing their handguns in their duties; busdrivers who were concerned about wrecking their buses, and many other instances of fear of loss of control. Subsequently in more than a hundred instances I have had the opportunity to investigate cases of homicide and assaultive behavior among civilian and military persons.

I have provided for the members of the committee some copies of some papers that describe some of that work.

These professional experiences as well as my review of the phenomena of violence taking place within our country have raised a number of questions in my mind. The predominant question in my mind is this: why do we make it so easy for potentially violent persons to get hold of hand guns?

Before considering that question further, I want to express some of my biases. I want you to know that, in my view of human nature, man is not necessarily violent. I think man is initially aggressive. He must be in order to work and survive in a difficult world. I think the basic task of every society is to provide enough acceptable means for men and women to obtain self-esteem, and to channel their natural aggressive drives into constructive outlets. I think that is the way we can truly provide domestic tranquility, to channel the natural aggressive drives into healthy outlets.

Healthy aggressive impulse can become dangerous violence when guns are used to express aggressive impulses, the risk of dangerous violence increases.

It is easy to get hold of guns. We have an increasing rate of homicide, rape, assault, and robbery. It is my growing conviction that the general availability of handguns facilitates the commission of many violent crimes which might not occur were the guns not available; a less destructive discharge of hostility might occur. We make it too easy for potentially violent people to get handguns.

I am well aware of the fact that the vast majority of handgun owners do use their weapons in nondestructive pursuits. But there is no doubt that a substantial number of people buy guns with violence in their minds.

The behavioral sciences, psychiatry, psychoanalysis, psychology, et cetera, are relatively new fields. Therefore research by behavioral scientists into criminal behavior is still in an early stage of development.

Menninger, Werthan, Davidson, Halleck Rappeport and other psychiatric investigators established an excellent precedent in the past by bringing available knowledge about criminal behavior into psychiatric court clinics; more recently Kozol in the Bridgewater Correctional Institute, Lion at the Violence Clinic in Baltimore, Tanay in Detroit, Spiegel in Boston, and other investigators have been trying to study the taproots of homicidal, assaultive and rapist behavior. Hopefully their studies will bear fruit. A great deal of work is now being done in the field of dangerous behavior.

But I must make a modest comment: We do not have a comprehensive, overall understanding of what motivates mankind. We certainly do not have a comprehensive, overall understanding regarding criminal behavior. But there is a growing consensus among behavioral scientists about homicide, and I would like to explore with you some basic facts of homicide.

This is what a psychiatric study of homicide reveals. First of all, Americans are blind to the banal realities of homicide. We have been dazzled by detective stories and misled by gangster movies. The public is under the misconception that murder is the work of criminal masterminds who kill to achieve profit and power. In reality, most homicides wouldn't even qualify for a good Detective Colombo plot. Most homicides are simple-minded deeds. They are usually not even associated with the commission of felonious crimes. Most are not the result of Mafia-type contracts committed in the blood name of criminal organization. There are organized crimes; there is no doubt there are contracts offered on people, but this is not the dominant type of homicide that we experience in this country.

According to FBI statistics, 7 percent of all homicides were committed by relatives of the victims, or close personal acquaintances. Table 2 lists that data, taken from the FBI Annual Crime Report. This is true for a majority of assaults as well; and that is staggering fact. The majority of homicides occur within private homes, or intimate personal acquaintances, well beyond the availability of police measures to prevent them.

We must not overlook the fact also that about 25 percent of homicides are committed by recidivist criminals; a substantial number of assaults are committed by recidivist criminals; the robberies and the rapes are the work of recidivist criminals, but that is not the whole picture. We have also suffered from very frightening phenomenon in this country. It puts us under pressure from the standpoint of controlling handguns. It is random street killings by persons who pick a totally innocent passer-by to shoot down in cold blood. The *Zebra* case in San Francisco in particular highlights that type of killing. There has been a dramatic increase in these types of killings that are practically impossible to prevent; often impossible to solve, and they strike fear into the populace.

Although there is reason for concern about these incidents of violence, the public has a much greater reaction to the violence than the statistics justify.

Now, what we have discovered is that the predominant number of homicides, despite the random street killings, et cetera, are still between people who know each other. Often a previously law-abiding citizen who is not even consciously intent upon murder loses control of himself and kills in an explosive outburst of murder when a handgun is present. This type of homicide is facilitated by easy availability of handguns.

What are the types of homicides? Let's look closely at the types of homicides. Then we can make use of the observations of the profession, there have been studies in homicides, and there are findings.

In a very perceptive paper entitled "Psychiatric Aspects of Homicide Prevention," Dr. Emanuel Tanay, who by the way testified before the Senate Judiciary Committee in September 1973, outlined a homicide classification which I feel meets with the general agreement of the psychiatric profession. There are three types of homicides. The first is what we call ego-syntonic homicide; the second is what we call ego-dystonic homicide, and the third is known as psychotic homicide.

Ego-syntonic homicide refers to a state of mind where a person does something that is quite acceptable to him. It is within his value system.

In this situation a homicide, or an assault, for that matter, is committed by a person without any disruption in his state of mind. He is aware of what he is doing. He accepts what he is doing as a means to an end. He is a dangerous person. He inflicts injury without any concern for his victim. He may actually enjoy witnessing or inflicting suffering. He is a person who often resents and rejects authority, cannot tolerate frustration, and who curiously often sees himself as the victim, rather than the aggressor. Such a killer, or assailant, is immature, lacks social responsibility, and distorts his perception of reality in accordance with his own wishes. This person maliciously and knowingly commits a crime. To illustrate:

A man who repeatedly committed rape-murders, went to prison; benefited from nothing that was offered him in prison, or from the incarceration itself; he came out, repeated his crimes, and today, if released again, will be out on the street enjoying killing innocent citizens.

Now, going to the opposite side of the coin, we come to what is called ego-dystonic homicide. This type of homicide is committed by a person who doesn't believe in murder. He accepts the commandment, "Thou shalt not kill"; he tries to be altruistic, compassionate and to lead a good life insofar as he is able. He may resort to violence when his coping methods are exhausted and when he is overwhelmed emotionally by stresses which he cannot contain. This type of person has a problem about violence, under certain circumstances he is able to defend himself, or in certain other instances where society might accept the use of violent means, he could act violently, basically he doesn't turn to it, it is certainly not something he wants.

So, we have to try to understand something about the mechanism by which a previously law-abiding citizen, who tries to lead a decent life can lose control of himself and become violent. This is an area for psychiatric study.

Now, in table 3 I provided a checklist of factors, or an evaluation of the dangerousness of people with emotional problems. We have good data to show that there are developmental factors which predispose a person to act violently in the future. It is my belief that almost any person, sufficiently pushed to his breaking point can commit violence. Those of us who have had more benevolent childhood experiences are less likely to turn to violence. Childhood is like basic training in what you are going to do. And if your parents easily brutalized you and inflicted gross punishment upon you, the data shows you to more easily become violent when you are subjected to frustration in your own future.

When we look at the violent person at the moment he is losing control, he is a person who is under great stress, dealing with great anxiety. Because of his fear, he doesn't really understand what is taking place around him. He feels that he is being defeated in his life; he can't stand the pain of it any more: he feels helpless and impotent; he feels victimized; he has reached the end of his rope, he is filled with despair. At such a moment some people kill themselves; other people have an accident; some people become intoxicated, others may try to escape by other means. Some people become violent.

Now, there is another critical factor here, and that is the role of the victim. There is an emerging field called victimology. It involves the study of the life-space of a person who has lost control of himself, and

of the people in that life-space who may have provoked him to it. All too often the victim provokes the problem. Remember the film *Virginia Wolfe*? That film portrayed a type of heated vindictive interchanges which spiral upward to an explosive point. There wasn't actual violence in that film, but it typifies the nastiness between people which leads to violence, the situation in which someone goes too far. When a gun is present, the shot cannot be taken back.

Here is an instance: A 40-year-old truckdriver had knocked his girlfriend around. He learned that she had an affair during his recent absence. He was a regular guy, she was a regular gal. But they were inclined to knock each other around; it was almost a way of showing affection for them. Upon his return from another long-distance trip, she very provocatively gave him a pistol as a gift. Two days later they got into a fight over her renewed amorous interest in another man. This threatened his masculinity, something a lot of people can't take. He beat her, then he shot her in each hand and leg. She crawled to safety when a neighbor intervened. Three months later she dropped all charges and married him.

Human nature is very hard to understand sometimes. This is an example of what we call sadomasochistic pairing; it exists; is very frequent. Sometimes it happens among families; sometimes it happens between friends; sometimes it happens between acquaintances who work in the same office. But there is a degree of it, and usually it does not go too far. Some victims desire the injury as a price that they are willing to pay in order to inflict guilt upon their assailants. That is a way of keeping someone in bondage to you. In some instances, especially with alcoholic couples it is necessary to disarm them, separate them in order to protect the home. These can be difficult moments for a therapist.

What we are talking about in ego-dystonic homicide, then is a sudden break in emotional control and eruption of unexpected murderous hostility. Often a person doesn't wish to kill. If he kills the person he is tied up with, he can't get into any more fights with him and the relationship is ended. They have a vested interest in prolonging the relationship, in hurting each other. The gun changes that.

Another interesting phenomenon occurs when a person embroiled in a state of inner turmoil may displace his rage onto a relatively innocent person who inadvertently knocks the chip off his shoulder. This explains the sudden eruption of violence when people become upset over trivial issues and arguments. A highly emotionally charged person walks out of his house in a fury, a neighbor bangs into his car, or doesn't return his lawnmower, or an argument erupts over politics, or God knows what. Some poor fool gets into the way of an enraged man; if one of them has a gun on him, violence results.

The danger is increased when one of the people, or both are drinking; the danger is grossly increased when a handgun is present. When one brandishes a gun during a social altercation he inadvertently becomes a killer.

We have to realize that any person who draws a gun during an argument is unwise, is reckless, lacks judgment. But the role of the gun and the availability of the gun must be considered as well. We have to realize that gun ownership carries with it awesome responsibility, and an

awesome risk. And we have to educate ourselves and the public of this risk that a gun owner may succumb to dissociative homicide, even though he may not wish to, in a moment of explosive anger. We have been very frivolous in our attitudes about guns. They are not harmless toys. Their firepower must be respected.

Here is another instance: A man is upset about his marriage. He is upset about his job. He blames his wife and then develops the notion that she is unfaithful to him. He overworks, becomes tired, begins to drink. They quarrel, their relationship becomes heated, inflamed; they have an angry confrontation. He threatens to beat her; she threatens to leave him. He is going to teach her a lesson; he pulls a gun from a nightstand where he kept it to repel intruders; he shoots her, she dies. He is a criminal now.

He later denies intent to kill, insisting pathetically that he only wanted to stop her.

In dealing with homicide, we see that in the ego-syntonic form, this is a consciously thought out, accepted pattern. In this category of crime, punitive legal measures may have their greatest deterrent effect. Stiff sentences, firmly and justly applied may mean something to the criminal who doesn't really care about whom he harms. If he knows he is going to harm himself, he might listen. But with ego-dystonic homicide you are already dealing with people who don't want to be violent. They are trying to be law-abiding people. Legal sanctions, while still important, have less deterrent effect due to the explosive, unreflective, impulsive nature of the act.

The third type of homicide is relatively rare, that is psychotic homicide. It does occur. This is homicide committed by someone who is not temporarily psychotic or temporarily dissociated, but a person who is chronically and consistently so. A dramatic incident of this occurred in the District of Columbia recently.

A young Federal attorney was involved in an automobile accident and stepped from his car to observe the damage. The driver of the other car jumped out screaming that he was the "Avenging Angel of the Lord" and immediately shot the attorney dead. The assailant was found to be suffering from a severe state of paranoid schizophrenia, and had a long history of severe psychotic illness and many hospitalizations.

When considering the number of homicides each year we must realize also that were it not for modern medical life-saving procedures and rescue squads, many assaults and gunshot wounds would be fatalities.

I want to call your attention to something we often overlook. Homicide has fall-out; assault has fall-out; there are hidden victims. The survivors of someone who has been killed bear a great emotional burden. Fatherless children, motherless children growing up in a world of violence lead hard lives.

Then there are the survivors of the person who has committed the crime. It is very painful for a person to know his father or mother was a killer. It is so tragic! It was a careless use of a gun just meant to express anger, but causing death. These are tragedies that scar American life.

When a homicide takes someone away from you it's harder to grieve. Sudden death is always hard for people to understand. When it occurs in an automobile accident, or illness, it's difficult enough; but a homicide creates extra hard feelings in the family members or community, and complicates the work of mourning for the bereaved. It may stimulate revenge fantasies. An interesting finding is that those who have been exposed to death and violence in their youth may themselves become violent.

Now I wish to pause for a moment and look at the society we live in and the climate in which violence is occurring. It has been very fashionable for persons to wonder whether or not there is something basically wrong with our society. I am not a pessimist about America. I do not feel that we are doomed. I do not feel that we have insoluble social problems which make us destined to live lives of fear. But I have come to the sad conclusion that we do have certain violent streaks in our society. They are well documented by the comprehensive report of the National Commission on the Causes and Prevention of Violence. This report has not received enough attention.

Now, I specifically have become very, very troubled about our extraordinary worship of violence. I am concerned that we are becoming addicted to violent television shows and violent films. Think about it! A decade ago most of the films would have been abhorred. I am not in favor of preventing adults who want to see certain types of programs from seeing them. I am concerned about young children seeing them in unsupervised settings. I want to call to your attention a particularly disturbing example of the reversal of our thinking. Recently a show called "Trilogy of Terror" was played. It featured a bloody doll with a bloody butcher knife terrorizing an attractive scantily clad woman who gave a convincing demonstration of what any human would feel when paralyzed with fear.

The extraordinary thing was not that the program was shown, the extraordinary thing was that the studio that showed it was congratulated in public because of its high-minded public service in airing a warning before showing it. What a reversal! There are many homes in this and other cities where young children watched that program. That warning was useless; it was a straw demonstration; it was a phony. To have accepted it reveals the degree to which we are deceiving ourselves. It reveals also the degree to which we are capable of ignoring the danger in our midsts. Should not those who advocate TV violence have to show that it is good for people? What is happening to our commonsense?

And the same applies to guns. Should not those who advocate the free circulation of guns have to prove what good it does? We have the data to show that it does harm. How long are we going to deceive ourselves?

I mention TV violence not to complicate your deliberations today, but because I am concerned about the examples being held up to our youngsters. I know that in most American homes charity, compassion, kindness, social responsibility and maturity are being taught. A majority of Americans are well intentioned. They are socially minded. But we have to realize that there are others who don't have

such good homes. There are those who are economically, socially, and educationally disadvantaged, who have no one to soften the constant message of violence; where there is no one to show them a better way. They are getting an overdose of violence.

Dr. Marvin Wolfgang, professor of sociology and law at the University of Pennsylvania has written convincingly about the subculture of violence. He warns us that there are groups in our society who are poor in ghetto and rural areas where violent values are transmitted as part of survival knowhow. It was once fashionable in those areas for people to carry a switch blade, how worried we were then; we didn't know when we were well off. But things escalated, and in the subculture of violence it's now fashionable to carry a gun.

In the District of Columbia, almost as a matter of pride and social standing many youths have a gun. There are gun pushers that work in local high school playgrounds, selling .22 pistols for \$9 for a gun. They are showing up in schools; there have been school killings.

Let me quote something to you about the relationship of violence on TV and violence in the street. This is a report from the Subcommittee on Communications of the Committee on Commerce of the U.S. Senate, the 93d session. Senator Pastore's committee. I have seen instances myself where youths have acted out in their lives the violence they saw on television. But here is an interesting case from the Senate hearing:

A gypsy cabdriver is accused of killing three persons in a Queen's bar stickup. He told detectives after his arrest that he got the idea for the robbery and the killings on a TV crime show. He told the police how he planned the holdup after watching the February 26 drama described in the advertisement as "A super-charged 'Police Story' special."

There are many other such instances of the mimicry in life of the behavior shown on television.

Now I want to switch the scene for you and bring you into a situation I have faced. I am a consultant to one of the local community mental health centers, come with me on this case.

A young man is released from prison after 5 years for murdering someone in a bar fight with a knife. He worked hard in prison; he was a model prisoner. He got a vocational skill; he had a job waiting for him. He had a good relationship with the parole officer. He had a girlfriend. The situation was as good as you can get. He got married; his wife became pregnant. And then life did him harm. Life is tough sometimes, bad things happen to us. His wife died of a pulmonary embolism. He became depressed. He began to drink. His parole officer immediately intervened and said, "Look, you must get therapy, you are in trouble."

He came to therapy; he took his medications. He kept his appointments, but he was frightened about his life and he bought a gun. It was illegal, he shouldn't have done it, but he was human and he was frightened and angry. The whole situation of his treatment was grossly complicated. It was dangerous now. I had fear for myself, other people did too; were we on safe grounds with that man? We decided to wait a few sessions to see if we couldn't get him to get rid of the gun on his own. Thank God, he did. But if he had misstepped, who

knows what disaster might have ensued. It doesn't always work out and disaster does ensue sometimes. The gun, when it is available, causes a lot of problems. How could he have gotten it?

This is a unique role of the gun, and you can't deny it. In the paper I go over many of the statistics, the number of homicides, the number of law officers killed; I am not going to go over it again. But you know, the National Commission on Causes and Prevention of Violence shows there is something special about the gun. It's more lethal than any other weapon. If you get stabbed, as opposed to getting shot, you are likely to survive the stabbing. If you get shot, you are going to die unless you are very lucky. Five times as many people who are shot die, than are stabbed. Guns are easily used; you can't protect yourself; you can't block it; you can't run away from the bullet. Even if you hire a bodyguard, someone can get at you. A gun allows someone who lacks the strength himself, to kill. It is a dehumanizing factor here, too. The study of violence shows that if a person can dehumanize his victim it makes it possible for him to kill that person. The gun allows dehumanization because he doesn't observe the victim's pain; there is no body contact. There is no time to reconsider; there is no time for mercy.

There is good ethologic evidence to suggest that mankind has developed some biological inhibition against the use of his own body for murder. Fist fights are frequent, and they are rarely fatal; stompings and kickings are infrequent forms of killing. Strangulation rarely results in death, although it is a frequent form of attack. The assailants usually come to their senses as they stare into the cyanotic faces of their victims.

I saw a college student recently who was on the verge of killing his girl friend in a parking lot. They got into a fight, he didn't realize he lost control of himself; and suddenly, as he was hitting her he said, "My God, what am I doing". There is time in a physical assault. There is not time with a gun.

Humans could use their teeth to kill, but I have never seen a case of a person's biting through someone's jugular vein. It's clear that in the absence of guns a less dangerous discharge of hostility would occur. When tempers flare, gone for the moment are thoughts of restraint, arrest, or punishment; the only thought is to strike out. And when a gun is used, the possibility of death rises sharply.

Now, I have often asked myself, "Why do people buy guns, what is in it for them?" Different types of men buy different guns. The hunter uses a long gun. He is a different type of man than the man who buys a handgun for the hell of it. I'm not quarreling with long guns and hunters, those are legitimate human pursuits. But I am quarreling with people who buy guns to have them around, who rationalize their purposes with utilitarian explanations.

A random sampling of Americans reveals many stated reasons for buying guns, for example:

"I want protection against burglars"; the inner-city resident.

"I'm afraid of riots and civil disorders."

"I have been frightened by a robber."

"I always have guns, I grew up with them."

"It was a family heirloom."

"I shoot in competitive matches."

"I want a gun," most frequently people say, "in case I ever need one," and these arguments on the surface appear reasonable, they only appear unreasonable in hindsight, when they have been misused.

I have a case here, in the same Senate report, where a man had a gun around the house. His 2-year-old child shot him and his wife; that is on page 37 of the Senate report. They had the gun in the bedside stand, they bought it in case of need, and both parents were killed by a 2-year-old child.

Mr. CONYERS. What report are you citing from, Doctor?

Dr. PASTERNAK. This is the Violence on Television Report, Committee on Commerce, U.S. Senate, 93d Congress, Serial No. 93-76.

Mr. CONYERS. Thank you.

Dr. PASTERNAK. So that the gun purchases, on the surface, are said to be for reasonable motives; but it doesn't work out that way.

Here is another case. A 42-year-old businessman was discontent in his marriage. He was frustrated by disobedient teenagers who abused drugs. He felt helpless to control or to influence their behavior and could not tolerate the loss of respect shown him. This man lived and worked in a safe suburban community, but he began to fear attack, so he bought a gun for self-protection. He denied his own hostility and anger at his family, he saw danger from others, ignoring it within himself. He purchased a pistol and he became marksman. He felt a new sense of power. During an angry confrontation with his son he shot him. That family problem still endures.

Other people purchase guns to compensate for physical deficiencies. In the case of a man who feared defeat by a rival who he could not physically overpower, he bought a gun as an equalizer.

Now, I subscribe to the view that guns themselves are seductive and aggressive stimuli which may give expression to the owner's repressed and unacceptable sexual feeling, and/or fear of impotency. Guns encourage violent solutions for life's problems.

Now, one of the most unfortunate instances in which people buy guns is an illusion of household defense. Many Americans, over-responding to fears of burglars and intruders succumb to the false logic that if they are armed with a handgun they will insure the safety of their homes. The facts expose the fallacy of such thinking. Studies for the National Commission of Violence again show that far more homeowners are killed in gun accidents than killed by burglars and robbers. Furthermore, experiences of armed citizens reveal that they are usually taken by surprise and are unable to get to their weapons. He who draws a gun on a man already holding one is likely to die. The street term is "bucking". A man said to me recently: "I shot him because he bucked me." Bucking refers to the criminal's sense that his victim is going to draw a weapon on him. I said to him: "Why did you have to shoot him, he was going to give you his money?"

He replied: "I didn't know what he was drawing for, I thought he had a gun in his pocket." and so he shot him. This often accounts for some of the sadistic, horrible assaults that the robbers commit. They get infuriated when their victims are going to resist them.

The armed-household concept doesn't work; and on the contrary, a large number of guns subsequently recovered by police after arrests of criminals have been stolen from homes. There is a case of a Bethesda

businessman who was aiding his son to load newspapers into a car when some armed robbers came up, they were wielding knives. They forced the man and son into the home; there they found the guns they themselves lacked, a rifle and two pistols. They seized them and fled with the weapons. We can't avoid the fact that there is danger in our society and guns are increasing.

Now, in this presentation I have attempted to make it clear that there is direct correlation between the rising incidents of violent crimes, particularly ego-dystonic homicides and availability of weapons. We have a chain reaction, people get upset, they seize a weapon, and something happens. If there are less nuclear weapons around, they can't be used. A handgun is a nuclear weapon.

Now, there are those who dispute this connection and refer to it in the basic argument that guns do not kill people, people kill people. That is true, it will always be true, it has always been true. We are not going to be able to stop homicide completely.

As a physician, however, I am concerned about what I can realistically accomplish. I can not realistically stamp out all disease; I can realistically reduce its occurrence. When we find a contaminated water supply, we can stop people from drinking contaminated water. When we find we have a tuberculosis carrier, we can confine him to a hospital where he is treated, and on and on. These are instances of public health, public health requires public health laws.

Now, we can't change human nature overnight. It is important for us to continue to build a stable and safe society and to embark upon ambitious programs for social welfare. But, that is not going to reduce the danger today. What will reduce the danger today is making it harder for potentially violent people to get violent weapons. There is no doubt in my mind that fewer handguns would result in fewer household deaths.

The experience in Detroit offers a clear example of the relationship between homicide and the availability of weapons. Until 1967 the Detroit homicide rate was less than 100. At that point civil disorder and citywide tension stimulated a vicious cycle of Americans arming themselves against other Americans. Handgun sales tripled. Within 7 years the homicide rate increased sevenfold. As Dr. Tanay, who reported this phenomenon, pointed out, "It is unlikely that within 5 years the human nature of the citizens of Detroit changed." The social conditions hadn't that drastically altered; there was no sudden influx of criminals. The fact is that the perpetrators and the victims of these homicides are still the same people they have always been, the fought, they loved, they got into arguments; they exploded in moments of tension. But now more homicides in Detroit occurred because there were more handguns in the homes to be used in those arguments.

Opponents of some form of gun control are so fond of saying that when guns are outlawed only the outlaws will have guns. That is how it should be. Let the outlaws shoot it out with themselves rather than with us; let us not have to shoot each other. There is something desirable in that. Let's make it easy for the police to have guns, let's help them know how to use them wisely. We have to make it as hard as we possibly can for the criminals to get the guns. I do not ascribe to the pessimistic view that we cannot stop criminals from getting guns. I

think if we made a strong effort in this, we could at least keep the guns away from violent-prone high school students who will then be forced into careers of crime. Let them play with switchblades, let's keep the guns out of high schools where kids now get into crime. We can't allow people to get into crime easily any more.

I think the gun is a key instrument in gun deaths. We can't change human nature; we can make it harder for people to succumb to it; we can make it harder for them to use guns to kill.

I think our legislative leaders must now grapple with this very thorny issue. I think our civilization may be at stake, it requires a sensible and creative solution. Thank you.

Mr. CONYERS. Dr. Pasternack, your presentation has taken us into a new dimension in these hearings, where we begin to examine some of the psychological ramifications of violence in society, and the use of guns in particular.

In regard to your examination of this question, I think the subcommittee is entirely in your debt because you put into focus, from a medical point of view, many of the questions around which we have struggled without the benefit of psychiatrists and those persons whom you have cited in your statement that have helped you form some of the opinions you shared with us so articulately today.

I don't propose to be an expert in this area, and I'm sure none of the other members would claim to be, either. We here represent a small portion of the House of Representatives who are charged with the responsibility of trying to deal with that entire question which you have put in such clear perspective this morning.

What occurs to me is that there are several ways in which we can approach that, and I don't have any problem with any of your premises, but the big challenge that faces me in this matter, given the validity of many of these premises, is, how do we transform this into legislation that will be positive and successful?

This subcommittee might do many things that are guaranteed to be futile, that might almost reinforce some of the incorrect theories that are so prevalent, that there is no way we can, in fact, control this matter, that the Feds shouldn't try to get into the act anyway. And what I am trying to do now is match your conversation with us this morning against some of the realities that we are confronted with.

The one that is uppermost in our mind is the problem of people who live in high-crime areas, who must, it seems to me, with more validity than others in the population, contend that they should not be required to give up their handguns, or to support any prohibition of handguns. I am thinking now of the small businessman in the inner city of our major cities, which are by definition those places where more crime goes on, where all the social statistics indexes are at their worst; where, in fact, one is more prone to danger-filled situations. For example, I am thinking of the woman who lives in an apartment building in a major inner city area, of which there are literally hundreds of thousands in our cities. As we work toward some legislative solution to this problem, we should try in some way to honestly acknowledge the fact that we should try to make it as hard as possible, and expect that we should be able to get a handgun, if that should be the case, from a person who lives in a much less dangerous area of the community generally.

Dr. PASTERNAK. I have profound respect for the businessman who has been robbed repeatedly. In fact, there was a very dramatic case in the Washington Post recently where a man was forced to make his business a fortress. He had three or four rifles stationed at critical points, and he lives in fear.

The sad factor is that most of his preparations won't help him. Again, that is what the statistics show us, that the guns comfort us, but that they really don't work. If I were that businessman, I would want to do anything I possibly could to protect myself too, and I would hate to face the horrible realization that I was helpless. If I had a gun in my apartment, and I was awakened in the night and held a gun to my head, there isn't an awful lot to do about that.

Now, I am not saying we should encourage our citizens to sit back and be helpless. The problem is to intervene in the right way at the right spot. Maybe we should be giving a subsidy to businessmen, maybe we should place police guards in their businesses; maybe we should fortify their businesses; maybe we should help relocate them; maybe we should have special laws if they qualify for work in dangerous areas, they should be allowed to arm their businesses, that is conceivable to me.

I would like to point out the resolution of a different social problem by effective legislation: This is the question of the extraordinary oversupply of amphetamines and barbiturates that plagued us for many years. Effective legislation stopped the problem. There were so many barbiturates and amphetamines hijacked, truckloads of them, and they were ending up all among teenagers who went wild. We had an epidemic of amphetamine psychosis, barbiturate overdoses, and addictions.

There is a legitimate use for barbiturates; there is a legitimate use for amphetamines, but there is not a legitimate use for an oversupply of them. The drug industry was made to stop oversupplying the public. Drug control laws were passed so physicians would take them more seriously, so the public would take them more seriously. Public education brought the danger to the public's mind. Now, people who need amphetamines and barbiturates still get them, but the supply has been dried up so that those who don't need them can't get them. As a result we no longer see amphetamine psychosis in the emergency rooms as frequently, we still see it; we don't see barbiturate overdoses as frequently, although we still see them.

This has drastically changed the problem, the laws and the control of LSD did the same thing. Now, we didn't stop all drug abuse, but we sure changed the nature of that, and the incidence of it. We reduced the drug danger.

We should do the same with guns. Let's dry up the supply of guns that young people get outside their high schools. Let's supervise the gun manufacturers. Let's control their output. Let us control where those guns go, very, very tightly so that there is not an oversupply, so that they do not get into the hands of the people who don't need them, then I think we can minimize the problem.

Mr. CONYERS. Well, I think you incorporated several very excellent suggestions, and you might be pleased to know that the staff of this subcommittee is working on a compilation with the appropriate Federal agency on this entire question of where guns come from, who

makes how much, and a look at this industry is extremely relevant.

You mentioned a number of other areas that I do want to go into, but I think I will reserve some of my comments until after Mr. McClory, and Mr. Ashbrook, and Mr. Hughes have had some opportunity to question you.

Mr. McClory?

Mr. McClory. Thank you, Mr. Chairman.

I want to compliment you, Doctor, on the very interesting statement you presented, and your extemporaneous statements which you made in response to the chairman.

I tend to feel while it is important that this committee do something with respect to this gun control legislation, that we should recognize the individual right of those who even think they require some sort of a handgun for their individual protection, that we should regard this whole business of gun control measures in perspective, and recognize it is not a cure-all for crimes in any sense at all.

Just before I arrived here I attended a breakfast meeting in which a very knowledgeable person who has served as a judge and a prosecutor brought to our attention that violent crime in the last 10 years has gone up 179 percent; robberies 200 percent and rapes about the same amount. And that in 70 to 80 percent of these cases of violent crimes there was a related use of alcohol. And he emphasized that we have a serious drug problem in this country today from alcohol. I am glad that we have overcome the amphetamine and barbiturate problems, but this is a very perplexing one to face.

I would have gathered from your statement that you would like to see all handguns at least out of circulation, a general elimination of handguns in the possession of the public.

Dr. PASTERNAK. May I respond to that?

Mr. McClory. Sure.

Dr. PASTERNAK. I'm still thinking about whether I would think it best. I am really very sympathetic to people who live in fear, and I'm not suggesting that all guns should be taken away. First of all, I don't think you could do it, people are not going to give up their guns.

That is why I think legislation has to be very specific, very intelligent, and it has to be satisfied with reducing the problem rather than totally eliminating it. We have to be realistic here.

Mr. McClory. You tend to favor a legislation where it would provide for a Federal supervision, or Federal direction, such as a gun registration law, which would enable us to know where all guns are, and try to see that they are only in the hands of those who should legitimately have them.

Now, in that connection, we would of course want to require that no guns were in the hands of juveniles, or mentally ill, or alcoholics, or whatever. Do you think it would be possible to screen out these people? It seems to me the kind of psychotic that you have drawn our attention to would be impossible for the police department, or another administrative agency to detect. It would be virtually impossible to prevent guns from coming into the hands of those people.

Dr. PASTERNAK. Well, again it is a question of reducing the danger. Anyone who wishes to acquire a handgun should have to undergo an elaborate background check to determine his safeness. Is he a good

citizen? Let's be at least as thorough in this as credit bureaus are in their areas. Is he a good gunrisk? Or has he a violent history?

It is also a question of the degree to which we can get involved here. I think it's worth more effort. We have to ask our police to make it harder for people to get guns. I don't know exactly how to do it, but we need to work at it.

First of all, we ought to make it more expensive to buy a gun. It would be a good way to raise revenue for the Government as well. In this age we should consider a gun tax. It would pay for the costs of investigating potential buyers.

And then we ought to have an educational program to teach people about the dangers of handguns. Many people do not realize the responsibility and the risk of a handgun. This is something we need to work on.

Mr. McCLORY. Two or three things I believe strike me. One, a Federal registration of all handguns, or supervising the registration so the data is available all over the country with respect to where the guns are and who owns them.

Dr. PASTERNAK. I would favor that.

Mr. McCLORY. The outlawing of the cheap Saturday night specials. And perhaps increasing the penalties with respect to those who commit offenses with the use of handguns.

Dr. PASTERNAK. I would be in favor of that. I would be in favor of a very, very aggressive effort to dry up the supply of guns, the cheap guns, to get rid of them; to stop the people who are wrecking our society by making them so easily available. We have motor vehicle registration; we require that a person show his competency, to show that he understands the motor vehicle laws. There ought to be laws for the ownership of guns. There ought to be laws about their storage, their upkeep, about gun-training and respect for the danger.

Mr. McCLORY. Let me just add that such a program would in no sense be disarming America; it would in no sense be depriving any American who was legitimately entitled to have, or possess a handgun from having it. What it would be doing would be helping to reduce crime in America, which is something which every gunowner and lover ought to be supporting.

It seems to me we ought to attempt to appeal to the reason and sound judgment of Americans, whether they like their own guns, or belong to a gun organization, or what, to get them to make that kind of contribution toward reducing crime.

Thank you, Mr. Chairman.

Mr. CONYERS. Thank you, Mr. McClory. Mr. Ashbrook?

Mr. ASHBROOK. Thank you, Mr. Chairman.

I listened with interest to your statement, and I have to come to a few different conclusions than you do. I thought I might examine the areas in drawing closer some of the differences.

If I were to phrase it from a legal standpoint, it seems you testified about a lot of accessories of violence, and while you zeroed in on guns as accessories to violence, you also mentioned many other component parts and many other root causes.

I find it a little strange that we see so many people who want to take associate conditions and look at the gun as the major contributing factor. You mentioned, for example, TV, the problem in the home, the problem of children as far as their parental upbringing would be concerned; then you mentioned alcohol, it was implicit in most statements, the fact that we have barroom brawls. All of these are component parts and root causes of violence. And yet, as so many people who seem to zero in, you took a fair crack at TV, as most witnesses have, but you do zero in on the gun.

I'm just wondering whether it is appropriate to zero in on one area when there are so many accessories to violence as you have stated in your excellent statement.

Dr. PASTERNAK. There are many accessories to tuberculosis. If a person is born with a genetic defect in his lungs, he is more likely to get it. If a person lives in bad housing, he is more likely to get it. Malnourished people are more likely to get it. If he does many other things, or many other things happen to him, if he works in a coal mine, or works with many other substances, he is more likely to get it.

But we can't stop everything. But we sure can take the tuberculosis patient and restrict him to an area where he is safe.

Now, you say I do zero in on the gun. I would like to see every other factor that contributes to violence stopped, but I don't see any one that may be as easy to change as the availability of the gun, that is why I zero in on it because like the tuberculosis bacillus, it is an inflammatory toxic agent, and we should try to do something about it, and because there is no value in guns per se.

Mr. ASHBROOK. I don't see that.

Dr. PASTERNAK. They are not like the automobile that serves a constructive purpose. They don't help a man work; they don't help a man lead a better life. Gun sports don't trouble me because they are organized, healthful outlets for people's interest. But indiscriminate use of handguns is dangerous.

But I think we've got to do something about getting the guns out of the homes, getting them off the streets, and that is why I zero in on it because that may be our one chance to do something like with the tuberculosis bacillus, to restrict its free circulation.

Mr. ASHBROOK. Except I would say in the case of tuberculosis the analogy in my opinion is not right. I think you are zeroing in on the patient in the case of the gun, you are counting everyone as a patient. We are talking about 50 million homes.

I assume every American is a potential TB case, you are assuming every one of the 50 million American homes is a potential crime case.

Dr. PASTERNAK. Let me modify the analogy for a slightly different public health mode. We don't like to have contaminated water supplies; if we detect one, we isolate it, and we have strict laws and are getting stricter about keeping the pollutants out.

Mr. ASHBROOK. Well, individuals of course don't have water supplies, that is something that basically comes from organized society, while a gun is something that is basically private. I can't see the analogy.

Dr. PASTERNAK. Well, the point of the analogy is that emotions are like water. A gun is a pollutant, just as mercury is a pollutant

to water. You change a person's way of dealing with a moment of anger; you put mercury in the water, and the water becomes toxic. You give a gun to people who are arguing, and when that gun gets brandished it gets used, and someone dies. Guns are "toxic."

If the argument occurred in a nongun atmosphere there would be a couple of punches exchanged; if a knife was used, or another weapon, there is a chance that the danger would be less, that's what I am talking about.

Mr. ASHBROOK. Well, the danger would probably be lessened if the parents weren't allowed to bring up their children in ways you don't determine to be advisable, didn't have local bars, didn't have fights; it would probably be lessened if there weren't books on pornography—

Dr. PASTERNAK. I agree.

Mr. ASHBROOK [continuing]. If we did not have TV; I guess that's my question.

You said the possession of a handgun carried an awesome risk; but every freedom we have in our society, including voting, carries with it an awesome responsibility and an awesome risk, and where do you draw the line? That is the question that was left hanging in your statement. Where do you draw the line in this awful responsibility? Where do you draw the line, on TV, on alcohol, private association, going to bars, owning guns, bringing up your children, where does that awesome responsibility end? If we are going to have encouragement in area after area of that private responsibility, where are you going to draw the line?

Dr. PASTERNAK. I want to make sure I understand your concern. Is it your concern that this would represent some invasion of the private right of citizens?

Mr. ASHBROOK. Among other things, clearly, yes.

Dr. PASTERNAK. I am very concerned about any invasion of private rights of citizens as a psychiatrist, in fact, that is one of the areas in which I have most pointedly been involved, and that is the question of confidentiality, where insurance companies and many other people misuse information that is available from hospital records and things like that. I am certainly not interested in encouraging an excessive degree of governmental control.

I think that is a very difficult question, in all honesty, Mr. Ashbrook.

Mr. ASHBROOK. I agree.

Dr. PASTERNAK. We must strike a balance here. We have to develop an acceptable set of values. Unfortunately someone has to have a set of values that the majority of the populace can accept as agreeable. I am sure that one of the values you and I would share in common is that we are not interested in seeing people die needlessly.

Now, if it is clear that free availability of guns makes it easy for a substantial number of people to die needlessly, then I think we ought to do something about it.

On the other side, of course, we have to protect the rights of the private citizen. I think it becomes a question of a trade-off, just like everything else. It becomes a question at a moment in time what is more important to the national well being.

I don't presume to be so wise to have all the answers. I am certainly not so smug that I want to say that my view and my values are the right ones. But I think we ought to try to get a consensus in our country of what are the values that we want. I think that if people want to have guns they should have them. But we must realize the price.

But if the availability of guns in the home really substantially alters the access criminals have to guns when they rob these homes; if it really does what we think it does, that some citizens are going to lose control of themselves, nice guys, people that you know, people you went to school with lose control of themselves and use a gun in a moment of anger, then I think we've got to say, "Hold on a minute."

Will our society say it is willing to pay the price? Can we really accept needless deaths? I don't know, maybe it should be subjected to a national referendum.

Mr. ASHBROOK. I think you answered that, if the law were passed and they probably wouldn't conform, that would be a referendum.

Dr. PASTERNAK. See, I am not in favor of a prohibition because I have learned that prohibitions cause trouble. Once again, let me say, I am in favor of something that would reduce their availability, and would give people more awareness of the danger.

You mentioned voting, and driving, and things like that. Now, we take an awful lot of time to teach people to be responsible in that; and there is very little effort that goes into teaching people about the dangers of guns.

Mr. ASHBROOK. I certainly agree with that.

Dr. PASTERNAK. I agree with the National Rifle Association, for one thing, I can credit them with trying to teach people about safe gun practices. But when I see cases of negligent people and household gun accidents, I feel we are deceiving ourselves about the danger. We had an incident in Maryland where a couple of kids got into an argument. One boy knew his dad kept a gun in the living room. He ran in and got it. They played cops and robbers for real, and one teenage boy died.

Now, I am personally not willing to have that kind of thing happen in order for that man to have a gun in his house. Are you?

We live in a democracy. There are always struggles between individual rights and group welfare. In order to maintain some balance we are constantly redrawing the lines. We now have to redraw the line for the individual gun owner and control guns. It's too dangerous to ignore any longer.

Mr. ASHBROOK. We are running over my time, and I respect the other members', but I would like to ask some more questions after they have completed their time. I apologize.

Mr. CONYERS. That's all right, I will be more than happy to give you more time.

Mr. ASHBROOK. I will wait until everybody has had a chance to ask their questions, out of deference.

Mr. CONYERS. I want to let him finish his answer.

Dr. PASTERNAK. We have to consciously add up the cost of the free circulation of guns on the one side. We have to add up the benefit of widespread, unregulated circulation on the other. Then we have to say to ourselves, "Do we really want to have guns and accept this

mortality?" If we say that, then I think we have to stop and take a new look at what we have become.

Mr. ASHBROOK. That is a point I wanted to ask you later, changing clothes, changing automobiles and everything else; at what point do you draw the line?

Thank you, Mr. Chairman.

Mr. CONYERS. Thank you, Mr. Ashbrook, I think you put your finger on a question that is very important here.

Mr. Hughes?

Mr. HUGHES. Thank you, Mr. Chairman.

I likewise, Doctor, would like to commend you. I didn't hear the first part of your statement and that is my loss, but I did hear the latter part and all the questioning; and I want to tell you that I don't think I heard it articulated any better than you have done today. You have given us a new insight, and I appreciate that, and I know the rest of the committee does also.

No matter what side of the issue you come down to, I think you put your finger on just exactly what we have to struggle for, and that is some sort of balance.

I come from a background of law enforcement, and I am concerned about achieving some kind of balance along the way. I am interested in some of the things you have said about prohibition, and getting back to the question of being able to legislate morality because I think that is going to be part and parcel of our thinking. We can pass all the laws we want, and unless people are going to comply with them, unless we accomplish something, we have not done the service we are called upon to do.

I ask you, do you see the same kind of moral issue, however, in guns as in alcohol during Prohibition?

Dr. PASTERNAK. Well, I don't approach alcohol as a moral issue. I approach it as a question of people's use of a substance. As a psychiatrist I understand their use of alcohol as an escape from tensions, usually to try to solve some inner emotional distress. And one thing we really study a lot in psychiatry is alcoholism. It is quite clear that alcohol abuse is tied to severe emotional problems. We can't yet say that about the use of guns. You can't talk about "gunism." Maybe there is such a phenomenon; maybe we are going to be identifying "gunism" in the future.

I am concerned about "prohibition." I would be concerned about driving the sellers of guns underground, and having a kind of gun-running with guns as we had alcohol runners in the past. I think Congress has a very difficult job. Congress has to come up with a very tough, creative solution that makes sense to America.

Mr. HUGHES. I think there is a legitimate use for weapons, for handguns for target practice, and there is an illegitimate practice, and we are trying to get the illegitimate practice and at the same time make it very clear that this is not the first step toward a prohibition of handguns in this country. That seems to be of great concern in many quarters. And I think that accommodation that you talked about is going to be extremely important if we are to achieve that balance.

Dr. PASTERNAK. You know, the law of the old days might have some usefulness here. In the old days, when you checked into town, you left

your gun with the marshal. He knew that you needed it out there on the trail. You never knew when you were going to run into a hostile Indian, or a bear, or a rattlesnake. There are not that many bears, or rattlesnakes around nowadays. Maybe they take other forms. Maybe we ought to be checking our guns in certain places. Maybe we ought to subsidize gun clubs, and people could go and get training in gun use and shooting. We could even make it a national competition and channel it safely.

As I said earlier, it's important to channel people's aggressive interests into constructive forms. And if it does something for somebody to go off and plink, shoot a couple of rounds, have some target practice, I'm not going to quarrel with that. If it does something for his interest, that is great. There is prowess in gun marksmanship, it's a skill.

But, do we need to have guns in homes? Do we need to hold up the gun as something that everybody should have? Do we need to endow it with something more magical than it is?

We need to legislatively channel the energy into socially acceptable outlets, while recognizing its legitimacy.

Mr. HUGHES. Isn't the problem really not whether or not we need weapons at home, but whether people believe they need the weapons at home? There is a difference, a basic difference. And I think that is really more of an educational problem to be addressed, than a problem to be addressed from the standpoint of legislation.

Dr. PASTERNAK. Yes. I think there is an excessive reaction of fear amongst the American public to their danger. And the fact of the matter is, the National Commission on Causes of Violence has shown that more home handguns have been misused, and cause more trouble than they solve; and Americans have to know this.

They also need to know the real danger. The statistical chance of getting murdered in any year is approximately 1 in 20,000; of being killed in an automobile accident is 1 in 4,000. So, we must make people realistically aware of their overreaction. Maybe they will stop trying to protect themselves against exaggerated fears.

Mr. CONYERS was talking about higher risk areas in ghettos and businesses. Maybe we have to legislatively accept some special provisions there. I don't know exactly what they would be, but the danger is distorted, and as a result of the excessive concept of danger people go out and rationalize getting guns that they don't need.

Mr. HUGHES. I was interested in the example of the grocer that you used that armed himself, and I followed your analysis of options open to him, and there was no suitable option. It was a high crime area, and he has been robbed time and time again and feared for his life.

And then you took it to the extent where perhaps we ought to subsidize and have a police officer in the grocery store. Well, we can't have a police officer behind every tree and in every grocery store, that's impossible.

Dr. PASTERNAK. We could have deputies; or someone specially trained; have special health insurance to protect him if he gets injured; or many other things. I don't know, unfortunately, many people are caught in crushing situations.

Mr. CONYERS. Would my colleague yield on that?

Mr. HUGHES. Yes.

Mr. CONYERS. You raised a good question, one I'm concerned with: you can't put a cop in every store. But could we not, if there were national legislation that would be drying up the availability of handguns, demand that police enforcement improve considerably in those areas which in fact are the subject of a high rate of crime? That might be a precondition to an imposition of a gun prohibition.

What I am saying is, and it arose in some of our discussions with police chiefs, that they have the responsibility to help generate a confidence, and we might ask them that that be done ahead of time; and that might mean that perhaps people in stores and small businesses should be permitted to have handguns, or people in places where the incident of crimes is clearly different from most other areas, would be excluded.

But I think we are on the track of this issue, so that we don't demand of every citizen across the board that they yield because all of it is not imaginary.

Dr. PASTERNAK. It's not imaginatory.

Mr. HUGHES. Will the chairman yield?

Mr. CONYERS. Yes.

Mr. HUGHES. I think the chairman is absolutely correct, and not just more staff personnel, but also better trained personnel, and that is not always the case. We have treated the police officer not as the professional he should be treated in the past; we don't pay him enough, he has to moonlight; they are not trained properly; don't have the proper tools. And I think the doctor has so well stated the proposition for us that the problem is not just handguns, it's multifaceted, and we have got to be talking in terms of some procedure for legislation somewhere along the line as aid for law enforcement; but that is only after the fact.

We have to talk in terms of trying to achieve some balance, make sure the traffic dries up for those that have no legitimate reason for handguns, and yet, make sure that those who have a legitimate reason can have handguns to provide the tool to combat crime.

So, I think you stated a good case for a well-balanced program to attack this overall problem, and I don't think it is just a deal of withdrawing weapons, I don't think that is the answer. I happen to, at least up until now, believe that first of all we should not take all the weapons from our citizens because I think there are legitimate reasons to possess a weapon in some instances.

I don't want to see those who are mentally ill, or too young to understand the responsibility that goes with it, to own guns. I think there has to be some standard applied to handguns. I think you stated a good case.

Dr. PASTERNAK. When you talk about policemen moonlighting, maybe they could be moonlighting in businesses that are high risk. Maybe when an officer gets off the shift, maybe he could go as an off-duty policeman and help someone take care of the store. He would be paid by the businessman or maybe split it between the city and the businessman. And then you already have someone who is covered by the city, insured, protected, maybe specially trained. I think when criminals know stores are protected they may avoid robbery.

Mr. HUGHES. Doctor, it's too risky in the stores at night for police officers; they deliver during the day, they want something easier at night. [Laughter.]

Mr. CONYERS. Thank you, Mr. Hughes.

I think this has been one trend on which the community appears to be in agreement, and that came out of the colloquy that Mr. Ashbrook raised. That is the question of education and raising consciousness. That might well be a new dimension that this subcommittee might want to explore more closely in terms of their relationship to it.

I am going to look at the hearings you cited in terms of the relationship of the media, especially TV to escalating violence.

Now, I think Mr. Ashbrook may have a question or two, but before I return to him, I just want to examine your views with regard to our history. You have given us a psychological view of the subject, and I want to see if there is a historical one as well that you might want to comment on.

We have come out of a violent past in this country. This country was subdued by force. We made a national creed of militarism; we are proud of the fact that we are the most powerful Nation on Earth ever in its history. We have a western attitude in terms of the individual reaction to guns, and their possession and usage.

And probably, I think, it can be argued that we have a past clearly more violent than most other countries, at least recently. And if that is so, that makes our job a lot tougher, and the educational programs we all seem to feel have been very sparse in the past, more important in terms of forming an attitude. So, we face not only a psychological consideration of violence, but a historical one as well, would you not say?

Dr. PASTERNAK. Yes; I think that has been beautifully documented in the 12-volume report of the National Commission on the Causes and Prevention of Violence.

You know, you don't tame a continent easily. They had a tough job; they needed their guns. But, we don't live in the "Wild West" anymore, unless we convert our cities into the "Wild West" and everybody starts packing a gun; and I'm worried about that happening.

It is hard to get people to update their thinking to the modern day. That's why maybe in respect to their reverence for their past tradition perhaps we should set up gun organizations where people can go, and pay respect to that tradition. Maybe we have to keep gun skills in our public repertoire. You know that the National Rifle Association came into existence to train people who would eventually enter the military. I have respect for that. We still need people with gun skills in our society.

But I am saying that it has to be controlled, it has to be watched; and maybe it would be more respectful to our tradition of aggressiveness if we could legitimize the way it came out.

From the educational viewpoint, before I lose the thought, I could foresee a program where a person would request permission to purchase an expensive gun, not a cheap one, an expensive one that would work. The State might generate some revenue for itself from it. And as soon as he got that gun, after going through an elaborate procedure showing that he was safe for it, he would then get into an educational

program. He would immediately be plugged into a gun agency in the State, or the Nation that would train him in its use and train him in its safekeeping. And thereby your educational program could be limited to anyone who was getting one, as opposed to having to educate the entire citizenry.

Mr. McCLORY. If the gentleman would yield, I just want to point out an observation. It is true the days of the "Wild West" are gone, the frontier days are gone, and the pioneer is no longer with us.

But I think it would be a mistake for us in enacting a Federal legislation not to distinguish between the problems of the inner city, the problems we have in the schools, particularly in the inner cities, and those areas of Idaho, Wyoming, Montana, and other areas in the West where men still ride the range, and still carry their sidearms, and still carry pistols for purposes of perhaps protection against snakes, or wild game of various types. There is still a big segment of our society that lives in the wide open spaces, a sort of modern-day environment, modern counterpart to the old days of cowboys and Indians.

Dr. PASTERNAK. I would like to respond to that, if I might. You know, the statistics on gun crimes and accidental gun deaths parallel the distribution of guns, where they are.

It is interesting that in the State of Idaho, there are a lot of long guns, and many handguns; and that the State of Idaho had eight homicides in 1 year.

Now, you take the State of Mississippi, and you had in 1972 348 homicides, and that is certainly not an overall highly dense city area. The incidence per 100,000 was 15.4. Texas—Texas is certainly not highly dense, there is lots of range, lots of people out there. There were 1,435 homicides in the State of Texas. Now, why is that? Because the cowboys on the ranges are not just using their guns to shoot snakes. The city of Dallas, itself had more than 200 homicides—more than Colorado and other States. The people come into the city and they don't check their guns.

So, we have a problem, and I don't know how it is going to be solved.

That is why I think we have to be very careful when we look at the data we have been compiling, that the FBI has compiled. I'm not sure they are entirely accurate, but I do believe in the trends. That is why I say there is a difference between the type of man who buys a long gun and hunts, and the type of person who keeps handguns around. I think the person who just keeps guns around has to be looked at a little bit differently, not every person, but many of them.

Mr. CONYERS. Would drying up the supply of cheap handguns help up out if in fact the murder rate didn't go down, and people who oppose gun control would then be able to say, "See, Federal legislation doesn't work". Have you reached a view in the spectrum of possible remedies we are considering.

Dr. PASTERNAK. I would like to see that. I really think that is one of the ways that kids get guns, and kids use them.

Now, I have no doubt that the criminal who is determined to get a gun is probably going to find one. If nothing else, he can break into the home of someone who owns a gun, and get it that way.

Again, we are never going to be able to stop it all. It's a question

of reducing the fallout, of reducing the morbidity, or cleaning up the problem to make it more tolerable. And I think that getting rid of the Saturday night special is definitely a step in that regard.

But you must share my fear with me too. If you start on a legislative program some people will say, "Hell, that doesn't work, that just proves our point." There are a lot of pessimists around who would rather do nothing than try something and have it not work out.

I think you have to form a hypothesis, carefully intervene, watch the results of it, and you may have to modify it. You need data feedback. That's how we perfect drugs for example. You have to show that that drug does some good, and then you watch what happens when you experiment with it, and then you may have to modify it. I think those analogies are useful in legislation, too, if you are trying to remedy a problem.

Mr. CONYERS. That's very good.

Do either Mr. Ashbrook or Mr. Danielson have some questions?

Mr. Danielson?

Mr. DANIELSON. I would just like to say I'm sorry I couldn't be here earlier, I'm in the common position around here of having had three committee meetings at the same time.

I'm sorry I missed your testimony, but I am going to read it; and I appreciate your coming.

I have only one question: How would you define the Saturday night special?

Dr. PASTERNAK. Well, I view it by price. I view it from the standpoint of the one who buys it—the price of the gun, how much it costs. I am concerned about cheap guns that are easily obtainable.

I think there has been a lot of argument about, what is a Saturday night special, and what isn't it; should the barrel be so long; should it have a muzzle velocity of this speed or that speed; should it carry such a caliber; should the parts be made of highly tempered steel, or cast iron, or what. I don't want to get into that today.

Mr. DANIELSON. Well, I asked my question not in any frivolous capacity, but there is a lot of talk about the Saturday night special. Now, we here on this bench are living in the real legislative world, the term "Saturday night special" has no intrinsic definition. If we are going to draw up legislation relating to the Saturday night special, we have to define that term. That is precisely why I seek from witnesses who bring up the subject, their definition. We can't avoid the burden of defining Saturday night special just because we don't want to get into it; we have to do it.

Dr. PASTERNAK. Well, see, I am not the one most qualified to testify—

Mr. DANIELSON. But you are a quite qualified person.

Dr. PASTERNAK [continuing]. About the dynamics of guns, you know, the muzzle velocity, et cetera; however, I appreciate the dilemma you face, and I also appreciate the dilemma of the people who make them: that's their way of making a living.

If I were a manufacturer or seller of those guns, if that was my livelihood, I sure wouldn't want to be put out of business. I think we have to look at that factor as well. Maybe we could get them to move into some other line of business, and help them do so, so that they

won't feel that anyone is going to harm them. When people feel personally threatened, they react. In many instances in this country when one form of industry went into trouble over some obsolete thing it made, then someone helped them retool, or diversify their line. Maybe they need to diversify their line to something else; maybe they could make syringes, surgical scalpels, something useful.

When Congress struggles to define the Saturday night special, you will have resistance. I would encourage you to keep in mind the cost of the components. What is the street cost of that gun going to be when it comes out because you know, you can argue, but a lot of kids don't have a lot of money. You may say that they may steal to get a lot of money if the guns are more expensive, but again, that could possibly help, and I offer it to you as one other area for you to have to worry about in your deliberations.

Mr. DANIELSON. Well, cost is obviously a factor. Usually there are more cheap examples of a given item on the market than the more expensive examples; I don't care whether you are talking about a radio, an automobile, a suit of clothes, or a Saturday night special.

Thank you so much, Doctor.

Dr. PASTERNAK. Just one other aspect. I think the concealability of the gun has something to do with it, too. You know, if it's easily concealed, then a police officer isn't aware that someone has it.

Mr. DANIELSON. Maybe we could build in an alarm, like an alarm clock, something like that.

Mr. CONYERS. I thought the gentleman wasn't going to be frivolous.

Dr. PASTERNAK. Well, if you could put in a bullet a substance that could make it identifiable, that might work. I think you could give thought to this. I let my mind wander, would it be conceivable to put in bullets a radioactive substance and the policeman could carry a geiger counter, and as soon as he came to a car with a high reading, he would know what was in that car, so he wouldn't get his head blown off when he opened the door.

I don't know, I wouldn't ignore any possibility, sir. I think we've really got to work much harder than we worked on this, and there might be those who advocate drying up the source of bullets; I wouldn't ignore that avenue, either. You might dry up the source of .22's, so that kids can't get them so easily—I think we've got to try every possibly conceivable multidimensional approach to the problem, and if we are lucky, we come out ahead.

Mr. CONYERS. Permit me to interpret my colleague's question: There is always the problem of definition until you have the right one; that is what makes it difficult. Well, whatever definition we arrive at, whether it be one or two of the items you mentioned, or a long range of chemistry and physical consideration, whenever you arrive at that definition, the problem is resolved. What makes a radio is clearly definable now. Once we have decided whether we take one of the definitions, or the other, it will be resolved. The problem is that we haven't done it yet, and I think that is the additional responsibility of this committee. Of course I go for simplistic solutions wherever possible, and that makes me want to use a very easy method of definition, rather than a more complex one.

Mr. Ashbrook, do you have any questions?

Mr. ASHBROOK. Thank you, Mr. Chairman.

You are a very interesting witness, and very responsive to questions, and some of your responses raise more questions in my mind. I was particularly interested in one of your statements regarding Idaho. In my experience there are probably more guns in Idaho than any place in the country, and yet you cited there were fewer homicides than anywhere in the country. That seems to give credibility to what I believe, and that is knocked generally by witnesses that what problems we have with guns don't necessarily relate to gun ownership, but the problem of the people, the social order, upbringing, or what have you.

Dr. PASTERNAK. Why are the people in Idaho different from other places. Are they? Are they living in somewhat different circumstances; are their guns used somewhat differently? And that is why I think we have to watch the data very closely. I agree, there is no question that violence is initially a people problem, violence doesn't come out of the blue; it comes from a person, and historical belief and behavior, and what it means to be a man, or woman; that is important. That is why I spent so much time about the question of the subculture of violence.

I think if we break it down we identify that there are populations of greater risk for violence, and maybe those areas of populations have to have tighter laws about guns.

Mr. ASHBROOK. Isn't that generally answered by the areas where you supposedly have problems, they have tighter registration laws, in Chicago and New York?

Dr. PASTERNAK. The influx of other areas, you see, is what undermines them. I think the New York gun controls have been relatively successful. You know, New York has lower homicide incidence per 100,000 population than South Carolina, and other States that have fewer people and fewer urban areas. And if they didn't have those laws, what would be going on in the inner city of New York?

So, I think those laws have been successful to a degree, and if you keep chipping away at the problem, keep trying to dry up the supply of guns, and make it harder for the potentially violent people to get them, wherever they may live, then I think we are more likely to make progress.

Mr. ASHBROOK. Let me respond to that statement and what has been alluded to on several occasions here, that maybe in higher density areas we need a different approach. I would only say parenthetically that my experience in Congress doesn't really accept that difference. Many of us tried to make the same argument that the people of South Dakota or Idaho don't need the same as Los Angeles, and yet they get the same; that is not my concern. I don't think in my area we need the same gun control, if we even need one, but knowing how it normally happens, we'll get the same one, and that is what concerns me.

Dr. PASTERNAK. The problem is, I would say, I am glad that you are getting the smog devices because it will help you prevent becoming Los Angeles. And therefore there is a real benefit from learning from someone else's mistakes, preventing a problem before it comes in your neighborhood.

Mr. ASHBROOK. You are also paying for it, too.

Dr. PASTERNAK. You have to pay for certain things to prevent them.

Mr. ASHBROOK. I think you pay for the basic loss of individual freedom, and you are chipping away on that quite a bit, too. And if it is a matter of education, the last time I counted there were 128 Federal education programs, and I don't think the 128 were met.

If I thought that were a reasonable substitute for registration, or confiscation of firearms, an adequate educational program, would that be a substitute, or would it be something added on top of the deck?

Dr. PASTERNAK. I don't think anyone knows what is going to happen when we start to do one thing or another. I think you have to accept the continuing responsibility to watch the data and be ready to change it.

I would encourage another national commission on causes of violence. If the statistics change and we find out something else is going on, then I will be willing to be educated by the data. Every year, or 2 years you are going to have to keep looking at what's going on. We must know the problems in our society as they evolve.

I would think that if you wanted to have an educational program it should be very definitely aimed at those people who are trying to acquire guns, just as people who acquire an automobile get education, or have to show, have to have the competency, and they have to show it not once, but have to show it every year; that is something they have to show with their cars, and we know that does do something; it maintains a certain minimum attitude about cars; and we know that it certainly maintains a certain minimum of safety in the cars that people are operating. We can't be sure what would happen if we didn't do that, but you know, you have to take a stand somewhere.

I feel that car registration is sensible; making sure that people learn how to drive cars is sensible; making sure to keep them in good repair is sensible, and it teaches respect for those issues; and the same thing could be done for guns.

Mr. ASHBROOK. I would say there is a difference, the basic reason on the car is from the safety standpoint, the fact that most of them have a loan on them, and that is a good way to keep some check on the title, and the other things have come incidentally. The basic titling laws were to—I think were to help having an asset that was easily discernible, and if you had a loan it couldn't be transferred as easily; historically that's probably more the reason. I don't see why titling automobiles ought to be justification to say, why not title guns.

A few last questions. As I say, you have been a very fine witness, and there are some areas where I would probably find some basic disagreements, two areas. One, since guns are dangerous and constitute an awesome responsibility and risk, therefore we either take them away or do something to dry them up.

And second, the recurring theme I hear all the time; people question what it is that is good on a gun; and something about the Old West, why do you need it? And you said, "Should not TV people have to demonstrate that TV violence is good for people? Should not those who advocate free circulation of handguns be asked to show the good it does?"

Of course, that generally makes sense, but where do you draw the line? Do we need new automobiles every 2 years? Do we need to change the clothes styles; what good does that do for people? I kind

of wonder where we will end up if we get in that thicket of having to prove the utilitarian aspects for positive good because we are a free society and we do have certain excesses.

I know from your response that you are very aware of this and very sensitive to this. But like so many people you seem to say, when it comes to guns, there is no question in my mind, it doesn't do any good, why does a person want it; that may not be the place to draw the line.

I would like one last comment from you on where it fits the overall freedom we are going to have in our society. You say the responsibility is an awful responsibility—and I accept the awful responsibility of freedom—and you don't also want to take that freedom away because it is not exercised as you and I might want.

Dr. PASTERNAK. I don't think it is the responsibility of freedom we are talking about entirely. I don't know of anyone who has been killed by religion, or by a change in clothes, or by many other things that you mentioned.

Mr. ASHBROOK. Do you see good for people; that is the test.

Dr. PASTERNAK. I think a gun is different because it has firepower. It is not necessary for someone in order to earn a living; it is not necessary in order for someone to eat, or be healthy. That is why I asked you: What good do guns do?

Religion has been demonstrated to do something for people, and most of the things—

Mr. ASHBROOK. Not always good. Psychiatrists tell me it is the third or fourth reason for people being in mental institutions.

Dr. PASTERNAK. I take issue with that. I have never seen a psychiatrist implicate religion as harmful. There can be extremes, of course. You want, however, to ignore that the gun is different. That would be where you and I could come into an irreconcilable difference of opinion. I think the gun is different. Just as I think heroin is different; it can have useful purposes; the useful purpose is morphine for reducing pain, but we have to watch it very carefully.

Guns have some use; I think people should be entitled to use them, but I think that use has to be very carefully watched because a gun isn't a toy; a gun isn't an article of clothing; a gun isn't many other things. Its awful firepower is so different. There is nothing else that kill you from such a distance so suddenly, without you being able to do anything about it. I can't think of a single utilitarian purpose that a gun serves society except for someone who is a robber, and he needs it for his occupation, or a policeman, or the military.

The military has a legitimate use for weapons, but my God, they are careful about them.

I would welcome the opportunity to talk with you further, and learn more of your views about what good guns do.

Mr. ASHBROOK. I certainly appreciate your statement; it is obviously honest, very persuasive, and from your heart. And as I said, we probably disagree in some areas, but I certainly want to attest, as the rest of the committee members have; we appreciate your testimony, even if in this area we may disagree. Thank you, Mr. Chairman.

Mr. CONYERS. Dr. Pasternack, you led us into our first experience with the psychological implications of violence, and your opinion and

your comments have, I think, been very helpful to all of us on this subcommittee. We are very grateful for your coming today. We are going to include some of your reference material that you have also submitted to the chairman.

[The prepared statement of Dr. Stefan Pasternack follows:]

STATEMENT BY STEFAN A. PASTERNAK, M.D., ASSISTANT PROFESSOR OF PSYCHIATRY, DIRECTOR, MENTAL HEALTH CARE UNIT, GEORGETOWN UNIVERSITY MEDICAL CENTER, WASHINGTON, D.C.

I am very appreciative of the opportunity to testify today before the Subcommittee on Crime of the House of Representative Judiciary Committee. During the last ten years I have worked with violent patients, with convicts in various work release and parole programs, and with a general population of Americans who have experienced various mental distresses. In more than 100 instances I have had the opportunity to investigate the causes of homicide and assaultive behaviour among civilian and military persons. I have provided for your copies of the papers which describe that work. These professional experiences as well as my review of the phenomena of violence taking place within our country have raised many questions in my mind. By way of blas let me tell you that my view of human nature is that man is not necessarily violent although he is innately aggressive. I feel that a basic task of every society is to provide enough acceptable means to obtain self esteem and to channel aggressive drives into constructive outlets. This will truly provide for domestic tranquillity. Putting aside for the moment considerations about man's basic nature, I am most puzzled by one predominant question: Why do we make it so easy for potentially violent persons to obtain and abuse handguns is a major national social problem. It is quite clear from the evidence before us that guns are abused. We have an increasing rate of homicide, rape, assault, and robbery. It is my growing conviction that the general availability of handguns facilitates the commission of many violent crimes and that their general availability encourages violent outcomes in situations where other less destructive solutions might be found.

At the outset I also want to make it perfectly clear that I am well aware of the fact that the vast majority of hand-gun owners use their weapons in non-destructive pursuits. But there is no doubt that many Americans who temporarily lose control of themselves may and in fact do misuse their weapons. And then there is the at large criminal population ever increasingly using concealed handguns to rob, rape, assassinate our political leaders and to kill our citizens. This morning I would like to ask you to view these matters through the eyes of a psychiatrist and consider some of the scientific data available. In this regard I must say an introductory word about the study of violent behaviour, criminology and related matters. The behavioral sciences, psychiatry, psychoanalysis, psychology, etc., are relatively new and until very recently there was little serious undertaking into very important forensic fields. Some of you may be acquainted with the pioneering work of Menninger, Wertham, Davidson, Halleck, Rappoport, and other psychiatric investigators who brought what was available into court clinics and began earnest studies of criminal behaviour. More recently Kozol in the Bridgewater Correctional Institute, Llou at the Violence Clinic in Baltimore, Tauay in Detroit, Spiegel in Boston, and other investigators have been turning to the taproots of homicidal, assaultive and rapist behavior. Hopefully their studies will bear fruit. Our field is broadening its scope of studies in these matters although a great day of course must yet be done.

At this point in time we do not have a comprehensive overall field of knowledge about violent behaviour. But here is increasing consensus among behavioural scientists about much of the phenomena. First let me explore with you some facts about homicide. The psychiatric study of homicide reveals facts which really are quite surprising to many.

I. THE FACTS OF HOMICIDE

Most Americans are blind to the banal realities of homicide. We have been dazzled by detective stories and misled by gangster movies. We are under the misconception that murder is the work of criminal masterminds who kill to

achieve profit or power. In reality, most homicides would not qualify for a Detective Columbo plot. Most homicides are simple-minded deeds. Most homicides are not associated with the commission of felonious crimes. Most homicides are not the result of mafia type contracts committed in the blood name of criminal organizations.

In years past, according to FBI statistics some 70 percent of all homicides were committed by relatives of the victims or the victims' close personal acquaintances (Tables 1 and 2). This is apparently true for a majority of assaults. It is startling to realize that the majority of homicides occur within private homes or intimate personal circumstances. To be sure, a substantial number of homicides are committed by recidivist criminals, but they do not predominate. Recently we have witnessed a very frightening phenomena: That of random street killings by persons who pick a totally innocent passer-by to shoot down. The Zebra case in San Francisco highlighted that type of killings. But while there has been a dramatic increase in these impossible to prevent and practically impossible to solve killings homicide still remains predominantly something that happens between friends and families. What we have discovered is that a majority of killers were previously law abiding citizens who are not even consciously intent upon murder. They do kill when during a temporary explosion of anger they utilize a dangerous weapon, a handgun, as a means of expressing homicide. Now we must focus down a bit more clearly to understand the types of homicides there are.

TABLE 1.—Murder 1971

Types of weapons used:	Percent
Handguns -----	52
Rifles -----	5
Shotguns -----	8
Knives -----	19
Other weapons -----	8
Body weapons (hand, etc.) -----	8

TABLE 2.—Murders by circumstances

	Percent
Spouse killing spouse -----	12.1
Parent killing child -----	3.1
Other family killing -----	8.1
Romantic triangle and lovers quarrels -----	7.1
Other social arguments -----	40.8
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Subtotal -----	71.2
Known felony -----	20.4
Suspected felony -----	8.4
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Total -----	100

II. THE TYPES OF HOMICIDES FROM A "PSYCHIATRIC CLASSIFICATION"

In a very perceptive paper entitled "Psychiatric Aspects of Homicide Prevention." Dr. Tanay has outlined a homicide classification which I feel meets with the general agreement of the psychiatric profession. There are three types. The first is what we call ego-syntonic homicide, the second ego-dystonic homicide (further known as involuntary dissociative homicide), and the third as psychotic homicide.

A. *Ego-syntonic homicide*.—Refers to the situation in which the homicidal act (or assault or rape for that matter) was committed without any disruption in the person's state of mind. He is aware of what he is doing. He accepts what he is doing as a means to an end. Such a person is dangerous: he inflicts injury without any concern for his victim. He may actually enjoy witnessing or inflicting suffering. Such a person often resents and rejects authority, cannot tolerate frustration, and curiously often sees himself as the victim rather than the aggressor. Such a killer is immature, lacks social responsibility and distorts his perception of reality in accordance with his own wishes. He maliciously and knowingly commits crime. To illustrate:

B. J. is a 23 year old man who is in prison for the rape-murder of three women. He confided to a psychiatric examiner that he enjoyed torturing his helpless victims after he kidnapped them at gun-point and obtained great satis-

faction from performing painful and perverted sexual acts upon them. Once released from prison after his first conviction he immediately repeated his crime and was then institutionalized under an indeterminate commitment. He is not interested in treatment and remains murderously defiant. His fantasy now is to obtain a machine gun and slaughter as many people as possible.

B. Ego-dystonic homicide.—This type of homicide is committed by a person who consciously is opposed to murder. He accepts the commandment "Thou shalt not kill" as a basic injunction. He tries to be altruistic, compassionate and to lead a good life in so far as he is able. He resorts to violence when his coping methods are exhausted and he is overwhelmed emotionally by stresses which he cannot contain. It is important that one understand something about the mechanism by which a previously law abiding person loses control of himself and becomes violent.

There are many developmental factors which may predispose a person to a future moment of violence. They are summarized in other sources and in Table 3. Other authors have pointed out that when a person is subject to insoluble conflict he may suffer what is known as a *dissociative loss of consciousness* in which more destructive and aggressive aspects of his personality erupt, often with violent results. Almost any person sufficiently stressed can commit violence, although developmental experiences in childhood, especially the types of punishment received from parents, can profoundly increase one's potential loss of temper. The violent person is someone under mounting stress with increasing anxiety, tension and fear. He misperceives what is taking place around someone he loves. He is suffering some tremendous emotional defeat and cannot stand the pain. He feels helpless and impotent. He feels victimized. He has reached the end of his rope and is filled with despair. At such a moment many persons may kill themselves; others have serious accidents; some become intoxicated or try to escape via some other means. And too many persons lose control of themselves in violent fashion. We are involved in work with self-referred violent patients now. There is an emerging field called *victimology*. It involves the study of the life-space of a person who loses control of himself and of a potential victim. All too often the victim has precipitated trouble à la Virginia Wolfe type of heated vindictive interchanges which spiral upwards to an explosive point. All too often the victim provokes the attack; here is a case:

CASE 1

A 40 year old truck driver had slapped around his girlfriend when he learned that she had an affair during his recent absence. Upon his return home from another long distance trip she provocatively gave him a pistol as a gift. Two days later during a fight over her renewed amorous interest in another man he beat her and shot her in each hand and leg. She crawled to safety when a neighbor intervened. She then withdrew all charges and married him three months later.

There is increasing awareness that such a sadomasochistic pairing exists and that it is a preamble to many impulsive explosive types of injuries. It is important to study the offender-victim relationship. Some victims desire injury as the price they are willing to pay in order to inflame guilt upon their assailant. In some instances, especially with alcoholic couples it is necessary to disarm and separate feuding parties.

TABLE 3.—A CHECKLIST OF FACTORS IN THE EVALUATION OF THE DANGEROUSNESS OF THE MENTALLY ILL

I. CHILDHOOD FACTORS

- A. History of parental brutality with brutal beatings. This may be in the form of excessive punishment, violent reprisals for mistakes.
 - B. Parental seduction.
 - C. Organic brain damage with abnormal EEG.
 - D. Childhood schizophrenia.
 - E. Preoccupation with death and killing.
 - F. Compulsive fire setting.
 - G. Cruelty to animals, sadism, torture of "pets." (If any, was there any parental punishment?)
- II. Enuresis.
- I. School and learning difficulties.

- J. Personal experience with violent death.
- K. Family instability, criminality, mental disorder, and poverty.
- L. Erratic control over violent impulses.
- M. Chromosomal abnormalities.

II. PERSONALITY STYLES, PERSONALITY DYNAMICS

- A. General sense of inadequacy and fear of failure.
- B. Intense ambivalence with tendency toward projection.
- C. Lack of social ability with schizoid tendencies.
- D. Poor impulse control—poor ego delaying mechanisms.
- E. Difficulty utilizing leisure time pleasurably.
- F. Sado-masochistic relationships with frequent frictional encounters between roommates, lover, spouses, relatives, etc.
- G. Prevalence of primary process over secondary process.
- II. Faulty reality testing.
- I. Easily and irrationally triggered violence.
- J. "Potential readiness" to strike out at others, based on need, wish to injure figure from the past (murder transference).
- K. "Fugue" states, blurred consciousness.

III. MISCELLANEOUS FACTORS

- A. Conspicuous accounts of fist fights, violent acting out.
- B. Penchant for guns and knives.
- C. History of alcoholism.
- D. Unusual tattoos with violent themes.
- E. Drug abuse.
- F. Police arrests, prior episodes of violent behavior.
- G. History of attempted suicide (inversely related to homicide).

We are therefore talking about a sudden breakdown of emotional control and the unexpected eruption of murderous rage. Very often the person does not wish to kill but only to inflict harm. When a gun is available the damage is permanent.

In many instances of ego-dystonic homicide a person embroiled in such an inner turmoil may displace his rage onto a relatively innocent person, who inadvertently knocks the chip off his shoulder. This explains the sudden eruption of violence when people become upset over relatively trivial issues and arguments. A highly emotionally charged person discharges his tension onto a poor fool who just happens to get in the way. If either of them are armed with guns a homicide is likely to result. When such persons are intoxicated, as is frequently the case, the danger increases. Ego-dystonic homicide then is a frequent form of homicide and involves the explosion of anger by a tense person, provoked by passion, often intoxicated and all too often armed with a handgun. Were a handgun not present, a less destructive discharge of emotion would take place. There would be a broken nose, not a dead person. The tragedy is evident: when one brandishes a gun during social altercation one may inadvertently become a killer. While anyone who draws a weapon during arguments must be considered unwashed, reckless, lacking in judgment, and irresponsible in the expression of hostility, the role of the gun must be implicated as well.

It is important that we recognize that handgun ownership carries with it an awesome responsibility and an awesome risk. The risk is that a gun owner will succumb to involuntary dissociative homicide, will use the gun in a moment of anger. We have been very frivolous in our attitudes about guns. They are not harmless toys. Their firepower must be respected!

Case 2. A 32 year old man brooded over marital problems and inability to get ahead in his job. He projected anger onto his wife whom he secretly suspected of infidelity. He overworked and drank to relieve his mounting tension. She quarreled with him regarding his changed behaviour and during an angry confrontation he threatened to beat her. She threatened to leave him. To "teach her a lesson", he pulled out his gun from a nightstand where he had kept it loaded in case of intruders. He shot her. She died. He later denied intent to kill insisting he only wanted "to stop her".

In dealing with homicide, we see that in the ego syntonic form it is consciously thought out, accepted. In this category of crime, punitive legal measures may have their greatest deterrent effect. With ego-dystonic homicide, however, we are

already dealing with persons who do not consciously accept violence as acceptable solutions. Legal sanctions, while still important, have less deterrent effect due to the explosive, unreflective, impulsive nature of the act.

In many cases of ego-dystonic homicide, in the absence of handguns, warring couples, feuding friends have fought and made up. Once a gun was drawn, reparation became impossible.

C. Psychotic Homicide.—This type of murder is relatively rare, but it does occur. What we mean here is homicide committed by someone who is not temporarily psychotic or temporarily dissociated, but rather chronically and consistently so. A very dramatic instance of this occurred in the District of Columbia recently.

Case 3. A young federal attorney was involved in an automobile accident and stepped from his car to observe the damage. The driver of the other car jumped out screaming that he was the "Avenging Angel of the Lord" and immediately shot the young attorney dead. The assailant was found to be suffering from a severe state of paranoid schizophrenia and had a long history of severe psychotic illness.

When considering the number of homicides each year we must realize also that were it not for modern medical life saving procedures and rescue squads, many assaults and gunshot wounds would be fatalities. We must also consider the hidden victims, those who survive when a member of their family has been violently killed. I have worked with a number of such victim survivors and have found rather traumatic aftereffects and emotional scars that often never heal. Any killing, therefore, has multiple effects: There is an identified victim who has lost his life; there is a person who has now committed manslaughter and must be legally tried and sentenced. His family is also disrupted. Then there are the survivors of the victim, children without fathers and mothers, whose basic trust in life is most likely irreversibly shattered. Sudden death is very hard for youngsters to understand. When it occurs in automobile accidents or illnesses it is hard enough. But a homicide usually generates extra hard feelings in the family members or community. This may complicate the work of mourning for the bereaved. Further work is needed in this regard. An interesting finding is that those who have been exposed to death and violence in their youth may themselves become violent.

OUR SOCIETY AND VIOLENCE

It is now important to take a moment to survey the climate in which such events take place. It has been fashionable for many persons to wonder whether or not there is something basically wrong with our society. It is not my purpose here to probe extensively through the voluminous sociological and anthropological data that has been amassed to support controversial viewpoints. But it is important to recognize that there is much validity to the finding of the National Commission on Violence that we have become a violent society.

In this regard I am appalled about the rather extraordinary worship accorded to violence and the increasing addiction our society has developed for violent television shows and violent films. Hardly a decade ago most of them would have been abhorred. Let me call to your attention a particularly recent example of the profound "double-think" involved. A show called "Trilogy of Terror" was recently played. It featured a bloody doll with a large bloody butcher knife terrorizing an attractive scantily clad woman who gave a most convincing demonstration of what any human would feel when paralyzed with fear. The extraordinary thing was not that it was shown, but that the studio which showed it was congratulated in public by the FCC for its high minded public service. Why? Because the TV studio gave a printed and verbal warning to parents before the film was shown on TV. What a reversal. We now applaud a studio for showing an emotionally frightening TV program quite available to poorly supervised children. We give the studio good marks for its splendid judgement in first giving a warning. The same reversal takes place with handguns. We have a flippant casual attitude about very harmful practices. Should not TV people have to demonstrate that TV violence is good for people? Should not those who advocate free circulation of handguns be asked to show the good it does? The crime data suggest the opposite. We cannot continue to lull ourselves into false security any longer.

Now I mentioned the example of TV and cinema violence for a purpose. I am greatly concerned about the examples being held up to our youngsters. I know that in many American homes charity, compassion, kindness, social responsi-

bility and maturity are taught. A majority of Americans are well intentioned and socially minded. But we have to have special concern for those with broken homes, who are economically, socially, educationally disadvantaged. Too often there is nothing to soften the constant message of violence. Too often there is no one to show a better way. Many young poor Americans are at double jeopardy for they are absorbing an overdose of instruction in violence.

Dr. Marvin Wolfgang, Professor of Sociology and Law at the University of Pennsylvania, has written convincingly about the subculture of violence. There are groups in our society, he maintains, especially the poor in ghetto and rural areas, where violent values are transmitted as part of survival know-how. One of the values picked up early in life is the use of physical violence. It was once fashionable to carry a switch blade—and how we worried then. We didn't know when we were well off. But things escalated and it is now fashionable to carry a gun. In the District of Columbia a teenager can buy a cheap .22. for \$9.00 outside his highschool playground from the local "gun pusher". Guns are showing up in our school and some districts have even advocated having teachers come to class armed.

Now let me switch the scene for you. I am a consultant to one of the local community mental health centers. Come with me on this case. A young man is released from prison after five years for murdering a man in a fight with a knife. He has worked hard to obtain a vocational skill and has a job waiting for him. His parole officer is optimistic. He has a girlfriend. He marries. His wife becomes pregnant and then fate strikes. She dies of a pulmonary embolism. He becomes profoundly depressed, begins to drink, and his parole officer immediately intervenes. He voluntarily accepts a treatment referral and starts therapy at the clinic. He keeps his appointments; he takes the medication offered to enable him to quell his anger. But he is frightened and as an expression of his outer fear for his life, he impulsively buys a gun. It was easy even though it was illegal. Now his whole treatment situation is complicated. For several sessions the effort I made was to maintain his confidence while attempting to work with him on his reasons for buying the gun and the need to get rid of it. This is a crisis in therapy and in his life. If he missteps, who knows what disaster might ensue. Fortunately, he discarded the weapon and the crisis ended. But in other instances the situation is not so favorable. You might ask if he would not have acted out with another weapon. That is possible, but a gun has all the added might one can buy and the gun plays a unique role.

THE UNIQUE ROLE OF THE HANDGUN

The handgun is the primary weapon in the commission of violent crimes in the United States. During this century over 800,000 Americans have been gunned down. On a typical day someone is wounded or killed by gunshot every ninety seconds. Assassins used handguns in nine of the ten attempts on the lives of Presidents or presidential candidates. Assaults with concealed handguns killed over 460 officers of the law in the last 10 years and the rate of police fatality is rising. Similarly, the homicide rate has risen dramatically and over 20,000 persons are homicide victims each year: homicide is the seventh leading cause of death among non-white males of all ages ranking second only to accidents in the deaths of both Black and white males ages 15 to 24. Closer to home is the statistic that as many physicians are murdered as die of duodenal ulcer. Since homicide is a major cause of death, it is clearly worthwhile to make some attempt to control those factors which increase the likelihood of homicide. The availability of the handgun is a primary factor, with its extraordinary lethality, and accounts for a majority of killings. The knife has only $\frac{1}{2}$ the lethality of the handgun, and studies repeatedly show that when a gun is used to inflict injury the victim is more likely to die than if injured by any other weapon.

Handguns are easily used. Even persons protected by body guards are prey for a person with a handgun, since handguns are easily concealed and allow an assailant to surprise his victim with little chance for escape. One can not stop a bullet as one can stop a knife. Guns permit persons who lack power or strength themselves to achieve "lethal power" at a distance from the victim. The assailant does not so readily observe his victim's pain, there is no body contact, there is little time to reconsider, there is no time for tears and little time for mercy. There is good ethnologic evidence to suggest that mankind has developed

some biologic inhibition against the use of his body for murder. While fist fights are frequent, they are rarely fatal, and stomping and kicking are infrequent methods of murder. Strangulation rarely results in homicide, although it is a frequently used method of attack: assailants usually "come to their senses" as they stare into the cyanotic faces of their victims, and others witnessing the attack have time to intervene. Humans do not use their canine teeth to kill, although one could easily bite through another person's jugular vein. It is clear that in the absence of guns, less dangerous discharges of hostility would occur. Instead of a corpse, we would only have a victim with injured pride and possibly a broken nose. Above all, handgun murders are possible because guns are plentiful: over 10,000,000 were sold in the last 10 years, and over 50,000,000 are in homes throughout the nation. When tempers flare, gone for the moment are any thoughts of restraint, arrest or punishment. The only thought is to strike out. When a gun is used, the possibility of death rises sharply.

The lethality of the handgun is also tragically evident in the increasing number of accidental deaths from firearms. While the majority of gun owners use their weapons responsibly, the data, locally and nationally, indicate a rise in firearms deaths. The rate of accidental firearms deaths parallels by geographical area the known pattern of gun ownership. More guns result in more gun accidents.

Case 4. A suburban housewife became alarmed at reports of increasing assaults and purchased a handgun after a neighbor's home was burglarized. Several days later, her five year old son found the pistol which was kept in a night table drawer. He died of a fatal wound when he fired the gun.

THE MOTIVATION TO ACQUIRE HANDGUNS

A random sampling of Americans reveals many stated reasons for acquiring guns:

- "I want protection against burglars," (an inner-city resident).
- "I am afraid of riots and civil disorder," (an inner-city resident).
- "I have been frightened by a robber," (a suburban home owner).
- "I always have guns; I grew up with them," (a suburban home owner).
- "It was a family heirloom," (a rural home owner).
- "I shoot in competitive matches and like guns," (a suburban worker).
- "In case I ever need one," (an apartment dweller).

In spite of the apparent reasonableness of many of the stated motives, a frequent discovery is that in a majority of instances, Americans are buying guns on the basis of powerful, unconscious motives. Such gun purchases are then rationalized with utilitarian explanations. Most Americans who buy guns out of fear fail to consider other possible non-lethal alternatives. Many persons acquire handguns in the attempt to master deep-seated feelings of anger and frustration.

Case 5. A 42 year old businessman felt discontented in his marriage and was frustrated by his disobedient teenagers who abused drugs. He felt helpless to control or to influence their behavior and could not tolerate the loss of "respect" shown him. Although he lived and worked in a safe suburban community, he came to fear "attack from elements." He purchased a pistol for self-protection. Unaware of his mounting hostility at his family, he projected his anger and instead saw danger from others while becoming a danger himself. He enjoyed his pistol and became a marksman. He felt a new sense of power. During an angry confrontation with his son he brandished his weapon and shot him in the leg. His family life remains perverted by a profound sense of danger, distrust, and hatred.

Others purchase guns to compensate for real physical deficiencies.

Case 6. A 20 year old man feared defeat by a rival whom he could not physically overpower. He purchased a gun as an "equalizer" before the appointed hour of their struggle. He was ready for "anything," and as if in a Western draw, he shot his opponent.

Guns themselves are seductive and aggressive stimuli which may give expression to the owner's repressed and unacceptable sexual feelings, and/or fear of impotency. Guns encourage violent solutions of life problems. When a gun is bought in need, a need is soon found for its use. Perhaps the greatest folly of all is the illusory purchase of guns for "household defense."

HOUSEHOLD FIREARMS: FALSE INSURANCE

Many Americans, over-responding to fears of burglars and intruders, succumb to the false logic that if they are armed with a handgun they will insure the safety of their homes. The facts expose the fallacy of such thinking. Studies for the National Commission of Violence, showed that far more homeowners were killed in gun accidents than were killed by burglars and robbers during a 4½ year study. Furthermore, experiences of armed citizens reveal that they are usually taken by surprise and are unable to get to their weapons. He who tries to draw on a man already holding a weapon is likely to die. The "armed household" concept does not appear to have deterred intruders as the rising statistics of suburban crime show. Household arms do, however, provide criminals with a ready arsenal of weapons. A large number of guns subsequently recovered by police after arrest of criminals were stolen from homes. Home handguns are poor insurance against intruders and may endanger the very person they were purchased to protect.

Case 7. A Bethesda businessman was aiding his teenage son to load his newspapers into a car when they were confronted outside his home by two men wielding knives. They forced the man and his son into the home where they found a rifle and two pistols which they seized. They then fled with weapons and a small sum of money.

HIGH SCHOOL HOMICIDE AND HANDGUN PUSHERS

A new and more disturbing chapter in "Homicidology" began with the shooting deaths of four high school students in the recent past. Just as drugs have spread from criminal users to our school children, it is becoming clear that "gun pushers" are at work selling cheap weapons to those whom they can tempt with the promise of firepower. Usually of the cheap "Saturday night special variety," such weapons have been implicated in shooting deaths in many metropolitan areas.

Case 8. A 17 year old student collided with another youth in a city high school. While he was attempting to apologize the other student pulled a pistol and shot him. There was no warning. When arrested the assailant could not explain why he shot the other student. He gave no reason for coming to school armed other than "to protect myself."

It is difficult enough for teachers and students to work together under the pressure of racial tension, political discord, and budgetary uncertainty. The fear engendered by shooting deaths only further disrupts the already undermined academic institutions. When guns are so plentiful that they are being found in significant numbers in high schools, is it not time for their restriction?

THE CASE FOR RESTRICTION OF AVAILABILITY OF HANDGUNS

Throughout this presentation I have attempted to make it clear that there is a direct connection between the rising incidence of violent crimes and most particularly ego-dystonic homicides and handguns. I focus on the handgun as one aspect of a chain reaction leading in death and various types of disability for our society. Those who dispute the connection and those who prefer to ignore the etiological role of the handgun often do with certain basic arguments.

Many say "Guns do not kill people: people kill people." This is quite true. It will possibly always be true that some people will kill other people. Man's history shows that homicide has been with us for a long time. Only a self deluding moralist could expect to completely end all human misconduct. It is of course worthwhile to build a stable and safe society and to embark upon ambitious programs for social welfare. But we can not change human nature overnight nor possibly in eternity. What we can attempt to do is lessen the risk, decrease the danger, control those factors which incite to violence. In ego-dystonic homicide in particular the handgun plays an inflammatory role far beyond what one could expect. And there is no doubt in my mind that if there were fewer handguns there would be fewer household gun deaths.

The experience in Detroit offers a clear example of the relationship between homicide and the availability of weapons. Until 1967 the Detroit homicide rate was less than 100. At that point racial riots and citywide tensions stimulated a vicious cycle of Americans arming themselves against other Americans. Hand-

gun sales tripled. Within seven years the homicide rate increased sevenfold. As Dr. Tanay in a presentation before the Senate Judiciary Committee in 1973 pointed out "It is unlikely that within five years the human nature of the citizens of Detroit had changed. It is improbable that social conditions were altered. There was no sudden influx of criminals. The fact is that the perpetrators and the victims of these homicides are still the same people who know each other, who love each other ambivalently and explode in a moment of tension." More handguns in Detroit soon led to more household homicides.

Opponents of some form of gun control also are fond of saying that "when guns are outlawed only the outlaws will have guns." There might be something far more desirable in that situation than we realize. But the police would also have guns. And if we can make it difficult for criminals to get guns while making it easy for the police to use theirs, a more favorable situation could result. Can we allow criminals free access to guns any longer?

Conclusion. The primary etiologic role of the handgun in the commission of homicide has been reviewed. The danger to the individual citizen, the police officer, the homeowner, the political leader, the school student has been described. Data regarding involuntary dissociative homicide has been presented and factors related to violence proneness reviewed. It is clear that the complex intra-psychic interpersonal and sociocultural factors which foster violence can not be easily modified. The handgun is a key instrument in gun deaths and it is logical to direct efforts at preventing gun deaths by preventing free use and circulation of guns. Our legislative leaders must now grapple with this very thorny issue. Our civilization will require a sensible and creative solution. We can not afford the increasing incidence of death and fear which gun crimes foster.

REFERENCES

1. AMERICAN PSYCHIATRIC ASSOCIATION: "Task Force Report on Homicide and Gun Control," May 1970, Washington, D.C.
2. BLACKMAN, N. et al: "The Sudden Murderer," Arch Gen Psych 8:101, 1963.
3. BENDER, L.: "Children and Adolescents Who Have Killed," Am J. Psych. 116:510, 1960.
4. CHODOFF, P.: Editorial: Medical Annals of the Medical Society of the District of Columbia 41-3, March, 1972.
5. EDWARDS, Judge George: "Murder and Gun Control," American Journal of Psychiatry, 128:7, January 1972.
6. FEDERAL BUREAU OF INVESTIGATION: "Uniform Crime Reports for 1968-1970," U.S. Government Printing Office, Washington, D.C.
7. LANGBERG, B.: Homicide in the United States, USPHS Vital Health Statistics Series 20 #6 National Center for Health Studies, USPHS DHEW U.S. Government Printing Office, Washington, D.C.
8. LION, J.: "Violent Patients in the Emergency Room," Amer. J. Psych. 125:12, 1969.
9. NATIONAL COMMISSION ON CAUSES AND PREVENTION OF VIOLENCE: "Firearms and Violence in American Life," U.S. Government Printing Office, Washington, D.C.
10. PASTERNAK, S. A.: "Evaluation of Dangerous Behavior of Active Duty Servicemen," Military Medicine 136:2 p. 110, February, 1971.
11. PASTERNAK, S. A.: "Violence and Victims," an anthology. Spectrum Publications, N.Y., 1973.
12. RAPEPORT, J. R.: "A Critical Evaluation of Dangerous of Mentally III" Charles C. Thomas, Springfield, Ill., 1967.
13. TANAY, E.: "Psychiatric Aspects of Homicide Prevention," Am. J. of Psych., 123:7, Jan. 1972.
14. "The Doctor as a Patient," Medical World News 13:56065 Feb. 18, 1972.
15. "More Muscle in the Fight to Stop Violence in Schools," U.S. News and World Report April 16, 1973, p. 113.
16. WOLFGANG: "Victim Precipitated Criminal Homicide," J. Crim. Law C. & P.-S. 48:1-11 (1957).

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EVALUATION OF DANGEROUS BEHAVIOR OF ACTIVE DUTY SERVICEMEN

(By LCDR Stefan A. Pasternack, MC, USNR)

Military personnel referred for psychiatric hospitalization because they threaten or actually commit acts of violence constitute a special evaluation and treatment problem. The military psychiatrist is responsible not only for helping the patient but also for protecting the military and civilian communities against potentially dangerous individuals. Numerous reports indicate the increasing frequency with which patients whose mental illnesses involve dangerous behavior are seeking and receiving psychiatric attention.^{12, 20, 21}

A review of patients admitted to the Enlisted Men's Division, Department of Psychiatry, Naval Hospital, Bethesda, Maryland during the period 1 June 1969 to 1 April 1970 revealed 34 cases in which the issue of dangerous behavior was the primary reason for hospitalization. This paper is a preliminary report of such cases. A broad variety of cases was encountered from both combat and non-combat zones. Comments regarding the evaluation of dangerous behavior are offered.

VIOLENT BEHAVIOR OF SERVICEMEN IN VIETNAM

Twenty-two patients were admitted after they attacked their fellow marines while on duty in the Republic of Vietnam. Typical cases were the following:

Case 1.—A 22 year old SGT/USMC with three years of active duty was admitted after he beat a private for doing sloppy work and placed a loaded revolver to the man's head, threatening to shoot him. The patient had recently become enraged at his staff sergeant, who reminded him of his alcoholic father. The patient became obsessed with the idea of killing his staff sergeant and displaced his anger by "shooting first and asking questions later while on patrol." When reprimanded by his staff sergeant for field activities, the patient lost his temper. He subsequently attacked an enlisted man in his platoon. Mental examination revealed a paranoid man who described gruesome combat experiences. He was fascinated with death and violence and had morbid and sadistic battle fantasies. He was delusional and feared losing control. He thought he had "become a monster."

Case 2.—A 22 year old PFC/USMC with 2½ years of active duty returned from rest and recreation in an irritable and unpredictable mood. He had been sexually promiscuous and had smoked hashish excessively during his leave. Upon return he feared that his platoon mates were accusing him of homosexual tendencies. He began to fight with them. He suddenly assaulted one man, the "leader" of his imaginary accusers, with intent to kill. When restrained, he went "berserk." Mental examination revealed an acutely paranoid man with extreme hostility and fears of homosexuality. He was overtly paranoid and feared "exploding."

Case 3.—A 24 year old SGT/USMC with five years of active service was admitted after he climbed a bunker and set himself in position to "wipe out the compound." Although he subsequently turned himself in without inflicting injury, he had recently fought with Vietnamese allies and attacked his staff sergeant with a knife. Mental examination revealed an anxious, fatigued man who railed bitterly against the "gooks" and his superior noncommissioned officers for "pushing" him too hard. He felt he was on the verge of "going wild," but held on precariously.

There were a number of common features among these enlisted men who attacked their comrades in arms. They were all serving in the combat zone and feared bodily injury. Several had prolonged combat experience with hand to hand fighting. Two of them had served two or more tours of combat duty. Seven of them had abused hashish heavily, and were under the drug influence at the time of loss of control over their aggressive impulses. A number of them expressed hatred for their Vietnam allies whom they categorized as "inferior." A study of their longitudinal histories revealed chaotic family backgrounds with parental alcoholism, mental illness, or criminality in many cases. Their parents were seen as severely punitive and, in a number of cases, as overtly cruel and brutal. The patients had been poor students, and had impulsively dropped out of school to enlist in military service. They were socially inept, lacked self-confidence and sought to prove their masculinity by combat service. They rigidly defended themselves against their self-doubts by projection, denial and reaction formation. They utilized brittle pseudo-masculine defenses which crumbled under moderate stress, often giving way to some psychotic reaction. They were highly ambivalent about women, and were either sexually promiscuous or fearful of homosexuality. They took major offense at minor insult and were unable to adequately articulate their feelings. They sought tension release by drinking, drug abuse, sexual activity, or combat. When finally unable to achieve sufficient motoric discharge, their tenuous equilibrium was shattered by sudden violence. Twelve of the patients "went berserk" fighting and attacking others wildly. It was through habit alone that they did not inflict serious injury on others and through chance alone that they themselves were not killed by the persons they attacked. A number

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their victims required medical treatment for lacerations and abrasions. Upon resolution of their acute psychotic reactions, severe characterological pathology was found.

VIOLENT BEHAVIOR AMONG SERVICEMEN IN THE UNITED STATES

Five cases of violent behavior among active duty servicemen stationed in the United States were encountered. Three of these men had no combat service.

Case 4.—A 22 year old AN/USN with 18 months of active duty was admitted after he was found strangling his son while the infant was crying in his crib. Mental examination revealed a paranoid man who protested his son's crying and was confused. He claimed amnesia for immediate events and was in the throes of an acute dissociative episode.

Case 5.—A 21 year old CPL/USMC with three years of duty and no combat service was admitted after he came to the emergency room claiming he would kill his pregnant wife. He had thrown a knife at her earlier, intending to injure her, and feared he would destroy her in order to kill his unborn child. Mental examination revealed an anxious man with flat affect. He was depressed, over-controlled and inhibited.

These cases illustrate the more frequent pattern of violent acts against persons intimately known to the attacker. Of the 13,650 homicides in the United States in 1968, over 25 per cent involved killings within the family. Forty per cent involved "friends."^{7, 21} The recent increase in the homicide rate and the occurrence of homicide in private homes have been beyond the means of police control or intervention. This phenomenon highlights the need for recognition of premonitory signs of impending violent behavior. In this regard, a frequently encountered situation with potential for violence is the chronically unstable marriage of alcoholic spouses, whose relationship is primarily a sado-masochistic one. Their mutual threats and injuries, traded back and forth in spiraling fashion, often provokes one of them to violence. In one series, it was shown that in 26 per cent of the 588 cases studied the victim of criminal homicide had been the first to show and threaten with a deadly weapon.²⁰ While there has been considerable public controversy about the impact of combat experience on a person's aggressivity and control mechanisms, no studies have shown an increased occurrence of homicidal behavior by combat experienced persons. Further investigation into this area is planned.

THREATS TO KILL

Seven patients who had recently returned from Vietnam, having completed their tours of duty, were hospitalized because of fear of loss of control but had not attacked anyone.

Case 6.—A 20 year old CPL/USMC with 2½ years of active duty came to the emergency room seeking help, because he feared killing civilians. He was acutely disturbed upon return to the United States to find that his family was not interested in him and that "no one really cared." He resented his combat service, since "everyone lived it up here while I rotted in the jungle." He had fought with anti-war protesters when stationed in Washington, D.C. He was shocked by their accusations that he was a "baby killer." He had been a tank driver in Vietnam and, on one occasion while driving his tank to escape from an enemy ambush, he had driven through an area of huts; he feared having caused civilian injuries. Mental examination revealed an angry, embittered man who was depressed with flattened affect. He expressed feelings of loneliness and desperation, and feared "getting even with the hippies."

Such patients who had not attacked others but feared loss of control differed from those who had actually assaulted others. While further investigation is required, the following pattern seems identifiable:

They were in general schizoid persons who had few friends and related poorly to others. Their perceptual processes were easily distorted and they were intensely narcissistic. They were, however, capable of delaying action in order to reflect and had some ability to weigh alternatives. They had looked forward to military service as a means of achieving prestige and self-respect. They were industrious during basic training and had served well overseas. They handled their fears of injury by denial and death-defying behavior. Upon return to the United States, they soon had difficulty adapting to the tight discipline of garrison life. They began to drink to excess, and soon encountered punishment for various minor infractions. They were confused by the anti-war movement and felt that the protestors were the ones who should be punished, not they, who had "done their service." They felt rejected and betrayed by the society they had risked

their lives to defend. This rejection-betrayal mood re-awakened repressed feelings of earlier experiences of rejection and triggered their explosive violent drives. Their overstressed ego defenses could barely contain their sudden flow of violent impulses.

This occurrence of events can be defined as the CONUS COMPLEX (CONUS refers to Continental United States). It can be conceptually related to the earlier handling of Oedipal drives and conflicts and sense of maternal rejection. A study of family histories revealed a fragmented family structure, in which they had been deprived and unsupervised. Their mothers were seen as "rejecting," and their fathers as disinterested.

This experience with patients whose potential for violence resulted in their hospitalization prompted my effort to compile a Checklist of Factors for the Evaluation of the Dangerous of the Mentally Ill, and to construct a profile of the assaultive state of mind (Table I). It is not possible to predict, before the fact, the occurrence of a single act of dangerous behavior with any degree of accuracy. However, the study of a patient's past life and current situation, when properly evaluated, may point out the possibility of impending violence. That this preventive thinking needs to be done is attested by the fact that a majority of murderers in one study had had recent contact with their physicians before their violent deeds.^{25, 26} More effort to identify a violence-prone patient or a violence-instigating situation is urgently needed.

TABLE I.—A CHECKLIST OF FACTORS IN THE EVALUATION OF THE DANGEROUSNESS OF THE MENTALLY ILL

I. CHILDHOOD FACTORS

- a. History of parental brutality with brutal beatings. This may be in the form of excessive punishment, violent reprisals for mistakes.
- b. Parental seduction.
- c. Organic brain damage with abnormal EEG.
- d. Childhood schizophrenia.
- e. Preoccupation with death and killing.
- f. Compulsive fire setting.
- g. Cruelty to animals, sadism, torture of "pets" (If any, was there any parental punishment!).
- h. Enuresis.
- i. School and learning difficulties.
- j. Personal experience with violent death.
- k. Family instability, criminality, mental disorder and poverty.
- l. Erratic control over violent impulses.
- m. Chromosomal abnormalities.

II. PERSONALITY STYLES, PERSONALITY DYNAMICS

- a. General sense of inadequacy and fear of failure.
- b. Intense ambivalence with tendency towards projection.
- c. Lack of social ability with schizoid tendencies.
- d. Poor impulse control—poor ego delaying mechanisms.
- e. Difficulty utilizing leisure time pleasurably.
- f. Sado-masochistic relationships with frequent frictional encounters between roommates, lovers, spouses, relatives, etc.
- g. Prevalence of primary process over secondary process.
- h. Faulty reality testing.
- i. Easily and irrationally triggered violence.
- j. "Potential readiness" to strike out at others, based on need, wish to injure figure from the past (murder transference).
- k. "Fugue" states, blurred consciousness.

III. MISCELLANEOUS FACTORS

1. Coaspcuous accounts of fist fights, violent acting out.
2. Peachant for guns and knives.
3. History of alcoholism.
4. Unusual tattoos with violent themes.
5. Drug abuse.
6. Police arrests, prior episodes of violent behavior.
7. History of attempted suicide (inversely related to homicide).

Any person, appropriately stressed can commit violence. Violent behavior has been reported in a wide variety of clinical syndromes and due to a variety of dynamic motivations.^{3, 10, 12, 13-18, 23, 29-32, 37} The violence-prone person, in published reports and the clinical experience described, emerges as someone with few remaining utilizable defenses against his inner anxiety, tension and aggressivity. He is in a heightened state of arousal; he is action prone; he is easily triggered. He is disturbed by fears of inadequacy, self-doubts and fear of failure. He may be intensely ego-centric, but sees himself as being victimized by more powerful others, whom he needs to defeat. He has rigid overly controlling defenses and strongly overdetermined inhibitions, which yield under pressure to hyperactivity and irrational behavior. He may be acutely flooded with violent impulse, sadistic fantasies and act impulsively.^{30, 35, 36, 38, 40}

A host of factors have been found in the backgrounds of persons who commit violence as a means of solving their life problems. Loretta Bender describes: organic brain damage with EEG abnormality; history of childhood schizophrenia; preoccupations with death and killing; fire-setting; learning difficulties and school retardation; personal experience with violent death.¹ Others have implicated the triad of fire setting; enuresis; cruelty to animals, as clues to violent personality.^{22, 24, 25, 35} A number of studies emphasize these background factors among those who have killed: intense ambivalence with tendency to project; impending personality disorganization; lack of social abilities with schizoid tendencies; difficulty in pleasurable utilizing free time; sado-masochistic relationships with frequent frictional encounters with spouses, friends; prevalence of primary process over secondary process thinking; poor ego boundaries.^{11, 14, 15, 17, 19, 20, 26}

Of further importance in assessing the capacity to kill were: history of arrest for violence and previous homicide; penchant for guns and weapons; potential readiness to injure, symbolically, a past figure who was feared and hated; blurring of consciousness with head injury; epileptic states.^{6, 10, 20, 23-27, 31, 40} Others have noted the usefulness of tattoos in detecting latent hostility. Tattoos of body parts and weapons and violent sex scenes may indicate the presence of intense sadistic and aggressive drives. Sayings such as "born to kill," "death before dishonor," show an intense fear of death and castration anxiety, as well as a display of bravado.^{2, 11, 37, 38} The abuse of various drugs has been recently implicated in murder. Alcoholic abuse has been reported in 40 per cent of all homicidal deaths.^{2, 6, 7}

Among the problems of recognition, perhaps the greatest is the physician's own degree of denial. Many doctors are reluctant to diagnose someone as a potential murderer. The lack of details of assaultive behavior has been noted in case histories. The substitution of vague reports of hostility is taken to indicate some denial of a patient's aggressivity. Physicians who tend to direct their own aggressive impulses outwardly often cannot see the dangerousness of their own patients. One must first be comfortable with one's own aggressive drives and fantasies, and, since dealing with such patients may be a "risky" business, counter-transference problems must be expected and dealt with.²¹

The question of legal responsibility and the possibility of future courtroom litigation, should a potentially violent person damage an innocent victim, has also been raised and needs further investigation.

Violence is a compelling national social problem. What occurs within our society at large has eventually become manifest within the military establishment. The rise of racial tensions in society was followed by outbursts of racial violence on military bases. The occurrence of severe drug problems in society was soon followed by a significant drug abuse problem among active duty personnel. I note with concern the allegations of brutal, sadistic behavior on the part of active duty servicemen in Vietnam, and question its relationship to the phenomena of assassination, racial violence, political strife, and student unrest within the society at large. Military physicians and psychiatrists have the responsibility for preserving the mental health of active duty personnel. The detection and control of inappropriate violent behavior is now a problem within the military as much as it is within society at large.

SUMMARY

Records of patients referred for psychiatric hospitalization at the Naval Hospital, Bethesda, Maryland, because of the threat to commit, or the commission of, acts of violence, were reviewed. Considerable diversity among the cases was noted, but some patterns were identified. Comments regarding the characteristics of violence-prone persons are offered.

REFERENCES

- ¹ Bender, L.: Children and Adolescents Who Have Killed. *Amer. J. Psych.*, 116:510, 1959.
- ² Bensing, R. et al: Homicide in an Urban Community. Springfield, Ill.: Chas. C. Thomas, 1960.
- ³ Capote, T.: *In Cold Blood*. Random House, New York, 1965.
- ⁴ Casey, M.: Sex Chromosome Abnormalities in Hospitals for Patients Requiring Special Security. *Nature*, 209:642, 1966.
- ⁵ Chapman, A.: Obsessions of Infanticide. *Arch. Gen. Psychiat.*, 1:12, 1959.
- ⁶ Duncan, G. et al: Etiological Factors in First Degree Murder. *J.A.M.A.*, 168:1755, 1958.
- ⁷ Federal Bureau of Investigation. Uniform Crime Report for 1965. Washington, D.C.
- ⁸ Fenton, G.: Homicide, Temporal Lobe Epilepsy and Depression. *Brit. J. Psychiat.*, 111:304, 1965.
- ⁹ Gibbs, E.: EEG Evidence of Thalamic and Hypothalamic Epilepsy. *Neurology*, 1:136, 1951.
- ¹⁰ Gillies, H.: Murder in the West of Scotland. *Brit. J. Psychiat.*, 111:1088, 1965.
- ¹¹ Halleck, S.: *Psychiatry and the Dilemmas of Crime*. Harper Co., New York, 1967.
- ¹² ———: Psychiatric Management of Dangerous Behavior. *Amer. J. Psychiat.*, 124:3, 1967.
- ¹³ Henry, A. F. and Short, J. F., Jr.: *Suicide and Homicide*. Free Press, Illinois, 1954.
- ¹⁴ Karpman, B.: A Psychoanalytical Study of a Case of Murder. *Psychoan. Rev.*, 38:139 and 245, 1951.
- ¹⁵ Hudegens, E.: Murder by a Manic Depressive. *Int. J. Neuropsychiat.*, 1965.
- ¹⁶ Kozol, H. L., et al: The Criminally Dangerous Sex Offender. *New Eng. J. Med.*, 275:79, 1966.
- ¹⁷ Lanzkron, J.: "Murder and Insanity." *Amer. J. Psychiat.*, 119:954, 1963.
- ¹⁸ Lanzkron, J.: Murder as a Reaction to Paranoid Delusions. *Amer. J. Psychiat.*, 118:426, 1961.
- ¹⁹ Lehrman, P.: Some Unconscious Determinants in Homicide. *Psychiat. Quart.*, 13:605, 1939.
- ²⁰ Lion, J. et al: Violent Patients in the Emergency Room. *Amer. J. Psychiat.*, 125:12, 1969.
- ²¹ McDonald, J. M.: *Homicidal Threats*. Chas. C. Thomas, Springfield, Ill., 1969.
- ²² Mead, M.: Cultural Factors in the Cause and Prevention of Pathologic Homicide. *Bull. Menninger Clinic*, Vol. 28, 1964.
- ²³ Meyerson, A. T.: Amnesia for Homicide (Pedicide). *Arch. Gen. Psychiat.*, 14:509, 1966.
- ²⁴ Michaels, J.: Enuresis in Murderous Children. *Arch. Gen. Psychiat.*, 5:490, 1961.
- ²⁵ Podolsky, E.: The Diseased Brain and Homicide. *J. Nerv. Ment. Dis.*, 124:621, 1956.
- ²⁶ ———: The Electrophysiology of Homicide. *Dis. Nerv. Syst.*, 23:14—6, 1962.
- ²⁷ Hill, D. and Pond, D. A.: Reflections on One Hundred Capital Cases Submitted to Electroencephalography. *J. Ment. Sci.*, 93, 23, 1952.
- ²⁸ Ranpeport, J. R.: A Critical Evaluation of the Dangerousness of the Mentally Ill. Chas. C. Thomas, Springfield, Ill., 1967.
- ²⁹ Reichard, S. and Tillman, C.: Murder and Suicide as Defenses Against Schizophrenic Psychosis. *J. Clin. Psychopath.*, 11:149, 1950.
- ³⁰ Satten, J. and Menninger, K.: Murder Without Apparent Motive. *Amer. J. Psychiat.*, 117:48, 1960.
- ³¹ Stafford-Clarke, D. and Taylor, F. H.: Clinical and Electroencephalographic Studies in Prisoners Charged with Murder. *J. Neurol. Neurosurg. Psychiat.*, 12, 325, 1949.
- ³² Tutent, W.: Murdering Mothers. *Amer. J. Psychiat.*, 116:447, 1959.
- ³³ Varma, L.: Murder and Mental Disorder. *Amer. J. Psychiat.*, 122:1206, 1966.
- ³⁴ Walker, E.: Murder or Epilepsy. *J. Nerv. Ment. Dis.*, 133:430, 1961.
- ³⁵ Weiss, J. M. A. et al: The Sudden Murder. *Arch. Gen. Psychiat.*, 2:669, 1960.
- ³⁶ Blackman, N. et al: The Sudden Murderer. *Arch. Gen. Psychiat.*, 5:101, 1963.
- ³⁷ Wertham, F.: *Dark Legend*. New York, 1947.
- ³⁸ ———: *A Sign for Cain*. Macmillan Co., New York, 1967.
- ³⁹ Wolfgang, G.: *Patterns in Criminal Homicide*. Philadelphia, Univ. of Pennsylvania, 1958.
- ⁴⁰ Woods, S.: Adolescent Violence and Homicide. *Arch. Gen. Psychiat.*, 5:529, 1961.

COUNTERTRANSFERENCE REACTIONS TO VIOLENT PATIENTS

(By John R. Lion, M.D., and Stefan A. Pasternack, M.D.¹)

Treating violent patients can evoke countertransference reactions of fear and anger in therapists that may interfere with effective management. The authors present six case reports in which countertransference reactions deleteriously affected the treatment outcome. They stress the importance of the physician's being aware of his fear and of how this fear may distort, by projection, his view of the patient as being dangerous.

In previous work we have described the clinical features of patients who appear in emergency room and clinic settings with complaints relating to assaultive and destructive urges (1-4). In the course of treating and supervising the therapy

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of such patients, we have noted recurring countertransference reactions that interfere with their evaluation and management. We describe here the nature of these reactions, using the term "countertransference" to mean any emotional reaction that the clinician has toward the patient (5).

Probably no group of patients evoke as many anxieties in the clinician as those who relate such violent urges as the fear of running amok and of killing someone or those who describe patricidal or infanticidal impulses. While the suicidal patient's aggressive urges have not yet transcended his personal boundaries, the violent patient—particularly if he has been violent in the past—is an individual who may hurt someone besides himself. In the back of the clinician's mind is the possibility that the patient may turn his aggressive urges on his therapist if the latter does not fulfill the patient's therapeutic expectations. The clinician may also fear that his patient will develop a pathological distortion of therapy; stories about the paranoid patient who kills his psychiatrist are commonly fantasized.

It is therapeutic wisdom for the therapist to have some anxiety about treating a violent patient. In the case of a paranoid patient, for example, concern for the development of a dangerous psychotic transference should continuously propel the therapist to carefully monitor the relationship with the patient. However, while hazards exist in treating the violent patient, we have observed that anxiety concerning the patient's dangerousness often gets out of hand.

CASE REPORTS

Case 1.—A prisoner convicted of assault was transferred to the psychiatric unit of a hospital because of suspicious behavior. He was evaluated by a staff psychiatrist, who found that he was not psychotic but that he did have definite paranoid traits. The patient blamed all of his difficulties on the police and prison authorities. He was negativistic and hostile and spoke of physical force as a solution to emotional problems. Interviews with him were difficult, and his psychiatrist emerged from a particularly frustrating session with marked anxiety and an irrational fear that the patient, who still had a one-year sentence to serve, would try to ambush him at home and kill him. In a discussion with a colleague he came to the realization that he was furious at the patient and actually had the desire to physically strike him. As he came to grips with these feelings, the fear of harm subsided, and eventually a more positive relationship prevailed during the remainder of treatment.

In this case the therapist did not have easy access to his angry feelings and became irritated because the patient continually projected all of his difficulties onto the environment and evaded introspection. This is particularly likely to be the case with paranoid patients. Patients who act out extensively, such as those with severe character disorders, also produce the same feelings in physicians. Although the acting out may be dynamically understood by the physician, he may still feel anger and helplessness in controlling an individual who translates affective issues into destructive behavior—behavior that the therapist may feel reflects badly on his therapeutic abilities. Anger and helplessness seem to us to be the basis for another not-uncommon fantasy expressed by therapists: that their patients will do something terrible (e.g., commit a mass murder) and that they, the therapists, will then be held liable. Such fantasies, of course, always require the most serious and urgent consideration as to their basis in fact. Yet we have observed that this particular fantasy often derives from a feeling of anger and helplessness which the physician has toward his patient. This helplessness is projected onto the patient, and he is perceived as an individual capable of doing immense harm. In case report 1, anger led to the physician's fearing personal harm even though no threat had been made.

Helplessness may also be evoked in the physician by the fact that the patient is potentially dangerous. This helplessness is apt to be handled defensively, as the following case report illustrates.

Case 2.—A 36-year-old man was admitted to the hospital in a state of delirium tremens and was treated by a first-year resident psychiatrist. As he improved he was allowed a special pass to leave the hospital. He returned from leave one night with a loaded revolver.

Apparently he had brought back a bulky package and had handed it in with his other personal belongings. When the package was submitted to routine inspec-

tion the weapon was discovered. The patient readily admitted that it was his gun and that he had brought it to the hospital for "safe keeping." The resident hastened to the ward to discharge the patient because "those who bring guns to the hospital obviously do not belong here." He resisted understanding the meaning of the man's behavior. He ignored the fact that the patient could have kept the weapon concealed and that his turning it in to the hospital reflected an underlying conflict.

When instructed by staff supervisors to retain the patient in order to further investigate this conflict the resident refused. He persisted in his wish "to be rid of the derelict." Only the threat of suspension made the resident alter his stance. It was subsequently learned that only six weeks before the man had been released from prison because of armed robbery. He had been approached by his friends to take part in a new holdup but had turned his weapon in to the hospital, hoping for protection. In discussion it became evident that the resident harbored a marked fear of the patient and of weapons. His insistence upon discharge was his means of dealing with his anxieties.

This case illustrates the physician's overreaction to the violent patient and the principle of denial. Denial is the most ubiquitous defense against anxiety generated by a violent patient. In its most common and most insidious form, it manifests itself in the clinician's failure to gather unflattering and anxiety-producing anamnestic data. Time and time again we have found it necessary to ask residents to inquire about patients' ownership of weapons and ammunition, their lethal skills, past criminal or violent acts, or driving habits. It has been our distinct impression that psychiatrists do not ask such questions, but defensively conceive of these queries as belonging more in the forensic realm than in the province of clinical psychiatry. The need to ask such questions has been stressed by Macdonald (6). In certain other instances the predominant emotional reaction to the violent patient has been anger or rejection of the patient as a "prison case," an "untreatable psychopath," or a "harmless drunk"—this despite the knowledge that drinking is implicated in a very large proportion of violent crimes and automobile fatalities.

The following case report is an interesting, although extreme, case of denial.

Case 3.—A 19-year-old college student barged into the office of his therapist armed with a .22 rifle. He fired, but the gun failed to discharge, and the student attempted to strangle his would-be victim. The therapist fought back enough to discourage his patient, who then wept. The patient called out for help and protested that once again he was the victim of racist plots that might destroy him. He begged for mercy. The therapist took the gun and gave it to his secretary. He then escorted the tall, heavy-set patient to the emergency room—a long walk over the hospital grounds and through a complex series of dark tunnels. Once there, he notified the emergency room clerk to summon the psychiatrist on call, since he wished to admit the patient to the hospital. He gave the clerk no information regarding the urgency of the request. The doctor then left the patient sitting alone in a room. Two hours later the psychiatrist on duty, who had still not been notified about the case, found the patient. The referring psychiatrist explained his approach, saying: "I did not want to influence your decision regarding the need to admit the patient."

This is a frightening case and an unusual one. The denial can well be understood in the fact of the crisis but is nonetheless glaring. An additional interesting fact about this case was that in therapy the resident overlooked the dangerous potential of the patient and focused instead on his earlier life conflicts, his mistreatment at the hands of cold and controlling parents, and his difficulties facing the vicissitudes of life. He avoided dealing with the negative aspect of the patient's psychotic ambivalence and hostilities until, at length, this omission was pointed out to him in supervision. Both the resident and his supervising therapist had made extreme attempts to form a positive therapeutic alliance with a patient they sensed to be dangerous.

To face the issue of dangerousness is very threatening to the physician, much as it is to face the seductiveness of a female patient; the therapist's human vulnerability emerges, and he must deal with his own strong emotions. Aggression is a subject that revives conflicts which the psychiatrist is apt to have about his own urges. It has long been our opinion that the psychiatrist is in closer dynamic harmony with suicide and the introjection of hostile urges than he is with the externalization of such impulses. Violence directed outwardly is apt to be

threatening. Events in the physician's life may be stirred up, as the next case report illustrates.

Case 4.—A hospital staff psychiatrist sought informal consultation because he was afraid of a patient. The patient, who had a severe character disorder, had difficulty with hostile urges and had verbalized a desire to shoot another person. The psychiatrist, although never threatened, expressed fears for his own safety. In the course of conversation the psychiatrist related that several weeks before, he had gone on a camping trip with his wife in the mountains. The couple stopped to look at the scenery. Another car drove up, and a man got out and engaged in conversation. He then abruptly drew a revolver, fired at the psychiatrist at point-blank range, but missed. The psychiatrist instinctively tackled the man, throwing him over a ledge. The couple then immediately raced off, encountering a state trooper who ordered an immediate search of the area. The man was eventually found; he had a broken limb and was discovered to be an escaped prisoner.

This case demonstrates the revival of an actual, past attempt on the physician's life; this memory led to a distortion of the patient's danger and interfered with a working relationship. In other cases we felt that the patient's patricidal or infanticidal impulses reawakened conflicts that the clinician himself had about similar impulses. This seemed to be the case when the therapist had ruminative, obsessive preoccupations about the dangerousness of the patient. Our speculation was, of course, difficult to prove in the course of supervision, since personal exploration is inappropriate in such settings. Ventilation, however, proved to be immensely useful and led to a more realistic appraisal of the patient. Fromm-Reichmann (7) has described a personal case in which she was irrationally afraid of a patient; consultation led to a therapeutic relationship unhampered by such emotions.

Patients on ward settings can generate negative countertransference reactions among nursing personnel (8). This happens most typically when the patient is agitated and exhibits motor restlessness or belligerence, together with flouting of ward rules and regulations; as a result, nursing staff members become alarmed and angry.

Case 5.—A 19-year-old college student with a long history of drug abuse was readmitted to the hospital in a state of toxic psychosis. He was unkempt, incoherent, agitated, and menacing. A well-developed, muscular young man, he acted bizarrely and unpredictably reached out for those who passed by him. During patient group meetings, he would pace nervously and suddenly thrust his face close to the face of another. At times he shouted wildly and refused to obey instructions. He talked of wishing to kill his father for being "a bastard." The patients decided to exclude him from the group meeting. Staff members reacted to the fears of the patients and gave the patient increasing amounts of medication. The patient was also placed in seclusion where he became violent and banged on the walls. This behavior generated even more anxiety, and more repressive measures were taken.

In viewing the situation with ward personnel, it became apparent that the patient had responded to verbal intercession in the past, although persistent efforts were indeed required in this direction. Because of frustration and fear, necessary attempts to talk with the patient had been abruptly abandoned in favor of seclusion and isolation. When attempts were again made to talk with the patient about his anger, he responded positively, and the other measures were not needed.

This case points out how a patient's dangerousness can become exaggerated by the very measures that are prematurely instituted to control him. The staff members withdrew from interacting with the patient and handled him punitively. This intensified a bad situation, since it removed the patient from therapeutic human contact and worsened his alienation. Since patients with aggressive urges fear losing control of such urges, they become even more agitated when they sense that everyone is afraid of them. In the situation described here, ventilation of the staff members' frustration with and fear of the patient led to a reduction in their perception of him as threatening.

Identification with an aggressive patient can occur in ward settings.

Case 6.—A 26-year-old soldier was hospitalized because of bizarre, violent behavior. It was learned that he was a former boxer and professional football player, with a long record of violent outbursts for which he had been hospitalized. He was a powerfully built man who projected an aura of dangerousness. His

arrival on the ward caused great concern among the staff. All of them wished to know what to do in case he "went wild," since they feared that no one could restrain him.

Within several days an interesting reaction was noticed. Some nursing staff members began to supply him with cigars; several of the patients and staff members began to imitate his mannerisms, and his colloquialisms became widespread among certain male patients. Weight lifting became a fad on the ward, and a number of younger staff members and patients were soon participating in physical exercises with this patient, who regularly performed his own. Within several weeks the patient was elected to a leading ward government position. These events had a beneficial effect on the patient, who seemed transformed into a well-liked individual.

One night, however, when aroused from bed by a policeman who had come to investigate a recent act of violence, the patient became enraged and threatened to kill "the goddamn cop." He was on the verge of losing control and of violently attacking his accuser when patients and staff approached him and assiduously encouraged him to contain himself. He ranted and raved and broke a chair but did not attack his accuser. This explosive incident exposed his deep-seated problems and his barely submerged potential for violence, issues that had not come to light until then.

More subtle variations of identification are occasionally noted on ward settings. Staff and patients, as well, may take a special interest in the patient, find him "charming" or "interesting," and listen avidly to his accounts of past antisocial acts without coming to grips with and challenging the patient's aggressive propensities.

Patients who experience violent impulses desperately want help in curbing such urges (2, 3). Violent patients are terrified of losing control and welcome therapeutic efforts that restore a sense of control and prevent them from acting on their urges. To this extent the therapist must explore all avenues of aggression with the patient and squarely face issues of destructiveness, pointing out to the patient that the goal of this exploration is to prevent the very aggression that disturbs him. The physician must be aware of his own fear of and anger at the patient and of the effect these feelings may have in distorting the dangerousness of the patient via projection. The therapist must be careful not to reject the patient or to forget to inquire about situations that could result in the patient's becoming violent. Finally, the clinician must be aware of the emotions evoked in nursing staff by violent patients and the role these emotions play in complicating management of an already problematic group of individuals.

REFERENCES

1. Bach-y-Rita G, Llon JR, Climent C, et al: Episodic dyscontrol: a study of 130 violent patients. *Am J Psychiatry* 127:1473-1478, 1971.
2. Llon JR: Evaluation and Management of the Violent Patient. Springfield, Ill, Charles C Thomas, 1972.
3. Llon JR, Bach-y-Rita G, Ervin FR: Violent patients in the emergency room. *Am J Psychiatry* 125:1706-1711, 1969.
4. Pasternak SA: Evaluation of dangerous behavior of active duty servicemen. *Milit Med* 136:110-113, 1971.
5. Colby KM: *A Primer for Psychotherapists*. New York, Ronald Press, 1951.
6. Macdonald JM: The prompt diagnosis of psychopathic personality. *Am J Psychiatry* 122 (June suppl):45-50, 1966.
7. Fromm-Reichmann F: *Principles of Intensive Psychotherapy*. Chicago, University of Chicago Press, 1952.
8. Schwartz MS, Shockey EL: *The Nurse and the Mental Patient: A Study in Interpersonal Relations*. New York, Russell Sage Foundation, 1956.

Mr. CONYERS. On that note the subcommittee stands adjourned.

[Whereupon at 12:10 p.m., the subcommittee adjourned, subject to the call of the Chair.]

FIREARMS LEGISLATION

THURSDAY, MARCH 20, 1975

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

The subcommittee met, pursuant to notice, at 10:02 a.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, Danielson, Hughes, McClory, and Ashbrook.

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

Mr. CONYERS. This morning, the subcommittee on crime begins the second—and, in my judgment, the most critical—phase of its study of the relationship between the proliferation of civilian ownership of handguns and the alarming escalation in the commission of violent crimes throughout our Nation.

Thus far, we have taken testimony from our colleagues in the Congress who have responded legislatively to this problem; we have heard law enforcement experts from major urban areas describe the dimensions of it and what in their judgments should be done about it; we have listened to a student of human behavior give us his profession's interpretation of the role the handgun plays in modern American life.

We have not heard the last word from any of these quarters, I am sure, nor will their thoughts be expressed totally within these walls. Subject to the limits of time and the consent of the members of this subcommittee, it is my intention to hear the voices that come from every region in this country where crime and handguns affect the quality of life.

Today, we undertake an analysis of the effectiveness of the Gun Control Act of 1968 in its aim "to assist Federal, State, and local officers in their fight against crime and violence." This law, in effect now for 6½ years, has been criticized as ineffective by those on both sides of this issue. Has it been ineffective? If so, why? Is it faulty in its intent, or is its intended scope unclear? If not, have its provisions been enforced, to the letter, or has the commitment of support and resources been inadequate to encourage, or even permit, such enforcement? These are questions that arose practically after the act became operative and for which answers have never been sought diligently by the Congress.

Let me caution all of you here that the purpose of this inquiry is not to affix guilt: we seek facts not so much to determine past responsibility as much as to responsibly support a future judgment. Despite the immediacy of the problem we face, we must constantly remind ourselves that the solution is not easy to find.

Helping us to make such a beginning this morning is Rex D. Davis, Director of the Bureau of Alcohol, Tobacco and Firearms, the agency within the Department of the Treasury charged with enforcing the Gun Control Act. Director Davis brings a distinguished record of career law enforcement service to us this morning. A native of Oklahoma, Mr. Davis received his law degree from the University of Oklahoma and joined what was then the Division of Alcohol, Tobacco and Firearms within the Internal Revenue Service in 1949, beginning his tenure with them as a special agent. Mr. Davis authored "Federal Searches and Seizures" in 1964, and did graduate work at the Woodrow Wilson School of Foreign Affairs during 1965-66. After serving as Assistant Regional Commissioner from 1966 until 1971, Mr. Davis was appointed acting Director of the Division in that year and, when ATF became an independent Bureau in 1972, he became permanent director.

Director Davis, we welcome you this morning and those of your staff that have accompanied you. We have your prepared statement which will be put in the record at this point; you may proceed in any way you choose. I know that you have a great deal to tell us, and I think it would be most appropriate that you use your own method and style in making your presentation before this subcommittee.

[The prepared statement of Rex D. Davis follows:]

STATEMENT OF REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, THE DEPARTMENT OF THE TREASURY

Mr. Chairman and members of the Committee, I am Rex D. Davis, Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury. I am here in response to your request to provide information on the Bureau's administration of the Gun Control Act of 1968. I am accompanied by Mr. William R. Thompson, Deputy Director; Mr. John F. Corbin, Jr., Assistant Director (Criminal Enforcement); Mr. Stephen E. Higgins, Assistant Director (Regulatory Enforcement); Mr. A. Atley Peterson, Assistant Director (Technical and Scientific Services); and Mr. Marvin J. Dessler, Chief Counsel Designate.

It is a pleasure to appear before this distinguished Committee to report on our administration of the Gun Control Act of 1968. With the Committee's permission, I would like to read a brief prepared statement which summarizes events leading to our appearance here today. Following that, I will present to the Committee such statistical data, explanations of special projects and discussions of novel approaches as will assist in a better understanding of our administration of the Act.

On August 29, 1941, the then Alcohol Tax Unit, a part of the Bureau of Internal Revenue, was given responsibility for enforcing the National Firearms Act and the Federal Firearms Act. The National Firearms Act, passed in 1934, was directed at so-called "gangster" weapons such as machine guns, sawed-off shotguns and rifles and certain other firearms. It involved the registration of these weapons, the taxing of those engaged in the business as dealers and manufacturers and the imposition transaction taxes. The effectiveness of this Act was severely limited by the Haynes decision handed down by the U.S. Supreme Court in 1968, by which decision the Court held that registration requirements then in effect violated the rights guaranteed by the Fifth Amendment of the U.S. Constitution. The Federal Firearms Act had never proven effective due to its many loopholes. Included among its deficiencies were the lack of dealer qualification criteria, the absence of a requirement for positive identification of purchasers and the opportunity for circumventing local laws by mail order.

In 1968 the Congress enacted the Gun Control Act of that year, Title I of the statute replaced the Federal Firearms Act and Title II replaced the National Firearms Act. Overall, the Gun Control Act significantly strengthened the Federal Government's control over commerce in firearms.

The administration of the Act presented some immediate problems. The Act, which became effective on October 22, 1968, provided for a thirty-day amnesty period beginning on November 1, 1968. During this period, individuals could register gangster type weapons and destructive devices with no questions asked. Within this period, for which we had eight days to prepare, we registered about 70,000 gangster type weapons and destructive devices.

The next pressing order of business was the licensing of manufacturers, dealers and importers under the provisions of the new law. In the eight months following the effective date of the law, we received 86,958 applications for licenses and expended 46,674 mandays in their processing. The effectiveness of our field checks of applicants was hampered by the fact that the law provided a license must be issued or denied within 45 days of the receipt of the application.

Another area presented an equally pressing problem. Prior to the Gun Control Act of 1968, the Office of Munitions Control, Department of State, had been responsible for issuing permits for the importation of firearms into the U.S. Under Executive Order 11432, effective October 22, 1968, this responsibility was transferred to ATF. When the Gun Control Act became law, we were immediately faced with taking action on over 5,000 applications for the importation of over 200,000 firearms. This situation was created by the fact that the Department of State had not processed import applications for several months in anticipation of Congressional action.

Finally, the Gun Control Act required the publication and issuance of industry regulations, preparation of internal guidelines and the development and conducting of training for employees.

In September of 1970, ATF was given responsibility for enforcing Title XI of the Organized Crime Control Act relating to the Federal regulation of explosives. Again, this involved the licensing of manufacturers, dealers and importers; the inspection of explosives magazines, the enforcement of criminal provisions, the issuance of internal instructions and the development of training programs.

On July 1, 1972, ATF was removed from the Internal Revenue Service and made a self-sustaining Bureau within the Department of the Treasury. Although this was a highly desirable development, it did involve numerous problems relating to the establishment of a self-sustaining organization.

One of the benefits of Bureau status was a greater freedom to devise more effective firearms policies and programs than was possible as a part of a much larger organization dedicated to income tax administration. Since 1972 we have instituted several special programs designed to learn more about the traffic in firearms, deny criminals access to guns and prosecute those persons who criminally misuse firearms.

At the conclusion of our testimony, Mr. Chairman, I believe you will find our administration of the Gun Control Act to be as effective as possible within the constraints imposed by time, resources and other responsibilities. Obviously, we have been governed by the provisions of the law and guided by the legislative intent behind it. For example, we are committed to the spirit of the preamble of the Gun Control Act and its stated purpose "to assist Federal, state and local officers in their fight against crime and violence." As a result, we have devoted a great deal of our effort to assisting state and local officers in the gun control area. This includes training, direct investigative support, firearms tracing and forensic science services.

At this point it may be useful to briefly review the major provisions of the various Federal statutes relating to firearms. The provisions of Title I of the Gun Control Act of 1968 set forth comprehensive and expanded restrictions on commercial and private transactions involving firearms and ammunition and on the transportation, shipment and receipt of these articles in interstate or foreign commerce. The scope of these provisions extends to firearms and ammunition of every nature, except antique weapons.

Among other things Title I:

- (1) Channels interstate and foreign commerce in firearms through federally licensed importers, manufacturers, and dealers—thereby prohibiting the commercial mail-order traffic in firearms;
- (2) Provides for a licensing system with meaningful standards so as to assure that licenses will be issued only to responsible persons actually engaged in busi-

ness as importers, manufacturers and dealers and provides a system for licensing collectors of curios and relics;

(3) Prohibits sales of firearms by Federal licenses to persons under 21 years of age, except that sales of rifles and shotguns can be made to persons at least 18 years of age;

(4) Permits a Federal licensee to sell a firearm only to persons who are residents of the State where the licensee is doing business, except in certain narrow circumstances;

(5) Prohibits sales of firearms by licensees when they know or have reasonable cause to believe that the purchaser is a convicted felon or under indictment for a felony, a fugitive from justice, a narcotics addict or user, or a person who has been adjudged mentally defective or who has been committed to a mental institution;

(6) Provides for more emphasis on the recordkeeping responsibilities of licensees and for authority to furnish record information to state and local law enforcement authorities;

(7) Prohibits a nonlicensee from transporting into or receiving in his state of residence a firearm purchased outside that state; and

(8) Curbs the flow into the United States of surplus military weapons and other firearms not suitable for sporting purposes.

Title II of the Gun Control Act of 1968 amended the National Firearms Act. Although retaining the basic statutory scheme of the original National Firearms Act, Title II amended that earlier statute in several significant respects. The prior statute encompassed machine guns, sawed-off and short-barreled shotguns and rifles, mufflers and silencers. While continuing to cover these weapons, the Title II amendments added machine gun frames and receivers, so-called "conversion kits" for turning other weapons into machine guns, and any combination of parts from which a machine gun can be assembled when in the possession of a single person. The single most significant extension of coverage was the inclusion of "destructive devices" within the definition of a firearm. This is broadly defined to include any explosive, incendiary or poisonous gas bomb, grenade, rocket with a propellant charge of at least four ounces, missile having an explosive or incendiary charge in excess of one quarter ounce, mine or similar device; and weapons with a bore of at least one-half inch, such as mortars, antitank guns and artillery pieces.

Title II also eliminated any element of self-incrimination. As you may recall on January 29, 1968, the Supreme Court held in *Haynes v. United States*, 390 U.S. 85, that the registration requirements of the Act were constitutionally unenforceable because it required registration almost exclusively by those in illegal possession of weapons and made this information available to prosecute such persons for illegal possession. Title II corrected this constitutional deficiency by extending the registration obligation to all possessors of the weapons—legitimate or otherwise—and by providing that registration information may not be used directly or indirectly to prosecute a natural person for an offense occurring prior to or concurrent with registration.

I will now briefly touch on the provisions of Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Title III of the Gun Control Act of 1968, which are codified in the criminal code (18 U.S.C. Appendix, Sections 1201-1203).

Title VII, as amended, makes it unlawful for certain persons to receive, possess, or transport in commerce or affecting commerce, any firearm. The penalty for a violation is a fine of not more than \$10,000 or imprisonment for not more than 2 years or both. The prohibited group includes:

(1) Persons convicted of a felony in any Federal court or court of any state or political subdivision thereof;

(2) Persons discharged from the Armed Forces under dishonorable conditions;

(3) Persons who have been adjudged mentally incompetent by a Federal court or court of any State or political subdivision thereof;

Prosecutions under Title VII have become more difficult due to the 1971 Supreme Court decision in *Bass v. United States*. In that case, it was held that the term "affecting commerce" did not make the mere possession of a firearm a violation of the statute but that a nexus of the firearm with interstate commerce must be proven.

Finally, I would like to describe the import provisions of the Mutual Security Act of 1954. This law governs the importation of arms, ammunition and implements of war. Persons who wish to import articles included in the United States

Munitions Import List must register with the Bureau of Alcohol, Tobacco and Firearms. An application for a permit to import articles on the list must be submitted to the Bureau and approved before an importation can take place. The categories of articles included in the list are firearms; ammunition; launch vehicles, guided missiles, rockets, torpedoes, bombs and mines; vessels of war and special naval equipment; tanks and military vehicles; aircraft, spacecraft and associated equipment; toxicological agents and equipment, radiological equipment; nuclear weapons design and test equipment; and oceanographic and associated equipment.

Mr. Chairman, that concludes my prepared statement; however, with the Committee's permission, I would like to continue my testimony through the use of charts, posters and displays which we have prepared for your information. The broad areas I wish to cover in this manner are: How we view the current handgun situation in the United States; the application of ATF manpower resources to firearms enforcement; the licensing and regulation of firearms dealers; the firearms tracing activity and the information it has produced; assistance provided to state and local law enforcement agencies; the special projects and programs we have undertaken in firearms enforcement; and how criminals obtain guns and the actions we are taking to prevent this acquisition. I believe this manner of presentation will stimulate additional discussion and questions. Needless to say we are open to questions from the Committee at any point during the presentation.

TESTIMONY OF REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY, ACCOMPANIED BY JOHN F. CORBIN, JR., ASSISTANT DIRECTOR (CRIMINAL ENFORCEMENT); STEPHEN E. HIGGINS, ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT); ATLEY PETERSON, ASSISTANT DIRECTOR (TECHNICAL AND SCIENTIFIC SERVICES); MARVIN J. DESSLER, CHIEF COUNSEL DESIGNATE; AND PAUL WESTENBERGER, CHIEF, FIREARMS TECHNICAL BRANCH

Mr. DAVIS. Thank you very much, Mr. Chairman, and we appreciate the opportunity to appear before this subcommittee to explain the operation of the Gun Control Act of 1968 and our administration of that act.

I might identify, for the record, the two gentlemen at the table with me. On my left is Mr. Marvin Dessler, the Chief Counsel of the Bureau of Alcohol, Tobacco and Firearms. On my right is Mr. John Corbin, who is the Assistant Director for Criminal Enforcement of the Bureau. I have other staff members that are in the room and are available to testify should the need arise.

Mr. Chairman, if I could just at the outset summarize three or four points contained in my opening statement which has been entered into the record. One purpose that I tried to accomplish in the opening statement was to give the subcommittee some idea of the problems surrounding the enactment and the early administration of their Gun Control Act of 1968. Included in this were massive problems relating to the licensing of firearms dealers in the short period of time, the necessity for engaging in a 30-day amnesty period which involved the registration of 70,000 title II type weapons, the tremendous number of import applications were pending before the Bureau. All of these, I think, certainly relate to the problems in the early administration of the act itself.

In addition, I have tried to outline to the subcommittee some of the other external factors that entered into the effective administration of the act. Only 2 years later, we were given responsibility for enforcing

the title XI, the regulation of explosives, under the Organized Crime Control Act of 1970.

As you referred to, in 1972 we became an independent bureau in the Department of the Treasury. While this was a highly desirable development in our view, certainly it did entail a number, a large number of administrative problems. So, we feel that all of these various factors have entered into the administration of the act itself.

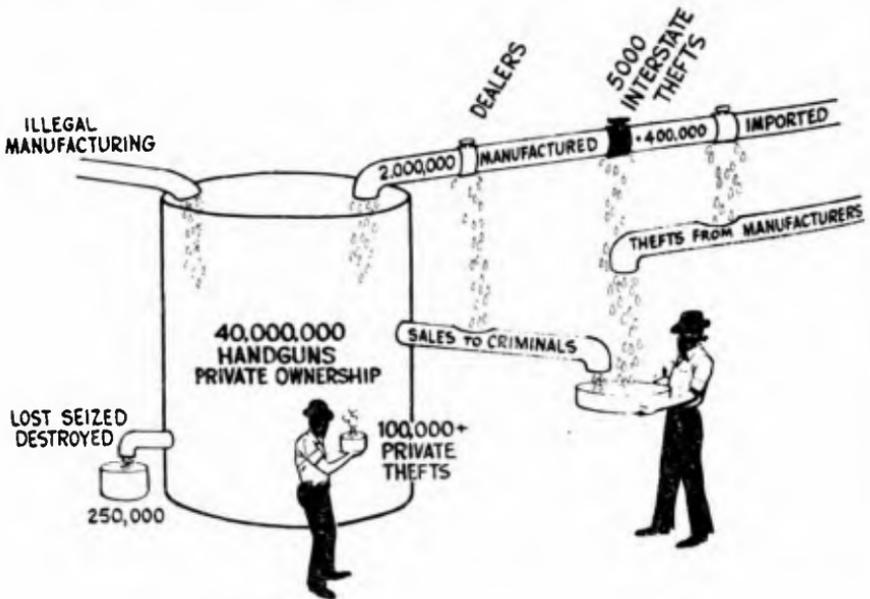
Beyond that, in the opening statement, I detailed in brief fashion the major provisions of the statutes which are involved here, that being the Gun Control Act of 1968, both title I and title II, the Omnibus Crime Control and Safe Streets Act of 1968, title VII, and finally the import provisions of the Mutual Security Act of 1954, for which we became responsible in 1968 as a result of an executive order.

So, in effect, we have three various Federal statutes relating to firearms.

Finally, in the opening statement, I did indicate that we felt that the method that would provide the most information to the subcommittee would be a presentation based upon a series of charts, displays, and posters, which we think will open up the discussion and questions by the subcommittee, to which we are prepared to respond.

As I indicated, at any point during the presentation certainly we are prepared to answer questions by the subcommittee.

So, at this time, with the chairman's permission, I will, I think, then utilize these charts for the purpose of trying to define the gun control problem and our administration of the act itself.



Mr. CONYERS. By all means.

Mr. DAVIS. Mr. Chairman, I guess this would be what you would call an ATF view of the handgun problem or situation in the United States. We have depicted here a figure of 40 million firearms in the

United States. That is based upon the finding of the National Commission for the Prevention of Crime and Violence. We have taken their base figure and by the best estimates that we have available in terms of production, importation, and so on, to show that this figure exists for private handgun ownership in the United States.

This figure I believe, if anything, would be conservative, Mr. Chairman, but it is, I think, highly reliable as a minimum.

Now, this total problem, of course, is concerned with the domestic manufacture of firearms, of which we have 2 million handguns manufactured in this country each year, plus 400,000 imported handguns. So, going into the reservoir of private ownership of handguns, we have 2,400,000 each year.

We have estimated, and this is based upon police seizure statistics and an educated guess, how many guns are lost or become—are destroyed through use or other means, that about 250,000 handguns each year go out of circulation in the private ownership of handguns. A sort of minimal problem that is feeding into this overall picture is the illegal manufacture of weapons. This involves such things as converting tear gas pencil or pen devices to fire conventional cartridges, to a limited extent the manufacturing of handguns from scrap.

We do not have, very frankly, very good estimates of what that volume is, but we don't think it is terrifically significant.

One of the problems that concerns us, of course, is the method, the ways in which criminals obtain guns out of this reservoir. Well, obviously, in cases that we have made, we know that at the manufacturing level there is activity by employees and other people where guns are stolen from the manufacturer and wind up in the hands of criminals. We have made specific cases and we have illustrations on that basis.

We know that there is a definite theft of firearms from the interstate transportation between the manufacturer, distributor, and retail dealer. We have verified that down to be about 5,000 firearms a year.

At the dealer level itself, of course, we have the problem of dealers who are culpable in the sense of providing handguns to proscribed persons or who conspire with them in accepting false identification and things of this kind. So there is a problem there.

We have the problem of illegal sales to criminals. These, in effect, are people who are not properly federally licensed selling guns to criminals and others.

Now, finally, we have the problem of private thefts from this private reservoir of handguns. Based on information received from the National Crime Information Center, properly adjusted, we estimate, I think quite accurately, that there are well over 100,000 thefts of handguns from private ownership each year. We say well over, because this figure is accurately based, but we know that many handguns stolen are never reported to the police and entered into the National Crime Information Center.

This, then, Mr. Chairman, sort of represents the overall view of the handgun situation as it exists today in the United States. If there are any questions on this, I would be happy to respond.

Mr. CONYERS. Well, I would like to merely go back a little bit earlier than this, because I think it would be very helpful for this subcommittee to understand the reason that alcohol, tobacco, and firearms was put in a separate Bureau.

Mr. DAVIS. Certainly.

Mr. CONYERS. Could you, or some of your experts, spend a little time discussing with us the separate classifications of alcohol, tobacco, and firearms and some description of approximately how much time and financial allocations go into each of those several considerations.

Mr. DAVIS. Yes, sir. If I may, I will return to the table.

Mr. CONYERS. You see, what we are trying to determine are the dimensions of your responsibility in terms of firearms, and I don't think we can do that unless we really know what else is going on in the Bureau.

Mr. DAVIS. Yes, sir. I would be very happy to do that, Mr. Chairman.

At the present time, the Bureau of Alcohol, Tobacco, and Firearms is responsible for really four general areas. We are responsible for the regulation of the alcohol, firearms, tobacco, and explosives industries in the United States. To give you some concept, the regulation of the alcohol and tobacco industries, the administration of the excise tax provisions, involves the collection of \$8 billion a year. That is the second highest source of income to the United States after personal and corporate income taxes.

Obviously, this required a good bit of attention.

In addition to that phase, the tax administration phase of this law, we are involved in the consumer protection, as it relates to alcoholic beverages. In the explosives area, the legislative scheme for the regulation of explosives, the licensing of dealers, the issuing of import permits, and so forth, is very similar to that of the firearms legislative scheme. In fact, I believe it was patterned after it.

In addition to that, there is a heavy responsibility on the part of ATF for inspecting explosive storage magazines. The 1970 law, for the first time, excepting in wartime emergency, provided a Federal standard of storage of explosives.

Mr. CONYERS. Excuse me, sir. Pull that mike just a little bit closer to you so that every one in the room can enjoy your discussion.

Mr. DAVIS. Very good. Thank you.

And, of course, this is the—the inspection and storage of the explosives, inspection and approval of explosive storage magazines, is a heavy responsibility due to the threat to public safety.

Those are the current responsibilities of the Bureau.

Mr. CONYERS. How many—

Mr. DAVIS. I might say—

Mr. CONYERS. How many of those have you enumerated? How many major responsibilities?

Mr. DAVIS. Yes, sir. There would be four in terms of the industries involved. I might say, in addition to that, that I should add that on December 24, the Secretary of the Treasury transferred to the Bureau from IRS the responsibility for the amended wagering tax law, which was passed by the 93d Congress, so that now is included among that list.

It is probably an over-simplification to say the four industries, because in each of the industries there is a responsibility for both regulatory and law enforcement in every case. In the case of tobacco, both of them are somewhat less onerous than the others. But, we do have criminal cases at the Federal level in the tobacco area.

If I can respond further, Mr. Chairman, to the question, as I recall it was the reasoning or the situation that led up to ATF becoming a separate Bureau as carved out of the Internal Revenue Service.

This, Mr. Chairman, I believe was based on the fact that our mission, after we had been given the responsibility for the 1968 Gun Control Act and the 1970 explosive regulations, became so separate, so distinct from that of the Internal Revenue Service that it was felt that we could accomplish our responsibilities more effectively if we were not located in that organization. The Internal Revenue Service, as you are aware, Mr. Chairman, has something like 70,000 employees and we have something like 4,000, less than 4,000. The Internal Revenue Service very properly is dedicated to carrying out a philosophy of tax administration, based on voluntary compliance. So that it was felt because of this difference in missions and responsibilities, that we could perform more effectively as a separate bureau.

In my opinion, Mr. Chairman, this has proven to be true. I think since 1972, we have had much more flexibility in establishing policies and programs in the firearms area, as well as others that would lead to more effective administration of that act.

Another way of responding, Mr. Chairman, is that we have about 1,550 special agents and we have a little over 700 inspectors. These are our field personnel that are responsible for carrying out these various duties. And so, in relationship to the total responsibility that we have, you can see that we are a lean organization.

Mr. CONYERS. Well, I notice that one of your charts is entitled "Application of Manpower to Firearms." To make a long story short, just examining the firearms consideration, our first blush impression would be that you are woefully understaffed. Is that a misimpression?

Mr. DAVIS. Well, sir, I might say that there are many things that we have not been able to do because of a lack of manpower spread across the various responsibilities that we have. I think that that certainly—in the view of our total responsibilities, I would agree, Mr. Chairman, that we are.

Mr. CONYERS. Well, now, would you describe some of your responsibilities under the 1968 act?

Mr. DAVIS. Yes, sir. Well, sir—well, in the first place, we are responsible, of course, for licensing of all dealers, importers, and manufacturers of firearms and that includes pawnshops as a separate category. I will elaborate on that in a few minutes.

But, at the present time, there are about 155,000 of these people. We try, in every case, when we have an original application from a new licensee, to make a field investigation to insure that he is properly qualified.

In addition to that, we try to—we feel a responsibility in visiting, inspecting the premises of existing licensees periodically. Very frankly, we haven't been able to accomplish that.

Another responsibility under the statutes that we have is to approve the importation of firearms into the United States. This involves several thousand applications each year for the importation of firearms. These have to be examined to determine that the weapon in question is qualified for importation into the United States.

Another area of responsibility that is not commonly thought of is the necessity to receive applications for relief from disability of the Gun Control Act of 1968. Again, I will give you the exact figures on that, but we receive several thousand such applications each year.

Now, in order to properly discharge our responsibility, we have to conduct a field investigation, because the criteria is that the relief from

disabilities under the act must be not contrary to the public interest and not endangering the public safety. So, we estimate on an average, the figures we have accumulated, that each field investigation in this area takes 20 man-days of a special agent's time.

Mr. CONYERS. Would you define a little more fully the relief from disabilities procedure?

Mr. DAVIS. Yes, sir. The 1968 law makes certain individuals—proscribes certain individuals from buying or purchasing or possessing firearms. These people are those who have been convicted of a felony, those who are under indictment for a felony, those who are addicted to narcotics drugs, or those that have been adjudged mentally incompetent. Those people are ineligible, in effect, in fact, to do certain things under the Gun Control Act.

The law provides that a person, an individual who is so disqualified can apply to the Director of the Bureau, asking for relief from these disabilities.

When we receive such an application, which, in effect, removes all disqualifications, we then have a field investigation, and an appropriate report which is reviewed up the channels, and so forth.

In addition to the major areas that I have already described, there are numerous other kinds of responsibilities under the act. One of them, of course, is to periodically review weapons of a certain nature to determine whether or not they should be removed from the operation of the act. We have criteria for that purpose and they are, if they are sufficiently old, or if they are sufficiently rare, or if the ammunition cannot be acquired commercially, or various criteria in which we operate.

We feel that one of our heavy responsibilities under the act is assistance to State and local law enforcement in terms of the preamble of the Gun Control Act of 1968, so we very heavily engage in working with State and local enforcement agencies in the firearms area, as well as others—training, laboratory support and otherwise.

Now, there are other areas, Mr. Chairman, which we have taken on which are not directly mandated by the Gun Control Act of 1968. One of these areas is the tracing of firearms that are used in crime, and as we have indicated—or, I will discuss that more thoroughly a little later in the presentation.

That is a—so, that is sort of a review of the major areas that we have under the act.

Mr. CONYERS. But, of course, we want to go through these a little bit more carefully—

Mr. DAVIS. Yes, sir.

Mr. CONYERS [continuing]. In terms of how they impact on the problem in real life.

Mr. DAVIS. Yes, sir.

Mr. CONYERS. One of the things that I think the subcommittee is most interested in appreciating is, what are the real problems that the Bureau of Alcohol, Tobacco and Firearms confronts as we face this deluge of weapons? As you have pointed out, at least 21½ million weapons are introduced into our society every year, and we know that there is a direct relationship between them and homicides, because we have been able to study statistics on gun homicides. We know that there is a lot of trafficking going on, some within legal definitions, some not.

What we want to do is examine the relationship of your Bureau to this large and difficult problem.

Mr. DAVIS. All right, sir. Yes, sir.

I think that in the presentation that each one of these factors will be brought out to the satisfaction of the committee.

Mr. McCLORY. Mr. Chairman, may I ask a question or two at this point?

One would relate to the chart. The other one relates to your statement.

I would like to know, after the passage of the 1968 act and the assignment of this new responsibility to you, what was the effect on the number of personnel in your department or agency?

Mr. DAVIS. Yes, sir. Our special agent force was increased by 300 agents as a result of the Gun Control Act of 1968. That, I might say, was increased—increased it from less than about, I think, about 1,200 agents at that time.

Mr. McCLORY. But how would you gage the degree of responsibility as the result of the passage of the 1968 act? Did it double the work or triple it or—

Mr. DAVIS. No, sir. It more than doubled. I think to really assess the difference, you would have to look at the two acts, I mean the acts that were in existence just before the 1968 Gun Control Act.

Now, the National Firearms Act, passed in 1934, involved the registration of weapons. At the time, from 1934 until 1968, we have registered 60,000 gangster-type weapons. To give you a quick comparison, during the amnesty period, the 30-day period, starting November 1, 1968, within 8 days after the passage or the effective date of the act, we registered 70,000 additional weapons.

Mr. CONYERS. Were they gangster-type?

Mr. DAVIS. The gangster-type, and destructive devices.

Mr. CONYERS. All right. Now let's just define gangster-type in case all of us aren't thinking about the same thing.

Mr. DAVIS. Yes, sir. The original act included in that category machine guns, a weapon that would fire more than one shot by a single pull of the trigger, sawed-off shotguns with prescribed barrel length and sawed-off rifles with prescribed barrel length. Included also are silencers and a category called the Any Other Weapons. These were anything other than conventional pistols and revolvers that could be concealed on the person.

So, you have such things as the little short-barreled shotgun, things of this kind.

Now, in the 1968 law, the coverage of the act was expanded to include the destructive devices, covering a wide range of objects, including hand grenades, Molotov cocktails, mortars, mines. Any weapon, any firearm of the caliber of more than .50 or one-half inch were included. So there was an expansion in this area.

And, of course, the inclusion of the additional category presented interpretation problems, legal problems, things of this kind.

Then, moving then on to the Federal Firearms Act, which was passed in 1938, this act, very frankly, had not been enforced in a meaningful way. There were about three problems that really prevented it from being effective.

One, there was no requirement on the verification of a firearms purchaser's identity from a licensed dealer. And our records—I think we

testified before, our people did—at the time of the passage we ran into records that had names on the purchasers records like Mickey Mouse, Hollywood, Michigan, and these kinds of things.

The second thing was there was really no criteria set up for who could own a dealer's license under that act. Anybody could send \$1 to a District Director of Internal Revenue and receive a firearms license. So, effectively, there was no control in that direction.

And, third, there was no prohibition against mail order of those. mail order sale of guns. An individual could buy weapons by mail in another State.

Obviously, the 1968 Gun Control Act, title I, cured several of the problems. For one thing, of course, it did require identification that would be positive with respect to age and residence. It prevented the mail order sale of guns, and certainly, it tightened up on the qualifications for licensed dealers.

Now, again, to respond to your question, Mr. McClory, for the 8-month period, November, December, and the 6 months of 1969 to July 1, we received 85,000 applications from dealers for new licenses. because obviously the old license was no longer adequate or was illegal under the new requirements. So, we immediately, at 8 months, were faced with 85,000, over 85,000 applications under the new law, with a \$10 fee.

Now, to the extent we could, we tried to make a field investigation, but very frankly, we, in many cases, couldn't, to determine if the individual was really qualified even under the new law. As I have indicated, in terms of the workload, at that time we were faced—let me give you a little of the situation.

There was, as you know, a law passed earlier, the Omnibus Crime Control and Safe Streets Act, which related to firearms. At that period of time, the Munitions Control Office of the State Department governed importation of firearms, but, because of the uncertainty of the law and the prospective additional congressional action, that office had not acted upon applications for importation.

So, immediately we were faced with over 5,000 applications relating to some 212,000 firearms, and that had to be—you know, they had ships in the harbor type of thing, loaded with weapons, that a determination had to be made as to whether or not they should be permitted to enter the country.

So, these then—and, of course, added to all of that were additional criminal provisions under the Gun Control Act of 1968 which had to be enforced by special agents.

So, generally then, the workload was tremendously different and continues to be different. For one thing, under the other act, the former act, we did not have an inspection, what we call a compliance inspection program, to periodically visit dealers to determine if they were complying with the recordkeeping requirements and because, in effect, even if they were, they were so inaccurate as to not be of value. So even, I might point out to you, even if we visited every licensed dealer in the United States once every 3 years, that means that we would have to visit 50,000 premises a year and we are not doing it. Even at that rate.

Mr. McCLORY. There are—how many total licensees?

Mr. DAVIS. About 155,000.

Mr. McCLORY. I want to ask one question about the chart that we have there before you, I mean, before us, because, of course, I am very concerned about the 100,000 thefts, type of thefts, from the estimated 40 million handguns in private ownership.

But then, as I look at those leaks or drops that are coming out, it looks to me like the sales to criminals from those 40,000—40 million handguns are just a relatively few drops, whereas the thefts from manufacturers appear to be many drops, and I just wonder how many thefts from manufacturers are occurring. Do we have estimates on that? Do they report them to you, and do we know how many guns are stolen before they ever get into the hands of a dealer?

Mr. DAVIS. Yes, sir. Let me just say—maybe the artist quality of the drawing is responsible for the difference, but we would say sales to criminals, either unlicensed sales or sales by individuals, would far exceed the thefts from manufacturers.

But, I can indicate to you—

Mr. McCLORY. Do you have a figure on thefts from manufacturers?

Mr. DAVIS. No, we do not. One of the—in a case we made in New York City, involving a ring of 10 people, and I have somewhere the exact particulars relating to it, the people were stealing parts from a gun manufacturing outfit, then were assembling them in a makeshift factory of their own and were—this occurred in November of 1974. The arrest of 10 individuals, and I might say here the parts that they were stealing, of course, had no serial number, which made them particularly valuable to criminals. They could not be traced.

Our undercover special agent purchased 135 handguns from these people and when we made the arrests, at this illegal factory, we seized over 200 assembled and unassembled handguns from them. So that this gives you some idea of the volume.

But, on the whole, I would say that—

Mr. McCLORY. We had a witness in here last week who really was leveling an attack against the gun manufacturers and felt that they were lining their pockets with profits and that this was a moneymaking thing to keep the handguns on the market, and I sort of had a different impression of the gun manufacturers, that they were legitimate and high-level industries and that they were not manufacturing guns for the criminals.

And, I would gather, that these leaks, these thefts from manufacturers, are—you are not talking about, what was it, Colt and Remington and concerns like that? You are talking about fly-by-night illegal manufacturers?

Mr. DAVIS. Well, sir, there are thefts from the major manufacturers. These people are very security conscious. I would say, however, that probably the less, you know, well-known manufacturers are subject to thefts more. They are not quite as concerned about the security. For one reason, their product is not as expensive.

And so—but there are thefts, of course, from Colt, Smith & Wesson, and even though they are extremely—we found one case where—and I have been to the Colt plant, and they have a magnometer and a very

elaborate system for detecting metal, but this one man very frankly had an artificial limb. He was smuggling guns out of the factory in his artificial limb. Because of the metal parts of it, they didn't suspect he was.

But, by and large, Mr. McClory, I would say that that does not represent a major source of guns, that it is—while we certainly take action every time we receive information about it, I think a much more important source is the thefts that occur in interstate commerce, from the time it leaves the manufacturer and arrives at the dealer's premises, and I indicated we estimate those to be in the neighborhood of 5,000 each year.

Mr. McClory. So the thefts before that time would be far fewer?

Mr. Davis. Yes.

Mr. McClory. And they are reported to you, are they?

Mr. Davis. Yes, sir, they are and—

Mr. McClory. Are these weapons identified when they report to you, what the serial numbers are?

Mr. Davis. The problem, I might say, is that in the case of the manufacturer, many times they don't know thefts are occurring. As this gang that we arrested did, they take parts from the assembly line before they ever become an identifiable weapon.

Now, in this case, the manufacturer may not know that this is occurring. I am sure that if they had once been assembled and serialized, then he would certainly report them to us.

Mr. McClory. Thank you.

Mr. Conyers. If none of the members have any pressing interrogations, I would like to recognize the counsel for a question or two of each, which might help put this in focus.

We have traveled over a lot of area here, but we haven't gotten into anything.

Mr. Ashbrook. Mr. Chairman, could I ask a question at that point?

Mr. Conyers. Of course.

Mr. Ashbrook. I apologize for arriving late. Has the witness put in his testimony?

Mr. Conyers. No, we haven't had all. We agreed to move in this fashion. He invited that we pursue it in this way.

I recognize counsel Barboza at this time.

Mr. Barboza. Mr. Davis, that diagram is important for several reasons. First, the figure 400,000, illustrates that we really don't know how many imports are coming into the country, now, or in the past. There is no precise figure.

Secondly, you indicated that there are 2 million guns being manufactured, going into that part. We don't know the precise number of guns though.

Now, that is important. And the third issue is where are those guns going after they leave the manufacturer or importer's premises? You have 156,000 licensed dealers. Now, which of these dealers are receiving the bulk of the supply? Say that you have 8,000 dealers in the Washington area, wouldn't that mean that there must be an awful lot of guns coming into this area.

Say there are another 8,000 dealers in another area of the country. There are a lot of guns going into that area. In order to allocate your resources properly, in order to put your finger on where the problems are, you are going to have to know how many guns are being manufactured, how many are being imported and where they are going into the country, is that correct?

Mr. DAVIS. Yes. Let me, if I can—we receive production figures from all of the manufacturers in the United States.

Mr. BARBOZA. Is that a voluntary program?

Mr. DAVIS. It is a voluntary program. As far as we know—

Mr. BARBOZA. Do you intend to require it, or can you require it?

Mr. DAVIS. We could. We could require it.

Mr. BARBOZA. Why haven't you required it?

Mr. DAVIS. Well, we feel as long as we do it on a voluntary basis and it accomplishes the purpose, it would not put an excessive burden on—

Mr. BARBOZA. Can you give us the precise number, then, for the first quarter of this year, of handguns that were manufactured?

Mr. DAVIS. I don't know whether we have the figures here. Mr. Westenberger, do you have those figures?

Mr. WESTENBERGER. The compilation for the quarter ending December 31 is presently being made. We generally run 2 to 3 months behind, sir, because the report is not required until 30 days after the termination of a reporting period. Then we compile them. Right now the latest figure we would have, of course, is for the—that portion ending September 30, 1974.

Mr. CONYERS. Right.

Mr. WESTENBERGER. We have the other figures, but they haven't been published.

Mr. BARBOZA. OK. Then, in your communications with manufacturers, do you know where those guns that are manufactured are going in the country, to what dealers?

Mr. WESTENBERGER. Let me state it this way, sir. The marketing of handguns or firearms in the United States differs radically. In the large manufacturer, he may employ a system of distributors. He may have five distributors throughout the United States.

Mr. BARBOZA. The question is, though, do you know where the guns are going? Do you know?

Mr. WESTENBERGER. We know insofar as the source is a licensee. After that we do not know, sir.

Mr. BARBOZA. OK.

Mr. CONYERS. Could we identify your assistant for the record?

Mr. DAVIS. I am sorry. This is Mr. Paul Westenberger, Chief of our Firearms Technical Division and a recognized expert in firearms.

Mr. CONYERS. Mr. Barboza has fired a lot of questions at you. I want to just suspend long enough to let him get some answers into this thing. They are very good questions.

Mr. DAVIS. Yes, sir, they are.

First let me say this. With respect to firearms dealers, it is our considered opinion that of the 155,000 firearms dealers, those persons who

have bought firearms dealership licenses, that probably at a maximum only 40,000, and that is, I think, a liberal figure, are actually engaged in the business, in terms of for substantial profit or a part of their livelihood, in the business of selling firearms.

So, that we have, in other words, somewhere over 100,000 people who have obtained firearms licenses for any one of a number of purposes, maybe to buy guns and ammunition at wholesale, perhaps to ship firearms in interstate, things of this kind. So the population of dealers in any given area does not indicate the flow of guns into that area.

Now, I might say, Mr. Chairman, that the provision of the law is that we at the present time have no way of excluding licensees who are not actually engaged in, at least, who are engaged in the business for personal livelihood, either in whole or in part.

The second thing, even though our figures may be somewhat late. I think in terms of domestic production that our figures are accurate. I think in terms of importation that our figures are substantially accurate.

Mr. CONYERS. Now, let me recognize staff counsel Chris Gekas for a question or two or three or four, however that goes.

Mr. GEKAS. Just one or two. Just to help clarify the basis of the problem, the number of handguns out there, why don't you tell the subcommittee what the basis is of 40 million estimate? The point is. I think to state it, that no one really knows how many handguns are out there, do they? How were the figures arrived at?

Mr. DAVIS. Yes, sir. I have that.

Mr. GEKAS. I thought I had stumped you.

Mr. DAVIS. No. With the mass of papers, I couldn't put my hand on it.

Well, essentially, as I may have indicated earlier, before some of the committee members arrived, we started with the base of being the estimate made by the National Commission on Prevention of Crime and Violence.

Mr. GEKAS. How did they compile that?

Mr. DAVIS. Sir, they took all available figures, it is my understanding, starting with 1899, in terms of importation, manufacture. They made a certain allowance for guns going out of existence and arrived at the final figure of 24 million handguns.

Now, since that time, we have—and we have the basis on which we have arrived at that figure. We have taken the importation and domestic manufacture since that time and, in effect, added it on to that base. The exact figure is 40,142,777. There are certain things that should be said about that.

We have not applied attrition factors to that. It doesn't include antique firearms.

Mr. GEKAS. Explain the term "attrition factors"?

Mr. DAVIS. Yes. Guns that just wear out, are discarded, those that are seized by police, or those kinds of guns that they drop off the boat

in the lake or they drop on the mountain and it falls into a crevice, or something of that kind, which, of course, obviously, except for police seizures is merely a guess, at best.

For the committee's purpose, we feel that at the present time, including all kinds of firearms, including handguns, rifles and shotguns, and again, based on the figures of the Presidential Commission or National Commission, that there are now 135,819,920 weapons in private ownership in the United States.

Mr. GEKAS. That total figure is basically a "guesstimate."

Mr. DAVIS. Yes, no question about it. I would say it is probably the most informed "guesstimate" that we could devise.

Mr. GEKAS. What would be—what is the range of private ownership of handguns in the United States? I have seen figures from 25 million up to 80 million handguns.

So, you have a—

Mr. DAVIS. It would be very, very highly speculative on my part. I do consider 40 million handguns in the United States to be a very conservative figure.

Mr. GEKAS. Thank you, Mr. Chairman.

Mr. DAVIS. Mr. Chairman, may I make just one additional remark, more for the edification of the record. Obviously, the Gun Control Act of 1968, the provisions of that act, in no way was intended to reduce the reservoir of firearms in private ownership in the United States.

No provision of the law was intended to reduce that figure that existed then or has it as accredited over the years.

Mr. CONYERS. How would you describe the objective of the 1968 gun law, then, in terms of your enforcement responsibility?

Mr. DAVIS. The objective, as I would view it, would be, one, of course, to provide an improved licensing system, to set up a recordkeeping system that would both provide a means of identifying the traffic or the commercial traffic in firearms, as well as provide a means for prosecution of people who violated the law. It was aimed at preventing acquisition or ownership by certainly the proscribed class of individuals that I have described, including agents, acquisition of firearms, and, of course, obviously throughout this making various acts violative of the law itself.

Essentially, this appears to be the legislative scheme behind the act.

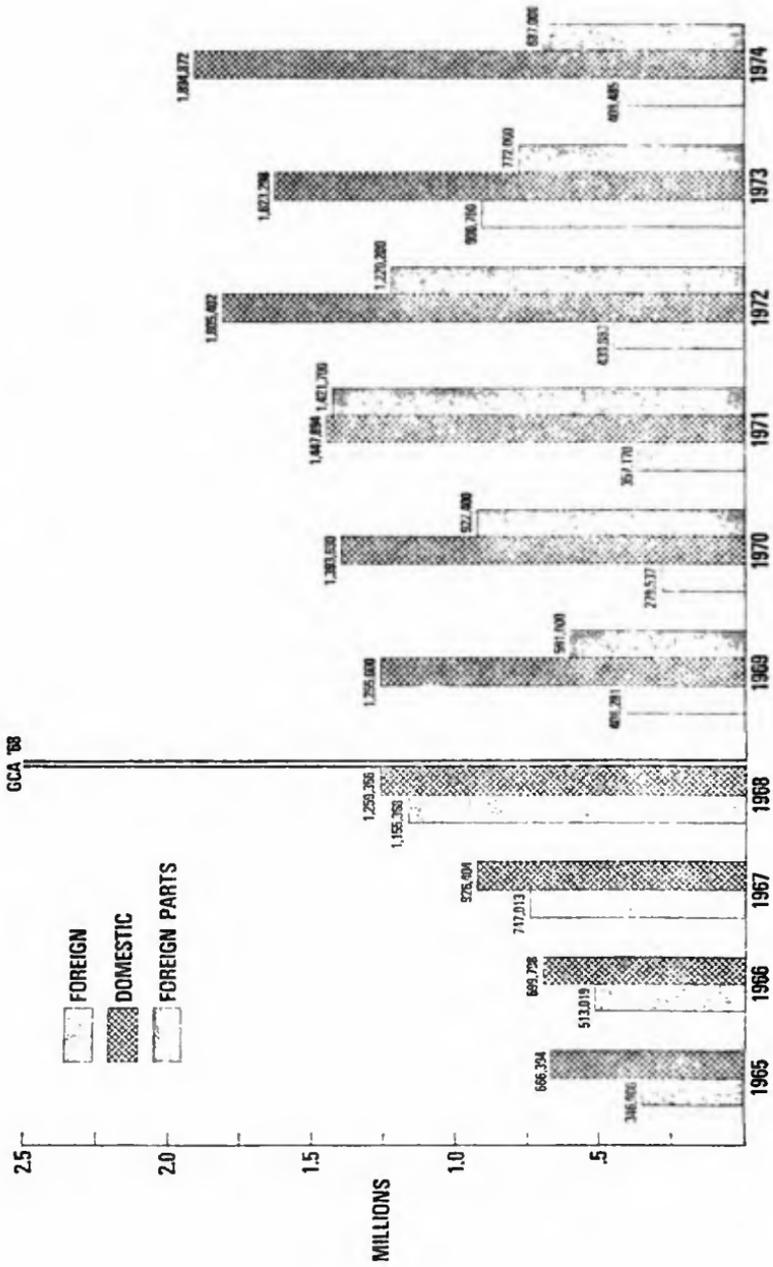
Mr. CONYERS. I don't know how you have organized your presentation at this point, but I am intrigued by this chart that is covered up. How much longer are we going to be held in suspense—is that going to be unveiled before the session ends this morning?

Mr. DAVIS. Yes, sir. In fact, if you would like, Mr. Chairman, I will have to admit that we prepared a certain amount of suspense in relation to that, but with your permission, I will proceed now.

Mr. CONYERS. As long as it is not a classified document, or something.

Mr. DAVIS. No, sir. If we can, let's quickly look at the other charts and then I think it will set it up.

HANDGUNS - FOREIGN & DOMESTIC



GCA '68

Mr. CHAIRMAN. I think this will be of interest to the committee, and this is leading up to the presentation. What this chart represents are the foreign and domestic handguns in the United States, production, and the added quantity of foreign parts. We know that probably this is of some interest to the committee.

As you can see, and this line represents the effective date of the Gun Control Act of 1968, as to be expected, there was a tremendous decrease in the importation of handguns after the Gun Control Act of 1968. There was a slight increase in the domestic manufacture of handguns in the United States.

But, a new element had entered the picture. In that year, 1969, there were sufficient parts introduced into the United States for the production of 591,000 handguns. These are calendar years.

Again, a dropoff in the importation in 1970, and added increase in the domestic production of handguns, and a tremendous increase in the introduction of parts in the United States for handguns.

Then, as people adjusted to the act, there was an increase of manufacture—slight increase of foreign manufactured handguns being imported, a tremendous increase in parts.

Now, as further adjustments take place, we can see that domestic manufacture is increasing, parts are now dropping off. People have adjusted and probably the devaluation of the dollar and other factors entered into the picture. So, in our view, there will be a further decline of the introduction of parts into the United States for further manufacture and assembly here.

I might, for the benefit of the record, Mr. Chairman, say that the Gun Control Act of 1968 prohibited firearms not suitable for sporting purposes from being imported into the United States. It did say also that included, the definition of firearms included frames and receivers, the frame for pistols, the receivers for revolvers. Those cannot be.

But, on the other hand, all the other parts that were not restricted and could be introduced, and this will be the purpose of the next—

Mr. CONYERS. All of us want to ask you about the point made in Franklin Zimring's "Firearms and Federal Law: the Gun Control Act of 1968", an article which appeared in the *Journal of Legal Studies*, that raises the question of the 1973 discrepancy on the number of handgun imports between yourself and the Bureau of the Census. I reluctantly bring this up, but has that difference of some 600,000 ever been resolved by either one of you?

Mr. DAVIS. No, sir. To be very frank, Mr. Chairman, we believe that it is a mistake on our part. We haven't identified where it occurs.

Mr. CONYERS. Well, that is very gallant of you. I have never heard anybody make a statement quite that candid before.

Let me explain it, so that all of our committee members have the benefit of this discussion.

The Bureau of the Census report for 1973, according to their count, that the handgun imports in that year were 309,471, while your Bureau came up with a figure of 900,680, and this discrepancy has mystified the scholars in the field for quite a period of time.

Now, you are saying that you suspect the error may reside in your Bureau?

Mr. DAVIS. Yes, sir, and essentially, both the Bureau of Census and our ATF derived the information from the same source document, when a permit to import firearms is approved on a form 6, and a form 6 may cover one gun, it may cover 10,000. A 6-A is the document that is used to actually permit the importation. So that a man may get a permit to, an improved permit to import a 1,000 guns, and he may do it in lots of 200 at a time. So the 6-A then indicates that the guns have actually entered into the country.

Now, this is done—the Bureau of Customs is the one that handles the 6-A. A copy goes to the Bureau of the Census, a copy goes to ATF and, of course, we match the two to compare them to the six.

We obviously have Professor Zimring's report, and as the committee knows, we worked with him very closely in an examination of the problem of firearms, gun control. We have, very frankly, scratched our heads. We will keep working and try to determine where the discrepancy is.

But, we suspect it is ours. There is no—we know, for example, Spanish production of weapons increased and foreign export to the United States increased, but in no way accounts for this kind of an increase.

Mr. McCLORY. Mr. Chairman, I would not like to pursue this too long, but this, it seems to me, is extremely important to our committee. I just wouldn't want the discussion to pass with your explanation that there must be an error on your part.

As I understand it, if there are weapons that are imported, if they are handguns that are imported, there is a permit granted with respect to a certain number that you authorized to be imported. Then, when they actually enter this country, there is a form which is filed which shows the handguns being imported. You get one of those forms and the Bureau of the Census gets one of those forms.

Now, it is not—it is, frankly, not quite satisfactory to me as a member of this committee, for you to say that you must have made an error and you don't know that there were not 600,000 extra guns that came in, that the Census says did come in. You must know, or you must be able to help us a little better on that, as to whether or not you think they did come in or they didn't come in.

Mr. DAVIS. Yes, sir. In the first place, we would feel that in the neighborhood of the Census report, in that 300,000 to 400,000 range, it should represent the actual number.

Mr. McCLORY. Are you basing your figure on the permit figure and not on this other form of import record?

Mr. DAVIS. No, sir. There is one problem that we have in the compilation of these figures, and this may be where the error lies. In order for our regional offices, and we have seven of them throughout the country, for them to verify that the imported weapons actually reached their destination, the 6-A's sent directly to our regional offices. Then we ask, on a periodic basis, for our regional offices to provide us with the information from these forms, from the seven regions, which are then compiled into a composite report representing the country.

But, I assure you, Mr. McClory, that we will pursue this matter and provide the committee with the results of our findings.

In fact, we will do this with the—in cooperation with the Bureau of the Census to make sure that we are—

Mr. McCLORY. I think that is very important, because it would leave the record very incomplete and very unsatisfactory, as far as I am concerned, if we didn't have a full explanation.

Mr. DAVIS. Yes, sir. We will pursue that and give you a further report on it.

Then, finally—

Mr. GEKAS. Mr. Davis, excuse me. I wonder if you would just direct your attention to what appears to me to be a marked increases in imports just before the effective date of the 1968 act. What are the implications of that. It seems to me as the importers saw the act coming, as it was introduced, all of a sudden they said we had better beat the deadline.

Mr. DAVIS. That is exactly what happened. In anticipation, of course, there was no secret that Congress was seriously considering restrictions on the type of weapons that could be introduced into the United States and literally, when I said they had ships waiting in the harbors, and I didn't happen to be in our headquarters office at the time, but I was personally aware of it; there were ships in the harbors.

Just to indicate the attitude that existed at that time, one individual came—this was a period when State was not issuing and we hadn't yet received executive authority to do so—came into, I think, the Director at that time, and he said something—I have got x number of thousands of firearms in a ship in the harbor and I need, you know, a permit to get them into the country, and the Director said, well, look, why can't you take them and send them to some other part of the world, and the guy says, there is no other place in the world that will accept them. So, this is literally what happened.

Mr. CONYERS. What was the significance of that remark? Extend it a bit; why will no one else in the world accept them—because of profitability, or the caliber, or the type of weapon, or the fact that nobody wants gun running on the level that we are apparently able to tolerate?

Mr. DAVIS. Yes, sir. That was—the latter one would be the one that was in existence, that there would be no other country that would permit in terms of social acceptability, you know, large quantities of these kinds of weapons.

Mr. HUGHES. Mr. Chairman—

Mr. CONYERS. Yes. I yield to the gentleman from New Jersey.

Mr. HUGHES. I wonder if you can perhaps explain to me why the decrease in 1973 and 1974 on parts, imports, and foreign parts, for example? Is there something there?

Mr. DAVIS. Yes; the increase—well, actually, of course, there is a decrease in parts.

Mr. HUGHES. Decrease.

Mr. DAVIS. Yes. What has happened, we feel, during this period of the devaluation of the dollar, the fact, in other words, that foreign parts, as compared to parts that can be made in America, it was no longer—it was less economically attractive to import parts and assemble them. And we can tell from our knowledge of manufacturing in this country that more and more people are preferring to completely manufacture a gun here than rely on foreign parts, and then too, you know, make the prohibited parts.

Mr. HUGHES. So, it was an economic reason.

Mr. DAVIS. Yes.

Finally, just to—although this is probably not of the same interest to the committee, but to round out the picture, this relates to the title II weapons, the gangster-type weapons, and destructive devices.

NATIONAL FIREARMS ACT (TITLE II) FIREARMS

AVERAGE REGISTRATIONS PER YEAR		85,000
AVERAGE EXPORTS PER YEAR		60,985
AVERAGE TRANSFERS PER YEAR (1971-1974)		8,476
REGISTRATIONS	1934 TO AMNESTY	60,000
REGISTRATIONS	DURING AMNESTY	70,000
REGISTRATIONS	SINCE AMNESTY	<u>117,093</u>
TOTAL CURRENTLY REGISTERED		247,093

To give you a background, we have about 85,000 a year of these registered, all of which about 60,000 of them are exported. Now, there is a requirement that for these kinds of weapons—I might again remind the committee this is the only registration of firearms that we have at the Federal level. These limited categories of weapons.

So, there are about 8,476 transfers a year where these are either transferred between manufacturer and dealer or transferred between individuals and so forth.

For nontax exempt transfers, each one of these requires a \$200 fee. As I pointed out earlier, from 1934 to 1968, we registered 60,000 of these. We think this law was highly effective. I know that there is speculation that maybe social factors would enter it, but it may have but certainly, following the enactment of the act, the Thompson submachine guns and things of this kind became much less used by criminals.

Mr. CONYERS. Could you distinguish between the 1938 and the other, earlier law that attempts to regulate the gang-type weapons and what problems we experienced with them that led to the title II consideration?

Mr. DAVIS. Yes, sir. In the prohibition era, of course, one of the favorite weapons of the gangster was the automatic weapon, the Thompson submachine gun, the Schmeisser submachine gun, and things of that type, and to a certain extent, sawed-off shotguns and rifles. They were widely used in gang warfare, bank robberies, things of this kind.

I think what kicked off the 1934 act was the St. Valentine's Day massacre, in which automatic weapons were used and which, I think, brought a great deal of national attention to this problem. So, in order to really—this was a prohibitive regulatory act. In other words, at least as we see it, the intent of Congress was to make the ownership,

acquisition and ownership of these weapons so onerous that nobody would want to do it, so there was here a deliberate attempt to reduce the numbers of these kinds of weapons, and as I indicated earlier, they covered automatic weapons, such as machineguns, sawed-off rifles and shotguns, things of this kind, and it apparently was effective. The person had to register such weapons with the Government. They are and were kept in a central file. If that weapon was going to be transferred to another individual, they had to make an application, including fingerprints, and so it was a very tight, restrictive thing.

Mr. CONYERS. Now, who has possession of these kinds of weapons, if the registration had a prohibitory intent and we have 247,000 out? Could one, I hope incorrectly, assume that gangsters have registered these amounts of weapons? Who has got them now?

Mr. DAVIS. Well, sir, let me—it was a problem with a class of people and the problem was generated by a 30-day amnesty period in 1968. The National Firearms Act was the—its enforcement was rendered practically impossible by the *Haynes* decision by the Supreme Court in which they said that the registration requirements of that act were violative of the fifth amendment.

So, to overcome this, Congress, in the new law provided for a 30-day amnesty period in which anybody in the United States could bring in this class of weapons and including destructive devices, to ATF and with no questions asked, and with a complete immunity to prosecution for current and prior violations. So, you know, it would be very difficult for us to know who those 70,000 people are.

I am sure there are some very questionable characters in there. But, by and large, of course, in a regular registration process, we would—a felon could not register.

Now, at the current time, a weapon cannot be registered under the act except by a manufacturer.

Now, let me point this out. What you see—this file is growing at the rate of about 20,000 weapons a year.

Mr. CONYERS. The registration?

Mr. DAVIS. Yes, sir. That is domestic registration. And it seems to be increasing somewhat. But, to get back to your original question, of that 247,000, the characterization of those would be very difficult. Some people just frankly like those kinds of weapons. They may collect them. They may like to fire them.

Mr. CONYERS. Then we can all be collectively worried about the holders of those 70,000 who were registering during the amnesty. Now, are they identifiable, so that if they were—

Mr. DAVIS. Oh, yes.

Mr. CONYERS [continuing]. Used in the commission of a crime, we could readily ascertain who registered the weapon?

Mr. DAVIS. Yes, sir, they are identifiable. Now, I might say we have very strict disclosure provisions surrounding them. For example, if a sheriff of a county calls up and says, look, I have a Thompson sub-machine gun that was used to murder three people, and he says I want to know if it was registered, and who to, we could not provide him with that information because of the very strict disclosure provisions of the National Firearms Act.

Mr. ASHBROOK. Mr. Chairman, could I ask a question at that point? That is a very interesting one. I detect a difference between registration and possession.

I am just wondering the degree to which illegal possession comes under your investigative purview. I assume it does.

Mr. DAVIS. Yes, sir.

Mr. ASHBROOK. Take an example. If a number of people show up at Wounded Knee with AK-47's, do you trace those, find out where they came from?

Mr. DAVIS. No, sir. We could not, because that would not have been registered in the first place.

Mr. ASHBROOK. But, that would still come under your responsibilities?

Mr. DAVIS. Yes, sir. In other words, what in effect—in effect, what an individual in possession of that weapon would do would be violating Federal law because he was in possession of an unregistered firearm, as defined by the National Firearms Act or title II.

Mr. ASHBROOK. That is why I asked the question. Specifically, did you do anything in that situation or did someone else have that responsibility?

Mr. DAVIS. No, sir, we did not do anything. We were aware—

Mr. ASHBROOK. But you said it was your responsibility.

Mr. DAVIS. We had a—well, in our view, although I realize there was a newspaper photograph that showed an individual holding a weapon that resembled an AK-47, to the best of my knowledge, we, you know, were not able to establish, in other words, a weapon—in the first place, we would have had to have the weapon, we would have to testfire to show it would fire more than one shot by a single pull of the trigger, so, in effect, there was not enough evidence to make—to prosecute.

Mr. ASHBROOK. Then, if I have an illegal weapon in my home, the fact that you have not tested—testfired it, means you couldn't get it from me?

Mr. DAVIS. No, sir. If I could make a little different—let's take, rather than refer to you, let's say an individual is a dealer in narcotics and the Drug Enforcement Agency has a valid search warrant for your home. They enter your home in a search for narcotics and they find a Thompson submachine gun, to use an example. Then, if that gun obviously is in your possession, if it has not been registered, then you would be subject to the additional charge of having possession of an unregistered firearm.

Now, what we would do then, we would search our file and see if, in fact, our national registration and transfer file contained that gun registered to you, and if not, then—

Mr. ASHBROOK. You threw me off by saying if I was suspected of narcotics. I said if I was an average citizen.

Mr. DAVIS. There was no way until we had probable cause to enter your home.

Mr. ASHBROOK. You would have probable cause at Wounded Knee. That is what kind of intriguing me a little bit.

Mr. DAVIS. Again, I am not sure a magistrate or a U.S. judge would issue us a Federal warrant to search an individuals' home on the basis of a news photo that shows him holding a weapon that resembles an AK-47.

Mr. ASHBROOK. Thank you.

Mr. CONYERS. Let me go back to the hypothetical that you gave us about registration, because if the sheriff who had reported three murders in which an automatic weapon had been used could not call you back to find out who owned them, what is the purpose of the registration? It seems like we are hiding the information from ourselves.

Mr. DAVIS. Well, sir, obviously we can—well, I think there are two or three purposes. One of them is the very fact that a weapon is—that is known to be registered in your name, the fact that the only way that you can legally get it out of your possession is through a legal transfer, has a certain prohibitive or preventive value, deterrent value.

Now, the second thing is, of course, we can use the information.

Let me, if I can, give a typical example. The police in a city stop one man in a car because of a traffic violation. Now, they stop him, they find on the seat beside him a sawed-off shotgun. Now, in this case, since there is no more serious State charge pending against him, I am suggesting that the law there does not cover this. Then they would call ATF agents and ask them if they would perfect a Federal case, and assuming that all of the legal proprieties have been observed, that the individual was a known criminal we would probably adopt it, and, of course, we have the advantage of having that information available to us.

So, in the end, the individual would be prosecuted in these cases.

Now, obviously, in many States there are corresponding State laws. I know in Ohio, for example, where I spent some time, that they have a law that is tantamount to this law, and involving State registration. So, there, of course—now, to digress for a minute—

Mr. McCLORY. Do we confiscate the weapon in those cases?

Mr. DAVIS. Yes, sir.

Mr. HUGHES. Mr. Chairman—

Mr. CONYERS. I yield to the gentleman from New Jersey.

Mr. HUGHES. Do you have any data on the number of arrests, convictions of those that fall into any one of these three categories? The registration, registration during amnesty and since amnesty, the registration?

Mr. DAVIS. Yes, sir.

Mr. HUGHES. In terms—

Mr. DAVIS. What we can do, although I don't think they are broken down beyond—we can, for example, tell you how many arrests and seizures were made under title II, but it would include failure to or possession of unregistered weapons. It might—but that would be primarily what was involved.

Mr. HUGHES. Do you have any figures that break it out for those that, first of all, voluntarily registered weapons?

Mr. DAVIS. Voluntarily what?

Mr. HUGHES. During those three periods, 1934 to amnesty, I am interested in, and during amnesty, in particular.

Mr. DAVIS. No, sir. We have not attempted to—in other words, how many people who registered their guns during this period violated the law, and this period and this period, is that essentially—

Mr. HUGHES. Well, you indicated that you had some information from the preventive standpoint.

Mr. DAVIS. Oh, I see.

Mr. HUGHES. From the deterrent standpoint, and I wondered if you had any statistical data that would indicate to us what percentage of the weapons that were registered during those years, during those periods of time, found themselves involved in some homicide or burglary or some other crime.

Mr. DAVIS. I understand now the thrust. In other words, that of those weapons that were registered, how many later were used in a violation.

Mr. HUGHES. Yes. Commission of offense. Don't you think that would be helpful in trying to determine what kind of deterrent effect registration has?

Mr. CORBIN. It is very small.

Mr. DAVIS. Mr. Peterson.

Mr. PETERSON. Sir, we don't—

Mr. HUGHES. Wouldn't it make sense, in fact, if we are talking about registration and the effect that that has, deterring offenses, wouldn't that information be helpful to this committee?

Mr. PETERSON. Yes, it would, and I think that we have actually never extracted that data.

Mr. HUGHES. I wonder if we can't get that data. That would be helpful to me, I know.

Mr. PETERSON. I think we can, but it may take a little time, and the reason is that our registration does not track out into the field and follow the arrest record. The actual prosecution of the case.

We are trying this now with our new data system, but we don't have it yet.

Mr. HUGHES. I would be interested in knowing, No. 1—

Mr. PETERSON. You will get it.

Mr. HUGHES [continuing]. The number of arrests, just arrests where these offenses were involved and if, in fact, the arrest was of the registered owner or whether it was a stolen weapon. That would be helpful to me anyway.

Mr. CONYERS. Could we get an identification? I think that is Mr. Peterson.

Mr. DAVIS. Mr. Atley Peterson, who is the Assistant Director of the Bureau of Alcohol, Tobacco, and Firearms for the Office of Technical and Scientific Services, and one thing I might point out here is that sometimes—I am quite sure that these things may be used in the commission of State crimes and it would never come to our knowledge.

Now, in other words, the registered owner of one of these classes of weapons committed a murder with it, is prosecuted in State court and never comes to our attention, but to the extent that it does come to our attention, we will attempt to find out the information for the committee.

Mr. GEKAS. Director Davis, to put the title II into perspective, the 247,000 is a very small percentage of all the guns in the country. I don't know what the percentage is, but obviously, if there are 180 million firearms, the 247,000 gangster types are a very minute percentage, right?

Mr. DAVIS. Yes. Now, this of course, is the number registered.

Mr. GEKAS. That is the next question.

Mr. DAVIS. Even if you doubled the—

Mr. GEKAS. That is the next question. How do you—what do you estimate the percentage of noncompliance to be? What do you guesstimate that to be?

Mr. DAVIS. Mainly the problem here, of course, is the reintroduction of automatic military weapons into the United States, you know, by smuggling in effect, without complying with the law. But, I consider it to be a fairly low degree. If we doubled this figure and said that, you know, there were an equal number who had not complied with the law, I think that would be a fair guess.

Mr. Ashbrook, one of my staff handed me a note in further response to your question about Wounded Knee. I would like to point out that the Federal Bureau of Investigation had primary responsibility there, because it was a Federal reservation, that the Bureau of Alcohol, Tobacco, and Firearms seized the gun in question in Oklahoma in 1974 and the owner arrested with local police, and he admitted the use at Wounded Knee.

Do we have any followup?

VOICE. We have a case factor on that.

Mr. DAVIS. There is a case pending.

Mr. ASHBROOK. It was an AK-47, so the picture was reasonable.

Mr. DAVIS. Yes.

I think, then, at this time, what we would like to do is go to the mysterious board here. I hope all the committee is able to see it.

Mr. GEKAS. We have a picture of this, don't we?

Mr. DAVIS. Yes, each of you should have a picture that you can examine more closely.

Now, with the help of Mr. Paul Westenberg, who has already been identified for the record, let me explain what we tried to do here is to show what the—what happened to imported weapons as a result of the 1968 act, and what action was taken to circumvent the act.

Paul can kind of back me up and add in as we go along. Here is a German revolver that was manufactured in Germany and as we show here, by the termination of the line, that gun was effectively stopped by the Gun Control Act. In other words, there was not much they could do with that.

Paul, do you have any idea what that sold for at the time?

Mr. WESTENBERGER. Yes, this would have been under \$15 at the time of manufacture. Mr. Davis made a statement before stating that no other country in the world would take guns, and let's call them very austere, very marginal. That particular variation over 1,400,000 and I would stake my salvation that 95 percent came to this country.

Mr. CONYERS. What was the basis on which it was stopped under the Gun Control Act of 1968?

Mr. DAVIS. I guess this would be a good time to mention, because also this is a subject of Professor Zimring's report.

The Gun Control Act prevented, excluded, certain types of weapons from being imported into the United States, those military surplus weapons. The act went ahead to say that the Secretary or his delegate could permit the importation of firearms that were particularly suitable or readily adaptable to sporting purposes and in all due respect to Professor Zimring. I think we have ample congressional history here to indicate that the intent of Congress was that, and if I can ask Mr. Dessler to read a short excerpt from the Senate subcommittee that reported this bill out.

Mr. DESSLER. Yes, sir, I have before me the Senate Report on the Gun Control Act which would be Report No. 1501 of the 90th Congress, to accompany S. 3633, and in two places in the report the Senate committee made it clear that they intended to permit quality firearms to come into the country, including rifles, shotguns, pistols, and revolvers. On page 24, the committee said:

The provisions concerning the importation of firearms would not interfere with the bringing in of currently produced firearms, such as rifles, shotguns, pistols or revolvers of recognized quality which are used for hunting and for recreational purposes.

And then again on page 38, where it went into a detailed discussion of the 925 provision, the Senate report stated:

The standards set forth in this subsection for the importation of firearms are designed and intended to provide for the importation of quality made sporting firearms, including pistols, rifles and shotguns, such as those manufactured and imported by Browning and other such manufacturers and importers of firearms.

Now, they did address themselves to the .22-caliber cheap firearm, and recognized that was a particular problem, but they said:

The difficulty of defining weapons characterized to meet this target without discriminating against sporting quality firearms was a major reason why the Secretary of the Treasury had been given fairly broad discretion in defining and administering the import prohibition.

It also addressed itself to the starter gun situation, and it made it clear that it was not the intent to even bar the starter gun that was used, except if it was for nonsporting, so it said it was intended to bar the starter gun only if it was the type that was readily converted to a lethal weapon from importation.

Mr. CONYERS. Now, did the German .22 revolver in question fail under the Gun Control Act of 1968 because it failed the sporting purposes test?

Mr. DAVIS. The sporting test, Mr. Chairman. Again, let me elaborate a little bit.

In other words, to us, this was the clear intent then in the legislative history, then revolvers and pistols, as well as rifles and shotguns that were particularly suitable or readily adaptable to sporting purposes should be allowed to enter the country. In pursuance of that and in pursuance to regulations, a committee of six individuals was established from various sectors of the country who had expertise in the firearms area. The committee made recommendations on a factoring system, which involved, or it did become a point system, one for pistols and one for revolvers that took into account those parts of a gun or those attributes of a gun that would make it readily adaptable for sporting purposes, such things as target sights, such things as target grips, safety features, caliber, barrel, and we have currently a list of those in use at the time.

So, applying that factoring criteria which is Mr. Westenberger's office's responsibility, then this gun was barred as not being particularly suitable or adaptable to sporting purposes.

Mr. CONYERS. Which committee were you quoting from?

Mr. DESSLER. I was referring to the Senate Committee on the Judiciary under the chairmanship of Senator Dodd. The report was dated September 5, 1968.

Mr. CONYERS. Thank you.

Mr. DAVIS. Then, to go on to another step, here is a German Luger, which was barred effectively because it was a military surplus gun. It was manufactured initially for military use.

Then we come into this kind of weapon which, as you can see, is a small Spanish .25 automatic. Now, what happened here was that the act was effectively circumvented by bringing in parts into the United States, except for the—in this case it would be the frame, right?

Mr. WESTENBERGER. Frame and this portion right here, and again, in your imagination just remove all these minor components, just the skeleton unit housing the major component.

Mr. DAVIS. Then you wind up with what we call a United States-Spanish 25 automatic that is substantially the same using Spanish parts and American parts. So that for that—for all intents and purposes, the act was not effective.

Then, the next weapon is a German 380 automatic. Now, in this case, the gun as modified in Germany. It never left the country. Mr. Westenberger can indicate to you how it was modified, if you will.

Mr. WESTENBERGER. This initial weapon, a very well-manufactured weapon at this era in time, would have sold for approximately \$125. It could not come in because it failed the height, or one of the prerequisites relating to size in the factoring criteria. The factory then took

it and made it with a portion of a bigger weapon they had in their inventory, so basically what you have is a hybrid of a gun. It then was imported into the United States.

It is, of course, commercial not military, and currently sells for \$199 in the marketplace or over the counter.

Mr. DAVIS. I think we should point out, of course, that in the factoring criteria that concealability is considered, even though not specifically included, in other words, the overall dimensions of the gun.

Here is a Belgian 9-millimeter automatic and, of course, this was the kind of gun that came in without any problems, since it did meet all the factoring criteria. And here is a German .38 revolver. This is a little different approach. What they did, they manufactured this gun in such a way that it could come into the United States under the factoring criteria. Then, once it was in the United States, they cut it down, if you want, they reduced the barrel length, they changed the grips to make it more concealable, and this was done after it was in the United States and after it had been legally imported, so that was another way to circumvent it.

Mr. CONYERS. The 1968 law, then, was susceptible to this kind of circumvention; guns could be modified even after they came into the country. That seems to be a rather obvious flaw in the legislation.

Why couldn't it be argued that the law was passed specifically to preclude that?

Mr. DAVIS. Yes, sir. Well, of course, one of the problems is that once this gun, and, of course, it is examined, it is tested against the factoring criteria. It comes into the United States and then, of course, it becomes sort of lost in the domestic channels. So that the modification would take place primarily without our knowledge of it. It would take place—

Mr. CONYERS. But there would be commercial gun manufacturers making the modification, would there?

Mr. DAVIS. Well, they could be machine shops. Mr. Westenberger, I think, knows the more specific methods by which it is done.

Mr. CONYERS. Which was more prevalent? I am sure there are always those individuals who can do it, but I would imagine they were relatively limited. What it sounds to me was happening is that here was a modification that was apparently commercially made that would have prohibited the gun from coming in in the first place under the law.

Mr. WESTENBERGER. That is absolutely correct, sir, but these guns had been introduced in commerce, and let me cite a hypothetical example.

If you were the importer of this gun in its original form and you wanted to sell that gun to Mr. Davis, but Mr. Davis did not want it in its target grip, target sight, 4-inch barrel configuration, you would then tranship the gun to me. I would perform the modification and I would move it in commerce to Mr. Davis and, of course, he would pay more for it because of the additional labor and materials involved, but this was the sequence generally accomplished.

Mr. GEKAS. There is no prohibition under the 1968 Act once it gets into the country?

Mr. DAVIS. The 1968 law itself, as I am sure the committee is aware, in no way controls the kind of guns that can be made in the United States, except for the title II weapons which, of course, they are made but they are very closely regulated, so, in effect, this was re-manufactured. It is a good way to define it. And it was not under the control of our Bureau.

Mr. CONYERS. Well, then, that could have happened to any number of other guns that were covered by the act, as long as—if they could get in—

Mr. DAVIS. Well, yes. Although there are certain—in other words, you almost have to start here to produce a gun that is to be modified. In other words, there are certain kinds of guns that are not particularly like the revolvers. You may be able to change the grips on them slightly, I mean the pistols, but here the gun almost has to be manufactured over here so that it can be modified later.

And all they have to do here is take the sight off, which is not an integral part of the gun, and cut down the barrel and place the sight back on and take off these grips and replace them with these grips.

Mr. McCLORY. May I ask this question, Mr. Chairman?

With regard to the United States-Spanish .25 automatic, is that gun in that form prohibited from importation? Is it the handle or the grip? Is that part of it in violation of the standards that would be applied?

Mr. WESTENBERGER. It would be a combination of all factors. It fails to meet the overall size requirements, and it does not accrue sufficient point values showing any true sporting purpose attributes.

Mr. McCLORY. It seems to me that if there are—it looks to me like an obvious attempt to circumvent the law in that interpreting the law it would seem to me you could effectively prevent the importation of that part of the gun which is not susceptible to anything except violation of the existing statute. It seems to me you have taken a very technical interpretation of the law in permitting that part to be imported if, in fact, the whole weapon would not be capable of being imported.

Mr. DAVIS. Mr. McClory, the law is very specific on this point. The only parts that are defined as a firearm and that are covered in the act are frames or receivers, so that any other part just isn't a firearm and just isn't under the jurisdiction of the Gun Control Act of 1968.

In fact, it may have been that if Congress had been less specific about frames and receivers, that then we might have been able to hold that here are, you know, enough parts to make a gun, therefore it is a gun, or something of this kind. But the law is very specific in this area.

Mr. McCLORY. You have specific language which would enable us to fulfill what was the obvious intent so that you could enforce, prohibit the importation of that part of this offensive weapon?

Mr. DAVIS. I am sure that our Chief Counsel's office could.

Mr. McCLORY. I would appreciate having that suggested language.

Mr. DAVIS. Mr. Dessler, if you will make a note to come up with language as an amendment to existing law that would prevent the importation of parts, when assembled, that would be a violation—would not be imported in importation.

I have here a list of the factoring criteria that we haven't provided the committee. We would be very happy to give each of you this, which is a worksheet containing all of the factors and their points assigned, if the committee would like it.

Mr. CONYERS. We would appreciate having that.

[The document referred to follows:]



Factoring Criteria for Weapons

Note:

The Internal Revenue Service reserves the right to preclude importation of any revolver or pistol which achieves an apparent qualifying score but does not adhere to the provisions of section 925(d)(3) of Amended Chapter 44, Title 18, U.S.C.

Pistol model _____

<i>Individual characteristics and factor allowance</i>	<i>Sub-total (points)</i>
--	---------------------------

Overall length
For each 1/4" over 6" (1 value) _____

Frame construction
Investment cast or forged steel (15 value) _____
Investment cast or forged HTS alloy (20 value) _____

Weapon weight w/magazine (unloaded)
Per ounce (1 value) _____

Caliber
.22 short and .25 auto (0 value) _____
.22 LR and 7.65mm to .380 auto (3 value) _____
9mm parabolium and over (10 value) _____

Safety features
Locked breech mechanism (5 value) _____
Loaded chamber indicator (5 value) _____
Grip safety (3 value) _____
Magazine safety (5 value) _____
Firing pin block or lock (10 value) _____

Miscellaneous equipment
External hammer (2 value) _____
Double action (10 value) _____
Drift adjustable target sight (5 value) _____
Click adjustable target sight (10 value) _____
Target grips (5 value) _____
Target trigger (2 value) _____

Prerequisites:
1) The pistol must have a positive manually operated safety device.
2) The combined length and height must be in excess of 10" with the height (right angle measurement to barrel without magazine or extension) being at least 4" and the length being at least 6".

Score achieved _____

Qualifying score is 75 points

Revolver model _____

<i>Individual characteristics and factor allowance</i>	<i>Sub-total (points)</i>
--	---------------------------

Barrel length (muzzle to cylinder face)
Less than 4" (0 value) _____
For each 1/4" over 4" (1/2 value) _____

Frame construction
Investment cast or forged steel (15 value) _____
Investment cast or forged HTS alloy (20 value) _____

Weapon weight (unloaded)
Per ounce (1 value) _____

Caliber
.22 short to .25 ACP (0 value) _____
.22 LR and .30 to .38 S&W (3 value) _____
.38 special (4 value) _____
.357 mag and over (5 value) _____

Miscellaneous equipment
Adjustable target sights (dritt or click) (5 value) _____
Target grips (5 value) _____
Target hammer and target trigger (5 value) _____

Prerequisites:
1) Must pass safety test.
2) Must have overall frame (with conventional grips) length (not diagonal) of 4 1/2" minimum.
3) Must have a barrel length of at least 3".

Safety test:
A Double Action Revolver must have a safety feature which automatically (or in a Single Action Revolver by manual operation) causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge. The safety device must withstand the impact of a weight equal to the weight of the revolver dropping from a distance of 36" in a line parallel to the barrel upon the rear of the hammer spur, a total of 5 times.

Score achieved _____

Qualifying score is 45 points

Mr. CONYERS. Let me just recognize Mr. Mann first, and then I will recognize Mr. Ashbrook.

Mr. MANN. Just one little point on the same subject. I have to agree with your conclusion about the importation of parts and the difficulty of attributing circumvention.

However, with reference to the German .38 revolver, if you can consider that was in effect the importation of the frame, which was prohibited, which it is—

Mr. DAVIS. Yes, sir. In other words, you are speaking about the modified weapon.

Mr. MANN. Yes.

Mr. DAVIS. Oh, this one. Oh, I see.

Mr. MANN. That is a device to introduce frames.

Mr. DAVIS. Yes, sir. Well, of course, the entire firearm was considered and obviously it does have to have a frame associated with it, but the problem being here that this weapon, as it exists here, is imported under the—

Mr. MANN. But, if a pattern of distribution would develop to show that they were imported for the purposes of being modified, that could perhaps be proved.

Mr. DAVIS. Yes, sir. If we could—

Mr. MANN. Then that would have been a circumvention of a specific provision of the law.

Mr. DAVIS. Yes. There is, as I recall Mr. Dressler, a saving clause in the law that says even though the Secretary or his delegates, if they meet the criteria, if there is some particular reason why that gun should not be imported or some exceptional reason, that he can do that. If we—in fact, I would assume by now this operation has discontinued.

But, if we had known about the alteration and the fact that it was being imported for the purpose of modification in this country, we would have excluded it.

Mr. CONYERS. Mr. Ashbrook.

Mr. ASHBROOK. Yes. I want to call upon one statement Mr. Westenberg made.

In your summary of information on the German .38, modified in the United States, you indicated that in most cases the typical situation was in effect a custom job being done. I would be interested to know if this is a major problem, or manufacturers are doing this on a broad or a wholesale basis. I would envision a little different situation where a person takes a gun, sends it to a gunsmith, says do a custom job on it. We might argue whether or not that should be done.

But, the second situation where a gun would be received and with some effort to circumvent the law, American manufacturers would do it on a broad basis. I think we would take a little different view of that. You indicated the particular situation being the customer, are you, as an agency, aware of any wholesale or broad effort to do this at the manufacturing level?

Mr. WESTENBERGER. Yes, sir. It was definitely not done on an individual or gun-by-gun item. It was a—the final consumer in the licensee chain would desire to have a number of these weapons in a form with a 2-inch barrel, and it would be in rather large quantities, although as Mr. Davis indicated, it is diminishing.

Mr. ASIIBROOK. Again, you said the consumer. I would like to pinpoint the manufacturer. Do you have any evidence that manufacturers bring those guns in with the intention of modifying them and then, of course, finding a consumer for that?

Mr. WESTENBERGER. Yes, we know the licensed importers that brought them in, but in no case did these licensees do the actual work themselves. They moved them further on in commerce and a third party or a separate party would do the modification or alteration.

Mr. CONYERS. Well, if the gentleman—

Mr. ASIIBROOK. That is a good point, because I think there is a difference between the individual sending a gun and individual people sending them in circumventing the law.

Mr. CONYERS. Can I pick on this point, because I have wanted to ask for a long time who the remanufacturers are and are they frequently manufacturers?

Mr. WESTENBERGER. There was a time when they were merely licensed as gunsmiths. Since that time, they have been licensed as manufacturers, because a major characteristic change has been accomplished, so it is a remanufacturing process, but as I say, it is diminishing now, but we know who brought them in and who did the work in that timeframe.

Mr. DAVIS. And, again, I would like to point out that the remanufacture was not a violation. Once they have been legally imported, the remanufacture is not a violation of law in the United States.

Mr. CONYERS. Well, aren't the remanufacturers frequently manufacturers? Or are these—is this a separate group of businessmen? Is this a different industry?

Mr. WESTENBERGER. Normally, a separate group, that their primary endeavor is the alteration of certain weapons.

Mr. DAVIS. A good machineshop, Mr. Chairman, with the proper lathes, and so forth, could perform the alterations here, with the most difficult one being to remove the sights to cut the barrel off and to grind the cutting end and cut the sight down and replace it and then, of course, the replacement of the grips would be a minor—

Mr. CONYERS. So these are small-business operations by and large, is that correct?

Mr. WESTENBERGER. Definitely. Minimal machinery.

Mr. DAVIS. They would certainly not involve what you would call reputable firm manufacturers.

Mr. CONYERS. Gentlemen, how many other kinds of examples could you have made? Are these representative, these seven weapons, or could you have brought in board after board under a green cloth to go on and on and on? Is this illustrative of the problem?

Mr. DAVIS. There are many, many more examples.

Mr. CONYERS. In the hundreds?

Mr. DAVIS. Mr. Westenberg?

Mr. WESTENBERGER. Not quite that high, sir, but we could probably bring in 30 to 40 weapons of this nature that failed for nonsporting. Yes.

In this category of surplus military, we could supply you with hundreds.

Mr. DAVIS. Those are the ones that were not admitted because they were military surplus. There is a flat prohibition, of course, against military surplus.

Mr. McCLORY. Mr. Chairman, may we have a description of these three revolvers on the right-hand side. You haven't spoken about those.

Mr. DAVIS. This is, then, the end result maybe of everything. These are what we would describe—I think all of them would fit within our definition of being Saturday night specials, but these are guns that are now manufactured completely in the United States, or what you would call inexpensive handguns.

Mr. McCLORY. How much do they retail for, for instance?

Mr. WESTENBERGER. This would go just a bit under \$20, this a little under \$50 and this in the neighborhood of \$35. There are various cosmetic variations—caliber and model.

Mr. GEKAS. How many of each of those models were produced last year? Do you know how many Saturday night specials were produced last year in the United States?

Mr. DAVIS. Well, we can't—let me explain our problem from two points. The first point is that we are dealing with a definition of Saturday night special here that is unofficial, and subject to question and things of this kind. Professor Zimring, for example, mentioned that we used a different definition when we went into Project Identification than what we had like in our factoring criteria.

Mr. GEKAS. How many guns manufactured in the United States would flunk the importation factoring criteria? You can figure it out exactly, can't you?

Mr. WESTENBERGER. No, sir. Not until you have a workable—

Mr. GEKAS. The factoring criteria that you apply to importation, how many guns are manufactured in the United States that could not be imported?

Mr. WESTENBERGER. Truly I would have to go through the manufacturing reports, interpolate, analyze, and go through to give you an example. Right here, it is impossible for me to do so.

Mr. GEKAS. Would you do that?

Mr. WESTENBERGER. I could do it.

Mr. GEKAS. And supply it—can you tell us how many guns have been imported, passed the factoring criteria, and then modified like the .38 revolver on the bottom? Can you tell us that?

Mr. WESTENBERGER. No, sir. That would be physically impossible to tell you. These are guns we encounter as they are seized as contraband and they come back into our reference collection, or if we seize them in gun shops or in normal field investigations.

Mr. GEKAS. You know where the guns go to once they imported, don't you?

Mr. WESTENBERGER. We could find out. We don't actually know—

Mr. GEKAS. Could you find out that?

Mr. WESTENBERGER [continuing]. What information is available.

Mr. GEKAS. Could you find that out and supply it?

Mr. HUGHES. I wonder, while we are on the same subject, Mr. Chairman, if we can also, when your counsel defines and enlightens us on how we can prevent the circumvention on parts, also include language in there that would prevent the modification once it arrives in this country.

Mr. DAVIS. I think that would be a much more difficult thing, but we certainly will do our best to come up with that kind of language.

Mr. CONYERS. Mr. Mann.

Mr. MANN. I think that our requests reflect our lack of satisfaction with the extent of recordkeeping that your Department has carried on, Mr. Davis, and I also think our requests are probably somewhat unrealistic in terms of your being able to comply with them.

In that connection, however, jumping back to something that was said earlier about knowing what guns are manufactured in this country, I think you answered that in the affirmative. You get a manufacturer's report on a quarterly basis. And it was explained that your records beyond that point are not precise because different manufacturers used different methods of distribution.

Do you require any report from the manufacturer concerning to whom he distributed those guns, whether to a distributor or directly to a retail outlet?

Mr. DAVIS. Yes, sir. Let me say first that the manufacturers are required to show their distribution of handguns. Now, we have not, to this point, accumulated those records. Very frankly, to be as honest as I can with you, we just don't have the computer facility to include those. But any particular gun—any manufacturer, we have access to their records and we can show precisely, because they only ship to licensed dealers, we can show precisely, we can follow the trail of any weapon from the manufacturer to the dealer and to the first purchaser.

Mr. MANN. You indicated you had not promulgated regulations to require the reports of the manufacturers that they were giving you, but you felt you had the right to do that. Do you have the right to require the manufacturer to reveal the distributors to whom he sends guns and do you have the authority to require that distributor to reveal the dealer to whom he distributes the guns?

Mr. DAVIS. Yes, sir.

Mr. MANN. Thank you.

Mr. DAVIS. I might just again point out to the committee that what we are talking about here in terms is the production of firearms and in this instance we are not limiting it to handguns. We are talking about a production of firearms in the United States that is approaching 6 million a year.

Now, what then we are saying is these are manufactured, obviously some of them are exported, but we are then dealing with the transfer of those to distributors, in many cases, from there to dealers, in many other cases, so we are talking about literally millions of transactions per year.

Again, this requires a capability of handling that kind of information.

Mr. GEKAS. Mr. Davis—

Mr. CONYERS. Just a minute. When you mention annual production of 6 million, are we talking about 2½ million handguns and the remainder comprising shotguns and rifles?

Mr. DAVIS. Yes, sir, and to a limited extent, of course, of title II weapons.

Mr. CONYERS. Right.

Mr. Gekas.

Mr. GEKAS. If you do have the authority to require manufacturers to identify their distributors and to trace guns from production

through the channels of commerce to—through licensees, why haven't you done that?

You indicated to Mr. Mann you have not. Why haven't you done that?

Mr. DAVIS. Well, essentially, there are two answers to that and again, I think just the sheer capacity to handle that kind of information. In other words, take a typical dealer. He might, for example, purchase firearms from five or six different manufacturers. If I understand, you know, the thrust of your question, that is the usefulness of this information in formulating firearm strategy, again, it would be just the physical ability to accept and accumulate and get that information in meaningful terms.

That means, for example, we would have to take a firearms license number, as say, a key, and we would then show that that licensee had, for the month of December 1974 bought 100 guns from Colt, 50 from S. & W., to get a meaningful pattern.

Mr. GEKAS. May I interrupt? On the usefulness, it seems to me very useful to know that if you find out that 70 percent of the Saturday night specials, that is, guns that flunk the factoring criteria, are manufactured in one portion of the country and that 60 percent of those guns are distributed in another or the same portion of the country, then in terms of allocating your resources and in terms of knowing just the traffic in Saturday night specials, where they start and where they go, it would certainly be enormously useful to this subcommittee.

Mr. DAVIS. Yes, sir. I agree with you. The second point that I was going to make, and certainly I can't dispute usefulness of the information system that you describe, the second reason is, of course, that the information is available to us in terms of existing needs.

In other words, if we want to know where a—through the commercial channel, a particular weapon went, we have that availability to us. It is not immediately available and available as it would be if we were collating and collecting that kind of information:

Mr. GEKAS. Well, for the purpose of law enforcement, if you are talking about the project identification where you take a gun when you find it besides someone's body in New York City and then you can trace it back by telephone calls to whoever manufactured it, who distributed it, who the retail dealer. But in terms of the total problem, if you could identify Saturday night specials and start drawing lines from the producer to the distributor to the retail dealer, for the purposes of the legislative purpose here, that this subcommittee is performing, it would be enormously useful to us. And in terms of allocating your own resources, if you found out that 100 percent of the Saturday night specials are manufactured in one city and 95 percent of the Saturday night specials are sold in one State, then you would know where to concentrate your efforts against Saturday night specials, wouldn't you?

Mr. DAVIS. Yes, sir. That is true. And, of course, even more meaningful beyond that, as I have indicated to you, if we could have a computer system that would show a dealer's annual transactions in firearms for a period and then we could show that in 1 month his acquisition went up 100 percent, that would be a key to us that what is going on with this dealer? Has he suddenly expanded his business or is he selling to people for resale?

Mr. HUGHES. Mr. Chairman—

Mr. CONYERS. Before I yield to the gentleman—if he would permit me to follow up on this point that Mr. Gekas is developing—Saturday night specials are not in and of themselves prohibited under existing law, are they?

Mr. DAVIS. Not at all, Mr. Chairman.

Mr. CONYERS. What would you be following up? I mean, what would you be doing besides identifying them?

Mr. DAVIS. Sir, of course, we have the immediate problem of definition, but assuming that we have—we have definitions, but we have in our Project I surveys which we will go into in depth, we show that about 50 percent of the handguns used in crime fall within at least our definition, which we think is a pretty tough one. So, that if you could follow a pattern of dispersal of these, that it might be useful in terms of the interstate movement of these kinds of weapons.

Let's assume that they were manufactured in New York, which is a very tough State with respect to their firearms laws, and let's suppose that the production of a plant located there, that 90 percent of it was going to the States of South Carolina, Georgia, somewhere else, then, it would probably indicate a weakness in the laws of those States with respect to distribution.

Mr. CONYERS. Well, I am sensitive that we burdened you with a number of requests.

I think most of them have been reasonable and necessary to our objectives, and I think that at our next session we would want to hear from you about these duties and, to the extent that we could, we would like to receive them in advance or at least summaries of them. I think it would help expedite our hearings.

I yield to the member from New Jersey.

Mr. HUGHES. Thank you, Mr. Chairman.

I just want to follow up on what counsel was discussing. You are not under a computer and obviously that is a tremendous handicap. In the number of tracings you have to do.

I am interested in the law enforcement standpoint, tracing the weapon, specific weapon to the first person or purchaser. How long does it take you on an average?

Mr. DAVIS. It depends on the priority, but we have traced—I can give you a couple of concrete examples. When the sniper was killed on the rooftop of the hotel in New Orleans, when we had a complete description of the weapon—as you remember, he had no identification, he was unidentified, we were able to trace it to him in 27 minutes by going from the manufacturer to the dealer and having the dealer tell us who it was.

In this particular case, he used the right identification, his right name, so we were able to tell the New Orleans Police Department his exact identity. This was very important in this investigation. It was estimated it would have taken them several months to establish his identity, because he had no FBI record or anything else.

As you recall, it was a question of conspiracy and certainly the investigation required finding out where he lived in New Orleans, who his associates were, and this sort of thing.

In the case of the weapon that was used in the attempted assassination of Governor Wallace, we were able to trace it to Arthur Bremer

within a matter of 10 minutes. These are extra-special efforts. This requires getting quick response from the manufacturer, calling the dealer, and if he is in bed, getting him out of bed and asking him to go to the shop and look at his transaction directly.

In that case, of course, it wasn't as important because Bremer was in custody, but it certainly did verify that he purchased it.

Mr. HUGHES. Were these rifles in each case?

Mr. DAVIS. In each of those cases—well, in the one case, Bremer's case, it was a handgun. The sniper in New Orleans, it was a high-powered rifle.

Mr. CONYERS. Mr. Barboza.

Mr. BARBOZA. Mr. Davis, the subcommittee has raised questions with you with respect to your knowledge and reference as to where guns are shipped in the country. Also, along the same lines, we know that you have problems in terms of information, compiling it, putting it on computers, lack of resources, and other things.

If certain information were placed on a computer with respect to dealers, this would aid you in enforcement of the Gun Control Act, that is, I have here the application form for licensees under the Fire arms Act, form No. 7, which shows, of course, the name of the owner, the corporation, but in addition to this if the applicant's business is individually owned or a partnership. [See pt. 8, app. 2.]

Wouldn't that give you an idea of the kind of dealer, if you had that on a computer, how big he is, how small he is, or is he a—

Mr. DAVIS. Yes. In fact, that would do a great deal for us. As I say, we could establish normal volume and if there was a significant increase in the volume, it would certainly key us.

As I have indicated earlier, I think that this would be particularly useful, if the number of dealers in the United States were reduced to those who actually needed and were qualified to have a license. In other words, we are talking in terms of 30,000 or 40,000 dealers instead of in terms of 155,000.

So, that certainly a flow of weapons—I am sure that Mr. Westenberg could take all of the domestic handguns in the United States by model and caliber and so forth, and we could classify those as to those that would pass the factoring criteria, and—

Mr. GEKAS. Would you do that for the subcommittee? Would you try, please, to do that and supply it to the staff?

Mr. DAVIS. Very fine. It shall be done.

Mr. GEKAS. Thank you.

Mr. CONYERS. Well, we are grateful to you, Mr. Davis, and to your associates. We obviously are going to have to return to the scene of this discussion and I am hopeful that next Wednesday would be an appropriate time for us to resume the hearings on this important matter.

Thank you all again, and the committee stands in adjournment.

[Whereupon, at 12:02 p.m., the subcommittee adjourned, subject to the call of the Chair.]

FIREARMS LEGISLATION

WEDNESDAY, MARCH 26, 1975

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

The subcommittee met, pursuant to recess, at 10:30 a.m., in room 2141, Rayburn House Office Building, Hon. John Conyers, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, Danielson, Thornton, Hughes, and McClory.

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

Mr. CONYERS. The subcommittee will come to order. We are happy to welcome back our guests from the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury; its Director, Mr. Rex D. Davis; Mr. Corbin, Assistant Director, Criminal Enforcement; Mr. Dessler, Acting General Counsel and we have also Ora J. Pierce, Mr. Edward Owen, and the other staff that Mr. Davis has asked to be with him. Today we continue the very important consideration of firearms legislation as related to the functions of the Bureau of Alcohol, Tobacco, and Firearms. We appreciate the information that we received at your first appearance, and we look forward to a continuation of the testimony.

I understand that you wanted to conclude your presentation and describe some of the charts that you had with you from last time, which are here again.

TESTIMONY OF HON. REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, ACCOMPANIED BY JOHN F. CORBIN, JR., ASSISTANT DIRECTOR, CRIMINAL ENFORCEMENT; ATLEY PETERSON, ASSISTANT DIRECTOR, TECHNICAL AND SCIENTIFIC SERVICES; MARVIN J. DESSLER, CHIEF COUNSEL DESIGNATE; ORA J. PIERCE, DEPUTY ASSISTANT DIRECTOR, REGULATORY ENFORCEMENT; AND EDWARD M. OWEN, JR., FIREARMS ENFORCEMENT OFFICE, DEPARTMENT OF THE TREASURY

Mr. DAVIS. Yes, sir, Mr. Chairman. We would like to do that, if it is acceptable to the Chair. We would like to respond to some of the questions for information that we were asked for by the committee during the last session, and if I could I would like to mention three or four areas where we feel we have not been able to take full advantage of the act, and then to continue with the presentation, if that is acceptable.

Mr. CONYERS. I think that is acceptable. We have so much material that we want to exchange with each other and examine in a friendly way that we could probably almost start from any direction.

Mr. DAVIS. All right.

Mr. CONYERS. I think your suggestion is good, and I will ask you to proceed in your own way.

Mr. DAVIS. Thank you, Mr. Chairman. During the last session, there were a certain number of questions that the committee asked us to provide information on, and at this time, if I could, I would like to refer to those questions and, where it was possible, to provide the committee with the information in response to those questions.

The first question that is on our list was a request for the number of thefts and the number of firearms stolen from licensed manufacturers.

Since the last session, we have conducted a survey of all major manufacturers in the United States for the period that began with the enactment of the Gun Control Act of 1968 to the present date.

Now, this survey resulted in the report of 659 theft incidents involving 3,377 firearms during the 6½-year period.

Due to the time limitation in conducting this survey and the nature of some of the responses, we believe this figure could fairly be doubled. In other words, we feel that this survey indicates the theft of about 1,000 firearms per year from the premises of licensed manufacturers, and it should also be noted, I think, that this figure does not include the theft of parts which could later be assembled into firearms.

The second question and the one that was somewhat embarrassing, was to determine the discrepancy between ATF and Bureau of the Census importation figures. If you recall, Mr. Chairman, there was a discrepancy in round terms of 600,000 firearms between the report by ATF, which was on the high side, and the Bureau of the Census, which was on the low side.

As I indicated to the committee at the last session, we did pursue this to determine wherein the discrepancy lay.

We did find out that our mid-Atlantic region, which is one of our seven ATF regions, report for the period did contain a distortion, and we instructed that region to reexamine the form 6-A on which this material is contained, and from which the report is made by the region, and we found substantial clerical errors.

On the basis of that inquiry, we can now say that the total handguns reported by that region was adjusted downward from 718,500 to 65,551. Now, this in turn resulted in a downward adjustment of total ATF figures from 900,700 to 247,251. Now while this is not exactly, or does not exactly coincide with the Bureau of the Census figure, it appears to us to be in the range of permissible variance within the existing reporting system, which does lend itself to some errors.

As I indicated at the last session, Mr. Chairman, we will review our reporting procedures with the view of making them more accurate and reliable.

Mr. CONYERS. Now have we agreed on counts that resolve the discrepancy?

Mr. DAVIS. Yes. Instead of the 900,700 of which we had on our chart and which we have reported, that has been reduced to 237,751. This makes it within the range of 60,000 of the Bureau of the Census Report which was 300,000-plus.

In other words, there is about a 60,000 variation, now, between the two figures.

Mr. CONYERS. How did you arrive at that adjustment, if I might inquire?

Mr. DAVIS. Yes, sir. I can explain, sir, that on the form 6-A, there is a place for the number of packages, and then in another column the number of total firearms. Some of our clerks in that particular region multiplied the number of firearms by the number of packages, which gave them a greatly distorted figure, and when we did reexamine the 6-A's, this was discovered, and it was in effect a clerical error based on a misunderstanding of the form itself.

Another question that the committee asked us to look into was how many registered title II firearms were used in the commission of a crime from, A. 1934, to the amnesty period—

Mr. DANIELSON. Mr. Chairman.

Mr. CONYERS. Yes.

Mr. DANIELSON. Would the gentleman be good enough to tell us what title II firearms are? I am not that good at jargon.

Mr. DAVIS. Yes, sir. The firearms that are included in title II of the Gun Control Act of 1968 include gangster type weapons, such as machineguns, sawed off shotguns and rifles and a special category of other weapons, as well as destructive devices which are such things as mortars, mines, rockets, any weapon that has over .50 caliber.

I might add, too, that these weapons are the only ones that are truly registered by the Federal Government.

Mr. DANIELSON. May I ask a question there, Mr. Chairman?

Mr. CONYERS. Of course.

Mr. DANIELSON. It is my understanding that we no longer permit the retail trafficking in antitank cannon and the like.

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. Does that mean yes we do, or no, we don't?

Mr. DAVIS. No, sir, we do not, except for law enforcement purposes and other limited purposes. A private individual cannot now register a weapon of this type with the Bureau, and only dealers in these weapons can transfer them among themselves or to police departments.

Mr. DANIELSON. Can they transfer them to anyone except a police department? Who has cannons except the military forces? That is what I want to know.

Mr. DAVIS. There are collectors of weapons to a certain degree, but at the present time they could be transferred between dealers, or for these exceptional classes of organizations such as law enforcement agencies.

Mr. DANIELSON. Are there anything other than law enforcement agencies and military who can own a functional cannon today?

Mr. DAVIS. Only, sir, if it has been registered in previous times. I might point out that from the period 1934 until the enactment of the 1968 Gun Control Act, we had registered 60,000 of these. The act itself provided for a 30-day amnesty period following enactment of the act.

At that time, we registered 70,000, and since that time there have been an additional 117,000. Now if in fact an individual had registered a cannon prior to 1968 or during the amnesty period itself, he could legally own it.

Mr. DANIELSON. He could still have it then?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. It doesn't have to be deactivated?

Mr. DAVIS. No, sir.

Mr. DANIELSON. He could still stop a Sherman tank if he wanted to.

Mr. DAVIS. Yes.

Mr. DANIELSON. How many are those?

Mr. DAVIS. At least over 200,000 registered.

Mr. DANIELSON. Thank you.

Mr. HUGHES. I would like to interrupt.

Mr. CONYERS. Please do.

Mr. HUGHES. What is law enforcement's need for a cannon?

Mr. DAVIS. The title II weapons that a law enforcement agency would use would be a machinegun, such as a Thompson submachine gun.

Mr. HUGHES. You classify that as a cannon? I have a picture of a cannon as a cannon, artillery.

Mr. DAVIS. Yes, sir. I don't believe the ordinary police department would find any use for such instruments. As far as I know, there are none that have them.

Mr. BARBOZA. Are you saying the figure in 1973 of 900,700 has been reduced to 270,000?

Mr. DAVIS. It has been reduced to 247,751.

Mr. BARBOZA. So that your figure, then, is lower than the census figure?

Mr. DAVIS. That is correct.

Mr. BARBOZA. So there was a 530,000 gun discrepancy?

Mr. DAVIS. Yes. In this particular region, there were almost 600,000 guns overreported by reason of these misunderstandings of the form and the clerical errors that followed.

Mr. CONYERS. Director Davis, you said before that title II constitutes the only true Federal registration there is. Would you put that distinction on the record with a little amplification, please?

Mr. DAVIS. Yes, sir.

In the case of these types of weapons, the gun is registered with the Bureau to a named individual, and there is in fact—that gun cannot be transferred to another individual unless the application is made with the Bureau, and in the case of nonlicensees, there is a \$200 transfer tax imposed, so that in every case we know exactly where the weapon is if it is legally transferred.

So in effect this weapon is associated with a named individual in the files of the Bureau.

Mr. CONYERS. Now contrast that with the normal so-called "registration" requirements.

Mr. DAVIS. Well, this is the scheme. I would say, of those jurisdictions which require registration, that if you require a gun you must go, say, to the local police department and in some cases, of course, photographs and so forth are made, but a particular gun is associated with a particular individual, such as in New York City.

Mr. CONYERS. Do you find that most places have some kind of registration of that type? In Detroit, that has been commonplace for a

long time, and I assumed that that was customary in most of the United States.

Mr. DAVIS. No, sir, it is not customary. I would say that at the State level there are only about 8 or 9 States that have registration on a statewide basis. There are obviously some municipalities that have imposed this, but it is not a widespread requirement throughout the United States.

Mr. CONYERS. Mr. McClory?

Mr. McCLORY. Mr. Davis, I would like to pursue that just a little bit further, as long as we are on the question of registration, and the identity of the owners of guns. Is it not true that the—at the present time, the manufacturers of all firearms keep accurate and complete records and are required to keep them with regard to every firearm which is manufactured so that they have a record of the serial number and its manufacture?

Mr. DAVIS. Yes, sir, that is true.

Mr. McCLORY. Is it not true, also, that there is an accurate and complete record kept, and required to be kept in the transfer of that firearm from the manufacturer to a licensed dealer?

Mr. DAVIS. Yes, sir.

Mr. McCLORY. Is it not also true that every licensed dealer is required to keep not only an accurate and complete record with regard to the firearms that he receives, but also to keep an accurate and complete record with regard to all the firearms that he sells, or which are transferred from his dealership into the hands of the purchaser or transferee?

Mr. DAVIS. Yes, sir, that is correct.

Mr. McCLORY. So that in those States and communities where we do have registration, we have the information which is available in the hands of the dealer, which is merely put on the public record or in the public registrar book, or registration book of the locality or State where the registration law applies?

Mr. DAVIS. Yes, sir.

Mr. McCLORY. And the dealer is required to keep and maintain these records, is he not?

Mr. DAVIS. Yes, sir, that is true.

Mr. McCLORY. So that in the event of the commission of a crime or a loss the firearm or anything like that, it is possible today to determine by merely communicating with the dealer who the transferee of a particular firearms was, if you are able to identify it by serial number?

Mr. DAVIS. Yes, sir, I would say that is true with respect to the initial purchaser.

Mr. McCLORY. Yes. Well, now, the only record, then which is not kept, is if there is a transfer or a sale by a nondealer, or a gift by a nondealer to some other person.

And at the present time, you do operate, do you not, for service to local law enforcement and State law enforcement agencies a tracing service in which you trace the path through which a firearm on which the serial number is given, the path to the ultimate transferee?

Mr. DAVIS. That is correct.

Mr. McCLORY. We do that now at the rate of 3,300 inquires a month?

Mr. DAVIS. Yes, sir. Last year, there were over 33,000 for the calendar year 1974.

Mr. McCLORY. Except for the records of those 3,300, or the number where the inquiry is made, you do not maintain any record yourself in your office, do you?

Mr. DAVIS. No, sir. All of the records relating to the movement in commerce of firearms is kept by the licensee, where it is a manufacturer, importer, distributor or retail dealer.

Mr. McCLORY. And the time consumed to trace these weapons now varies between what, a matter of minutes to a matter of weeks?

Mr. DAVIS. Yes, sir, that is correct. This depends on the seriousness of the crime involved, or in which the firearm is involved, and so we place priorities on them.

Mr. McCLORY. But the question as to the identity of the ultimate legitimate owner, or purchaser, of a firearm from a dealer, as far as that is concerned, there is no mystery about that at all? There is no problem getting that information, unless the dealer is violating the law himself by not keeping a record?

Mr. DAVIS. Yes, sir, that is correct. I would add that only if the dealer himself is manipulating his record, or if the purchaser has used false identification, then, of course, it would not be traced.

Mr. McCLORY. Then if we had a Federal statute which required a particular type of registration of these firearms by municipalities or by States, or authorized the Federal Government to retain those, all we would be doing would be transferring to some central, or a group of agencies the information which is presently already available in the hands of the dealers?

Mr. DAVIS. I might qualify that, if I can, by saying that if you have a true registration law, such as you have in New York or in Michigan, there, the effect is that anybody who has a firearm, and in those cases handguns, must register them, so that in the case of a true registration law, if I acquired a firearm from you in those jurisdictions, then I would have to go register it.

As we have pointed out under Federal law, there is no requirement beyond the first purchaser.

Mr. McCLORY. Right. Now with regard to the tracings that you are requested to carry on, to what extent does your information indicate that they are useful to law enforcement agencies with regard to, one, the apprehension of criminals, or just suspected criminals, and to the trial and conviction of an offender who used the firearm in the commission of a crime?

Mr. DAVIS. On the basis of a survey, while it was somewhat limited in scope, at least it was a random survey in which we asked the people who had submitted trace requests that somewhere in the 70-percent of those cases they said the tracing of the firearm was useful in the investigation.

A smaller number, or a smaller percentage, still around half of them, said it was useful in the apprehension of the violator, and another percentage, which was at least 25 to 30 percent, said it was actually useful in the prosecution of the case.

So that on the basis of that survey, we would have to say that the tracing of a weapon used in a crime is an important investigative tool.

Mr. McCLORY. Could you provide for the committee the results of the survey that you have carried on?

Mr. DAVIS. Yes, sir, I would be very happy to do that.
[The information referred to follows:]

FIREARMS TRACING SUPPORT TO SPECIAL AGENTS

	Number of yes responses	Percent of yes responses
Did trace assist in identifying the violator?.....	55	27.5
Did trace assist in the investigation?.....	147	73.5
Did trace assist in making a case?.....	84	42.0

Source: From random sampling of 200 traces requested during October 1974.

Mr. McCLORY. Is it not true, also, that as a result of tracings, innocent individuals who are not involved in any way in any criminal activity are able to be vindicated from suspicion as a result of the tracing?

Mr. DAVIS. Yes, sir. We have at least two or three examples where a person who was suspected of a crime was exonerated as a result of the purchase of a firearm. In those particular cases, the timing of the purchase had an important bearing on the establishing of his innocence.

Mr. McCLORY. Then in some cases, it might occur that a licensed dealer, not a reputable licensed dealer, but since we have a great many licensed dealers, that sometimes they may be involved in trafficking in a firearm and participating in the commission of a crime?

Mr. DAVIS. Yes, sir, and this tracing helps pinpoint these individuals, particularly if they are dealing in a considerable magnitude. Our tracing efforts in our Project Identification, which I will amplify later, did, through tracing of firearms in New York City, establish that certain dealers in South Carolina were trafficking heavily, and it happened in those particular cases that we had already made cases on some of them, but certainly this is a technique for identifying dealers where a high percentage of the guns they handle wind up used in crime.

Mr. McCLORY. If the Congress would see fit to enact some legislation with regard to a comprehensive registration of firearms and the assembling of the information, either centrally or in the States, or in some systematized way, you could enlarge and expand and greatly accelerate your tracing process. could you not?

Mr. DAVIS. Yes, sir. There is no question.

Mr. McCLORY. Independent of any Federal or other type of registration and legislation, do you have any plans to improve the present operation?

Mr. DAVIS. Well, sir, under existing laws and regulations, we could institute a system whereby we could greatly expedite and make more efficient our tracing efforts.

Now, this would not be registration. It is possible to amend the firearms transaction form in such a way that when a dealer sells a gun, the information could be transmitted to the Bureau without the identifying name of the purchaser, but merely the identification of the weapon in question.

This we could do under present regulations. I might point out, unfortunately, that the Bureau is not equipped to handle the amount of information this would generate. For example, this would involve at least 6 million transactions a year, and that is a great deal of information to handle without computers.

But, it would certainly greatly benefit our ability to trace weapons. The reason this would not in my opinion even be de facto registration is that computers could not be queried as to whether John Doe owned a weapon.

In other words, that would not be possible. So, the only way it could be queried would be that if a particular weapon was suspect, and was known to be used in a crime, you could identify the dealer who sold the weapon, and therefore, you could reach a point where now we do it very laboriously via telephone, which takes, as you have indicated, many days in some cases.

By use of a computer, this could be done in a matter of seconds.

Mr. McCLORY. I would like to add that I did have the opportunity to visit your tracing operation. I want to commend you on the very useful service you are performing with limited means and with limited legislative authority.

Mr. DANIELSON. Would the gentleman yield?

Mr. McCLORY. I would be happy to yield.

Mr. DANIELSON. I think I heard this, but I want to recap so I can see if I missed anything.

Under existing law, manufacturers of handguns must keep a record of what they have manufactured, of the licensee to whom they have transferred the title, and that would be a wholesaler, I would assume, and the wholesaler in turn keeps a record of the licensed retailers to whom they transfer the title.

Then we are getting down to retail sales to the citizens, and depending upon the laws of the State in which the transaction takes place, you either do, or do not, have the identity of the first retail purchaser.

Mr. DAVIS. No, sir. In every case under Federal law, the purchaser of any firearms, including shotguns and rifles, as well as handguns, must fill out a firearms transaction form, and he must display positive identification.

Mr. DANIELSON. Then you do have the identity, at least, of the first retail purchaser.

Subsequent purchasers, transferees from the first retail purchaser, may or may not be available.

Mr. McCLORY. The dealer has the names. The dealer is required to have the names.

Mr. DANIELSON. I have that.

Mr. McCLORY. He doesn't have it.

Mr. DANIELSON. But, the world has it. It is a record.

Mr. McCLORY. It is a record which under existing law they are required to keep and maintain.

Mr. DANIELSON. The retailer must keep a record of the first retail customer. A second owner—suppose I buy the gun from a retailer, but I sell it to my good friend, Mr. McClory.

Is there any available Federal law requiring a record to be kept there?

Mr. DAVIS. No, sir, not at all.

Mr. DANIELSON. So once you pass the first retail purchaser, that is the end of trail.

Then, as I understand it, there would be one change in the law, at least, which would be of value to you, and that is that your central records would have the aggregate of all of these records of the manufacturers, so that on seeking to identify a weapon, you do not have to search out the manufacturer to start with, but your own computer could say, "Well, this gun was made by so and so and was sold to wholesaler number so and so, et cetera," down to that first retail sale?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. Subsequent to the first retail sale, then, that would be up to—under the present law—it would be up to the existing laws of the several States.

Mr. DAVIS. And it would be an investigative trail.

Mr. DANIELSON. I understand. I wanted to recap. Am I about right on that, in your tracing experience?

Mr. DAVIS. Yes.

Mr. DANIELSON. In your tracing experience, there are very few instances in which you were able to trace the gun from the purchaser to the licensed dealer because of the purchaser having transferred to some third party.

That is a very unusual incident, is it not?

Mr. DAVIS. Yes, sir, and I am hesitating, because I am not exactly sure of what the percentage would be, if I understand your question that, knowing the first purchaser, we generally are able to identify the person who used the gun in crime, and this, I would say, is generally true.

Mr. McCLORY. And the other thing which your tracing experience or survey shows is that the guns identified in the tracing process were purchased for the most part relatively recently; that is, 1, 2, or 3 years prior to the time the crime was committed?

Mr. DAVIS. Yes, sir. The percentage in the year is high in the year preceding the use in crime. It drops a little more in the second year, and a little more in the third year.

But in the aggregate, taking a 4-year period, it would cover about 50 percent of all guns used in crime.

Mr. CONYERS. Counsel Chris Gekas?

Mr. GEKAS. You indicated that the sample was a limited study, and you also indicated that you do not have the computer capabilities or the computer equipment to even institute this minimum system for tracing that you were describing to Mr. McClory.

You were up before Appropriations yesterday. In your appropriation, is there a request for computer capabilities for new equipment and new programs specifically related to the two areas, registration and studies, and any other areas? Do you have a request up to now for that?

Mr. DAVIS. No, sir. The fiscal year 1975 budget request does not contain an authorization for computer equipment or computer personnel.

Mr. GEKAS. Did ATF make such a request in its submission?

Mr. DAVIS. Yes, we did ask for that.

Mr. GEKAS. When you ask, who do you ask?

Mr. DAVIS. The budget submission will be made to the Department of the Treasury. The Department of Treasury will take such action as they feel appropriate on that request. It is then submitted to OMB, where they will take action and submit it to the Congress.

Mr. GEKAS. So you asked Treasury for computers for the tracing and the system to increase your computer capabilities?

Mr. DAVIS. Yes, sir.

Mr. GEKAS. And it was cut by what?

Mr. DAVIS. To the best of my recollection, it was cut by the Office of Management and Budget.

Mr. GEKAS. Could you supply the figures that—could you supply the total budget that ATF submitted to Treasury?

Mr. DAVIS. Can I take that under advisement, if I can, and tell the committee later?

Mr. GEKAS. You can see the point of my question. You could do a lot better job if you had this capability.

Why don't you describe for the members of the subcommittee what computer capabilities you do have? It is my understanding it is not extensive.

Mr. DAVIS. Yes. We have what we call a remote terminal linked to an 1108 Computer in the Treasury. We have four professional people and one clerk. My advice from those people is that the computer at Treasury is frequently not available for use, either because it is down, or because other jobs have priority.

Mr. GEKAS. So you regulate so many thousand tobacco licenses, so many thousand alcohol licenses, so many thousand firearms licenses, and in the firearms area, there are 6 million transactions a year in which there are 2½ million handguns, and you do not have a computer.

Mr. DAVIS. No, sir; and I would like to remind the committee that we collect \$7.5 billion a year in alcohol and tobacco taxes.

We have 500,000 retail liquor dealers. Any computer capability we would have would have an application beyond firearms.

Mr. CONYERS. Mr. Danielson?

Mr. DANIELSON. Thank you, Mr. Chairman. Does the manufacturer place the serial number of the weapon on the piece at more than one place?

Mr. DAVIS. Yes, sir; and Mr. Dessler, the chief counsel, can advise you of the specific legal requirement.

Mr. DANIELSON. Before you answer, sir, in addition to informing me as to what is the commercial practices, is this compulsory, or is it voluntary by the manufacturer? Are there any secret places for these identifying number, as in the automobile industry?

You know, the number appears in more places than just the engine block. Could you answer that, please?

Mr. DESSLER. Yes, sir.

The law requires the manufacturer to identify by means of a serial number, which is cast or engraved on the receiver or frame of the weapon. The law requires it to be placed on that specific part, the frame or receiver.

Mr. DANIELSON. That is one number.

Mr. DESSLER. Yes.

Mr. DANIELSON. Are there others?

Mr. DESSLER. There are no other numbers which the law requires. It is a serial number that shall not duplicate any others.

Mr. DAVIS. Mr. Owen, could you respond to the commercial practice with respect to serial numbers?

Mr. OWEN. Yes, sir, depending on the manufacturer, certainly the major handgun manufacturers do place additional serial numbers on major components.

Mr. DANIELSON. This is violational on the part of the manufacturer, and whether he does or not just depends on whether he feels like it.

Mr. OWEN. Yes, sir.

Mr. DANIELSON. You may be familiar. In the automobile industry, the engine number usually appears at more than one place. We used to call them the secret locations, and the idea was that somebody might file off the number, but you could still find it someplace else.

Whether you have or not, would you give some thought to there being some type of a requirement? It is so simple to remove a cast or engraved number from the frame or receiver, that it might be wise to consider having the same identifying number on the piece at some other arbitrarily determined place so that we double the safeguard of identification.

Mr. CONYERS. Mr. Hughes?

Mr. HUGHES. Yes, Mr. Chairman.

I would like to try to develop just a little more the concept of tracing. You know, we seem to take it right to the brink and drop it there.

I wonder if I can reach that, because I understand under the 1968 gun control law, we can trace it from the manufacturer, to the wholesaler, to the retailer, to the first purchaser. We cannot go beyond that.

As I understand your statement, you do not think there are that many transfers. Do you have any data to back that up, because that has not been my experience.

Mr. DAVIS. Yes, sir. You mean beyond the first purchaser?

Mr. HUGHES. Yes. I find a lot of swapping and selling and bartering back and forth.

Mr. DAVIS. I am sorry if I gave that impression, because there is a good bit, as I indicated, individual sales or casual sales, between individuals and trading and this sort of thing.

A great deal, of course, depends on the nature of the purchaser. If, for example, he has purchased a gun for home defense, it is more than likely that he will keep it, and it depends upon his interest, generally, in the subject of guns.

But I probably mislead you by responding to Mr. McClory's question. Even though there have been several transfers, it is possible, through investigation, to follow that from one individual to another, if the gun has been used in a crime.

Mr. HUGHES. So under present law, if there have been six transfers from the time that the first purchaser bought from the dealer, we have no record of that, at least at the Federal level?

Mr. DAVIS. No, sir.

Mr. HUGHES. How many States have some form of registration or identification law? How many out of the 50 States have that?

Mr. DAVIS. To the best of my recollection, there are about nine States that have statewide registration.

Mr. HUGHES. Nine States?

Mr. DAVIS. Yes, sir.

Mr. HUGHES. So we are talking about 41 States that do not have?

Mr. DAVIS. That is correct.

Mr. HUGHES. And it is safe to say that we have a great volume, from what you have testified, the 1½ million guns that are being introduced into the marketplace each year, that we have no record of whatsoever?

Mr. DAVIS. Yes, sir. That is, beyond the first purchaser.

Mr. HUGHES. Is there any requirement that the dealer make a determination as to whether or not the purchaser is the type of individual who should receive a handgun, whether he has a mental background or criminal background? Is there any determination along that line?

Mr. DAVIS. No, sir. The only positive requirement that the dealer has is to establish that the purchaser is of legal age to purchase that type of firearm, and that is 18 in the case of long guns and 21 in the case of handguns.

He also must establish that he is a resident of the State where the sale is made.

Now, the purchaser on the transaction form must swear that he is not proscribed by law from making the purchase, and the four categories, as you indicated, are convicted felons, individuals under indictment for a felony, persons addicted to narcotic drugs, and persons adjudged mentally incompetent.

There is no positive requirement on the part of the dealer that he establish this. If the dealer, in fact, knew the individual was a convicted felon, then, of course, he would be violating the law.

Mr. HUGHES. There is no requirement that the dealer make that determination under the present law?

Mr. DAVIS. No, sir.

Mr. HUGHES. What do you think was the basic philosophy or policy of the Congress when it passed the 1968 law that set up this type of tracing? What, in your judgment, was the Congress trying to do?

Mr. DAVIS. In my view, and based upon the legislative history and so forth, my view is that the Congress intended to prevent certain categories of individuals, who for the want of a better term, we can call high risk individuals, from acquiring firearms.

Of course, that also extended to the age limitations, and of course, in order to avoid the mail order sale of firearms whereby a person proscribed, or high risk person, could acquire them in violation of the laws of his State, it is required that he be a resident, in the case of hand-guns, in the State in which he makes the purchase.

So, as I see the scheme, the recordkeeping scheme, and the other provisions of the 1968 Gun Control Act, and particularly title I, they were to prevent these people from acquiring arms.

Mr. HUGHES. Obviously, we have big gaps, gaps large enough to run a Mack truck through. It seems incredible to me that we take it down to the first purchaser and drop it there.

In the years you have been administering the 1968 law, do you find it is a tremendous handicap on the part of those States? Or have you determined that it is a tremendous handicap on the part of those States that do have a registration law in trying to deal with the problem when 41 of the States do not have a registration law?

Mr. DAVIS. Yes, sir; our Project I studies in which we have traced firearms in 12 major urban areas of the United States indicates that there is an interstate traffic in guns used in crime between those States which have no laws, or weak laws on the control of guns, to those States, such as Michigan and New York, where they do have a tough gun law, or stricter gun law, or laws.

Those States that have handgun control laws, in many instances probably find that the legislation is just not effective when you can go across the State line and purchase whatever weapon you want to purchase and bring it back in.

Mr. DAVIS. It depends on the way you look at it, I guess. Certainly the law is effective to the extent that it forces the citizens of that State, if they are not able to acquire a gun legally in that State, to go to another State to acquire the gun.

Mr. HUGHES. You know, something else. Talking about the appropriations interests me, and I am new in Congress, and I have just talked with my colleague, Mr. Danielson, here. It is incredible that instead of coming to the subcommittee or committee that has jurisdiction, the appropriations are determined by the Appropriations Committee that does not have the expertise or the oversight that the committees have, and I think that is a tremendous shortcoming, because I cannot think of anything you need more right now than computer data. It is incredible that you have to pick up the telephone and go through manufacturer after manufacturer to trace a weapon.

I have heard it said that you can trace it in 20 minutes, a particular weapon, such as in the *Bremer* case, where it was a matter of a few minutes, but sometimes a matter of 3 minutes can make a difference in saving a life or in trying to bust a case wide open on the part of a law enforcement officer.

So, to me, we have the makings, I think, of a pretty good law. It looks to me like it needs a lot of shoring up. Is that the way that you find your situation to be at the present time?

Mr. DAVIS. Well, sir, I think any time that you have uncontrolled sale and transfer of handguns between individuals, obviously it leaves a tremendous gap in the ability to trace a gun that is used in crime, and certainly it leaves a tremendous gap in the information as to where guns are going and this sort of thing.

Mr. HUGHES. Do you feel, based upon your own expertise in the field, that we need some type of an inducement for the States to follow-through with some form of registration of tracing, or that the law be expanded so that if we do have control, not only of the transfers, but also thefts? If I understand it, if the weapon is stolen from the first purchaser, he is not required to report it.

Mr. DAVIS. No, sir. You are asking for my personal opinion, and it is this: I think we are all aware of the emotional issue that is centered around firearms and their control by whatever level of Government is involved, so that we are now saying that this would depend on 41 States to enact, we will say, uniform legislation to deal with this subject.

I would think that would be unlikely.

We also, I think, realize, and this is not limited to firearms, nor to gun control, but we know that there are varying degrees of enforcement in States that have similar laws.

So I would make these two points as favoring Federal legislation.

Mr. HUGHES. I happen to agree. I think that that is probably right. I would like to see legislation that would allow States to do it, and then if they do not step in and do it, to have certain minimum standards.

How many staff members do you have working in just the firearms section?

Mr. DAVIS. Well, sir, that is very difficult, because we, starting with our field personnel, we ask our agents to enforce all the aspects of the laws we enforce—in other words, firearms, explosives, illegal liquor, and so forth. We do not encourage specialization to any extent. For flexibility of use, we want them to be aware of and capable of enforcing any law under our jurisdiction.

The same thing is true of our inspector field force.

Mr. HUGHES. Can you give me an approximate number?

Mr. DAVIS. Well, sir, I can tell you that in terms—yes, I think I can give it to you here.

We have a total employment in the Bureau of Alcohol, Tobacco and Firearms of something like 3,700-plus employees, and I may have to do a little addition here, but—

Mr. HUGHES. I will not hold it up here.

Mr. DAVIS [continuing]. I think it would come out to about 1,864 man-years.

Mr. McCLORY. Would the gentleman yield for an observation?

Mr. HUGHES. Certainly.

Mr. McCLORY. I think the gentleman would be amazed to see the operation going on presently, the tracing operation, where we are working with pencil and paper instead of with modern technology. They carry on a very sensitive and extremely important element relating to law enforcement, and it is really remarkable. I think, the job that they do with the staff and the facilities that they have.

We really should salute them on the service that they perform with this limited budget.

The only other observation I would make is that with regard to the Federal registration, or some kind of pattern of State registration, which we might mandate by Federal law, we would not be requiring any more information about the individual handgun owner except in rare instances where it is lost or stolen, than we have right now. It is just centralizing the location of the information.

Mr. HUGHES. I think that is a good point, and my distinguished colleague brings to mind something that I do desire. I do desire to visit the facility, because I am interested in this aspect of the law.

Mr. DAVIS. I would like to extend the opportunity to any member of the committee who has the time to do so to visit the premises.

Mr. HUGHES. Let me take it to the next step, and that will be all for me.

I have taken too much time as it is. Do you have any idea of how many additional staff members you would require, or additional budgetary requests you would require if this committee were to prospectively say in the future that all transfers from the first purchaser on, all thefts, are to be reported to a central agency?

Mr. DAVIS. Yes, sir.

Mr. HUGHES. That is for new handguns. That is not dealing with the handguns that are already in the possession of individuals.

Mr. DAVIS. Yes, sir. There is one way, and I would guess it probably would be a simple way, in which this would be accomplished, and that is if you required—well, in effect, if you made it illegal for individuals to transfer guns to each other without going through a licensed dealer.

In effect, this would give all transfers back into the record—

Mr. HUGHES. I have that in mind, those transfers, also. I am talking about transfers from a dealer or an individual to new purchasers, new owners, new possessors of the weapon.

Mr. DAVIS. Well, again, obviously, in terms of equipment to handle that kind of information, certainly there would be an added burden on that.

In terms of field personnel, I would judge that, and this is certainly off the top of my head, without having an opportunity to think about it, but it would require substantial increases, and I will pull a figure out of the air of, say, 700 additional field personnel, those being divided between agents and inspectors.

Mr. HUGHES. Do you not think, to give the 1968 law on the tracing and identification aspect any meaning at all, we have to do just that?

Mr. DAVIS. Well, sir, I think, as you have pointed out, this was an obvious gap in the law, and should the Congress feel that, you know, that this should be closed, then obviously it would make the control of handguns, if it were limited to handguns, make it certainly more complete, and certainly produce more information about the movement of guns and so forth.

Mr. HUGHES. Thank you very much.

Mr. DANIELSON. Would the gentleman yield for another observation?

I want to get back to the computer thing which we all have been talking about, and which is important.

I have been sitting here pondering your figures, 40 million handguns in private ownership, and apparently 2 or 3 million more per year.

You do have computer capacity within the Treasury Department, do you not?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. Does not your agency have at least random access to that computer for input and output?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. I want to make this observation. It seems to me that if your computer capacity at Treasury is anywhere up to date, there should not be any real problem. Modern computers are rarely loaded as to capacity—maybe between nine and five it is a little difficult to get on, but not too difficult.

I participated in the study of our computer capacity in the State of California a number of years ago, and it seemed like every agency wanted to have its own computer. It seemed to be a prestige item or status symbol, or something like that, and the computer sat around gathering dust and premiums most of the time.

We have in California, the Department of Motor Vehicles, registrations of some 15,000,000 ordinary motor vehicles, plus trucks, taxis, et cetera. We also have the drivers license data and a lot of other data, and our highway patrolmen have no trouble when they are catching up to stop an automobile, radioing in the license number, and before the cars are stopped, they know to whom it is registered.

I am talking about 30 seconds, or maybe a minute.

Could it be—40 million, 100 million—it should not be any real problem. Could it be that—well, perhaps it is budgetary, and you need not say this if it is embarrassing to you, so if they want to hog it within the agency, they allocate so many dollars to internal departments of the Treasury.

My hunch is that that is the situation. I have never heard of a computer that is worked to death. The problem with most computers is that they sit there and do not do the work that they have the capacity of doing, simply because with the terminal in your office, random access can probably get almost anything you want in about 60 seconds.

The New York Times has a news computer system at the present time, whereby, if I had the money to spare, I could have a terminal in my office, and on almost any subject I can get a printout from the New York Times in a few minutes.

I have got a feeling, Mr. Chairman, that if we go into analyzing computers, we ought to find out whether that Treasury computer is being used to its full capacity.

Mr. DAVIS. Yes, sir, and I certainly will agree in general with your remarks. Let me say, however, that the California computer that deals with motor vehicle registrations and drivers licenses is more likely a dedicated system to that purpose.

If we computerize weapons for law enforcement tracings, it is essential that we have immediate access.

Mr. DANIELSON. Sir, if you will permit me. You say dedicated computer. That means our own private computer.

I think you need random access to good hardware, and with that, I do not think we are going to have any problem at all. I would like to see you be able to get your data in 60 seconds. You do not need it faster than that.

Mr. DAVIS. No, sir, and we do not care where the computer is. The problem goes beyond the hardware. It goes to personnel who are able to make use of it, but with the indulgence of the Chair, Mr. Peterson is in charge of our office in which our data processing activities occur, and maybe in just a few words he can indicate some of the problems we have.

Mr. PETERSON. I am the Assistant Director for Technical and Scientific Services. The 1108 Univac system the Treasury has is about 10 years old. It was bought as surplus equipment for Treasury, and Treasury primarily uses it for economic trend analysis. It is used very heavily in the financial analysis that the Treasury has to do.

Mr. CONYERS. Excuse me, sir. Would you take a seat at the witness table so that you will be a little closer to the microphone?

Let me take this opportunity to welcome our two distinguished subcommittee members, Mr. Mann and Mr. Thornton, who have joined us just a few moments earlier for our dialog.

Mr. PETERSON. I mentioned earlier that that is an old-fashioned computer in terms of what is modern and high capacity. We are very concerned with the capacity of this computer, because it is limited, and it does not seem to have the expansion capability that we would like.

I would like to point out that we are getting, also, computer support from the IRS Data Center in a major program. We get some computer support from the 10 service centers of IRS, and consequently we have to pull all these formats into our own required format so that we can analyze the data that we get, which is very, very rudimentary yet.

Mr. DANIELSON. What you are saying, Mr. Peterson, is just about what I was suspecting, that you have some antiquated Univac down there, the one that predicted that Dewey was going to beat Truman—that is literally true.

The thing worked like a cream separator, and you cannot really make it do the work it ought to do.

Mr. PETERSON. That is correct.

Mr. DANIELSON. But, you tap into IRS and their service centers. That is by random access?

Mr. PETERSON. No, sir, we have no direct access to any of the computers IRS handles.

Mr. DANIELSON. You have to ask them to do you a favor?

Mr. PETERSON. We are low priority to them.

Mr. DANIELSON. But you must ask them to look it up for you?

Mr. PETERSON. Yes, and they send up reports.

Mr. DANIELSON. Mr. Chairman, I do not know if this committee has jurisdiction, but what we ought to look into is this: The sort of thing I was talking about a while ago, that is within the state of the art.

The problem is that your art is too old. It is out of date. Is that it?

Mr. PETERSON. Yes, sir. We have now one key punch operator, which is a technique I hope I never use. I would like to have the electronic data input.

Mr. DANIELSON. You should have the optical input.

Mr. Chairman, I think we may have found something here.

Mr. CONYERS. If you would yield, if we can get authorizing jurisdiction within the subcommittee, we might be able to make this a substantive conversion. But, I think, as Mr. Danielson has indicated, we all treat your testimony from ATF collectively as extremely crucial to the significance of the report that this committee makes to Congress in connection with guns.

I am going to yield briefly to Mr. Gekas and then Counsel Barboza has a few questions he would like to pose.

Mr. GEKAS. Mr. Peterson, from what the Director said when I was asking questions before, it is my understanding that you have requested expansion of your capabilities for data processing, including personnel, the funds and the equipment.

Mr. PETERSON. Yes, sir.

Mr. GEKAS. I do not think the Director said it, but it has been cut out of your budget.

Mr. PETERSON. Yes, sir.

Mr. GEKAS. Have you submitted it? I do not know if you can answer this, but if you can answer it, have you submitted such requests for

the fiscal year since you have become an independent bureau—for each of the fiscal years? I think there are two.

Mr. PETERSON. In 1973, we did request funds, and we have requested them each year since.

Mr. GEKAS. They have been cut out?

Mr. PETERSON. They have been cut out.

Mr. CONYERS. Mr. Barboza?

Mr. BARBOZA. Mr. Davis, under the 1968 act, do you have responsibility for firearms prior to the first retail sale? That is, when they are imported into the country and when they are manufactured?

Mr. DAVIS. Yes, that is correct. We do.

Mr. BARBOZA. Do you know how many dealers there are in the United States today?

Mr. DAVIS. I am sorry. I could not quite hear that.

Mr. BARBOZA. Do you know how many firearms dealers there are in the United States today?

Mr. DAVIS. 165,000.

Mr. BARBOZA. Where is this information maintained?

Mr. DAVIS. It is maintained in the Internal Revenue Service. We make an investigation of an application for a license, the remittance and so forth go to Internal Revenue, and they keep the list of licensees by each of our regions.

Mr. BARBOZA. Are they on computer, then?

Mr. DAVIS. Yes, they are in the 10 Internal Revenue service centers in separate lists.

Mr. BARBOZA. Who maintains the license forms, the license itself, and do you ever have an opportunity to count those licenses to determine whether your figures match up with the figures that are contained in the computer?

Mr. DAVIS. Yes. We recently conducted such a survey in cooperation with Internal Revenue, and we did find there were approximately 15,000 to 25,000 licensees on their list who were no longer in business, or otherwise not in fact licensees.

Mr. BARBOZA. Could you, if asked, provide us with a list of dealers by region, by State, and by city? You have provided some of this information.

Mr. DAVIS. Yes, and we will provide that to the committee.

Mr. BARBOZA. Do you have the capability to tell the committee how many dealers are full-time dealers?

Mr. DAVIS. No, we do not.

Mr. BARBOZA. Do you have the capability to tell us how many dealers operate out of their homes, their basements, or how many operate from store fronts? Do you have that capability?

Mr. DAVIS. No, sir; each application for a license carries a requirement that they indicate the address of the business and the type of structure, whether it be dwelling or commercial, and the hours they stay open.

But to do this would require us to go back to every application and to examine them individually, which would be, as you can see, a tremendous undertaking.

Mr. BARBOZA. Yes, it would. Do you know how many guns are sold by individual dealers? Do you have that capability?

Mr. DAVIS. How many guns are stolen?

Mr. BARBOZA. How many guns are sold by individual dealers? Do you have that capability?

Mr. DAVIS. No, we do not.

Mr. BARBOZA. Do you have the capability of telling us what guns are sold in what parts of the country? What guns are the fastest moving in New York City, and what gun is the fastest moving in a city in another State?

Mr. DAVIS. No, we do not have that capability.

Mr. BARBOZA. Can you tell us whether or not various dealers are diversified? Do they sell other things besides guns, like groceries? Could you provide us with that information?

Mr. DAVIS. No, we cannot.

Mr. CONYERS. Would my counsel yield for a minute? I want to tell you an incident that I had heard—that in Highland Park, Mich., they were selling guns in record shops; I made that statement in some great alarm, but the record shop owner was licensed.

He was not doing anything illegal, as I had envisioned it, that this was a clandestine activity going on, where you buy your favorite LP and a Saturday night special along with it.

As counsel is pointing out, the fellow was licensed. He took \$10 out of his pocket, and got a license, and he is not doing anything improper whatsoever.

Mr. DAVIS. Mr. Chairman, I might point out under the Gun Control Act of 1968 that the only thing that—the only standard involved—is that he intends to engage in the business, and the Court interpretation of that term “engage in the business” means he must have a place where he conducts a business, it must be open to the public and he must have regular business hours. Those hours can be 6 to 8 in the evening. The place can be his living room, so that that is the situation.

Mr. BARBOZA. Mr. Davis, could you tell us the sales volumes of the dealers?

Mr. DAVIS. No, we cannot.

Mr. BARBOZA. Can you tell us how many dealer transaction occur and how many are in-State and out-of-State?

Mr. DAVIS. No.

Mr. BARBOZA. Would the information we have just talked about be of any use to you in enforcement of the Gun Control Act?

Mr. DAVIS. It would be of tremendous assistance to us. We could, for example, if we had the information of which you are speaking, it would be possible through a computer to have the computer programed in such a way that if a dealer's volume significantly increased during a period, that this would be reported.

Therefore, it would be—well, it would not be evidentiary. It might flag you that an inspector should visit that dealer to determine whether or not he is in fact selling volumes of guns for resale.

Mr. BARBOZA. As Mr. Danielson has pointed out, and as counsel has pointed out, have you made a request to OMB for computers to use for the specific purpose of compiling this kind of information?

Mr. DAVIS. Our request has never been specific in terms of the use.

Mr. BARBOZA. Yes.

Mr. DAVIS. As I indicated before, we have as a total bureau, tremendous use for computers, not only in the firearms area, but many other areas.

Mr. BARBOZA. Yes. In terms, then, of how an individual becomes a dealer, how many dealer applications per year do you receive?

Mr. DAVIS. We have an unusually high turnover in dealer applications. I have the exact figures here, but they will run in excess of 20,000 new applications each year, and of course the number is steadily increasing, but not by that number, so that certainly the average new applications per year will exceed 20,000.

Mr. BARBOZA. You do deny applications; do you not?

Mr. DAVIS. Yes, we do.

Mr. BARBOZA. What is the chief reason for the denials?

Mr. DAVIS. Right. In some cases, we find the individual is not qualified. In others, he is proscribed by law. He may be a felon, or have other disabilities.

In rare instances, he does not have the proper facilities. In other words, he does not have the place open to the public, or has no regular business hours and things of this kind.

Mr. BARBOZA. So it would not matter where or under what conditions he is selling the guns, or whether he has facilities for keeping them under lock and key, but merely that he has someplace from which to do business, then? Is that correct?

Mr. DAVIS. That is correct.

Mr. BARBOZA. What is the procedure for investigating these some 20,000 applications each year for licenses?

Mr. DAVIS. I did not understand the first part of your question.

Mr. BARBOZA. What is the procedure for investigating license applications?

Mr. DAVIS. You might say we consider this to be an important part of our responsibility in the licensing area. We assign it for field investigation. We receive an application filled out by the applicant for a license.

Now, I will have to say because of a shortage of personnel, that we have not been able to do as thorough a job in this area that we would like.

Mr. BARBOZA. Pardon me. By saying you cannot do as thorough a job, am I to assume, then, that not all of these applications are investigated? Do you go to the premises of the applicant in each case?

Mr. DAVIS. I would like to say we do that 100 percent, but unfortunately, we do not. I think in a great majority of them, we do.

One of the things we do, obviously, is to check his criminal record, to determine whether he is proscribed by law, and wherever possible, we do visit his premises to insure that he does have a place open to the public and so forth.

Mr. BARBOZA. Is it possible for you to tell us the number of dealers that were not visited, and were granted a license?

Mr. DAVIS. Yes. I have those figures.

All right, sir. I can give you for the 3-year period, last year and this year, and fiscal year 1975 being for 7 months. We received in fiscal year 1973, 24,231 applications.

We investigated 21,732. This figure is going to be a little bit off, and obviously there is a carryover factor here. Some are not investigated in the year they are received.

In fiscal 1974, 24,873 were received, and 27,483 investigated.

Fiscal year 1975, for the first 6 months, 16,562 received, and 14,598 were investigated.

Mr. BARBOZA. Mr. Director, you then have quite a bit of work, to do in terms of investigating these license applications because you have

so many of them. So, an agent may be spending a good deal of his time investigating the premises of record dealers and grocers and other establishments whom we might assume are not the appropriate kinds of businesses to sell an instrumentality such as a handgun.

I do not think you would sell medical supplies in a record shop, or in a grocery store. There is a great deal of responsibility that goes along with the privilege of selling that gun, and as a representative of the agency which is responsible for enforcing the gun law, you do have a responsibility to see that those individuals who have the privilege of selling the guns are, indeed, doing it in such a way that the guns are getting into the hands of responsible people, and not irresponsible people.

Mr. McCLORY. Would the gentleman yield?

I think we have to assume the responsibility here in the Congress. I think that we have to give the kind of direction legislatively in order for the Department to apply more stringent standards.

I do not think we can be weak-kneed in our legislative mandate and then expect the Department to toughen up without that kind of backing, which it seems to me the Congress has to provide.

Mr. HUGHES. I wonder if the gentleman would yield a minute; I would like to know, when you say investigate, that does not necessarily mean an onsite investigation?

What does it mean?

Mr. DAVIS. It does not mean a criminal investigation. Unfortunately we have had to use special agents for this purpose, because we have not had enough inspectors. We consider this to be a regulatory type work. We had in 1972 to make the decision on paper that we would transfer this responsibility to our inspectors instead of utilizing special agents whom we need for other things.

Unfortunately, again, because of lack of personnel, we have been able to accomplish this only on a minimal basis and I can give you the exact figures on that.

Mr. HUGHES. My question specifically is, when you say you conducted these investigations does that mean each instance that an inspector visited the prospective licensed premises?

Mr. DAVIS. Yes, sir, in the majority of cases. I might point out to the committee that the law requires that we issue a license within 45 days of the time it is received. Now this puts a fairly tremendous time period burden on us.

Mr. HUGHES. I realize you are short of staff, and I am not trying to be critical. I am trying to find out what investigate means.

Mr. DAVIS. Yes, sir.

Mr. HUGHES. I also think it is important to see what the licensed premises are going to be like. In my district, I have premises that sell hotdogs and hamburgers, and guns on the side.

Mr. DAVIS. We conduct the investigation by telephone. We get in touch with the local police departments and say "Does this man have a record with your department?"

Either the city, chief of police, sheriff, or whatever agency is involved, and we have tried to keep that to a minimum. But wherever possible, we actually visit the premises to insure that they are adequate and do conform to the law.

Mr. GEEKAS. Mr. Chairman?

Mr. CONYERS. Yes, Mr. Gekas.

Mr. GEKAS. To help clarify some of the points, from one of the charts you supplied, "Firearms and Compliance Time," we can get an idea of the ATF effort that put in the firearms as a part of your total activities. Then we can break it down even farther to determine how much time, what percentage of effort is put into application and compliance. From the chart that is entitled "Firearms Application and Compliance Time". I see in 1974, and I guess that is calendar 1974, you spent 10,786 man-days on application investigations, and that is about 10 percent of your total firearms effort, because we can add from this chart on the bottom, we add up all your firearms man-days to about 100,000, and the man-days just related to firearms, and then back up to the top table, where the figure for 1974, the 10,786, which is just on applications, and that is about 10 percent of the total 100,000.

I wonder if you could supply us a total man-days or man-year breakdown for all the activities of ATF? Because if applications are only 10 percent of firearms, I would imagine that it is a much, much smaller percentage of the total activities of your bureau.

[The information referred to follows:]

FIREARMS APPLICATION AND COMPLIANCE TIME MAN DAYS

FISCAL YEAR	1970	1971	1972	1973	1974	6 MOS. 1975
APPLICATION INV.						
SPECIAL AGTS.	5,872	7,732	12,337	9,049	5,784	1,317
INSPECTORS				277	5,002	3,278
TOTAL	5,872	7,732	12,337	9,326	10,786	4,595
COMPLIANCE INV.						
SPECIAL AGTS.	2,415	8,124	10,815	6,409	4,970	784
INSPECTORS				829	1,695	920
TOTAL	2,415	8,124	10,815	7,238	6,665	1,764

FIREARMS TIME - CALENDAR YEAR 1974 MAN DAYS

APPLICATION AND COMPLIANCE	14,016
OTHER FIREARMS RELATED DUTY (TITLES I - II - VII)	86,066

Mr. DAVIS. Yes, there is no question about that. I might add that we feel the average application investigation requires 4 hours of actual investigating time, not including travel to the area, and so forth.

Compliance inspections can take less time, and it is a significant, of course, manpower problem.

Mr. GEKAS. To go into the figures just a little way, looking at the 10,786 figure for the 1974, that is man-days. I guess we get to man-years dividing the number of days in the year, which is 365, right?

Mr. DAVIS. No, sir, 219 man-days excluding leave and holidays and so forth.

Mr. GEKAS. If you figure 219, that is about 50 man-years that go into applications, just very, very roughly, 50 man-years. So in other words, what that breaks down to is of the 4,000 employees that you have, it is like having 50 full time employees of the 4,000 just working on applications, right?

That is, 50 of your 1,500, right, working on this, your agents?

Mr. DAVIS. Yes, sir.

Mr. GEKAS. To finalize and put it into perspective that is 20,000 investigations a year.

Mr. DAVIS. Yes, and that does not include compliance.

Mr. GEKAS. I was just talking about applications so to sun it up, we can say it is like having 50 full-time employees to investigate 20,000 applications in a year.

Mr. DAVIS. Yes.

Mr. CONYERS. That is a very good point. I think Mr. Barboza wants to continue, but getting back to the bureaucratic jargon that Mr. Danielson referred to, now that we find out how many man-days there are in a year, only 219, how many man-hours are in a man-day, so we don't kid ourselves.

Mr. DAVIS. In the case of our organization, that is not true, because our special agents are on premium pay, so that they work much more than the ordinary 8-hour day in order—in order to qualify, they have to work at least 9 extra hours a week, and in our surveys, we find they exceed that a great deal.

So in effect we are getting a bonus of man-days here that won't quite come out.

Mr. GEKAS. Under the authority of the law, Mr. Barboza went through a number of things that you don't have the capability for, dollar volume, and all those things he was going through. You say you don't have the capability. Under the current law, do you have the authority to require submission of that information to the bureau?

Mr. DAVIS. Yes. As I recall in every instance that Mr. Barboza mentioned, we have the legal authority to have that information submitted to us.

Mr. GEKAS. To go to a different thing he asked, under current law, you are required to issue licenses to the 155,000 people unless, within 45 days, that is, unless they have a record, they don't have a business premise, which is a minimal thing.

So I again make this point of what the law requires you to do. It requires you to issue the regulation to the record store owner and to the 711, to license him.

Mr. DAVIS. Yes, sir. I would say in the case of the record store owner, that he is in business a lot more than a lot of the people we issue licenses to. At least he has a commercial place open to the public during business hours.

I would like to point out one thing. Since the activity of dealing in firearms has to be licensed before it can be conducted—in other words, the law says, "intends to engage in the business," because obviously if he is engaged in the business without a license, we would arrest him.

When we visit him, therefore, we have no positive evidence and he may say "yes, I am going to buy 20 guns and install them in the rack in the living room," so we don't have the advantage of seeing whether he is actually?

Mr. GEKAS. You must issue the license to him, is that correct?

Mr. DAVIS. Yes, if he meets those standards there is a positive requirement that the license be issued within 45 days.

Mr. CONYERS. Mr. Barboza?

Mr. BARBOZA. If I were to apply to ATF for a position of special agent and I were to request to be assigned to the State of Texas, what would you tell me in terms of my average day? Would you tell me "well, you might be raiding stills, you might be inspecting alcohol production centers, or you may be investigating applications for licenses, or making compliance inspections.

So I would say "Well, I would like to talk to somebody who does these things and ask him his priority."

He tells me "I would rather raid stills than make compliance inspections."

In the order of things your agents do, what do they enjoy doing the least? Do they enjoy license inspections? If they have to drive 50 miles in Texas to inspect a licensee who may sell 50 guns a year out of his basement?

Mr. DAVIS. When we acquire an agent and require him to do non-law enforcement type duties, it becomes a morale problem, and I would say our special agents are not very enthusiastic about this kind of work.

On the other hand, our inspectors are hired for the purpose of this exact kind of work. That it certainly is one of the basic reasons why we would like to move this responsibility over. We have just over 700 inspectors and they have a wide range of duties, including the collecting of that \$71½ billion in taxes each year, so I would say, certainly, that the special agent would be disappointed, and is disappointed, if he is required to do this.

Mr. BARBOZA. Let's take it through another step. You are the regional director. Who actually assigns the agent this responsibility to investigate these initial applications, and how would he go about it?

What would the request look like? Would you give him five licensees and say here, go and spend the rest of the day checking these guys out.

What would he do, and what would he bring back as verification that he visited the places?

Mr. DAVIS. The assignment would take place in terms that he would be given the application itself that had been filled out by the applicant for the license, and this would be his basic document from—to work from in locating the man and so forth, and verifying that the information he gave was accurate. In order to cut down on cost, obviously, we try to group these to the extent possible, so that, as you have indicated, if there are five of them in the vicinity of one city, we will try to catch all five of them at one time.

So that in that instance, he would go to that city, he would visit the sheriff's office, perhaps, to determine what his criminal record, if any, was, and then he would go to the addresses listed on the applications to determine if the premise were in fact as stated in the application.

Mr. BARBOZA. Would he be required to in some way record this?

Mr. DAVIS. Yes, he would be.

Mr. BARBOZA. Where is the information filed or maintained?

Mr. DAVIS. Well, let me ask Mr. Corbin to respond to that.

Mr. CORBIN. After the special agent completes his investigation, a file would be maintained in the local office. We refer to them as post-of-duty files. In Alexandria there would be a file maintained in the office, and the basic file would be sent to what we refer to as our district office in Falls Church, and then to the region in Philadelphia.

There would be two files.

Mr. BARBOZA. How would you locate the file if you were doing a random sample or study of inspections and wanted information about inspections?

Mr. CORBIN. If you knew the name and address in Alexandria, we would go, the chances are, to the local office. If you knew only the State, Virginia, we would go to Philadelphia.

Mr. BARBOZA. I see. Mr. Director, you might explain to the members how compliance inspections are made, and we might relate that to your files concerning applications for licensees and those granted.

Mr. DAVIS. Yes. Compliance inspections are made really for the purpose of two things, one to determine if the dealer is complying with two things, that is, complying with the Federal law, and that is, in terms of service.

If he has questions concerning the recordkeeping, or if he has any other questions that would assist him in complying with Federal law, we feel this is quite important in order to obtain the maximum compliance. I don't know whether I have been responsive completely to your question or not.

Mr. BARBOZA. Yes, I think you were. Director, in terms of your compliance activity, how often do you visit a particular dealer on the average? If I were a dealer in Lubbock, Tex., how often would I expect a visit from ATF?

Mr. DAVIS. Let me say that if we had any reason to believe that you were not complying with the law—

Mr. BARBOZA. Excuse me for interrupting, but how would you know I might not be complying, since you don't have all the information at your fingertips.

What are your avenues for determining that I am not complying with the law?

Mr. DAVIS. There might be a number of sources. The local law enforcement people might say "This fellow is not from what we have heard."

We might get a lead from an informant. There may have been in that city a number of guns that were seized in use in crime which led back to this particular dealer.

So these are the ways, or one of the ways, that we could do that.

Mr. BARBOZA. Director, is it correct, then, to state that you might not suspect a dealer until he has done something wrong, or suspected of doing something wrong, and you would not necessarily maintain surveillance on certain dealers based on information he received that might lead you to expect that they might not comply as a result of your initial application investigation?

I mean do you suspect certain people, even at the time that their application is granted, that they may be a source of a problem for you in the future?

Mr. DAVIS. Well, of course, there conceivably could be a situation if a dealer were located in a high-crime area, that we might put a surveillance team on that dealer to determine, in fact, if he were violating the law. But that would be the only way, unless we could visit him periodically, in what we might call a periodic compliance inspection, and by looking at this record he maintains, find indications that he was not in fact keeping certain records accurately.

Mr. GEKAS. Why don't you describe for the members of the subcommittee what a compliance investigation is, what they do when they go in, and what they look for, and specifically let's talk about multiple sales of handguns.

Mr. DAVIS. Very good. A licensed dealer is required, really, to keep two sets of records. One is a bound record in which he has to list acquisitions and his dispositions and the compliance—a thorough compliance inspection would involve making a random sampling of his inventory against his acquisitions and his dispositions to make sure that he had recorded everything both ways.

The second set of records that he would be required to keep, of course, are the transactions, the firearms transactions forms.

Mr. GEKAS. Which are filled out by the purchaser?

Mr. DAVIS. Half of this is usually filled out by the dealer and the other half by the purchaser.

Mr. GEKAS. That is the famous retail purchaser.

Mr. DAVIS. Yes.

Mr. BARBOZA. I don't want to interrupt your train of thought, but is the dealer required to fill in the missing spaces in the bound book in ink, or can he do it in pencil? Who maintains those records?

Mr. DAVIS. Mr. Dessler, why don't you give the regulations?

Mr. DESSLER. The regulations generally prescribe a format which is required for the maintenance of the dealer records, the bound records. So in 26 CFR 178.125 is where the format is spelled out, and for example, the record would indicate on an acquisition and disposition the date, the manufacturer, the caliber, gage, or type of component, the quantity, the name, address, date of birth, and mode of identification of the purchaser.

Mr. GEKAS. And the serial number of the gun?

Mr. DESSLER. Well, the actual acquisition and disposition record is going to show, yes, the manufacturer, the model, the serial number, the type of action, the caliber, and gage. That would be the description of the firearm.

Then the receipt part of it would show the date, from whom obtained, and then the disposition, the date and name, and the address and license number, or the 4473 number, of the purchaser.

Mr. GEKAS. Those are the forms you use when you do a trace to a retail dealer. You call him up and ask about a gun and he goes to those forms?

Mr. DAVIS. He would go more than likely to his bound record and then to the transaction record to find out the specific name.

Mr. HUGHES. I wonder if the gentleman would yield for a minute, Mr. Chairman.

Mr. CONYERS. Yes.

Mr. HUGHES. On the same subject, if in fact an application comes back and shows 10 firearms were sold to 1 individual, is that the basis for a follow-up investigation of that individual who purchased the firearms?

Mr. DAVIS. Yes.

Mr. HUGHES. If there is an intent to circumvent the licensing requirements?

Mr. DAVIS. In that case, I would say the purchaser becomes suspect and not the dealer. Under the Gun Control Act of 1968, there is no limitation that can be purchased by an individual at one time. So you would walk into a dealer, and assuming you were otherwise legally authorized to buy a gun, you could buy a hundred, if he had them, and so forth.

I might—this relates to a question that was proposed, and that was the multiple sales of handguns. In our project tracing guns used in crime, we found this was a significant loophole in terms of a dealer selling to an individual who in turn resold.

We call it "on the street" dealing, of course, without a license. This makes the gun very difficult to trace and so forth. I would like to point out to the committee in this respect that having recognized this, we just recently and we have the authority under existing law, we have proposed regulations in the Federal Register, and we have invited comment, here, and if one is needed that a licensed dealer must report to ATF if he sells more than one handgun to the same individual at the same time, or during 5 consecutive business days.

Now we hope that this will substantially, if not totally eliminate multiple sales of handguns. I might point out that we will provide the dealer with a big sign in his store saying "I have to report the multiple sale of handguns to the U.S. Government" because we want to discourage this.

On the other hand, if a person has a legitimate need, if the head of a security agency has put on five new guards and needs five .38's to equip them this can be ascertained by the agents, and he probably would not even realize they were around.

So this would give us a chance to close a loophole under existing law that has existed up to this time.

Mr. HUGHES. Thank you.

Mr. CONYERS. Mr. Davis, you had given some indication that you wanted to proceed with the development of your presentation from the hearing before. We are on question 3, and we also have the rest of your charts in front of us. As you can see, the committee wants to proceed carefully with respect to your testimony, because we believe it is going to comprise a very important part of our report.

You may proceed in either direction. The questions are written down, and we know that, obviously, you will have to join us again in another session anyway, so you can move ahead in any way you want. Mr. McClory?

Mr. McCLORY. Mr. Chairman.

Mr. CONYERS. Mr. McClory gets thorough with his interrogation.

Mr. McCLORY. No, I don't want to interrogate but I want to ask this question, if you will yield, Mr. Chairman, and that is that we do proceed with the testimony relating to these questions, and that when we do adjourn, that the balance of the questions might be submitted and written answers supplied for the benefit of the committee, if that would be acceptable.

Mr. CONYERS. I don't have any objection to that. Is that suitable to most of the members of the committee? I don't see any criticism of that.

Mr. GEKAS. May I finish up to make a point similar to the one I made on the applications for compliance?

Just on a percentage of time using the chart that is used for compliance, generally how often do you get to each of the 155,000 licensed dealers?

Mr. DAVIS. Well, as you can see on the chart there in 1974 on compliance, we made 6,600 compliances, so this would mean that something—I don't know what my mathematics are, but that would be somewhere once every 26 years, or whatever the figure would be.

Now we really feel that not only is there an obligation to the government, but there is an obligation to the dealer, so that he will not run afoul of the law, that at least he should be visited once every 3 years.

This is a man whom we have no reason to suspect. As you can see, this requires 50,000 compliance inspections a year under the present dealer laws.

Mr. GEKAS. There is another table you supplied us which does list the number of compliances investigations, and for 1974, it is 15,000. There are 15,000 made, according to your figures.

Mr. DAVIS. I am sorry.

Mr. GEKAS. The compliance investigations—inspections are about 6 percent of your total firearms effort, and I would imagine the firearms effort is certainly no more than a third of your total effort, including alcohol and tobacco.

So it is a smaller percentage to some extent anyway—I see Mr. Corbin shaking his head. It is 6 percent of the firearms effort, a somewhat smaller percent of the total bureau effort, and if we translate man-days into man-years, 6,665 I figure out is about 30, or is it 15?

It would be about 15 employees full time.

Mr. DAVIS. Full time. Yes.

Mr. GEKAS. Investigating those licensees.

Mr. HUGHES. Could I follow up on that? What is the fiscal year we are talking about? I note your man-days are on the basis of a fiscal year.

Mr. DAVIS. In this case, we have a man-day figure, and on the other we have the full actual number.

Mr. HUGHES. I am looking at your own chart, firearms applications and compliance, man-days.

Down below, we are talking about a calendar year, and I myself surmise from that that we are talking about two different time periods.

Mr. DAVIS. All right, sir. That was for calendar year 1974, the bottom.

Mr. HUGHES. On the bottom, and the top is for fiscal year 1974.

Mr. DAVIS. So that there would be a 6-month difference in the computation between the—they would not coincide for a 6-month period.

Mr. HUGHES. My question gets back to this. I notice in looking at your compliance investigations for the first 6 months of 1975, there is a tremendous dropoff, for instance, in the area of compliance investigations for 6 months, and that might be explained because it might be a short 6 months.

Well I don't know.

Mr. DAVIS. If I am looking at the same chart—

Mr. HUGHES. I am looking at the first 6 months of 1975 under man-days for firearms, applications, and compliance time, and I am looking at the compliance investigations, special agents, 774, and inspectors, 990, for a total of 17,064.

That represents a substantial drop for 6 months, unless it is a short 6 months.

Mr. DAVIS. Projected on a year basis, that would be less than in previous years.

Mr. HUGHES. How do you account for that?

Mr. DAVIS. Well—

Mr. HUGHES. What is the explanation for that, the tremendous dropoff in compliance investigations?

Mr. DAVIS. Yes, sir. The explanation is that we are just devoting the available time to higher priority work.

Mr. HUGHES. Thank you.

Mr. DAVIS. Mr. Chairman, do you have any estimate?

Mr. CONYERS. We are in recess. You may continue with this recitation.

Mr. DAVIS. In that case I will interrupt the response to the questions which we can either supply for the record or discuss later, and then we will continue.

Mr. CONYERS. That is quite all right.

Mr. DAVIS. Mr. Chairman, would there be any purpose in a brief summary of the last session, or just go right ahead?

Mr. CONYERS. Everybody was here. I think everybody was here last time.

Mr. DAVIS. All right, sir. Since we have covered a great deal of this, this material, I am going to be selective. This is the chart dealing with the applications of manpower to firearms.

APPLICATION OF MANPOWER TO FIREARMS

	DIVISION STATUS UNDER IRS					BUREAU STATUS			
	1968	1969	1970	1971	1972	1973	1974	1975 (EST.)	1976 (EST.)
TOTAL AGENT MANPOWER AVAILABLE	985	1047	1211	1389	1630	1622	1576	1570	1558
AGENT MANPOWER APPLIED TO FIREARMS	214	442	700	810	911	952	1058	1082	1105
INSPECTOR MAN- POWER APPLIED TO FIREARMS *	—	—	—	—	—	3	34	65	112

* Decision to transfer compliance activity to regulatory enforcement

As you can see, this involves agents and inspectors.

In the case of agents, we have 1,558 man-years available, and out of that, we have applied 1,105 to firearms. In the case of inspectors, we have applied 1,012 man-years to firearms. Let me back up. I am talking about projections; 1974—1,576 agents available, and 1,058 applied, and 34 man-years of inspector time, and I think we have pretty well covered this.

Mr. GEKAS. For a classification, on the last chart for 1974, for the agents, you have to divide their duties by 3, don't you, because they handle alcohol, tobacco, and firearms.

Mr. DAVIS. And explosives.

Mr. GEKAS. So you have to divide them by 4. So although there are a little more than 1,500 available and a little more than 1,000 are assigned, each of the agents has to divide his day up.

Mr. DAVIS. No, sir, that is not the case in this. In other words, the other duties would be absorbed by the difference between 1,058 and 1,576. So in other words, you would have 520 that would be devoted to illicit liquor and legal liquor violations, explosives, and of course, the others.

Mr. GEKAS. So that is full-time agents for firearms, and they divide their time up among application inspections, compliance inspections, and the criminal area?

Mr. DAVIS. With the caveat that each agent may find himself doing one thing in the morning and another thing in the afternoon, explosives in the morning, firearms in the afternoon, and liquor at night.

Mr. CONYERS. Trying to get this into a realistic framework, how does that work, Director Davis? That sounds like—I mean it just does not reach me in terms of trying to see how one very dedicated agent could be handling all those kinds of activities.

Mr. DAVIS. Yes, and there are many of them that I have not mentioned yet, Mr. Chairman. We have seizures of property, and applications for relief from the Firearms Act, which requires a great deal of time.

I agree with you, Mr. Chairman, that maybe that was not very realistic, but it would only be in the southern part of the United States where an agent would probably become deeply involved in illicit liquor, where it has now decreased to a point that it is subject to that.

I was not exaggerating when I said in the morning a special agent would be calling on a banker with respect to a relief from disability on the firearms law, and in the afternoon have a search warrant in a firearms violation.

Mr. GEKAS. But you do not develop expertise. You do not have people who are just firearms agents, experts?

Mr. DAVIS. No, sir. We feel in the long run we get more flexibility with respect to our manpower by having them generalists instead of specialists. We like to think they are experts in all facets of their work.

FIREARMS

ARRESTS AND SEIZURES

FISCAL YEAR	1970	1971	1972	1973	1974	6 MOS. 1975
ARRESTS	1,957	2,223	2,507	2,258	3,123	1,740
FIREARMS SEIZED	33,683	7,881	7,142	5,981	6,625	6,522

This chart which, again, we may give you just a quick rundown on, these are arrests and firearms seizures in the firearms area. We are pleased that over the years this figure has increased, we think notably. The firearms seized runs about the same. The reason is that we had such a large seizure in 1970 and that was because of a significantly large individual seizure.

Other than that, they were running pretty much the same, 6,000 or 7,000 firearms a year that we seize for violation of the law.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. Mr. Danielson.

Mr. DANIELSON. I am just referring to the fact that your agents must be qualified to work within all three of these fields. It is not unusual, is it, in the law enforcement investigation business that within the areas of your jurisdiction an agent must be qualified in everything?

For example, your agents do not all work in metropolitan areas all of the time. If you had an agent in a little place such as Big Stone Gap, Va., for example, he may very well be covering some leads on an alcohol case, and that is a mountainous area, as I recall, and it is also a tobacco area. He might very well be involved in some tobacco cases. While there, he follows up on some leads in firearms. Instead of sending out three agents, he does the whole job.

Mr. DAVIS. Yes, you are quite right and, of course, as you are aware, in law enforcement work, your activities are dictated by the violator, and not by a planned work schedule.

If you get a bombing at the local high school, that is what you do then, whatever else you have to do.

Mr. DANIELSON. The purpose of my observation only was to make the record less susceptible to someone interpreting it as meaning you people have been picked on.

Mr. DAVIS. No.

Mr. DANIELSON. I know you did not intend that, but I know sometimes well-meaning people read these records and they draw an inference that was not intended. You have to be versatile within your own field of jurisdiction at least.

Mr. DAVIS. Yes, sir, and I might add that I think all Federal law enforcement agencies do this. Certainly that is not true in city police departments, where the nature of the work is different, and they do specialize in vice squads and so forth.

Mr. DANIELSON. But there your geographical limits are more narrow. Your agents bite off a whole State sometimes.

Mr. DAVIS. That is correct.

Mr. CONYERS. I think we ought to detail the differences between the qualifications of an agent and an inspector.

Mr. DAVIS. Yes, sir. The special agent has to be a college graduate under our present policies. He has to have a certain amount of criminology or police administration, so many credit hours.

He must have taken the Treasury Enforcement Agent examination, which is a specialized examination and, then, of course, he can be recruited by any of the Treasury enforcement agencies—Customs, Secret Service, ATF, or Intelligence, or Internal Revenue.

The inspector, on the other hand, is not required to have the specialized education area of criminology, public administration, and of course their jobs are different in terms of who they deal with and the types of activities they are involved with.

Mr. CONYERS. In other words, to become an inspector, you need to have the minimum qualifications a high school graduate would have?

Mr. DAVIS. Four years of college.

Mr. CONYERS. No law enforcement background?

Mr. DAVIS. No, not at all.

Mr. CONYERS. Is there any kind of training involved?

Mr. DAVIS. Yes, sir. We have inspector training. We have step 1 and step 2 training, in-house training, and I certainly do not want to demean or underrate their job, because they get involved in what we call Federal Alcohol Administration Act investigations, which involve some of the biggest companies in the country which are in the alcoholic beverage area. It is very complicated, and a very difficult type of work.

Just to show you what we would call our direct law enforcement activity, the number of individuals arrested for the violation of the Federal acts and the number of firearms seized, that is what this is for.

Mr. CONYERS. Mr. Gekas?

Mr. GEKAS. It would be useful if you could, either now or at a later time, supply a breakdown for the subcommittee on arrests. What were the arrests for? For example, we are very concerned about the interstate trafficking in guns and people who are buying a hundred guns in one State and taking them to Detroit or New York City.

If you could break down your arrests and recommendations and prosecutions and convictions by, I guess it would be more than the title.

Mr. DAVIS. I am sorry you said that, we can certainly give you the information broken down by the title of the act. Whether we can go beyond that, we will see what we can do, and if at all possible, we will supply the committee with the information.

FIREARMS DEFENDANTS - JUDICIAL PROCESS

FISCAL YEAR	1970	1971	1972	1973	1974	3 MOS. 1975	6 MOS. 1975
PROSECUTION RECOMMENDED	3212	3473	4437	3677	4671	1151	2485
DECLINED	1231	1203	1441	1301	892	233	559
INDICTED	1309	1906	2645	2535	3243	773	1641
ACQUITTED	57	114	168	118	132	30	73
CONVICTED	577	1156	1567	1927	1314	577	1234

Mr. DAVIS. This represents the judicial process of those people that we arrested. I would like to make a footnote to this chart that all of you are aware of, that there is a time lag in the judicial process, between the time a person is arrested, indicted, and tried, and so forth, so these figures do not exactly coincide.

Again, we are pleased that the quality of the cases are continuing to go up. We measure that by the fact that there are less declinations of cases by U.S. attorneys, that the indictment rate goes up, that the acquittal rate has been up and down, but at least it is staying fairly stable recently.

The conviction rate has by and large gone up with the exception of the 1973-74 area.

Mr. CONYERS. Now, in real life, again, these bare statistics do not really tell us a lot in terms of a number of extraneous factors that could go into why indictments, acquittals, and convictions could go up or down. Is that not correct?

Give us some additional explanation so that nobody will be rushing to conclusions about what that means because they went up one year or down one year.

I think it is very critical that we describe a perspective that will not lead to some kind of immediate conclusions as to what that means.

Mr. DAVIS. All right, sir. If I can understand your question, of course, the declinations are made by the U.S. attorney whether or not to

prosecute the case. So that as our recommendations go up, and declinations go down, we feel this represents an element of quality in the case.

Mr. CONYERS. Yes, but on that point, the number of prosecutions recommended might be up, or down, because of the number of people you have got working.

It could be that simple. It could be, also, that there are a number of acts being committed and apprehended, and the declinations might be due to different standards that the U.S. Department of Justice is imposing on a case-by-case basis, as opposed to what they were considering indictable offenses the day or year before.

The number of indictments might turn on how a particular judicial circuit was approaching the law, or whether the demand for jury cases had entered into it.

What I am saying is that those statistics in and of themselves could lead to very simplistic conclusions that might not turn on any given assumptions that you would attach to it, and that is what I am trying to establish here.

Mr. DAVIS. Yes, sir. There is no question that what you say is accurate, and one thing, of course, is that it is hard to compare them because of the time lag in the prosecution process.

Mr. CONYERS. Of course.

Mr. DAVIS. And, of course, as you very accurately indicated, the prosecutions recommended in some way would certainly depend on the number of agents that you have out working.

So that there are a number of cautions that you have to take into consideration.

Mr. CONYERS. Could your counsel, perhaps, at some later date, try to detail this so we at least begin to see what your perspective is, or what significance you think could be fairly inferred from that set of statistics?

Otherwise, as frequently as the case is, someone will grab a statistic and will argue passionately that A resulted from B, when C through F were factors that nobody ever considered.

This happens time and time again, in hearings, where someone introduces some statistics, and unless they are put in perspective, they lead to some very erroneous assumptions.

Mr. DAVIS. Yes, sir, we will certainly amplify this.

Mr. CONYERS. To the best of your ability.

Mr. CONYERS. Mr. Gekas?

Mr. GEKAS. Just to carry that a little bit further, to make it specific. It seems to me that there is a discrepancy between the figures. Let us take 1974, and start with indictments. There are 3,243. Then you go down to acquittals and convictions, and they do not add up to that figure.

It could be because there is a time delay, but I think if we go back to 1970, 1971, and 1972. I think you will see there is no catchup. The acquittals and the convictions in each of these years, and then in subsequent years, do not seem to add up to the numbers indicted.

Mr. DAVIS. There is a very interesting point to be made here, and while obviously our agent force has been declining some since 1972, and I might point out, I think to reinforce what you and the chairman have indicated, we are required to support the U.S. Secret Service in dignitary protection during election years.

Mr. GEKAS. The point is that once they are indicted, they are in the system, and the elements of discrimination are eliminated. The figures have to indicate what happens to them. They are either acquitted or convicted, or I guess there are dismissals of charges.

Mr. HUGHES. I would assume some of those are nolle prossed. The U.S. Attorney's Office feels it is better to dismiss and use them as material witnesses. That accounts for some of the lag, I suppose.

Mr. DAVIS. Yes, and any time you try to confine something to a fiscal year, you fall into a trap, because unless you can trace each individual action through, you know—in other words, for some reason there may be a number of indictments on the first of December, and then, you know, they are not handled until the following—well, it might be June—and they are not handled until the following year.

Mr. GEKAS. That is why I say, though, if you go back to 1970 and carry it through, even if you assume the lag time, the figures still do not add up.

Another thing, are those by number of defendants and entered in by count? Do you count each time as—

Mr. DAVIS. These would be individual defendants. They would not be multiplied by counts. One defendant might have one count and another five, but they would be counted as one.

Mr. HUGHES. Let me ask another question. These would be indictments as well as accusations for information?

Mr. DAVIS. Yes.

Mr. HUGHES. How about when it is downgraded to a different offense?

Mr. DAVIS. That still would be counted.

Mr. CONYERS. Mr. Thornton?

Mr. THORNTON. Thank you, Mr. Chairman.

This question relates to the area of your work in compliance, and it stems, also, from your testimony last week, I believe, when in response to inquiry about the use of registration on what we call gangster-type weapons, you stated that you might receive a call from a local law enforcement official saying that he had such a weapon, and ask you for information concerning who that particular weapon was registered to.

If I recall your answer correctly, you said that you could not give him that information.

The reason I was late to this committee is that I am also on the Committee on Criminal Justice, and we are working on rules of criminal procedure designed to try to expedite trials, to deter commission of offenses.

I am wondering why this information on registration of gangster-type weapons is not available, and whether your enforcement activities are directed primarily to violations of law under the statute relating just to the firearms, or whether you need additional legislation. Do you use this information in general criminal use with respect to firearms?

Mr. DAVIS. Yes, sir. I might say now that we are laboring under two disclosure prohibitions, not only the title II information, which you referred to, but now that we were given the wagering tax law on December 24, that also has a restrictive prohibition.

Essentially, you describe the situation accurately. That is, if a sheriff calls up and says, "I just found a sawed-off shotgun beside a body," in other words, it has been used in a murder, and "Will you tell me whether or not this gun is registered and to whom?"

Then we would say, "We are not at liberty to give you that information."

If, by the same token, if a chief of police comes to us and says, "Is John Doe registered with you as a gambler?" We would have to say, "We cannot give you that information."

It so happened that the Supreme Court decisions were handed down on the same day, Haynes, Marchetti, and Grosso. That was in 1968, and they struck down both the National Firearms Act, as it was called at that time, and the wagering law.

The theory behind this was based on incrimination and violation of the Fifth Amendment. They, in effect, said if a person has to register with, at that time, the Internal Revenue Service, and it is general knowledge that carrying on the business of a gambler is in violation of a State law, if the IRS provides the name of that individual, he has been forced to incriminate himself.

If he does not pay the tax and does not register, he is in violation of the Federal law.

If he registers and pays the tax and the IRS gives that information to the State and local authorities, he is subject to prosecution by them.

The same thing is true. The Haynes decision said if a person is required to register a gangster-type weapon with the Bureau of Alcohol, Tobacco and Firearms, and in most States the possession of such a weapon is in violation of State and local law, then he again, and with the freedom of ATF to give that information, then he is forced to incriminate himself.

So in each case, these restrictive provisions in the law were enacted to overcome Supreme Court decisions.

I might also point out that in the case of title II, or the gangster-type weapon title, that there was included his 30-day amnesty period in which anybody could walk in and register a gun of this type, no questions asked.

Again, this was done so that the people could not argue subsequently that they had not had an opportunity to register that gun, and to overcome this.

Mr. CONYERS. Would my friend yield on that one point?

Mr. THORNTON. Yes.

Mr. CONYERS. Even if Federal authorities independently gathered information that would lead to the prosecution of somebody under a title II gangster-type weapon—that is they secured information independently of their filing—would that not allow you to proceed?

Mr. DAVIS. I will ask Mr. Dessler to respond to that.

Mr. DESSLER. If I understand your question correctly, Mr. Chairman, the information can be used for purposes of prosecution under the act, and the restrictive use provision applies too, and that is in section 5848, which says that it cannot be used against a person directly or indirectly as evidence against him in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application.

Now, there is no restriction as far as the enforcement of the act

itself is concerned, but only with respect to turning the information over to the State which will then use it to prosecute the individual.

This was particularly criticized by the Supreme Court in the *Haynes* decision.

Mr. DAVIS. I might say, then, to use the illustration we have been using; the sheriff finds the sawed-off shotgun by the dead body, we could not testify in the prosecution that in fact the suspect, John Doe, had registered that weapon with us, if it were a State murder prosecution.

On the other hand, we could prosecute John Doe—no, he would have it registered in this case.

If it were not registered to him, we could prosecute him for having an unregistered weapon, and our experts do appear all over the country in prosecutions for the possession of an unregistered weapon.

Mr. THORNTON. May I continue, then?

It seems to me what you have just said is that the law in its present state does give you authority to prosecute for possession of weapons, but not to use that information with regard to perhaps a more serious offense in which the weapon was used.

Now, if the purpose of the 1968 Act was to inhibit the use of firearms in the commission of crimes, and if the laws were changed to make the mere possession of any particular firearm a criminal offense, like that of a gangster-type weapon, would we not also be inhibiting the use of the registration device for tracing such weapons used in the commission of crimes?

Mr. DAVIS. Yes, sir, I believe we would if in fact it were a true registration. Let me say that on the other hand we have had no problem with the requirement that the purchaser fill out a form at the time of purchase, which really goes to the fact of whether he is qualified.

But I think you are right, if there were a Federal law that required every firearm to be registered to an individual, then there is a likelihood that that prohibition of disclosure would follow.

My understanding here is that it is a question of whether we have any law at all under the Supreme Court decision, or whether we have a restrictive, a restrictive disclosure element of the law. Then the choice, about no law at all or one that has a restrictive disclosure provision.

Mr. THORNTON. I thank the gentleman.

Mr. CONYERS. We are caught by the fifth amendment. That is the long and short of it, right? To the extent that we can, we can use this law to punish for violations of nonregistration, but not much else.

Mr. DAVIS. Yes, sir. I might point out, and I don't want to leave the wrong impression, but in the case of wagering taxes, because we are enforcing the same law, it is the opinion of our chief counsel and Internal Revenue chief counsel that we can provide Internal Revenue with information obtained in enforcing the wagering law, so that we can use it in tax violations cases. But that is the limit. We could not tell the FBI when a person is or is not registered.

The next chart represents a workload item, and it is a considerable one. Under the 1968 act, a person can apply to the Bureau to be relieved of disabilities under the act. As you can see, we have lead into this. It requires approximately 20 man-years—20 man-hours, I am sorry.

RELIEFS FROM FIREARMS DISABILITIES

(CALENDAR YEARS 1969 - 1974)

YEAR	GRANTED	DENIED	INELIGIBLE	TOTAL
1969	120	39	20	179
1970	297	153	47	497
1971	421	134	82	637
1972	636	210	80	926
1973	596	227	85	908
1974	577	236	76	889
TOTAL	2,647	999	390	4,036

TOTAL CURRENTLY UNDER INVESTIGATION — 698

APPROXIMATELY 20 MAN-HOURS PER INVESTIGATION

Mr. DAVIS. Per investigation, and that is, of course, agent time. You can see that in the year 1974, 889, if I can read it correctly, each requiring 20 man-hours of investigation, and that is an added responsibility under the act.

Now, we have covered this area very well. This merely shows you. I think, the number of licenses issued annually and in chart form it shows you the increases that have occurred over the years since the Gun Control Act, at the present time 156,000 plus. This is the figure we have been talking about.

Mr. CONYERS. And this, Director Davis, applies to retail dealers?

Mr. DAVIS. Yes. That total number would include manufacturers and importers and wholesalers, but obviously they would be a small number compared to the retail dealers.

Mr. CONYERS. Yes. Mr. Gekas.

Mr. GEKAS. Could you supply us, and you may have already supplied it, I am not sure, but could you supply us with the number and identity of manufacturers of handguns?

Mr. DAVIS. Yes. I think we have it in response to a previous question, but we will make a note of it, and if we have not, we will supply it. I think it is in some of this material.

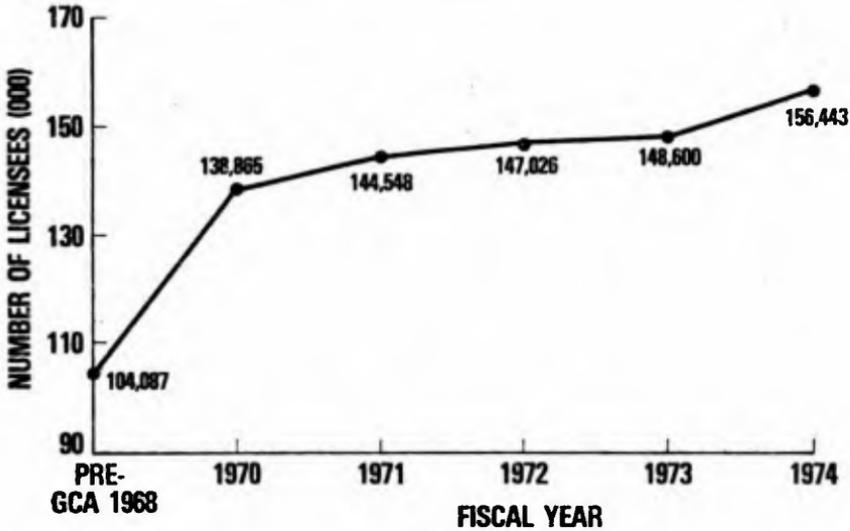
Mr. GEKAS. Also, it will be helpful if you differentiate between manufacturers of handguns on a large scale and those who just put together curios. Do you understand the distinction I am trying to

draw between artisans who make 10 a year and for curio purposes, and then people who are in the business of making handguns? Can you help us out on that?

Mr. DAVIS. Yes, we can do that easily, and we can take a cutoff figure. If they make less than 100 a year, we won't include them.

Mr. GEKAS. And also how many handguns each manufacturer produces.

NUMBER OF FIREARMS LICENSES ISSUED ANNUALLY



FIREARMS LICENSE ACTIVITY

		FY-70	FY-71	FY-72	FY-73	FY-74
APPLICATIONS RECEIVED	ORIGINAL	27,866	23,826	24,112	24,231	24,873
	RENEWAL	111,008	125,386	125,689	127,911	133,880
	TOTAL	138,874	149,212	149,801	152,142	158,753
LICENSES ISSUED		138,865	144,548	147,026	148,600	156,443
LICENSES DENIED *		2,512	1,032	1,683	1,669	1,540
LICENSES REVOKED		8	7	42	12	17

*Includes abandoned, withdrawn, and denied.

In 1st half of FY-75, 14,334 original applications received.

Mr. DAVIS. This is the licensing activity, and we have again, I think, gone into this fairly substantially. It goes into the original application, again running in excess of 20,000 a year, which shows a tremendous turnover. It shows the number we have issued. It shows the number we have denied on various grounds.

As you can see, it is running currently in the 1,500 plus range. Now you might say that the law—you might see that there is a very small number revoked. We are particularly sensitive to this, because under our alcoholic beverage control regulations and laws, we have the ability to suspend a license for a period of time, which we find a very effective deterrent.

We also have the ability to compromise violations in terms of money amounts. Under the existing law, the Gun Control Act of 1968, we have only two options. We can prosecute the dealer if he violates the law, or we can revoke his license.

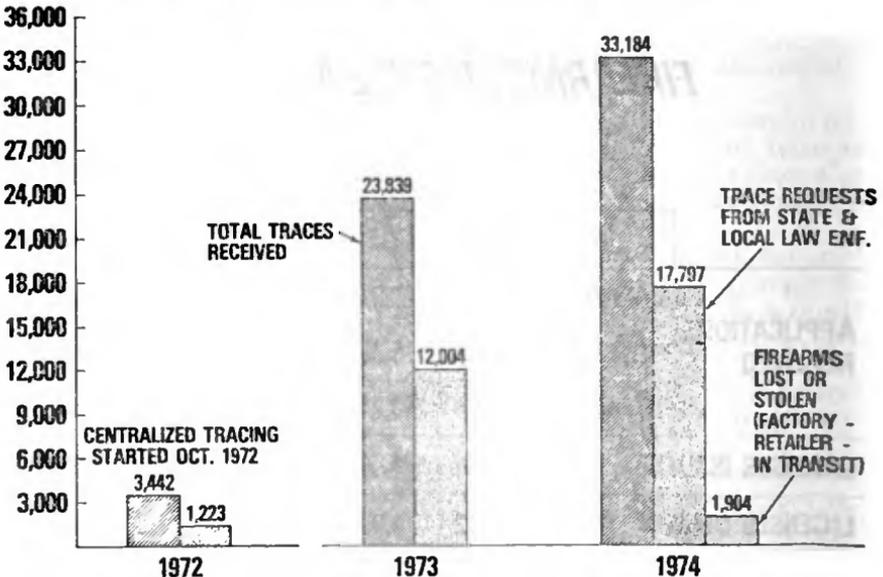
When we attempt to revoke his license, his remedies are such that it may go on for 2 or 3 years. Very frankly what we do as a substitute for this, is to wait until the next renewal period comes up and fail to renew, because it is a much more effective means.

So really we are somewhat handicapped by a lack of interim, or inbetween remedies. Again, I think we have covered this chart pretty thoroughly, and since the committee has it, unless there are questions, we will move on by it.

I think again, unless there are questions, we will move on by the next one, too.

I think we are coming up on some charts here that represent specialized information that the committee may find interesting.

NATIONAL FIREARMS TRACING CENTER



Mr. DAVIS. This particular chart reflects our gun-tracing activity which as you can see, has grown very tremendously. In the fiscal year

1974, we traced 33,184 weapons, and of that number 17,797 were for the benefit of State and local law enforcement bodies.

So more than half of the tracings we make are for the benefit of State and local organizations. One point that would be of interest to the committee, I think, is the fact that 1,904 of those weapons could not be traced because they were stolen. We can expand on that later when we talk about another point.

Mr. CONYERS. Mr. Gekas?

Mr. GEKAS. I would like to question you about the total tracing. It is my understanding that the FBI has made known to the 40-odd thousand law enforcement agencies across the country that they have bathtubs with bloodstains on them, and if the bathtub and bloodstain is sent in, they would examine the bathtub and the bloodstain to determine whether it is human blood, and that kind of business.

Have you made similar announcements to all the law enforcement agencies all across the country as to your tracing service?

Mr. DAVIS. No; we are afraid to. The method, as Mr. McClory saw the other day, the method we do this by, we are saturated.

Mr. GEKAS. How many personnel do you have in the center?

Mr. DAVIS. Twenty-seven tracers and two code-a-phone operators. They will each handle, each tracer, will handle about 200 traces a month. So that averages out so many a working day. These are all done by telephone.

Mr. GEKAS. If you did announce to all the law enforcement agencies across the country that you did have the service available and if you did have the capability to handle it, how many do you estimate you would have a year?

Mr. DAVIS. Certainly it would, I would say, oh, that it would approach a hundred thousand without any question. We are providing—

Mr. GEKAS. 100,000 total, or from the States?

Mr. DAVIS. From the States.

Mr. GEKAS. And that is annually, 100,000 annually?

Mr. DAVIS. Yes, additionally. We have here somewhere the number of State agencies that we receive traces from, and I have it here. It is about 2,000, and there are about 40,000 in the United States, so we are really receiving only a small percentage of these. So it would substantially increase, and, of course, any number would be a guess.

How have the law enforcement agencies, especially State and local, learned about your current capability, just by word of mouth?

Mr. DAVIS. Yes. Anytime you have a service that is free, the more it is used, the more it gets around that you have it available, and I think that accounts for the rapid increase over a 5-year period.

Mr. GEKAS. You will supply for the record the number of agencies that have submitted requests to you in the last few years?

Mr. DAVIS. Yes, we will do that.

Mr. GEKAS. The program began when?

Mr. DAVIS. In October 1972, so there has been a steady rise. I think the committee would probably be interested now in knowing that we—about 60 percent of these traces are successful in terms that we can trace it to the first purchaser that bought that particular gun.

Mr. CONYERS. Pardon me, Director Davis, if you would suspend for a moment, I would like to announce that on April 14 and 15, the

Subcommittee on Crime will be taking these hearings to the city of Chicago, Ill., in which we will be joined by, first of all, all the subcommittee members that can attend, plus a number of Members from Congress from the Illinois area.

Mr. McClory has worked very well and diligently with me in setting up these hearings. We are going to have the mayor of the city of Chicago, Mayor Daley; we are going to have Members of Congress. We are discussing the possibility of having the regional ATF person there to join us in testimony, a number of law enforcement people, and community people as well. I would like to yield at this point to the gentleman from Illinois for any further comments he would like to make.

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

I appreciate that announcement, and it is my understanding that you will be holding a press conference and elaborate on the plans for our hearings in Chicago, and I merely have communicated with Mr. Ashbrook, the other minority member of the committee, advising him about this, and also advising him that I was offering a resolution with respect to the televising of these hearings in Chicago.

And if there is no objection, I would offer this resolution so that it may be adopted and made part of the record at this meeting, so that the hearings in Chicago can be televised.

Mr. Conyers. Without objection, we will receive and accept the resolution that you propose. It has been discussed with a number of—as a matter of fact, all of—the other members of the subcommittee.

[The resolution referred to follows:]

Resolved, That at the hearings conducted by the Subcommittee on Crime of the House Judiciary Committee in Chicago, Illinois, on April 14 and 15, 1975, the hearings may be covered by television broadcast, radio broadcast, and still photography in accordance with Rule 5 of the Rules for the House Committee on the Judiciary.

Mr. McClory. Mr. Chairman, I am in a position where I must leave for a meeting. I will follow the additional testimony that you receive. Thank you.

Mr. Conyers. Fine.

Thank you for permitting our interruption, Mr. Davis.

Mr. Davis. Yes, Mr. Chairman.

We will provide the committee with a summary of the breakdown that could be of interest. We have this. This is one of the things we have been able to computerize, so we are able to break this down in a number of different ways to show the kind of crime that the guns traced were involved in, just to give you an example.

We will give you these so that you can analyze them further if you wish.

Mr. Conyers. We will accept any of your statistical data that accompanies the charts into the record at this point, and at all other places where it is appropriate.

[The material referred to follows:]

[From the Buffalo Courier Express, Mar. 6, 1975]

U.S. AGENTS SEIZE 2 MEN IN ATTEMPT TO SELL WEAPONS

Two men who allegedly tried to sell 16 sawed-off shotguns and two handguns to federal undercover agents, were released on bail late Tuesday following their arraignment on charges of possession of unregistered firearms.

Neal Kern, agent-in-charge of the U.S. Treasury Dept's Bureau of Alcohol, Tobacco and Firearms here, said the two had been trying to negotiate the sale to agents for the last three months.

The agents, posing as retailers of stolen weapons, agreed to pay \$2,000 for the guns, Kern said.

The suspects, arrested at about 8:30 Tuesday night, were arraigned before U.S. Magistrate Edmund F. Maxwell.

John A. Hinehey, 41, of 2715 Colvin Blvd., Town of Tonawanda, and Peter A. Santasiero, 34, of 29 Ridgeview St., Depew.

Kern said Hinehey was arrested in the parking lot of Howard Johnson's Restaurant, 6700 Transit Rd., Amherst, as he was about to deliver the weapons.

The guns were in his car which was parked in the restaurant's parking lot. Kern said.

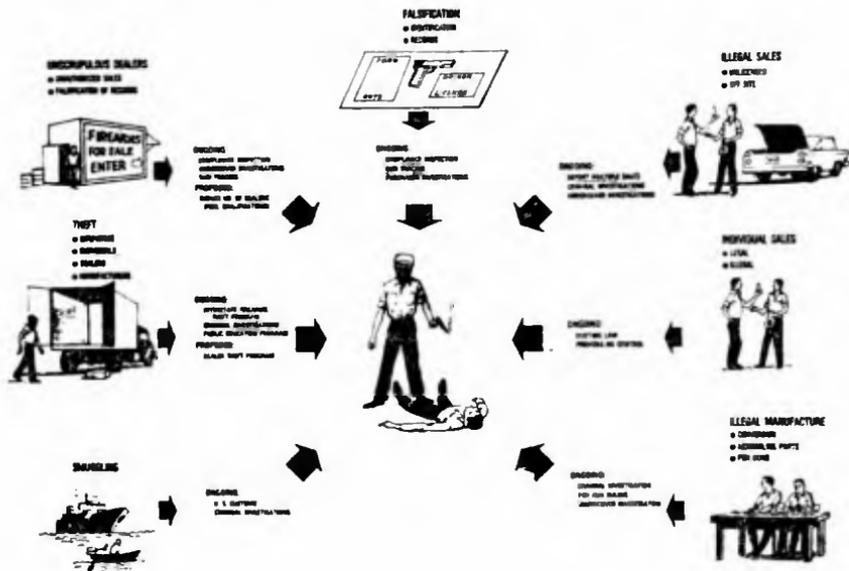
Santasiero was arrested at his home shortly thereafter, the agent said.

Arrest warrants were issued by Maxwell on Tuesday after agents filed affidavits supporting their allegations that the pair was negotiating a sale.

A search warrant also was issued, authorizing agents to search Hinehey's home. Seven rifles and approximately 650 rounds of ammunition were seized there, Kern said.

The agent said he does not believe the suspects are part of an organized ring.

Maxwell freed Santasiero on a \$1,500 recognizance bond pending a March 19 preliminary hearing while Hinehey was released on a \$5,000 bail pending a March 11 hearing.



[From the Times Herald, Vallejo, Jan. 24, 1975]

18 GUNS, TWO MEN ALL HELD

ESCONDIDO.—Two men were arrested and 18 guns and other automatic weapons seized, including a powerful Communist Chinese AK47 machine gun, police disclosed today.

It was the second such confiscation this week. In San Diego, authorities arrested two Los Angeles men with an AK47 machine gun.

A complaint issued by the U.S. attorney's office charged two others, Eric Leroy Rushing, 31, and John William Rynders, 26, both of San Diego, with possession of illegal weapons.

Rushing also was charged with carrying a weapon during the commission of a federal felony.

The U.S. Bureau of Alcohol, Tobacco and Firearms said the weapons seized in an Escondido house Wednesday were the largest number ever confiscated in San Diego County.

Agent James P. Stathes said Rushing and Rynders were arrested in a Carlsbad restaurant parking lot with two fully loaded Schmeisser MP40 machine guns and six clips of ammunition.

[From the Baltimore Sun, Nov. 13, 1974]

THREE ARRESTED AS 200 GUNS ARE SEIZED

(By Thomas B. Edsall, Washington Bureau of The Sun)

Washington.—The Federal Bureau of Alcohol, Tobacco and Firearms seized more than 200 guns yesterday and arrested three Maryland men in their homes on charges of violating the Gun Control Act of 1968.

Charles E. Snyder, Jr., 43, of Bowie, Md., was charged with dealing in firearms without a license, mailing firearms across state lines, selling firearms to out-of-state residents and selling a "cane gun," a weapon concealed as a walking stick, which must be registered with federal officials.

About 200 guns were taken from Mr. Snyder's home by the federal agents who found most of them in a garage, which they described as "jammed with military and historical memorabilia."

In a separate case, Lawrence LaGuardia, 34, of Ellicott City, and Charles Frank Rittrivi, 44, who lives in Carroll county, near Marriottsville, were charged with transferring and selling firearms in violation of Maryland law.

Several handguns were taken from Mr. LaGuardia and Mr. Rittrivi, according to Rex D. Davis, director of the Bureau.

[From the Tucson Daily Star, Nov. 28, 1974]

WEAPON RING IS SMASHED—HANDGUNS MADE FROM STOLEN PARTS

NEW YORK.—A six-month investigation by federal undercover agents yesterday resulted in the smashing of a sophisticated illegal weapons-supply ring centered in the Bronx. Nine men and a woman were arrested.

Handguns sold by the ring were assembled from parts stolen from gun factories in Connecticut, Florida and Washington and bore no registration numbers so they could not be traced by police, officials said.

Two undercover agents from the Treasury Dept.'s Bureau of Alcohol, Tobacco and Firearms bought 135 handguns plus nine "assassination-type" weapons—sawed-off shotguns and rifles—from the ring, it was charged.

Raymond N. Kiely, regional director of the bureau, termed the roundup one of the most significant recent actions in firearms in the area "Because it is instrumental in breaking up a conspiracy of illicit traffic, in weapons sought by the criminal element."

Among those accused in the five indictments unsealed yesterday was Richard Hauptner, 41, the Bronx, identified as a quality control foreman at CDM Products, Inc. in Watertown, Conn., where many of the parts were stolen.

Officials said 20 assembled handguns were seized Tuesday night at the home of Patrick Sherry, 25, the Bronx, an employe of the New York Telephone Co., and said hundreds of parts were found at the Bronx home of Julius Ceintano Jr., 23.

Sherry and his wife, Susan, allegedly conspired to sell a carbine with a silencer, two sawed-off shotguns and a sawed-off rifle. The indictment said they demonstrated the silencer at their home Sept. 4.

Three others indicted were Thomas Cocchiario, 23, Holbrook, N.Y., and Rubin Margolin, 64, and his son, Howard, 32, co-owners of The Last Laff tavern in the Bronx.

The indictment said the Margolins arranged for Cocchiario to sell handguns to patrons of the tavern, and that Cocchiario sold 22 .22-caliber automatic pistols about the end of June.

Also indicted were Emanuel Carvalho, 51, an unemployed cook of the Bronx; Leonard Virello, 49, the Bronx and William Masselli, Mount Vernon, N.Y.

[From the Atlanta Constitution, Feb. 13, 1975]

SIX ARE ARRESTED IN ARMS CACHE

Six Lumpkin County residents have been arrested in connection with the seizure of a large assortment of allegedly stolen guns, hand grenades and other explosive devices in north Georgia, the U.S. Bureau of Alcohol, Tobacco and Firearms (ATF) said Wednesday.

One of those arrested was identified as M. Sgt. Douglas McArthur Perry of Camp Merrill, the Army mountain ranger training post at Dahlonega.

Five others were listed as Dewey D. Odum; Frankie Nell Jones; James Howard Moss; his wife, Mrs. Shirley Brackett Moss and Herman Brackett.

E. D. Hughes, assistant agent in charge of the Georgia ATF office, said all except Brackett had posted \$7,500 bonds on charges of violating the federal firearms and gun control act. Hughes said Brackett was held under the same bond.

Federal undercover agents had worked for several weeks on the investigation and had purchased 35 hand grenades, Hughes related.

Agents fanned out Tuesday night in a series of searches that resulted in the six arrests and also netted a wide assortment of other items, Hughes said.

He listed 25 shotguns and rifles, two sawed-off shotguns and one sawed-off rifle, four packages of C-4 plastics explosives, five hand grenade simulators, five ground blasting simulators, a smoke grenade, 12 feet of WrIma blasting cord and three electric blasting cap assemblies.

Hughes said agents also seized a 1974 Ford Cobra.

Federal agents said the six arrested persons were believed to be part of an alleged ring dealing in stolen firearms and explosives. They declined to say where the items had been stolen.

[From the Morehead News, June 7, 1973]

ON GUN LAW VIOLATIONS—DAY BEGINS 5-YEAR SENTENCE

Roy Ernest (Tots) Day of U.S. 60 West, Morehead, has begun serving a five-year prison sentence in connection with charges of violation of the federal gun control law.

The charges against Day stemmed from a raid on March 20, 1970, at his residence, made by agents of the Alcohol, Tobacco and Firearms Division of the U.S. Treasury Department and Kentucky State Police officers.

At the time of the raid, the officers confiscated 68 revolvers, nine semiautomatic pistols, one derringer, eight rifles, 10 shotguns, \$8,000 in illegal alcoholic beverages and two trucks.

Day was tried in federal court in Catlettsburg in June of 1971 on a charge of dealing in firearms without a proper license and four counts of selling firearms without a license to a non-resident of Kentucky but the jury was unable to reach a verdict.

On April 23, 1972, a jury in federal court at Catlettsburg found him guilty on five counts of possession of firearms after having received a discharge from the Army other than an honorable discharge; and one count of illegal possession of firearms under the new federal firearms law.

Judge H. David Hermansdorfer sentenced Day to two years on each of the five counts of possession of firearms after having received an Army discharge, other than honorable; three years for illegal possession of firearms in violation of the new federal gun act; and a \$10,000 fine. Day paid the fine. Judge Hermansdorfer ruled that the five sentences of two years each run concurrently; and that the three year sentence be consecutive, making his total sentence to prison five years.

Day's Attorney, John Young Brown Sr. of Louisville, appealed to the 6th Circuit Court of Appeals at Cincinnati.

On April 5, 1973, the 6th Circuit Court of Appeals sustained the sentences and fines. Morehead Attorney George I. Cline represented Day when he appeared for final sentencing at federal court in Jackson on May 21 of this year. His counsel (Cline) asked that the sentence be reduced; and also that Judge Hermansdorfer confer any sentence under Title 18, section 4208(a)2 which

makes Day eligible for parole anytime within the discretion of the U.S. Parole Board. Judge Hermansdorfer refused to reduce the sentences; but did sustain Cline's motion that Day be sentenced under section 4208(a)2 which makes him eligible for parole anytime.

The federal court jury trial in April of 1972 hinged on the alleged purchase of seven .38-caliber revolvers from Day by Charles Stone, a special investigator with the Alcohol, Tobacco and Firearms Division's Charleston, W. Va., office. Agent Stone, at that time, testified that he purchased the firearms on four various dates between Jan. 23 and March 13, 1970, for a total of \$645.

Day testified during the trial that he had never been in the business of selling guns and had accumulated them over a period of 15 to 20 years. It earlier was brought out in the trial, however, that many of the 75 revolvers sold and seized were not manufactured until after 1967.

The defendant said he collected the .38-caliber revolvers because they were becoming hard to obtain. During the first trial he said firearms manufacturers had stopped making the revolvers due to concentrated efforts in making other firearms due to Vietnam conflict.

Day said he acquired some of the guns in trade for merchandise.

[From the Philadelphia Inquirer, Dec. 12, 1974]

RAIDERS SEIZE 18 IN ILLEGAL GUN-BUYING

(By Richard L. Papiernik, *Inquirer Staff Writer*)

About a year ago, Alexander J. Pavone walked into the Old, Odd and Otherwise Gunshop in Prospect Park, Delaware County, looked over the large collection of firearms and decided to make a purchase.

Pavone filled out the required federal forms, but he neglected to mention that three years ago, according to court records, he had been convicted of armed robbery.

Shortly before 6 A.M. Wednesday, Pavone, 22, of the 2200 block of South 8th Street, was awakened by a raiding force of U.S. Treasury agents and Philadelphia police. He was charged with violating the Federal Gun Control Act.

Agents of the *Treasury's Alcohol, Tobacco and Firearms Bureau (ATF)*, charged Pavone with lying on his purchase-application form.

According to the agents, Pavone had more than 100 other Philadelphia residents previously convicted of major crimes made illegal purchases at the gunshop which is on Lincoln Avenue, Prospect Park.

Wednesday morning about 60 federal agents aided by Philadelphia police swept through sections of south and southwest Philadelphia in an attempt to arrest 29 of these alleged violators. By the end of the morning they had arrested 18 persons and had found that four others already were in area prisons for other crimes.

Rex D. Davis, the bureau director, who came from Washington to oversee the operation, said the six-month investigation into the sales was "expected to result in the largest number of firearms arrests . . . in a single investigation in the history of the mid-Atlantic region."

Officials stressed that no charges had been brought against the shop's owner, Don DiPlacido.

Davis said the investigation had begun when a number of weapons "used in street crimes in Philadelphia were traced to purchases made at DiPlacido's shop.

Frank Quinden, special agent-in charge of the bureau's Philadelphia ATF office, said federal law required gundealers to obtain signed statements from purchasers attesting that they never had been convicted of a felony.

The agents, inspecting the records maintained by DiPlacido, said that more than a hundred persons from Philadelphia who had made such statements and had obtained the weapons were "convicted felons."

Other arrests, they said, are expected in "the near future."

A spokesman for the U.S. attorney's office said the falsifying of such records was punishable by a maximum term of five years' imprisonment and a \$10,000 fine. Actual possession of the weapons by a felon, the sources said, could be penalized by a sentence of two more years.

The raid Wednesday resulted in the seizure of about 20 rifles and handguns that the bureau displayed at the U.S. Customs House at Second and Chestnut Streets, where the agents had set up their command center.

ATF agents and Philadelphia police under the command of Capt. Frank Goldberg met at the Customs House at 4 A.M. for a briefing. The group was divided into 10 teams.

"We want you to knock on your first door at 5:30 A.M.," said ATF agent Don Friel. He said agents should not break in any doors without special authorization.

Accompanying some of the teams were members of the special Philadelphia police stakeout squads.

As the agents spread through the city making arrests, members of the stakeout squads stationed themselves around the homes, in some cases with guns drawn and trained on doorways or windows.

Some of the raiders were accompanied by news cameramen and reporters.

Joseph Pearson, a bureau group supervisor in command of the raiding parties, said the arrests had been made "without breaking in any doors or using any force."

Typical of the arrest pattern was the 5:30 A.M. knock on the door by agents at the home of Richard Bressi, on Nantou Street near Marshall.

Agent Thomas Dunheavy, designated as "team leader" pulled up to the Bressi home as Philadelphia police cordoned off the area.

Bressi, who agents said is a convicted felon who purchased a weapon at DiPiacido's store, answered the door, heard Dunheavy identify himself as a federal agent and then surrendered in a resigned manner.

The raiding teams were not successful in all cases. In some instances, when no one answered their knocks, the team left the area.

The 18 persons arrested were arraigned and released in bail ranging from \$1,500 to \$10,000.

[From the Philadelphia Daily News, Dec. 11, 1974]

FEDS FAN OUT IN GUN RAID

FEDS SEEK 31 IN GUN RAIDS

(By Scott Helmer)

Teams of Treasury Department agents swept through South Philadelphia in pre-dawn raids today hoping to net most of 31 persons charged with gun violations and considered armed and dangerous.

Those named in warrants issued yesterday by U.S. Magistrate Edward Noythons are convicted felons charged with receiving and possessing firearms and falsifying Federal firearms records in violations of various sections of the Gun Control Act. One suspect is being sought in New Jersey and a second is from Delaware County.

Rex Davis, Director of the Bureau of Alcohol, Firearms and Tobacco Unit, said the operation is expected to result in the "largest number of firearms arrests by his agency in a single investigation in the history of the Mid-Atlantic Region."

Davis said these are the first arrests in the country since the recently announced "significant criminal enforcement program," aimed at those persons who, because of their prior criminal records of convictions, are considered armed and dangerous.

Davis would not name those suspects for whom warrants had been issued.

The raids ended a six-month investigation made by ATF agents in conjunction with Philadelphia police and the U.S. Attorney's office.

Davis said the investigations show that all persons sought bought firearms outside Philadelphia in order to circumvent city firearm laws.

Frank Quindien, special agent in charge of the Philadelphia district office, led the arrest teams which also consisted of police and agents of the Federal Drug Enforcement Administration.

Mr. DAVIS. Thank you, Mr. Chairman.

FIREARMS TRACING SUPPORT TO SPECIAL AGENTS

	<u>NUMBER OF YES RESPONSES</u>	<u>% OF YES RESPONSES</u>
DID TRACE ASSIST IN IDENTIFYING THE VIOLATOR?	55	27.5
DID TRACE ASSIST IN THE INVESTIGATION?	147	73.5
DID TRACE ASSIST IN MAKING A CASE?	84	42.0

FROM RANDOM SAMPLING OF 200 TRACES REQUESTED DURING OCTOBER 1974

This one is a sampling test. We did want to find out the value of tracing in investigations, and these are the "Yes" responses. It was useful in identifying the violator in question. That was in 27.5 percent.

In 73.5 percent of the times, it did assist in the investigation, and in 42 percent, it did assist in making a case.

Based on this, we think the tracing activity is a valuable tool on a limited basis.

Mr. Chairman, we think this particular project would be of interest to you.

Mr. CONYERS. Excuse me a moment. Counsel Gekas wanted to raise a point in connection with the last chart.

Mr. GEKAS. That is a useful study, the last chart. Is that the study that Mr. Peterson was referring to when he said that—or maybe it was you, Director—that you requested funds to expand it? Mr. Peterson, I see you nodding. Is that in the current budget?

Mr. PETERSON. No, sir, it is not. It is what we call our cost-benefit analysis, and we believe that a thorough study should be made in the field as to where we could best serve, and this we have not been able to do yet.

Mr. GEKAS. The point is that that is from a random sampling of

200 traces, which is a small number, and you have asked for funds to expand?

Mr. DAVIS. I might say he probably asked me, and I did not have them to give him. I do not think we have formally included it as a specific budget request, you see.

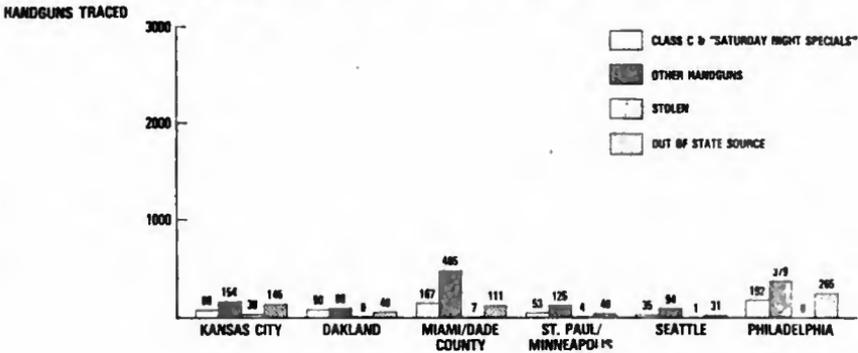
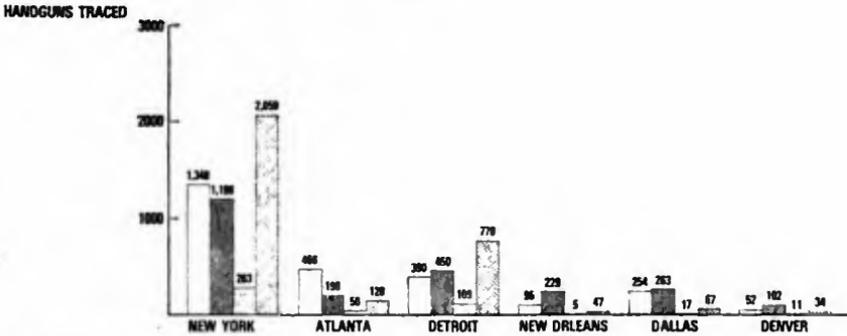
Project Identification, let me describe very briefly. In this, we initiated this in four cities initially. In fact, we were requested by the New York City Police Department to extend it to that city.

It involved initially New Orleans, Atlanta, and Detroit. We did extend it to New York, and since that time, we have carried it on beyond that, so that at the present time we have concluded Project Identification in 12 cities.

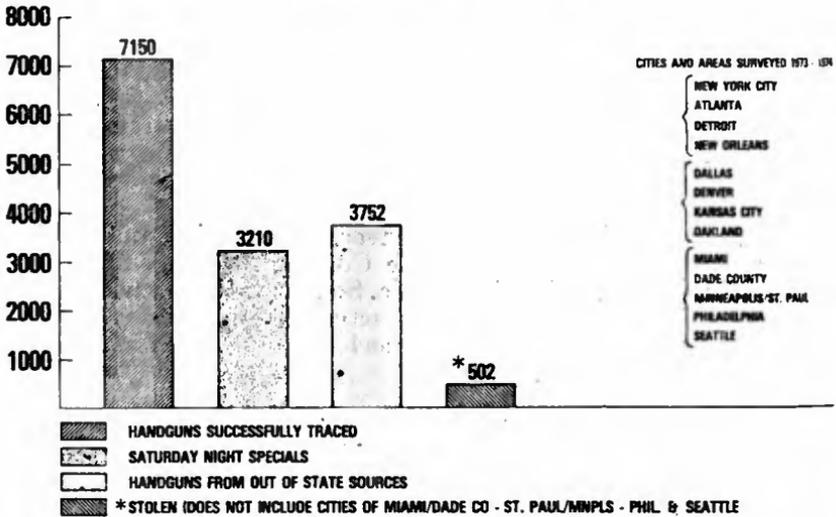
We have extended it to Dallas, Denver, Kansas City, and Oakland in the second phase, to Miami-Dade County, St. Paul, Minn., and Minneapolis, Seattle, and Philadelphia. So that we have various information of this, and these are guns, actually, I might say, actually recovered by the police in those cities as having been used in crime.

So these are street crime statistics.

PROJECT "I"



PROJECT I COMPOSITE GRAPH OF ALL CITIES SURVEYED



As you can see, we have broken it down here in various areas.

Mr. Chairman, I would like to say that while there is a great deal of differences of opinion about the definition of a Saturday night special, that in this project, and for this project alone, we call, or describe a Saturday night special as being a gun which costs \$50 or less and was .32 caliber or less, and had a 3-inch or less barrel.

We think in order to qualify, the gun had to meet all three of these criteria, and we feel this is a fairly tough Saturday night special test.

Mr. CONYERS. That is a good, simple definition.

Let me ask in connection with that: Are you aware of the fact that allegations have been made that persons can buy on schoolyards in the District of Columbia a Saturday night special for much less than \$50, for example, for \$9?

Is that common knowledge around your Bureau?

Mr. DAVIS. Yes; it is common knowledge in general terms. We know in cities like Baltimore there have been locker inspections in schools that uncovered a number of cheap handguns, so we are aware of the availability of these kinds of guns.

Mr. CONYERS. How did Project Identification involve itself in selecting cities? I see Project I had handguns traced in five cities.

Mr. DAVIS. We have completed 12 cities and we have extended it to 4 more. So, essentially, we will end up with 16 urban areas. We started out more or less at random.

One of the prerequisites is that we have the complete cooperation of the police department. When we had completed the first four cities, we thought that the statistics generated were so interesting and revealing, and since all of them had been east of the Mississippi, we felt that we should try to get a national sampling.

So, we have—in selecting these cities, we have tried to include all parts of the country and all types of situations.

We think the 16 cities we completed will have national validity.

Mr. CONYERS. What was the conceptualization involved? I mean, how did you come up with this notion of a project, and were there any other criteria in addition to the cooperation of the police departments that were involved? When was it started, roughly how much did it cost and what were the manpower allocations?

Mr. DAVIS. As far as concept was concerned, we felt that by taking guns, handguns, actually used in street crime and then trying to discover where they came from and what kind they were that this would be useful information on which we could make some judgments and very frankly we felt it would be useful for Congress in considering any type of legislation that they might have under consideration.

Now, I don't know whether Mr. Corbin has the manpower figures but I will ask him if he has an approximation. I know they were expensive in terms of man-days.

Mr. CORBIN. Unfortunately, I don't have the manpower figures what the project did cost. It is expensive in manpower.

Mr. CONYERS. Was that the main ingredient, just the manpower involved? The personnel expense was the major item, then?

Mr. DAVIS. Yes.

Mr. CORBIN. Yes. In effect, what we did to some extent, we had to take special agents off active cases to do research that we judged was worthwhile.

Mr. CONYERS. What year did it begin?

Mr. CORBIN. We began in 1973.

Mr. CONYERS. How long does it take for an average city to have been covered under the Project I?

Mr. DAVIS. Ninety days.

Mr. CORBIN. That is the initial period of time that we take requests from, in the New York Police Department location. It would take us much longer to complete our project.

Mr. CONYERS. Counsel Hart?

Mr. HART. I would like to explore with you for a minute the concept of the Saturday night special. A good definition of what a Saturday night special is has troubled Congress in the past.

You said last week that the Bureau's definition of a Saturday night special is a pretty tough one.

For purposes of clarification, is that the definition you used in your project identification survey, or is that the definition that has arisen from the use of your factoring criteria for imports?

Mr. DAVIS. That would be the factoring criteria that we are currently using for imported weapons, with some modifications. We feel that any very rigid definition is subject to circumvention. The \$50 limitation, obviously, somebody can start selling a gun for \$50.50, or they can put in a $3\frac{1}{16}$ -inch barrel which would circumvent that.

The caliber you can't do much about, of course.

There are other approaches which would involve tensile strength and various kinds of things like this.

Mr. HART. Do you think those types of standards such as tensile strength, density, melting point, et cetera, are just as easily circumvented from a technical standpoint?

Mr. DAVIS. From a technical standpoint, of course, any time you have an absolute standard, I should think you could go slightly above that, and you are out of business.

I think we prefer factoring criteria because there are many aspects. While it is certainly a point system, if you go one way, then you may subject yourself to going over the line in another way. So that we think that the factoring criteria takes into account other features of a weapon in a handgun that makes it more difficult.

Mr. CONYERS. Isn't this one of the problems of pulling experts together? We can't expect a commission of experts to come up with a simple definition in terms of cost, concealability and also the three or four items that you have laid out. They denominated factors and criteria that go through a lot of formulations, and then, as I just examined this, we become mystified by the whole question of definition.

Obviously, something undefined is a problem until that point is arrived at at which it is defined.

Maybe after all of this mumbo-jumbo had gone down, in a clear-headed fashion, someone who had not been affected by all the Commission's discussions said, "Well, for goodness sakes, let's just use price, concealability, size, and caliber, and thereby simply define it."

Mr. DAVIS. I might point out, Mr. Chairman, that is what the Bureau did when it received the 1968 Gun Control Act. It called together an advisory committee of six experts from outside the Government to come up and the result was the factoring criteria.

I might point out that the reason we used the definition we did for Project I is because we didn't want to take physical possession of the guns, such as if you have it in your hands, so that by having a description on the trace request as to the caliber and length of the barrel, and then with our experts knowledge through current literature what the going price was, we could do this at a distance. So we didn't have to have the gun in question.

When you hear about the number of guns we are talking about, then you can understand why.

Mr. HART. Director Davis, how do we establish the essential difference between the Saturday night special definitions?

Just a couple of questions on that, if I may.

First of all, with respect to the definition you used in Project Identification, how was that definition arrived at? Was it merely, as you say, for purposes of arm's-length identification, for example?

Mr. DAVIS. Well, we think they have a validity, certainly, in discussions of class of weapon. Certainly the cost goes to availability. The barrel length goes to concealability, and of course, the caliber again goes to concealability.

So that in effect, we came up, I guess, by a different way in what we could consider a cheap, easily concealed handgun.

Mr. HART. That is the next question, Director Davis. You demonstrated the other day, with the display to my left, that a German revolver, a .38, which is originally in a target pistol configuration can be altered after it is imported so that it is more easily concealable than it was previously. I think it is one of the German pistols there, and there was a situation where Mr. Westenberger pointed out that the maker merely added a longer grip frame to the pistol to make it importable.

Does this definition—even though it uses barrel and caliber—really take concealability into account to the extent that the factoring criteria do by applying the overall length stipulations?

Mr. DAVIS. I would say probably not as effectively. You can have a 3-inch barrel revolver with large grips and so on that make it less concealable than a 4-inch barrel. But for the purposes of the survey we felt it met the purposes of the survey.

Mr. HART. If one is willing one can conceal a sawed-off shotgun with a relative degree of ease.

Is that correct? That is what one of your people told me.

Mr. DAVIS. That is true. If you sawed off the barrels of the shotgun and the stock you are trying to achieve concealability with respect to the firepower and effectiveness of the weapon. Certainly, I think the modifications that took place in the country of the weapon that was imported were designed only for one purpose, and that was concealability.

Mr. HART. To go further into the data that you may have acquired through Project Identification; do you have any figures on how many of the handguns traced satisfy two requirements, that is, caliber and barrel length—which go to concealability—but not the value criteria?

Mr. DAVIS. Let me say that we certainly do with respect to the first four cities. Now, whether we have continued that or not—excuse me.

Mr. HART. I don't mean to say do you have that at this moment, but you will have it as the different phases of Project I are completed; is that right?

Mr. CONYERS. Use the microphone, please.

Mr. CORBIN. We have furnished to the committee a summary result in the first four cities, and it does contain that information for those cities.

Mr. HART. But that information will also be provided with respect to the other phases?

Mr. CORBIN. As we complete them, yes.

Mr. HART. Are you reasonably certain that you will complete all the planned phases in Project Identification?

Mr. DAVIS. If I can answer that, if I understand your question, we are going to complete 16 cities. Some of us call those phase 1, 2, 3, and 4.

We had hoped in the beginning to carry this one step further and whether we call it phase 2 or not I don't know but what we had hoped to do is actually go back even on a sampling basis and find out how we got from the dealer and the first purchaser to the site where it was used in a crime.

Now, unfortunately, this is a consuming of manpower resources, and if we are going to be able to do it, it will have to be on a very limited basis.

Frankly, under the present circumstances I don't see that we will be able to.

Mr. HART. So you are pessimistic about the plans and usefulness and future of Project I as you indicated in the material that you submitted to the subcommittee.

Is that a fair statement, that you are not too optimistic about completing Project I in the way in which you had originally planned?

Mr. DAVIS. Yes. One thing, let me say this, I think if we can call it step one of Project I, it has tremendous value in terms of information, obviously, and we would like to have the other information. We are going to have to look at it in terms of cost-effectiveness and in terms of what else we should be doing. I am not optimistic at this point in even doing limited sampling.

Mr. GEKAS. I recognize one of the problems, that of the budget and resources, but you indicated that you had planned to do the phase 2 which is the followup from the first retail purchaser through to the crime.

You were hoping to do that on a sampling basis and that would be very, very valuable for the subcommittee in our investigation of the problem.

One of the things that we found is that the state of knowledge on the traffic in firearms is very, very limited and I would urge you to do it, and I would go to the point of putting the pressure on you to go ahead and do it and demand it, but I know you are under some restrictions.

At least maybe we can work together on this and select a representative sample and get an idea of what the results would be to determine if further examination is needed.

Mr. DAVIS. Let me tell you, we have talked alternatives. I know it won't be quite as effective, but certainly it would be much less demanding on us from a manpower standpoint, and that is to instruct our special agents every time they arrest a person, a criminal, or if he is arrested by State and local officers for the commission of a crime with a firearm, to interview him with respect to where he obtained the gun.

Now, this would sort of be going in the back door, but at least it would have some value in finding out where criminals generally get guns.

Mr. GEKAS. The value of doing the Project I studies is that you would have the complete picture and that would be a better investment of your resources on a sampling basis. I know there are statistical experts out there, and I am sure you have some available to you to determine a small enough sample that would still give an indication at least of some preliminary results, because that would be just enormously useful for the subcommittee in the performance of its duties.

Mr. DAVIS. Certainly, Mr. Chairman, we will give it every consideration that we can, and if at all possible we will proceed along that line.

Mr. CONYERS. Mr. Director, you have been very long enduring. We only have one other line of questioning today and then we are going to stop.

I just want you to know that we are approaching the end of this hearing. It has been a long one for you and your associates, and you have been extremely capable and candid in giving us so much valuable information, and it is concentrating on areas that will be a very important part of the final report of this subcommittee.

Mr. HART. Director Davis, I would like to conclude this line of questioning on Saturday night specials and, to some extent, Project Identification.

For purposes of the record, could you identify the four phases of Project Identification, just by definition?

Mr. DAVIS. Yes.

Actually in those terms, the four phases were the four groups of cities that we took on each time, and we will be happy to identify those for the record if you would like us to.

Mr. HART. Please go ahead.

Mr. DAVIS. The first group of four were New York, Atlanta, Detroit, and New Orleans; and that would be the first phase.

The second was Dallas, Denver, Kansas City, and Oakland.

The third phase was Miami-Dade County area, the St. Paul-Minneapolis area, Seattle, and Philadelphia.

Mr. CORBIN. The last four are Boston, Charlotte, N.C., Los Angeles, and Louisville.

Mr. GEKAS. Is Chicago in there?

The superintendent from Chicago came and he indicated there had been some similarly titled studies and I thought it was Project Identification.

Mr. DAVIS. They did investigations with Professor Zimmering in Chicago.

Mr. CORBIN. I think I am giving the last four cities correctly. I may be one city off.

Mr. DAVIS. We have received requests for other cities. The mayor of Cleveland has asked us because it is useful information to give. We haven't had the opportunity to do that though.

Mr. HART. Director Davis, this is with respect to the question I asked just a few moments ago. Of the handguns which satisfy the caliber and the barrel length but not the value criteria at least in phase 1, was the percentage of those types of handguns greater or less than the number of Saturday night specials that fit your definition?

Could you explain or supply that for the record?

Mr. DAVIS. We can supply that for the record. We certainly have this available.

Mr. HART. How many of those handguns—those which were successfully traced, or those that you had a general description for—would fail to meet the factoring requirements on imports?

I assume you can supply that for the record.

Mr. DAVIS. In other words, if we had applied the factor criteria—

Mr. HART. In other words, of the weapons you traced during the four phases, how many would have failed the import criteria?

Mr. DAVIS. I expect in that instance it is going to be a little more difficult to supply for the record. We certainly don't have it available at the moment, and let me, if I can, ask Mr. Owen.

Mr. Owen informs me that any gun with a barrel less than 3 inches would not pass.

Mr. HART. Period? Is that regardless of cost?

Mr. DAVIS. Regardless of cost or any other factor.

Mr. HART. In line with that request, for subcommittee purposes I would also like to know what the relative percentages of—well, I guess that answers the question.

The last question I had was with regard to the disagreement between the Bureau and Congressman Harrington which surfaced last summer concerning the inclusion of the percentage on the Saturday night specials used in crimes in New York City.

Apparently Congressman Harrington took issue with the figure of 70 percent, which you later revised downward.

Can you explain the disagreement and why the figure was subsequently reduced?

Mr. DAVIS. Yes. We resolved that and I might say we resolved that in Congressman Harrington's favor.

We got trapped by what we called a composite average in which we tried to take the three criteria, the cost, barrel length, and caliber, and came out with a composite average and since then we have corrected the original report and since then we have applied the three criteria uniformly so that any weapon falling in that class, which we called class C, must meet all three in order to fall in this area.

Mr. HART. If I can state it more simply, the essence of his objection was that you added them all together and divided by three and that you shouldn't have.

Is that fair?

Mr. DAVIS. I suppose it isn't that simple, but in essence, that is close to what we did.

Mr. HART. Again for purposes of the record, in the original phase 1 report of Project Identification you concluded that 70 percent of the guns used in New York City, or within those cities, were Saturday night specials according to three criteria.

Now, what was the adjusted figure?

Mr. DAVIS. It was in the neighborhood of 50 percent.

Mr. CORBIN. That was with respect to the first 12. Whether or not it was with respect to the first four, I don't know.

Mr. DAVIS. In all the masses of paper we brought together, we didn't bring the little report on that.

But I can tell you that in the—

Mr. GEKAS. Doesn't your next graph refer to that?

Mr. DAVIS. Yes. It shows in the first 12 cities that it was a little less than 50 percent. Of 7,150:3,210 would be Saturday night specials. But for New York itself, or the first four cities, my recollection is that it was a little higher as a percentage, about 50 percent.

Mr. HART. So it would be between 45 and 50 percent, roughly, or in that neighborhood?

Mr. DAVIS. Yes. For the 12 cities it would run—let's see—we run less than 50 using the strict standards.

Mr. GEKAS. Mr. Chairman, if I could try to put that figure into perspective by taking opposite points of view. From the point of view of those who advocate Saturday night special bans, can you say that based on the results of project I you would be eliminating half of the problem if you eliminate Saturday night specials?

That is a gross simplification but some times that is the job of counsel, to make such simplifications.

But for people who are concerned about the problem of handguns in totality, can you say that Saturday night specials account for only half of the problem? You are saying the same thing, and I guess the implication of the second one is that you have to do more than deal with the Saturday night specials. I only describe the two positions to try to put the various legislative proposals into perspective.

It is actually arguable two ways, of course.

Mr. DAVIS. Right. Obviously the professional criminal who arms himself in advance for the purpose of committing a crime, to him concealability is an important factor because he wants to go undetected until the point where he is going to use it; and maybe afterward.

For other types of crimes that are probably not premediated it doesn't make a great deal of difference. If you eliminate one class of weapons, you are going to move people up into the other class.

Mr. GEKAS. It would be useful to take the project I figures and break them down by type of offense in which they were used, and then to bring them down further into demographic characteristics.

For example, if you found out that all the guns classified as Saturday night specials are being used in urban areas by offenders who are between the ages of 15 and 24, and that the older more seasoned criminal who is robbing banks is using the more expensive type weapon that does not classify as a Saturday night special, you don't know what conclusion you draw from that in terms of legislation. But it would be enormously educational, it seems to me.

Mr. CONYERS. Without objection the correspondence between Congressman Michael Harrington dated July 19, 1974, and responses from Director Davis will be included in the record at this point.

[The correspondence referred to follows:]

JULY 19, 1974.

Mr. REX DAVIS,
Director, Bureau of Alcohol, Tobacco, and Firearms,
Washington, D.C.

DEAR MR. DAVIS: My staff has brought to my attention a serious statistical error in the Bureau's report, "Project Identification." The error seems to invalidate the study's conclusion that 70 percent of all handguns used by criminals are "Saturday Night Specials."

Since I believe that private ownership of all handguns, rather than just Saturday Night Specials, is at the root of this country's troubles with firearms, I feel it is important that this error be corrected before the statistics are put to any further use.

On page three of the report, the Bureau sets forth a working definition of the Saturday Night Special, describing it as a "cheaply made handgun of .32 caliber or less, with a barrel three inches or less, and easily concealed in the palm of the hand or in a coat pocket." The report further states that a "cheap", or Class C, gun is one costing less than \$50.

Thus, three criteria are established for categorizing a handgun as a Saturday Night Special—low cost, short barrel, and low caliber. The report clearly stipulates that a handgun must meet *all three* criteria in order to be termed a "Saturday Night Special."

The problem is that on page four of the report, a subtly different definition of Saturday Night Specials is employed. The number of Saturday Night Specials is calculated by taking a "composite average" of the number of guns possessing *one* of the three qualifying characteristics. Handguns are classified as Specials even if they only meet *one* of the three criteria.

For example, the New York City survey indicates that 1,501 guns meet the cost criterion for Specials, while 1,938 meet the size qualification, and 1,636 are of suitably low caliber. The differences between the three figures indicates, of course, that many guns meeting one criterion do not necessarily meet the other two. All small guns, for instance, are clearly not inexpensive or of low caliber. Yet, all these guns—many of which obviously do not meet the report's three-part definition of a Special—are included in the figures on Specials.

As a result, the finding that 63 percent of the handguns seized in New York are Specials is almost certainly erroneous, since not all of the guns included in that percentage meet all three qualifying characteristics.

The inaccurate representation of the figures disturbs me, because it can be used to argue that legislation to prohibit all handguns, rather than just Specials, is unnecessary. By portraying Saturday Night Specials as greater factors in crime

than is actually the case, the study encourages the false belief that legislation banning the Special would substantially cut back on the number of weapons used by criminals. The Bureau's 70 percent figure has already been cited by at least one Congressman as a reason to pass legislation directed solely at the Special. And yet the figure undoubtedly overstates the proportion of handgun-related crimes attributable to the Special.

I favor a complete ban on all handguns, and have introduced legislation to that effect. I am concerned at the circulation of statistics which discount the misuse of all types of handguns, especially models which are expensive, or of high caliber, or feature long barrels.

An official in the Bureau's tracing division has indicated to my staff that the information necessary to derive correct data is available in the Bureau's files. It seems to me that reanalysis of the data is called for. If the Bureau wants to know how many of the guns it traced actually meet its own three-part definition of a Special, then it should check each gun included in its survey to ascertain how many meet *all three* of the qualifying criteria. Only then can Project Identification's findings have any real significance.

I hope you will immediately re-examine your data to correct your error. If manpower shortages preclude your doing so, I would be happy to direct several of my staff to work under your direction until the task is completed. I realize that both of us are devoted to obtaining the best possible information on the abuse of handguns, and I look forward to our working together to correct this error in the study.

Yours sincerely,

MICHAEL J. HARRINGTON.

SEPTEMBER 18, 1974.

Hon. MICHAEL J. HARRINGTON,
House of Representatives, Washington, D.C.

DEAR MR. HARRINGTON: We have finished our review of the types of handguns used as the basis for our initial Project Identification report, and you are correct in your assumption that the number of guns which meet all three categories—\$50 or less cost, .32 caliber or less, and 3-inch barrel or less—is less than the 70 percent indicated on page 4 of the report under the heading of "Saturday Night Specials". Our review figure sets the percentage at 51 percent for the total, with 53 percent for New York City, 56 percent for Atlanta, 46 percent for Detroit and 29 percent for New Orleans.

In making the review, we encountered two problem areas. The first was the difficulty in insuring that the report forms used in the review in all instances were exactly the same forms used originally. Project 1, for these four cities, was a continuing project extending over a six-month period. Sometime in December 1973. It was determined that we had a sufficient quantity of traces completed to enable a meaningful statistical analysis. At that point, we segregated all of the forms received to that date and began the statistical summary. The project, however, continued and additional forms came in. These forms, while not included in the statistical summary, were mixed in with the first ones when the study was completed. As a result, there could be a few forms in the review that were not part of the original group, but this should not change the percentage figures significantly one way or the other.

The second problem was that the review showed a number of forms on which the barrel length of the gun was listed in fraction lengths, such as $3\frac{1}{8}$ or $3\frac{3}{8}$. We are not sure if these measurements—many of which were made by local police as opposed to ATF personnel—are accurate since we are not aware of many handguns manufactured with barrel lengths in such fractional sizes. It may be that these weapons actually had barrel lengths of 3 inches and, if meeting the other criteria as to caliber and cost, should have been classified as Saturday Night Specials. Since we could not examine the firearm ourselves, we took the length as documented on the form and classified them as being outside the Saturday Night Special category.

We can assure you that there was no attempt on our part to alter the facts in our original report. Our objective in Project 1 was to determine the source of handguns being recovered by local police departments in order to develop intelligence—for the benefit of the police and ATF—on which to base criminal investigations of illegal firearms dealers, organized firearms theft rings and other diverters or suppliers of handguns to criminals. It was not the purpose of this

project to define or measure traffic in Saturday Night Specials. Rather, in achieving the primary objective of the project, we necessarily compiled statistics which gave us a "by-product" that we felt might have some value to ATF or the police. In looking over that "by-product", we recognized that we must release it to the public since it did provide, for the first time, an official study of this type.

If we confused the issue by using the title "Saturday Night Specials" on page 4 of the original report, we apologize. We simply intended to show that the preponderance of guns recovered by the police fell into three categories and the composite average gave the reader a quick indicator of what percentage those guns were of the total.

At any rate, that is water under the bridge and we are intent on making sure that future reports are understandable and accurate. We have extended Project Identification to 8 additional cities, and the report on our findings in Dallas, Kansas City, Denver and Oakland will be released within the next month. The other cities will follow. Our analysis of the types of handguns recovered in these cities will be more complete and detailed in view of the fact that we are now feeding the basic data into a computer.

We appreciate your interest in our efforts to administer and enforce the Federal gun laws, and we want you to know that constructive criticism is always welcome in ATF. Please let us know if we can be of further help in any way.

Sincerely yours,

REX D. DAVIS,
Director.

Mr. CONYERS. I want to thank Director Davis and his associates again. This has been an extremely important hearing.

We invite you for further testimony at our next announced Washington meeting, and, on that note, the subcommittee will stand in adjournment.

[Whereupon, the subcommittee was adjourned at 1:20 p.m. subject to the call of the Chair.]

FIREARMS LEGISLATION

WEDNESDAY, APRIL 9, 1975

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

The subcommittee met, pursuant to recess, at 9:40 a.m., in room 2141, Rayburn House Office Building, Hon. John Conyers, Jr, [chairman of the subcommittee] presiding.

Present: Representatives Conyers, Mann, Danielson, Hughes, and Ashbrook.

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

Mr. CONYERS. The subcommittee will come to order.

This is the Subcommittee on Crime of the House Judiciary Committee, and we are continuing hearings on firearms legislation. Our holdover witness is the Director of the Bureau of Alcohol, Tobacco and Firearms, of the Department of the Treasury, Mr. Rex D. Davis, who is accompanied by his Assistant Directors, Mr. Corbin, Mr. Higgins, Mr. Peterson, and Mr. Pierce. We also have his acting general counsel, Mr. Marvin Dessler, and Mr. Edward M. Owen, firearms enforcement officer. We welcome you back to these hearings. I would like to underscore, Mr. Director, the feeling of this subcommittee that your testimony is critical to the kinds of conclusions that we must arrive at preliminarily in trying to determine what kind of legislative remedy should be applied to the problem that we are examining. For that reason, we express in the record again our appreciation of your cooperation in this third visit before the committee. And we would ask you to begin where we left off.

TESTIMONY OF REX D. DAVIS, DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY; ACCOMPANIED BY WILLIAM R. THOMPSON, DEPUTY DIRECTOR; JOHN F. CORBIN, JR., ASSISTANT DIRECTOR, CRIMINAL ENFORCEMENT; ATLEY PETERSON, ASSISTANT DIRECTOR, TECHNICAL AND SCIENTIFIC SERVICES; MARVIN J. DESSLER, CHIEF COUNSEL DESIGNATE, AND CURTIS BARTLETT, FIREARMS ENFORCEMENT ANALYST

Mr. DAVIS. Well thank you, Mr. Chairman. If I may, I might correct the record with respect to some of the staff members, because of court commitments and other things. I might first point out that today we have also with us the Deputy Director, Mr. William R. Thompson,

Mr. O. J. Pierce is not with us today. And, finally, Mr. Ed Owen is replaced by Mr. Curtis Bartlett, who is another of our firearms experts.

Mr. CONYERS. Would you identify them here, please?

Mr. DAVIS. Yes, sir. Mr. William R. Thompson, the Deputy Director of the Bureau, and Mr. Curtis Bartlett, who is our firearms expert.

Mr. CONYERS. Thank you.

Mr. DAVIS. If it is agreeable, Mr. Chairman, there were some questions that had previously been asked of me by the subcommittee which I was not able to respond to during the last meeting. And if I could continue with those, I think we might get those out of the way, and then if I could continue with the presentations here.

One of the requests made by the subcommittee was that we attempt to prepare legislation which would prevent the importation of firearms, or which could later be modified in this country to a state where they would not have originally been importable. After giving this serious consideration, Mr. Chairman, we are of the opinion that it would not be possible to draft legislation that would prevent entry into this country of weapons with the capability of later being modified. We feel that the only solution to the modification of imported weapons, so that they would not have been importable originally, would be in some way to control domestic manufacture of handguns and apply those to the ones that have been imported, but which passed through the criteria.

Another question, in fact, or this is sort of a consolidation of four questions put at various times by the committee members goes this way: Provide the identity of the firms that have altered imported guns. How many guns were imported and then modified to less than import standards and identify those domestically manufactured handguns that would not pass the import criteria, and how many Saturday night specials were made in the United States last year. We have had our firearms experts review these questions, and I would say, in the interest of saving time, that we have a fairly comprehensive statement for the record in response to these questions. I might just point out for the interest of the committee some of the highlights of this particular thing.

For example, we have found that there were about 20,000 revolvers of a particular make, Rossi revolvers, that have been modified between 1969 and the present date. In other words, they have been converted from their state which made them importable by various things, such as reducing the barrel length and other things.

Mr. CONYERS. Would you review this issue again in which this convertibility takes place. Is this from the point of view of imported weapons that meet the criteria?

Mr. DAVIS. Yes, sir.

Mr. CONYERS. And then are subsequently modified?

Mr. DAVIS. Yes, sir. I might ask Mr. Bartlett to indicate on the board the kind of weapon, the kind of modification that takes place. He is pointing to a German revolver, in which the configurations in which it was imported did meet the import criteria, and then across on the blue side of the board is the same revolver after the barrel length had been reduced, the grip pull had been modified, all of which tended to make it more concealable on the person.

Mr. CONYERS. Then, Mr. Davis, the point is things like that modification would have been unacceptable in the original form?

Mr. DAVIS. Yes, sir. In other words, if they had attempted to import into the United States the weapon as modified, then it would not have met the import criteria.

Mr. CONYERS. Then the question by the subcommittee members was: Can we not by legislative process preclude this kind of activity from occurring?

Mr. DAVIS. Yes, sir. As I have indicated, Mr. Chairman, we feel that it would be almost impossible to draft legislation that could anticipate the kinds of weapons that would be subject to later modification in this country. And, in fact, if it is the desire of the Congress to prevent this kind of activity, then the legislation would have to be aimed at the domestic activity, rather than the importation.

Mr. CONYERS. It would have to be aimed at the post-manufacturing practice of modification?

Mr. DAVIS. Yes, sir.

Mr. CONYERS. We will have to begin to deal directly with that as a problem, which has not been addressed by the Congress in Federal law. Is that correct?

Mr. DAVIS. No, sir, it has not, and should Congress enact legislation that was directed toward domestic manufacture of handguns, then it would more than likely also solve this problem of modification once the gun had been introduced into the United States.

Mr. CONYERS. Let me recognize counsel, Mr. Gekas.

Mr. GEKAS. A simple way to do that would be to take the criteria that you have for importation and just write it into a law, and so none of your foreign guns can be manufactured in the United States, and take that thing and put it in the law, and it would be a very simple way to do it?

Mr. DAVIS. Yes, that would. Certainly that would be one approach to control the domestic, the standard of domestic manufacture of guns.

Mr. GEKAS. And that would prevent this problem right here also, would it not, this modification business?

Mr. DAVIS. Yes, it certainly would.

Mr. GEKAS. Right. Thank you. Thank you, Mr. Chairman.

Mr. DAVIS. Now I think again that I will just submit this for the record so it will be put on analysis by the committee, but another one of the high points, or highlights of the question was how many of these weapons that are domestically manufactured would fall into the Saturday night special category. And again, we have applied in this case a very strict definition of Saturday night special. Number one, that it would not qualify for importation into the United States, as being adaptable to sporting purposes, that one or more parts of the weapon would not meet the melting, tensile strength or powdered metal test, which is an integral part of the bill introduced before the House in the Second Session of the Ninety-Third Congress. And then, finally, the project definition, which is \$50 or less in cost, and .32 caliber or less, and the barrel length, in the case of a revolver of 3 inches or less, and in the case of a pistol, a barrel length of not more than 6 inches.

Now, taking the year 1974, in which we have the manufacturing statistics, on applying the test, our estimate, our best figure is a little more accurate than an estimate, we've got 414,002 handguns that met all of the above prerequisites and, therefore, would fall in the Satur-

day night special category. Now, that is out of a total manufacture in 1974 of 1,894,872 handguns. In other words, about 22 percent of all handguns manufactured in the United States in 1974 would be considered a Saturday night special, applying these very strict and varied criteria.

Mr. GEKAS. Mr. Chairman?

Mr. CONYERS. Yes.

Mr. GEKAS. To play that up against the results in project I, 22 percent of the guns domestically manufactured in the United States in that year satisfied the Saturday night special test, but 50 percent of the guns that you have traced, having been confiscated by the police because they were used in crimes, satisfy the lesser Saturday night special test, which is an interesting play of the percentages. It seems like Saturday night specials take up more than their proportion, and account for more than their proportional share of guns used in crime than would be suggested in the percentage of manufacture.

Mr. DAVIS. That is correct. In other words, in determining what the Saturday night special was for the purpose of project I, as you recall, we used only the \$50 or less, .32 caliber or less, and the length of the barrel, or overall length, which in this case, to even make them stricter, we also said that it would not be importable under the Gun Control Act, and that it would not meet the provisions of H.R. 12553 and H.R. 12554, which goes to melting temperature, tensile strength, and, of course, the powdered metal scintering test, so it is a very rigorous definition of the Saturday night special.

Now, in addition—

Mr. GEKAS. Mr. Davis, excuse me. Can you tell us—I hate to send your experts back working on something new—but can you tell us how many of the guns manufactured in the United States in that year, or whatever, would satisfy each of the tests individually? Can you have someone do that just for the subcommittee?

Mr. DAVIS. I think that would be possible. In other words, if they applied only one criteria, how would that then affect or change the figures?

Mr. GEKAS. Well, what you have done here is that you have applied three possible tests all together, right? And if you would take each of the tests, take the important criteria separately, take the project I standard separately, and then take the melting point standard separately, then tell us how many of the guns manufactured in the United States would fall into each of those, that would be very instructive for us.

Mr. DAVIS. Excuse me. Well, Mr. Chairman, after consulting with Mr. Bartlett, he indicates that it would be difficult in some cases to break that down, that we would be happy to give an educated guess, if that would suffice.

Mr. CONYERS. Fine. We will accept also into the record your statement detailing your answers to these questions.

[The material referred to follows:]

Question.—The Conyer's Committee requested information on the number of foreign firearms that were imported and subsequently modified to the extent that they would no longer qualify as importable handguns. They also requested to know which firms were involved in the endeavor.

Answer.—The practice of modifying imported handguns is restricted to the revolver category of handguns since it is impractical and uneconomical to

modify pistols. This practice commenced in the year 1969 and is still in effect to a diminished degree. This is due to the fact that the availability of domestically manufactured handguns or handguns assembled from foreign parts and domestic frames (in the desired short barrel configuration) has created sufficient supply to satisfy the demand for this type handgun. As such, it is no longer necessary to modify large quantities of imported revolvers.

The firms involved in this endeavor, are as follows:

(1) *Firearms International Industries, Accokeek, Maryland.* (Subsidiary of the Garcia Corporation)

This firm has been the exclusive importer of Rossi revolvers, manufactured in Sao Leopoldo, Brazil, since the enactment of GCA 68. They also hold a manufacturer's license.

(a) Rossi .38 Special caliber revolvers imported by FII, were sold to Dale McGhee, Morton Mississippi, a licensed dealer. McGhee modified these revolvers by cutting barrels to varying lengths under 3 inches and then fulfilled orders from other licensees for these modified revolvers. This practice was in operation from 1969 to 1972 when McGhee was indicted for non-related T-I violations of GCA 68.

(b) Rossi .38 Special caliber revolvers, also imported by FII, were sold to Valor Imports, Miami, Florida, a licensed dealer. Valor Imports also modified these revolvers by cutting the barrels to lengths of less than 3 inches and then fulfilled orders from other licensees for these altered revolvers. This operation on the part of Valor has not terminated.

FII has never modified their imported firearms and has refused orders from licensees who requested these altered revolvers.

Based on information received from confidential industry sources, an approximate number of 20,000 imported Rossi revolvers have been modified between 1969 and the present.

(2) *Florida Firearms, Miami, Florida.* This firm is presently licensed as both an importer and manufacturer under GCA 68. Although they do not possess any exclusive importations, they stress the importation of German revolvers and Spanish shotguns.

The German revolvers include Arminius revolvers, manufactured by Weir-auch, Mellrichtstadt, West Germany and Rohm revolvers, manufactured by Rohm Gesellschaft, Sontheim, West Germany. Both commodities are distributed by the firm of Wischo-Wilsker, Erlangen, West Germany.

(a) Arminius .38 Special caliber revolvers, imported by Florida Firearms, were shipped to Valor Corporation, who modified the firearms by cutting the barrels to less than 3 inches and then offering them for sale. During the period 1969 to 1973, approximately 6,000 Arminius revolvers were so altered.

(b) Rohm .38 Special caliber revolvers, imported by Florida Firearms, were shipped to Valor Corporation, who modified the firearm by cutting the barrels to less than 3 inches and then offering them for sale. This particular program was one time only practice in the early 1970's and encompassed only 300 chrome finish revolvers.

Based on the foregoing, firm documentation exists to support the fact that at least 26,300 imported German and Brazilian revolvers were altered to non-sporting configuration subsequent to their importation into this country.

Question.—The Conyer's Committee requested to know how many Saturday Night Specials were manufactured in the U.S. last year.

Answer.—The Committee was apprised of the problem in definitively isolating the "SNS" type of firearm. To arrive at the requested statistics, the following *strict interpretation* of a "SNS" was used:

(1) Does not qualify for importation under the sporting purpose provisions of GCA 68.

(2) One or more of the major structural components of the handgun would not pass the melt, tensile strength or powdered metal test envisioned in HR-12553-12554 of the 2nd Session of the 93rd Congress.

(3) Retails at \$50.00 or less.

(4) Is chambered for .32 caliber or less.

(5) In the case of a revolver, has a barrel length of not more than 3 inches and in the case of a pistol has an overall length of not more than 6 inches.

Using the 1974 manufacturing statistics derived from the Form 4483-A, a total of 414,002 handguns met all of the above listed prerequisites. Total manufacture in 1974 was 1,894,872. Therefore almost 22% would fall into the "SNS" category.

These included handguns which were made of foreign parts and U.S. frames and handguns made entirely of U.S. components. None of these firearms were subsequently exported from the U.S. (See accompanying graph chart).

Question.—The Conyer's Committee requested to know the number and identity of U.S. handguns manufactured in 1974 that would not meet the importation provisions of GCA 68.

Answer.—During any given period, there are between 320 and 330 Federally licensed manufacturers of firearms (all types) in the U.S. Of these, approximately 30 are presently actively engaged in the manufacture of handguns, ranging from significant to minimal quantities produced. Another 15 firms are currently licensed as manufacturers but they show no production. Further, 37 handgun manufacturing firms have started in business since the enactment of GCA 68. Of these, 15 have discontinued in business.

More than 50% of the 1974 annual handgun production of the below listed firms fall into the category of not meeting the current importation standards of GCA 68. (Not listed in any significant order).

- (1) KDI Bauer Corporation, Warren, Michigan.
- (2) RG Industries, Miami, Florida.
- (3) Charter Arms Corporation, Bridgeport, Connecticut.
- (4) ODM Products, New York, New York.
- (5) Harrington and Richardson, Incorporated, Gardner, Massachusetts.
- (6) Iver Johnson Arms and Cycle Works Incorporated, Fitchburg, Massachusetts.
- (7) General Precision Corporation, Watertown, Connecticut.
- (8) Butler Associates, East Haven, Connecticut.
- (9) * Firearms International Industries, Incorporated, Accokeek, Maryland.
- (10) Thompson Arms Company, Rochester, New Hampshire.
- (11) Clerke Technicorp, Santa Monica, California.
- (12) Security Industries of America, Little Ferry, New Jersey.
- (13) Buddie Arms, Fort Worth, Texas.
- (14) Firearms Import and Export Corporation, Miami, Florida.
- (15) Bauer Firearms Corporation, Fraser, Michigan.
- (16) Norton Armament Company, Mount Clemens, Michigan.
- (17) Chicago Firearms, Incorporated, Lyons, Illinois.
- (18) Florida Firearms, Miami, Florida.
- (19) Plainfield Machine Company, Incorporated, Middlsex, New Jersey.
- (20) Raven Arms, Baldwin Park, California.
- (21) Rocky Mountain Arms Corporation, Salt Lake City, Utah.
- (22) Sterling Arms Corporation, Gasport, New York.

Less than 50% of the 1974 annual handgun production of the below listed firms fall into the category of not meeting the current importation standards of GCA 68. (Not listed in any significant order)

- (1) Dan Wesson Arms, Monson, Massachusetts.
- (2) * High Standard Sporting Firearms, Hamden, Connecticut.
- (3) * Coit Industries, Hartford, Connecticut.
- (4) * Sturm, Ruger and Company, Southport, Connecticut.
- (5) * Smith & Wesson, Springfield, Massachusetts.

Note (1) If a manufacturer's entire handgun production qualifies for importation under current standards, the firm name does not appear on the above listings.

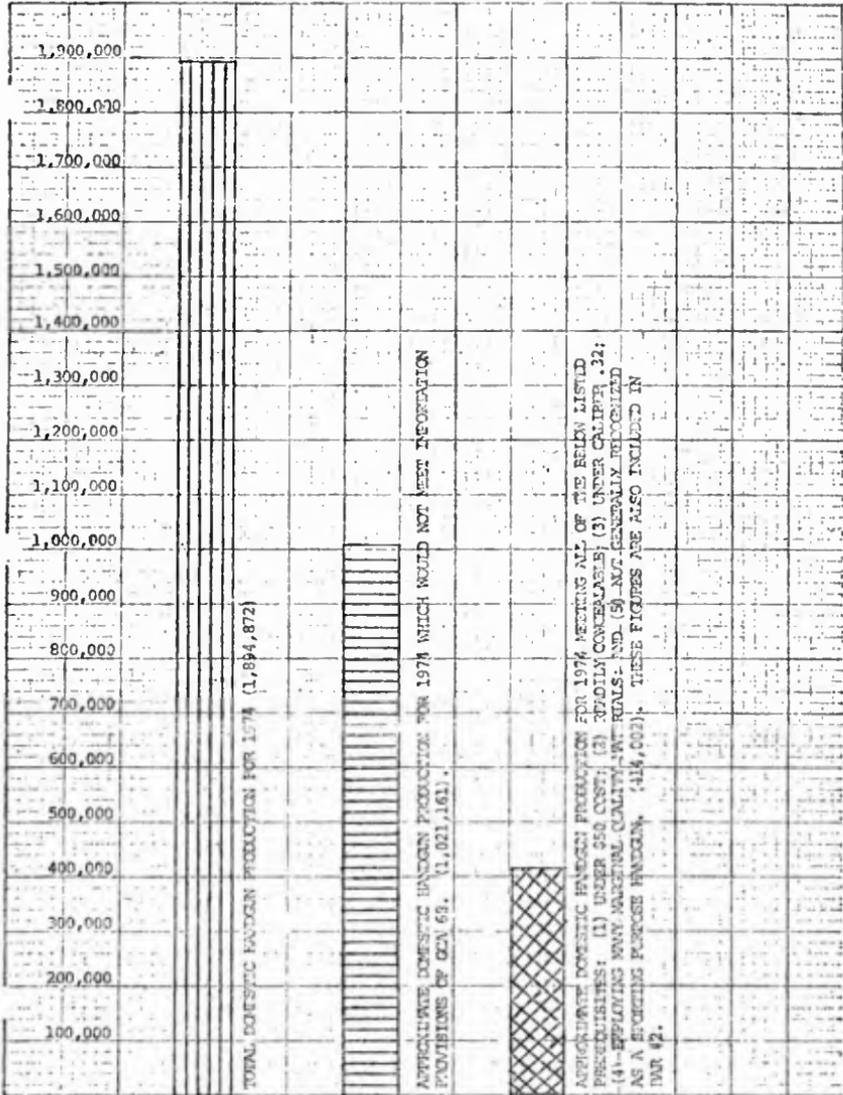
Note (2) An asterisk before the firm name indicates that the manufacturer has either dropped certain non-qualifying models from this production line or has modified existing models to meet the importation standards.

Note (3) Statistics on the above firms were evolved by examining the Form 4483-A. Quarterly Firearms Manufacturing and Exportation Report, submitted by Federally licensed manufacturers. Where a specific manufacturer stocks various models which cannot be determined from the stated report, actual production by model, was verified from the manufacturer for the quarterly period October to December, 1974 and that percentage figure was applied to that firm's entire years production.

Based on the foregoing approximately 1,021, 161 handguns were manufactured in the U.S. during 1974 which would not qualify as being importable under the importation provisions of GCA 68. This tabulates to almost 54%. (See accompanying graph chart).

It should be noted that a high percentage of 1974's domestic handgun production failed to meet the importation criteria due to the fact that barrel lengths (in the case of revolvers) were less than 3 inches, measured from muzzle to the face of the cylinder. In the specific case of Ruger, Colt, Smith and Wesson, Hi Standard and Charter Arms, the majority of these short barrel configured revolvers retail at over \$100.00. Likewise, a percentage of current non-qualifying pistols, some of which also retail for over \$100.00, could be readily adapted to qualify. These steps would be similar to the compliance methods used by foreign manufacturers subsequent to the passage of GCA 68.

ANALYSIS OF 1974 DOMESTIC HANDGUN PRODUCTION:



Mr. DAVIS. Very good, sir. Thank you. And we have this part of the question, which was a sort of a special thing, and it goes somewhat to the previous question in which the committee asked to know

the number of U.S. handguns manufactured in 1974 that would not meet the importation provisions of the Gun Control Act, if any, in this respect, during any given period. There are 320 to 330 federally licensed manufacturers of the firearms of all types in the United States. There are approximately 30 that are presently active in the manufacture of handguns, ranging from significant to minimal quantities produced.

Mr. CONYERS. Is that about 30, did you say?

Mr. DAVIS. Yes, sir. Another 15 firms are apparently licensed, but they show no present activity.

Now, there have been 37 handgun manufacturing firms who have started business since the enactment of the Gun Control Act of 1968, and of these 15 have discontinued business. We have a list, here, Mr. Chairman, of 22 firms, which we feel that 50 percent or more of their production did not meet the current importation standards, so that we had these firms identified by name, and then we have another five firms in which less and 50 percent of their annual production would fall into this category of not meeting importation criteria.

Mr. CONYERS. Do you have an idea of what type of annual production these companies engage in?

Mr. DAVIS. Yes, sir. We could give you the annual production of each category. The difficult part, at least without exhaustive studies, is to be specific about their production of that part which meets and that part which does not meet, but we can give you the annual production of these two categories of firms.

Mr. CONYERS. Can you or any of your men describe these corporations to us? They are of great interest to the committee in terms of exactly who is making guns, how many they make, what the style of their business and so forth. Are they, in fact, subsidiaries of larger corporations, or are they small businessmen in the narrow sense of the term? Of course, then I wonder about their annual profitability, or what kind of gross sales figures are turned up in terms of their business operation. Can you discuss that with us a little while?

Mr. DAVIS. Mr. Chairman, there are some parts of the question which you have just asked of me that we may not be able to provide. For example, we would not have access to their profitability, and whether or not they filed such reports before the Securities and Exchange Commission. I am not sure. I think we can provide to you the overall production. We can give you generally the price range of those firearms, some things of this kind. And we can, I think, with sufficient time, tell you when they went into business, in relation to the enactment of the Gun Control Act, and what we know about the business from general information.

Mr. CONYERS. That kind of a supplemental report to this testimony would be exceedingly important, as we have been trying to get in our vision an appreciation of where the guns come from, and how they figure into the commerce of the United States.

Mr. DAVIS. At this time, it would probably be of interest to the committee to know how much of this production is of imported parts, as opposed to complete manufacture in this country, and we will try to give you as comprehensive a report in this area as we are able to.

Mr. CONYERS. Mr. Gekas.

Mr. GEKAS. Did you say that there are 30 substantial manufacturers of handguns, and of the 30, 22—maybe I should rephrase this, 22 of the 30, or more than 50 percent of their business is on guns that would not satisfy the importation criteria?

Mr. DAVIS. Yes, that is correct, although I do not want to mislead the committee. In terms of production, which we do not have before us at the moment, I would assume that those 22, in terms of total production, represent the smaller percentage than their number. By and large, I would say that most of these firms are rather small. From the reason that they started business, you might suspect that they were created for the purpose of producing inexpensive guns, so I would assume that their production is a much smaller percentage than their number.

Mr. GEKAS. But, nevertheless, as you say, there are 414,000 weapons manufactured in 1974, was it, that would not pass the factoring criteria? So in actual numbers it would be quite substantial, even though the percentage of total handguns manufactured may be only 15 percent, and 15 percent of 1,800,000 is a lot of weapons. Thank you.

Mr. DAVIS. Well, as the chairman has indicated, we will submit this particular report for the record, and we will have it in sufficient copies as to meet the committee's needs.

Mr. CONYERS. Might I point out, Mr. Director, that our staff has sent out to the 10 largest and 5 smallest handgun manufacturers, a letter, which I think has probably been provided to you, which has asked for the very basic information that we have been talking about, their production, how long they have been in business, who their officers are, for their brochures and sales prospectuses, and so forth. I would like to enter that into the record, without objection at this time, and I would also like to make sure you have a copy so you can see the kind of information that we have asked of them, and see if between your Bureau and them and our subcommittee staff digging around, we can begin to develop for the Congress a much fuller picture than is presently available to us.

[The letter referred to follows:]

APRIL 3, 1975.

PRESIDENT,
Firearms Mfrs./Importers
Anywhere, U.S.A.

DEAR MR. DOE: The Subcommittee on Crime of the House Committee on the Judiciary commenced hearings on Tuesday, February 18, 1975, on legislation to amend chapter 44 of title 18 of the United States Code, commonly known as the Gun Control Act of 1968. Information furnished by the Department of the Treasury indicates that your firm is a firearms manufacturer and/or importer licensed under the 1968 Act. It would be helpful to the Subcommittee in its evaluation of existing law if you would provide the following information with respect to handguns manufactured, imported or assembled by your firm; if applicable, please provide for us:

1. The name and location of each of your handgun manufacturing, importation and/or assembling facilities;
2. If you have discontinued production, importation or assembly of handguns, please state when you ceased such activity and why;
3. The length of time your firm has been in the business of manufacturing, importing or assembling handguns, giving inclusive dates;
4. The names and titles of the executive officers of your firm, during that period;
5. The number of handgun tracings made by your firm on each type and caliber of handgun for each of the fiscal years 1968 through 1974 which were initiated

pursuant to requests made by the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury;

6. The dates representatives from the Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury, have visited your firm and the purpose of the visit and the length of time spent at the firm by the ATF representative on each date;

7. Brochures, sales prospectuses and/or catalogues on handguns manufactured, imported or assembled by your firm;

8. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type(s) of handgun(s) manufactured, imported or assembled by your firm;

9. Annually, for each of the fiscal years 1968 through 1974, the gross receipts from the sale of handguns manufactured, imported or assembled by your firm and the States to which the handguns were delivered;

10. Annually, for each of the fiscal years 1968 through 1974 an abstract from shipping manifests which indicates where, to whom, and on what dates orders in excess of five (5) units of any handgun inventory item were received, filled, and posted or delivered;

11. Annually, for each of the fiscal years 1968 through 1974, the net profits from the sale of each caliber and type of handgun manufactured, imported or assembled by your firm;

12. The other products sold by your firm and the percent that handgun sales relate to the gross sales receipts of your firm for each of the years 1968 through 1974;

13. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type of handguns from your firm which were stolen while the handguns parts exclusively, and the number manufactured or assembled in whole or in part with imported parts;

14. Annually, for each of the fiscal years 1968 through 1974, the names and addresses of major distributors and/or dealers and the number, caliber and type of handguns manufactured, imported or assembled by your firm which each major dealer purchased directly from your firm;

15. Your estimate of the number of handguns manufactured, imported, or assembled by your firm in each of the fiscal years 1968 through 1974, which would not attain a qualifying score (75 points for pistols, 45 points for revolvers) applying the Factoring Criteria for Weapons promulgated by the Secretary of the Treasury;

16. A description of the type of security facilities and/or services provided for storage of inventory of unassembled handgun parts, and/or finished products awaiting shipment to destination, including any improvements made to such facilities and/or services during the past eight (8) years;

17. If you provide delivery of ordered merchandise to purchasers, provide a description of the types of security provided in transit and to whom provided, if any, during the past eight (8) fiscal years. Include any improvements made for such in-transit security, if provided;

18. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type of handguns which were stolen from your firm's storage and/or plant facilities;

19. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type of handguns recovered which were formerly stolen from the firm's storage and/or plant facilities;

20. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type of handguns from your firm which were stolen while the handgun's were in the process of being shipped to purchasers;

21. Annually, for each of the fiscal years 1968 through 1974, the number, caliber and type of handguns recovered which were formerly stolen during the shipping process from your firm to purchasers.

The information requested above will be of substantial assistance to the Subcommittee and your prompt response to this inquiry will be appreciated.

Sincerely,

JOHN CONYERS, Jr.

Chairman, Subcommittee on Crime.

Mr. DAVIS. Yes, sir. Mr. Chairman, we appreciate the opportunity to have the letter if we have not already received it.

Mr. DANIELSON. Mr. Chairman, would you yield on the question?

Mr. CONYERS. Yes, I will to the gentleman from California.

Mr. DANIELSON. I would just like to ask the chairman, and I conceded. I have not been here all of the time—oh this is the list of addressees?

Mr. CONYERS. This is the letter that we sent to them.

Mr. DANIELSON. I have answered my question. Thank you.

Mr. CONYERS. Right. Counsel Maurice Barboza, has some questions.

Mr. BARBOZA. Director, with the quick overview you have given us this morning concerning manufacturers, were they derived from your voluntary quarterly reports?

Mr. DAVIS. Yes, sir, although they are, as you will see, not specific. In other words, I might point out to the committee, that we feel, with the advice of counsel, that some of these statistics, production statistics, as to being broken down into very specific areas, may be under disclosure laws, and, in fact, can be trade secrets, so there is some question as to whether or not we are in a position to supply detailed production records of the firms which have voluntarily submitted them to us, and if the committee would like, I would have Mr. Dessler respond further to that, if you wish to pursue it.

Mr. BARBOZA. These figures, though, Mr. Davis, 414,000-plus handguns which met the criteria, were these guns studied as a result of a quarterly report, and can I assume that all manufacturers that we have in the records, some 330, have filed quarterly reports during 1974?

Mr. DAVIS. Yes, sir.

Mr. BARBOZA. They have all filed reports?

Mr. DAVIS. And this, of course, would include, I might point out, long guns as well as handguns, too. In other words, these are the source documents where we report the domestic manufacturers and weapons for each year.

Mr. BARBOZA. What was the first year that the quarterly reports were required?

Mr. DAVIS. That would be fiscal year 1973, ending on June 30, 1973.

Mr. BARBOZA. Thank you.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. I yield to the gentleman from California.

Mr. DANIELSON. I do not know again, because of my necessary absence from time to time, whether we have asked Mr. Davis to supply us with his definition of what is a Saturday night special, if we have just his judgment?

Mr. CONYERS. No. It is a good question, because I have been thinking about it myself.

Mr. DANIELSON. I think, Mr. Chairman, if Mr. Davis can give us one now, I would like it. On the other hand, if he would prefer to go back to his office and try to construct such a definition, I think it should be done in that manner, and I will make one added comment to it. Then that is about all I have here. I have grave doubts in my mind whether a legally and constitutionally accepted definition of Saturday night special can be drafted ever. If it can, I think, I know that this committee needs it, and I think it should have it. It seems to be popularly accepted by gun forms as gun proponents, and now by our Attorney General, Mr. Levi, and many others, that if we can get rid of the Saturday night special, nobody is hurt, and everybody is ahead of the game. So it behooves us, if it is at all possible, to define Saturday night special. And I would appreciate your assistance on it.

Mr. DAVIS. Well, thank you very much. And we would be most happy to respond to that if we could. As you are well aware, there

are a number of definitions extant, including some we have come up with ourselves. I think that what we could do would be to give the committee the various definitions, and then to indicate what, you know, their accomplishment would be. Now, certainly, one objective in addressing this problem is the safety of the user. In other words, the reliability of the gun, the fact that it will function, and that it will not injure, the quality is sufficient that it will not injure the user. That is another area. If we talk about the usefulness as a crime tool, a tool of crime, and that is conceivable. And there is another area, of course, and that is the availability, based on price, which automatically includes quality, so we will provide these various definitions, and try to convey to the committee what we felt would be the end objective of a particular definition, and how it could be administered under these definitions.

Mr. DANIELSON. Well, I would like to give you a caveat there. I lived in the real world for quite a long time, and I'm not quarreling with your points here. I think that in the mind of the public, the word Saturday night special probably has more to do with the use to which the person puts the gun. In other words, if a bad man, if a criminal uses the gun it is a Saturday night special. If a sportsman or a gun fan, a person you know who has a real artistic interest in the weapon, he uses it, it is not a Saturday night special. But if we are going to define something legally, it will have to be a definition which will stand up under a judicial scrutiny of whether or not these are intrinsic qualities of the piece itself. Now, price, just to bring up one point, price, let us say the common Saturday night special are \$1.25 a copy. Now, if it is only a matter of price, and we forbid guns, for example, under \$100 a copy, a manufacturer or seller simply has to raise their price to \$100, and he has gotten around that. And so I do not think that price—it may be that it would be a desirable standard, but I do not think it is a real standard. I have tried a lot of lawsuits, and when you get into court, if you are going to have a standard like \$100, and here is a man selling a pot metal gun for \$150, your standard falls down, so you have got a tough job here. And, you know a lot about guns, obviously, and I just hope you can help us out, because these are the people who have a warm affection for guns who seem to say they do not mind getting rid of the Saturday night specials. But when I ask them, well, what is a Saturday night special, you get a shrug of the shoulders, and one witness even went so far as to say well, I don't want to get into that now. Well, we have got to get into it now.

Thank you very much.

Mr. DAVIS. Yes, sir. If I may only comment on one aspect of your remarks, and that is, there is, in fact, and I am not advocating this, some mechanism for increasing the price to \$100, and some manufacturers, obviously, could produce a well-built gun for that price, and if a person knew anything at all about guns, then he would obviously choose the well-made gun as opposed to the pot metal gun that you described, which would eventually, I think, have the effect of driving those kinds of guns off the market.

Mr. DANIELSON. That is entirely true, except our only concern here, our only real concern is with the criminal who uses the weapon. If everybody used the weapon the way people should use weapons, we would not even have to have these meetings.

Now, if I am going to be a bank robber, or a holdup man, and I needed a weapon, it would be of little concern to me that that pot metal gun cost me \$100, because what I am looking for is a gun, and I want to scare somebody with it, I want to put him in fear of his life, so I will go to \$200 if necessary, so the cheapest gun on earth is going to serve my purpose. So I give you a very sincere caveat. You have got to have this defined in a manner which is intrinsic to the weapon itself, which will set standards which can be determined by objective analysis.

Now, I sound like I am picking nits here, but I am not picking nits. This is the essence of legislation which would focus on the Saturday night special.

Mr. DAVIS. Yes, sir. We will certainly do our best to provide the committee with the various definitions of what, in our view, they accomplish, and what the administrative feasibility is of each one of them.

Well, Mr. Chairman, I think the points raised by the committee in the past, one of them has been the application of the factory criteria to weapons, in other words, an actual demonstration of how gun experts or other persons go about determining whether a gun is importable under the criteria system. And with the committee's permission, I would like to ask Mr. Bartlett to briefly indicate how this approach is made.

Mr. CONYERS. Very good.

Mr. DAVIS. And at the same time, we will provide the committee with a sheet, a factoring criteria sheet, which is used as a worksheet in determining this. [See p. 281.]

Mr. BARTLETT. My name is Curtis Bartlett, and I am a firearms enforcement analyst. The standard form that we use for factoring imported handguns is entitled "Factoring Criteria For Weapons," and it is ATF Form 4590. And I am going to go through the pistol and revolver criteria with you, and explain a little bit about what the various criteria mean.

On the pistol, I am going to use, for example a Colt automatic. This is a model Mark IV, series 70, .45 automatic and on the first category we have overall length. In an automatic pistol, or in any pistol, the length is measured from the muzzle to a point, to the rearmost point perpendicular to the axis on the muzzle on the gun, so if we would draw a vertical line up from the grip and measure at the distance from the muzzle to that line, we have the overall length. In this case, there is an overall length of 8½ inches. And now, we allow one point for each quarter point over 6 inches, for each quarter inch over 6 inches, so the gun is 8½ inches, we have 2½ inches at one point per quarter inch, for a total of 10 points, which we allow on the length.

Now, under the frame construction, we have two categories. One is investment cast or forged steel, which is awarded 15 points, and then we have investment cast or forged hard-tensile strength alloy, which is awarded 20 points. I might point out that cheap guns are made out of pot metal and would be awarded zero points.

Mr. DANIELSON. Be awarded what? Would the gentleman speak into the microphone, please?

Mr. BARTLETT. I'm sorry. I just wanted to point out that cheap, inexpensive guns made out of pot metal, and so forth, would be awarded zero points for frame construction. And in the case of—

Mr. CONYERS. Mr. Gekas.

Mr. GEKAS. What is pot metal?

Mr. BARTLETT. Well, that is basically a slang term for cheap, castable alloys.

Mr. GEKAS. You mean poured into some kind of a mold?

Mr. BARTLETT. Usually poured into a mold.

Mr. DANIELSON. Mr. Chairman, may I suggest the witness be seated with the microphone in front of him. If we cannot hear, he might as well not say it.

Mr. GEKAS. Pot metal is—you heat the stuff up and pour it into a mold?

Mr. BARTLETT. It is really a slang term. It is actually, other than forged steel, or forged investment cast high tensile strength alloy, whatever metal it would be, whether it would be brass, or a cheap alloy, or whatever, would be awarded zero points.

In any event, in the case of the pistol in question, here, this is a steel frame, it is forged, so it is awarded 15 points for frame construction.

The next category is the weight. One point per ounce. In this particular case, the weapon weighs 39 ounces, so it gets 39 points for weight.

Mr. CONYERS. Excuse me. But to be qualified, the weapon to reach a certain number of points under the factoring criteria, plus, when going back to overall length, for each one-quarter inch over 6 inches, you receive more points, each, or additional points are awarded for length?

Mr. BARTLETT. That is correct.

Mr. CONYERS. In other words, the longer it is, the less concealable it is, and the more desirable it is in terms of meeting the factoring criteria test?

Mr. BARTLETT. That would be correct.

Mr. CONYERS. Very good.

Mr. BARTLETT. The point I think being to award fewer points to very small, concealable handguns.

Mr. CONYERS. Right.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. Yes.

Mr. DANIELSON. With your permission, as these points come up, I think it would be good to ask the questions on them. You have just gone to weight, I understand what you have said here. Are there any discriminations made by you in effecting these criteria as to whether weight has been unnecessarily added?

I wanted to get around this criteria. I am trying to think, and I'm going to be devil's advocate here, but if I wanted to get around this criteria, and I want to score points on weight, I would just, wherever possible, put as much additional weight as I can, within reasonable bounds, at least. For example, the stock on that pistol you just showed us was made of either plastic or wood.

Mr. BARTLETT. Yes.

Mr. DANIELSON. There is no reason on earth that a piece of nicely machined steel couldn't work for that same stock, and as the result, you would pick up a few extra ounces on weight.

Mr. BARTLETT. Yes, sir. Very few ounces, I would think in this case.

Mr. DANIELSON. If it would be so easy, if I am starting to get past the 75 points, and you get 1 point per ounce, you could get maybe 3 or 4

more points if I were to fill that butt largely with lead, for example, but constructed in such a manner, or an alloy that has much lead in it, but to construct it in a manner that it did not detract from the functioning of the piece, but simply husking it, is there any discrimination made in your factoring criteria on that? I am trying to find ways to get around your law, and I'm the devil's advocate now. How do you concur with that?

Mr. BARTLETT. Yes, sir.

Mr. DANIELSON. I do not think you can.

Mr. BARTLETT. I do not think that the criteria can really take that sort of thing into account.

Mr. DANIELSON. OK. I am doing this to plant a thought into your mind that maybe you ought to take into consideration the weight of a gun could unnecessarily be beefed up, for example, and that is something that you ought to think about, we ought to think about. When I say you, I mean all of us here. OK? Thank you.

Mr. BARTLETT. The next category is caliber. We note there are the caliber .22 short and .25 automatic are awarded zero points. Well, the .22 long rifle and the 7.65 millimeter to .380 auto is awarded three points. And the 9 millimeter parabellum luger is awarded 10.

Mr. CONYERS. Would you please describe these definitions, you know, the long and the millimeter, and the auto?

Mr. BARTLETT. These are cartridges that the guns would be chambered, fired. In the case of the .22 short and the .25 auto, both of these cartridges are very applicable to very small, tiny, handguns. The .22 long rifle, 7.65 millimeter, to .380 require a larger, heavier gun, and the 9 millimeter parabellum requires a much larger and heavier and stronger gun in order to withstand the greatly increased pressure of those larger cartridges.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. The gentleman from California.

Mr. DANIELSON. Would you gentlemen explain or define the 9-millimeter parabellum?

Mr. BARTLETT. This is the same as the 9-millimeter Luger. It is a cartridge, it is a particular cartridge, and it is a standard military cartridge used throughout the war.

Mr. DANIELSON. Beyond 9-millimeter? There is a 9-millimeter parabellum, is that smaller than a .380?

Mr. BARTLETT. Exactly the same as the .38 special in diameter.

Mr. DANIELSON. In the third category, you are going to larger sizes, to larger calibers than a .38?

Mr. BARTLETT. Thirty-eight or larger.

Mr. DANIELSON. Or larger. Well, OK, .38 and larger.

Mr. BARTLETT. The term .380 is basically the same as the 9 millimeter, but it is a smaller, less-powerful cartridge.

Mr. DANIELSON. A .45 is obviously in the same category?

Mr. BARTLETT. It is in the same category, that is correct.

Mr. CONYERS. Thank you.

Mr. GEKAS. What caliber is that?

Mr. BARTLETT. This is a .45.

This is a standard U.S. pistol cartridge, and it has a very large bore. It is almost one-half of an inch.

actual positive safety device in which the firing pin or the firing train is positively locked. Now, we interpret this to mean either a lock of some sort on the firing pin, itself, or on the hammer, but, for example, a safety which would merely block the trigger, which would block the sear, or other minor internal parts would not be considered a positive firing pin block or lock.

Mr. GEKAS. Does that protect against the dropping?

Mr. BARTLETT. It is basically the most positive type of a safety. It would protect, it should protect, if it works properly, against dropping or against mishandling or accidental misfiring.

Mr. GEKAS. What it does is it stops—I do not know how, the pin from hitting a cartridge, is that what it does?

Mr. BARTLETT. Basically, yes. In any event, this pistol does have this feature, and it is awarded 10 points.

The next category is miscellaneous equipment. External hammer is awarded two points. The hammer is the part that strikes the firing pin, and this pistol does have an external hammer. This is also considered to be a safety feature, in that you can see merely by looking at the gun if the weapon is cocked. You can also, in the event of a misfire, recock the hammer, and this is felt to be safer than guns having concealed hammers or striker fired mechanisms.

The next feature is double action, which is 10 points. There are basically two types of trigger mechanisms, the single action and the double action. The single action, which is what the .45 has, requires that the gun be cocked either manually or automatically by action of the gun before the trigger can be pulled. A double action, which is similar to this revolver, is basically self-cocking in that the trigger merely must be pulled and the gun, the hammer, will move rearward and forward merely on the action of the trigger.

Now, most double action guns are also single action, too, you can cock the hammer manually and fire it in a single action mode, or if you desire, you can fire it in a double action mode.

Mr. BARBOZA. Mr. Chairman?

Mr. CONYERS. Mr. Barboza.

Mr. BARBOZA. What would be the difference in the purposes of single and double action? Who would be likely to use the single or double action?

Mr. BARTLETT. The double action is generally considered to be more reliable. Police use revolvers almost in all cases with double action, in that the gun can be, the trigger can be or now has to be pulled with one action, and it can be fired. Furthermore, in the event of a misfire, it merely takes the action of the trigger finger to recock and fire the firearm.

Now, in the case of this .45, for example, before it could be fired, the hammer has to be cocked, and the trigger pulled. Now, in the event of a misfire, then this requires two operations again to cock the hammer and pull the trigger again.

Mr. BARBOZA. Would that be more accurate, a more accurate weapon, the single action?

Mr. BARTLETT. Basically, when guns are fired for accuracy and target shooting and so forth, they are usually fired in a single action method. The force required to pull the trigger over that long distance, and it is quite a considerable force coming, you know, it re-

quires—makes your hand tremor a little bit, and for the ultimate in accuracy you should have a fairly slight force in the trigger. So, target weapons are single action, or are fired in a single action mode.

Mr. BARBOZA. For instance, how many Saturday night specials would be single action?

Mr. BARTLETT. Many of the revolvers which might fall in that category with the double action, most—the majority of the revolvers currently manufactured today, which are of modern design, are of double action.

Mr. BARBOZA. Thank you.

Mr. BARTLETT. In any event, the pistol here is not double action, so it is awarded zero points for that category.

The next feature is the drift adjustable target sight, which is awarded five points. And this is interpreted to mean a sight which can be adjusted by means of tapping it, or moving it, so that the point of aim can be corrected. This is opposed to a fixed target sight which cannot be adjusted in any way, and which is just manufactured that way at the factory and left alone. In any event, the drift adjustable sight feature which is usually found, adjustable sights are usually found on the better quality guns.

Now, the next feature, which is a click adjustable target sight, is awarded 10 points.

Mr. GEKAS. Mr. Chairman? Do handguns have adjustable sights?

Mr. BARTLETT. In some cases.

Mr. GEKAS. Does this one?

Mr. BARTLETT. This one has a drift adjustable sight.

Mr. GEKAS. That is to the right or left?

Mr. BARTLETT. That means that the sight can be moved, but it has to be tapped or pushed. It fits very tightly in a groove in the top of the frame, in the top of the slide, and if you want to adjust it, you can tap it with a mallet or something like that.

Mr. GEKAS. Thank you.

Mr. BARTLETT. Now, the next feature is a click adjustable target sight, and this is usually found on target arms, and this refers to a sight which is adjustable by means of screws, so that, you know, you can carefully and very finely tune your sight for accuracy.

Mr. GEKAS. The target pistols have those?

Mr. BARTLETT. Target pistols would generally have them.

Mr. GEKAS. But that one does not?

Mr. BARTLETT. That one does not, so this pistol gets zero in that category.

The next feature is target grips, and the grips, are, of course, the portion that you hold onto, and the target grips are interpreted to mean a grip having a thumb rest of some type, or a thumb indentation. Now this is a feature which is usually found on target type handguns. This pistol does not have a target grip. These are merely what they call service grips, so this gets zero points in that category.

The last category here is target trigger, which is awarded two points, and a target trigger is interpreted to mean a trigger which is wider than a standard trigger, and which is also grooved or checkered. Now, this pistol does not have a target trigger. It has a grooved trigger, but it is a very narrow, service type trigger, so it is awarded zero points in that category.

Mr. DANIELSON. On that point—

Mr. CONYERS. I yield.

Mr. DANIELSON. On that point, what real value would that add? It might cost a little more to make the trigger, but beyond that, I cannot see an awful lot.

Mr. BARTLETT. Well, to a target shooter, the value is that the force required to pull this trigger is distributed over a wider area.

Mr. DANIELSON. Right, and that might give you a better target pistol. But I have got a kind of a one track mind here. I am only concerned about firearms in their use in criminal activities, especially in a household. A trigger that is grooved or checked to prevent slippage of the trigger finger against the triggering mechanism, and also better to distribute the pressure might add a few dollars to the cost. I cannot think it would do very much, however, and this is probably a gun that you could fire more accurately, I would imagine you could hold a man up just about as well with a target trigger as you can with a plain, ordinary service trigger. I was just wondering what value lies there, except that you get a nicer weapon?

Mr. DAVIS. Mr. Chairman, if I may respond to this particular question, we are dealing here with the criteria that are under the 1968 law for the importation of weapons, and it is strictly based on sporting, either readily adaptable or usable for sporting purposes. Now, the committee at the inception of the 1968 act, that we appointed to develop this criteria were generally from outside of the Treasury Department, were noted experts, firearms experts, so their purpose in coming up with the criteria was to determine if the weapon was adaptable for sporting purposes. So each one of these, you will find, have a relation to that, and, of course, in coming up with the criteria, limits are circumscribed by the limits of the law, so I might point that out, that, in essence, here, what we are doing is taking criteria developed for importation on the basis of adaptability for sporting purposes and applying them to domestic guns, just as an illustration of how the criteria is applied.

Mr. DANIELSON. Are these criteria like the target trigger—most of these things are very good and useful here—on the target trigger, there is nothing bad about it either. But I am just wondering what affirmative value it has to us in our problem of crime? I do not have any quarrel with it, I think it is a fine thing, but I am trying to find out where it will help us. Is that part of the law on the importation?

Mr. DAVIS. Well, sir, only to the extent that the criteria has to be related to the adaptability for sporting purposes, and, of course, the committee determined that the type of trigger, and it is given, as you can see, a rather small number of points, but that this was a feature of the handgun that did indicate that it was useful for sporting purposes. And in this case target shooting, as in the case of the sights, of course, and the target grip, all of these are relating to recreational or sporting purposes or target shooting.

Mr. DANIELSON. It lends them a little more value, I guess you might say, and that is the factoring value which is obtainable through designing the gun that is useful, especially for target and recreational use?

Mr. DAVIS. Yes, sir. And I might point out, and I think maybe it would be useful to comment at this point in time, for example, you

will recall that the .22 caliber bullets, or a chamber for a .22 receives no points. But with the application of all of these criteria, this certainly does not mean that, you know, a fine .22 caliber pistol could not be imported. In other words, the importability would be based on its overall length and some of these other features, so even though it happened to get no points because of its caliber, if it was, in fact, a genuine .22 caliber target pistol, it would be permitted under these criteria.

Mr. DANIELSON. Thank you.

Mr. ASHBROOK. Mr. Davis, following up on that point, the only one that does not really seem to me, I'm trying to think through your point of view, what you are trying to do as against my own, the only thing that does not seem to me as logical is the 10 points for double action, and how that fits into that area.

Mr. DAVIS. Yes, sir. Of course, really the two features here, maybe this has not come through, is the fact that we have two features. One of them, as indicated, is accuracy, this is the function of the single action trigger, as indicated, if you are target shooting, invariably, unless, you know, unless one of the rules of the competition is that you would fire a single action, with the trigger in the cocked position. On the other hand, we have the feature of faster firing, and in the case of the double action, in certain hunting situations, and other situations, this could be a feature that would be desirable in a sporting gun.

Mr. ASHBROOK. Well, applying the Danielson test of whether it is going to be used for crime or not, and I have no statistics, but my gut feeling would be that 98 percent of the criminals would use a double action, as against a single action?

Mr. DAVIS. Yes, sir. That I think certainly would be a valid view. Again, we were required under this to use a sporting purpose criteria. And if Mr. Bartlett would have any further comments from the experts' viewpoint—

Mr. DANIELSON. Would the gentleman yield on that very point?

Mr. ASHBROOK. Yes.

Mr. DANIELSON. I agree with Mr. Ashbrook. For police purposes, I think you always have double action. A criminal certainly would want double action. I mean, he does not want to sit around and cock the hammer and then pull the trigger. Yet double action gets you added value, which is hard for me to understand.

Mr. ASHBROOK. Yes, that is the point.

Mr. DANIELSON. I really think this is a valid point. I think part of it here may be semantics, also. I think this is a bad misnomer, though it be true. Double action really requires one action, you pull the trigger and it does the whole thing. Single action has a double action. You cock it and then you pull the trigger. It is a misnomer.

I think we came in the world too late to change it. But, it is backwards. Single action means double action and double action means single action here. I think that for anticrime purposes we would be better off if we had the hand that takes two actions, cock the trigger, pull it, I mean cock the hammer and pull the trigger, which is called single action by the firer of the piece. He cocks it, he pulls the trigger. Double action, on the other hand, requires only one action. He simply pulls the trigger and it does two functions at the same time.

I tend to agree with Mr. Ashbrook here, but I understand now, from your explanation, that under the law on imports, you are to tailor your regulations to fit the sporting weapon piece.

I think you might have made a mistake here, though. I think if my business was shooting targets, bullseyes, if that was my recreation, I would prefer a single action piece which requires two actions, cock it and then squeeze the trigger, because you would have a much tighter squeeze, you would have the old hair trigger situation, and you could stay on target.

Mr. DAVIS. Yes, sir. I might point out that in some forms of target shooting speed is of the essence and so that there could be situations where, in timed shooting, then it would be necessary to use double action. But, again, I will ask Mr. Bartlett if he has any observations about this double action feature, and maybe he can shed some further light on it.

Mr. BARLETT. Yes, sir. I would like to say something about it. I think perhaps one confusing aspect of double action is that in the automatic pistol, to design a double action feature, requires a very complex mechanism as compared to the double action feature in a revolver.

Double action is a feature which will not appear in cheaper made automatic weapons. The trigger mechanism in an automatic pistol is not complicated, due to the fact that the hammer must be reset each time it is cocked. And furthermore, there is a distance involved between the trigger here, which must go around the magazine and connect to the sear mechanism and the hammer. And in a revolver it is a much simpler mechanism.

There are very few parts involved, but in a double-action automatic pistol, the firing train is composed, I would say, of three or four times as many parts as a revolver.

Mr. DANIELSON. I believe you are right, and I am glad you made those comments. In going through these charts, I do not know if I can speak for my colleagues, but I think I tend to sometimes mix pistols and revolvers. I know they are not the same, but in our questioning and in our discussion, we sometimes do not make the very essential, but nevertheless, very fine distinction between a pistol, which is your automatic type, and a revolver, which has a chamber which revolves. There is a lot of difference in the two pieces. And I know now that I commit this common sin of saying pistol when I mean revolver, and gun, when I mean—which means nothing, of course, but I recognize your distinction. I think this is something worth considering if we should change factors, if we should pass a law.

Mr. DAVIS. Yes, sir. I just might point out that in the case of the pistol, and I think you have already recognized this, but in the case of the pistol, after the first shot, then it is automatically cocked and ready to shoot again. And in the case of a revolver, each shot, you either have to pull the trigger or, you know, you pull the double action and so the semiautomatic pistol gets its name from the fact that the hammer is automatically cocked after the first shot, and then until the clip is spent it will shoot a single action.

Mr. HUGHES. I wonder if the chairman would yield?

Mr. CONYERS. I yield to my friend from New Jersey.

Mr. HUGHES. Have I missed something along the line? It's my understanding that in addition to the adaptability of these weapons for

sportsmen we were trying to get sophisticated weapons. Therefore, much of the criteria I see, unless I have lost the drift somewhere along the line, is related to a ban on cheap handguns. Thus the double action feature, the safety devices and many of the things that we are talking about and to which you award points, are directed to just those purposes.

Am I correct in that?

Mr. DAVIS. Yes, that is correct. In other words, the 1968 Gun Control Act, using a sporting criteria, and our purpose in demonstrating the application of the criteria to the committee was to familiarize it with the way the criteria are used, and I would assume if the committee wants the criteria to be applied to domestic handguns, or to modify that for imported, they must use a different criteria.

Mr. HUGHES. I never saw, over the years that I was in law enforcement, that it made much difference to the average criminal whether it was double action or whether it had safety devices, or whether it was a starter pistol or a toy pistol. If it looks like a lethal weapon, it serves the purpose of the criminal.

Mr. DAVIS. You are quite correct, and I think again, we almost have to go back to the situation as it existed at the time of the Gun Control Act of 1968 in which there were inexpensive handguns being imported into the United States, and that Congress wished to prohibit the importation of these kinds of weapons. Yet, they saw the necessity to permit certain kinds coming into the United States for the use of sportsmen, and so forth, so that they used the criteria of being either particularly suitable or readily adaptable to sporting purposes.

And, of course, this is the kind of concept we have tried to embody in the criteria.

Mr. HUGHES. But, running all throughout this is the desire to have a weapon that incorporated safety features and was otherwise a fairly sophisticated weapon.

Mr. DAVIS. That is correct.

Mr. HUGHES. Let me ask a question. We have finished with the criteria, I would assume. What rating does that standard .45 get under the standards?

Mr. BARTLETTE. That was the next one I was going to get to. Adding up all of the points, I have come to a total of 99, and a qualifying score is 75 points, and so on point value the pistol would qualify.

Mr. HUGHES. Let me take you to the next step. If I were a manufacturer, let us say in Germany, and I wanted to find out whether or not my pistol would qualify under the standards, can I come and receive from the Alcohol, Tobacco, and Firearms Section some determination as to whether it would be importable?

Mr. BARTLETTE. Yes, sir. The pistol would be sent, could be sent to us, sometimes by the manufacturer, sometimes by the proposed importer, and we would place a conditional importation on the firearm, allowing it to come in for our examination, and then we would either approve or disapprove it and return it.

Mr. HUGHES. Now, do you have any discretion if, in fact, you have a manufacturer that is after your particular approval on a certain weapon if, in fact, that particular manufacturer is also one of the people that is shipping frames into the country to circumvent the law

and other weapons? Do you have anything within the present law that would permit you to utilize any form of sanctions against a violator under the act?

Mr. DAVIS. No, sir, we do not. In other words, if I understand the question, could we take action against a foreign manufacturer and his importer in this country if they had an importable product, handgun, under the criteria, but on the other hand, he was——

Mr. HUGHES. They are chiseling.

Mr. DAVIS. They are importing parts into the country. No, sir, the application of the law would not permit us to impose a sanction on a legally importable weapon, because it may be over here in another area he was doing something that was either borderline or over the law itself. The weapon, itself, would stand on its own merits.

Mr. GEKAS. Mr. Chairman?

Mr. CONYERS. Mr. Gekas.

Mr. GEKAS. How much does that Colt cost, first of all?

Mr. BARTLETT. The Colt, I am not sure, really, about the current price. I believe it is somewhere around \$180, \$170, somewhere in that area.

Mr. GEKAS. The next question is there are a number of weapons that are made outside of the country that are finely tooled weapons that would not pass the factoring criteria, am I correct? I think we ought to put this into perspective.

It is my understanding that there are some very expensive German-made small guns, about this big, that are finely tooled and handcrafted and gold-inlaid and that sort of thing, and are not importable, is that not correct?

Mr. BARTLETT. I would assume so, yes.

Mr. DAVIS. I think you can take a specific example, the Walther PPK, which is a 7.65 millimeter, semiautomatic pistol. And Mr. Bartlett can back me up on this if I am wrong.

But, I am reasonably certain that would not be importable.

Mr. GEKAS. But if it did come in, it is not a traditional Saturday night special?

Mr. DAVIS. Yes; but by the same token, it is not particularly suitable for sporting purposes. I know that we can get some arguments. I am sure that there are hundreds, for example, who say that this would be an excellent weapon for a coup de grace, or something of this kind in hunting, but by the same token, there are other weapons available that would fulfill this.

Even though it is an expensive gun, it does not meet that criteria to be particularly suitable for sporting purposes.

Mr. BARTLETT. One thing that I should add now, at the bottom of the sheet are a list of prerequisites. One, the pistol must have a positive manually operated safety device, and, two, the combined length and height must be in excess of 10 inches with the height right-angle measurement to the barrel without magazine or extension being at least 4 inches, and the length being at least 6 inches.

These are prerequisites which are applied regardless of the point value, and although a pistol might possibly qualify in points, if it did not have a positive safety or it did not meet the size requirements, it could not be imported. And I believe that is the case with the Walther PPK, which cannot meet the size requirements for importation. And

that pistol was subsequently redesigned and the size was increased to make the model PPK-S, which is a modified PPK, and it did meet these size requirements and, therefore, could be imported.

Mr. CONYERS. How much more time are you going to be needing in terms of discussion of the factoring criteria?

Mr. BARTLETT. I would like briefly just to go through the revolver category. I could go through it very quickly if you would like, just so that we could make a distinction between that and the pistol.

Mr. CONYERS. All right.

Mr. BARTLETT. The revolver criteria is somewhat similar. The first category is barrel length, less than 4 inches is zero and for each quarter-inch over 4 inches is a half. One thing that I should point out is that the revolver, the barrel is measured from the muzzle to the face of the cylinder. This is the barrel length.

Frame construction again is 15 points for steel frame, 20 points for alloy frame. The weight is 1 point per ounce.

The caliber .22 short; .25 ACP's; zero and the .22 long rifle and the .30 to .38 is three points; and the .38 special is four points; the .357 magnum and over is five points.

Again, we have a set of criteria for miscellaneous equipment. Adjustable target sights are five points, target grips, that would be those having a thumb rest or a thumb indentation of some sort, and being over-sized, would be five points, and a target hammer and trigger five points.

And we have prerequisites, one being it must pass the safety test and this is probably the biggest problem that foreign manufacturers have with us. A double-action revolver must withstand its weight being dropped on the spur of the hammer five times from a height of 36 inches; and we do have a testing feature where the test, you know, firing revolvers, which are submitted for importation approval, and we test them; and we drop a weight equal to the weight of the gun from a height of 36 inches on the hammer five times, and if it fires it does not pass the test.

Also, in a single-action revolver there must be a feature which causes the hammer to retract to the point where the firing pin does not rest upon the primer of the cartridge, and it must withstand a drop test also. The hammer would be withdrawn manually in the case of a single-action and automatically in the case of a double-action. The hammer would be withdrawn manually in the case of a single-action and automatically in the case of a double-action.

A qualifying score for a revolver would be 45 points. This is a revolver here. In this case it is a Smith & Wesson model 64. It has a steel frame, so it is awarded 15 points for that category. It weighs 31 ounces and the caliber is .38 Special, which is four points. It has fixed sights, so there are no points for sights.

It has service grips, so there are no points for grips. It has a standard trigger and standard hammer, so there are no points awarded in that category. It does pass the safety test, and it meets the barrel length requirement, which has to be in excess of 3 inches, and it meets the overall frame-length requirements. This revolver would be awarded 50 points and could, therefore, be imported.

Mr. GEKAS. Those are both domestically manufactured?

Mr. BARTLETT. These are both domestically manufactured guns. Normally, these would not be factored, unless someone overseas was trying to bring one of these into the country, in which case we might have to factor them.

Mr. GEKAS. How much does the revolver cost?

Mr. BARTLETT. I am not sure of the exact cost again. I believe it is around \$100 or \$150 or \$160, somewhere in that area.

Mr. DAVIS. Mr. Chairman, since we are on the record and we have used two specific guns here, just for the purpose of illustrating the application of the factoring criteria, I would just like for the record to point out that this in no way has any derogatory connotation about the workmanship of the guns. As we have indicated, they are excellently made, and I thought maybe it would be well to get that in the record, since we have identified them specifically.

Mr. CONYERS. Of course.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. Yes, sir. Mr. Danielson.

Mr. DANIELSON. Do any of your statistical records from you, sir, or from anyone else insofar as merits are concerned give us any statistics as to the frequency of the use of pistols as opposed to revolvers in criminal conduct?

Mr. DAVIS. Yes, sir, in our Project Identification which involved the tracing of guns used in crimes in 12 cities and now to include 4 more. While we do not have those broken down immediately for that purpose, we could give the committee a breakdown as to the frequency of use between pistols and revolvers.

Mr. DANIELSON. I think that would be valuable for our purposes.

On a related point, I would like to know whether, speaking now only of pistols, I would like to know the relationship of those pistols used, which are formerly military weapons? There are a lot of them in existence, whether they were purchased through legitimate channels or swiped or what? But, the Army, the old Army 45, there are tons of them around and I would like to know within the pistol category, the extent to which military weapons are found, as opposed to those of nonmilitary manufacture?

Mr. DAVIS. Yes, sir. Would you be interested in a breakdown as to foreign military weapons as opposed to domestic military weapons?

Mr. DANIELSON. Right. The German, or its counterpart of the old Luger. There are a lot of those floating around.

But, I am thinking about the Army 45. I am thinking of the Luger, now that you mention it, but I was thinking of the Army 45 and the Navy 45, of which there must be hundreds of thousands floating around the country in one place or another. They are not a very good target weapon, but they are certainly serviceable for holdups and the like.

Mr. DAVIS. Yes, sir. We will do our best to get that information to the committee.

Mr. CONYERS. Well, we want to thank our expert, Mr. Bartlett. We appreciate your presentation.

Now, Mr. DAVIS, you probably want to continue with some of your material that you have not had a chance to present to us so far.

Mr. DAVIS. Yes, sir. Thank you, Mr. Chairman.

One other comment, there have been some questions by the committee directed at the allocation of our resources among our various re-

sponsibilities, including those that are not related to the firearms activity, and we will give, we will submit for the record, where we apply our manpower across the board and the type of activities that they are engaged in.

Mr. Chairman, I think at the last session we had reached the point in the presentation where we were talking about the results of Project Identification. And as I a minute ago indicated, this is an effort on our part, in cooperation with the police departments in 12 major U.S. cities, geographically distributed throughout the country, and in which we are also engaged in an additional 4, and the project will be terminated around the 15th of this month, at least for the moment then we are talking about the statistics from 12 major cities or metropolitan areas where ATF with the cooperation of the police, traced weapons which have been used in crimes in those cities.

Mr. GEKAS. Mr. Chairman?

Mr. DAVIS. I think the last time we had shown the committee these charts. [See pp. 337 and 338.]

Mr. CONYERS. Excuse me. Counsel has an observation.

Mr. GEKAS. Just to very briefly, I think, recover some ground that we covered last time, dividing phase I and phase II up, when you say Project I traces of weapons, would you describe the trace that has been conducted, please?

Mr. DAVIS. Yes. In this particular case, in every case where it was possible, we have traced the weapon to the dealer who made the original sale. Now, this gives us, of course, a concept of the flow of weapons. Certainly, from the point of sale to the city in which they were ultimately used in crime.

Mr. GEKAS. But—go ahead. Excuse me.

Mr. DAVIS. But, the phase II would involve taking the weapon from that point, and in some manner trying—

Mr. GEKAS. From which point?

Mr. DAVIS. From the point of sale and trying to determine how it moved in traffic or commerce to the city in which it was ultimately used in committing an offense.

Now, this, of course—

Mr. GEKAS. May I paraphrase? What you have done, then, is that you have gone and traced it by serial number from the manufacturer or wholesaler to the first retail sale, and what you are describing now, would be phase II, would be tracing it from the first retail purchaser through to the crime?

Mr. DAVIS. Yes, to the extent that that would be possible and, of course, in some cases, they may have been stolen. In some cases, the person that—in some chain of ownership, the person might not be available or otherwise, and at least to the extent possible, to try to determine how it arrived at the point where it was used in the crime.

Mr. GEKAS. You have not done phase II?

Mr. DAVIS. Yes, we have not done that. As you can readily understand, this is very demanding on our manpower. It would take a good bit of agents' time, even on a sampling basis, so at least, at this point in time, we have not undertaken that.

Mr. GEKAS. Do you plan to undertake phase II?

Mr. DAVIS. Well, we—

Mr. GEKAS. We talked about this briefly last time, as you recall.

Mr. DAVIS. We certainly can appreciate the desirability and the importance of the information that would be derived from that.

Mr. GEKAS. Let me interrupt you there, and ask you how many man-hours and how much money do you think it would cost the ATF just to take a random sample of the 3,000 or so guns that you traced in New York City?

Mr. DAVIS. Right. Well—

Mr. GEKAS. Let us say we did one out of every 10 randomly.

Mr. DAVIS. We would then be involved in the random sample of about 300 weapons and, of course, the random sample, since about 75 percent of those guns originated outside of the city and the State of New York, this means that we would be, you know, we would be having to start the trail in some other State, and in any investigative endeavor, it is difficult to estimate the time in advance.

But, I would just take a fairly reliable figure, and I would say that it would take us about 10 man-days to, on the average, follow that weapon through to the point that we could, so we are talking now about 3,000 man-days, we are talking in terms of 15 agent man-years, which, as you can understand, is a considerable investment.

Mr. GEKAS. Well, with the 50 or 60 billions that we have here, and now the Attorney General has made a statement, you can imagine the great value to the subcommittee in understanding what the commerce in guns are, and how they get into the criminal, which is, I think, the point of why we are all convened here today. And if we could provide for you the methodology, would you be willing to commit the time, and maybe it is expensive, but I think it is very, very important to this subcommittee's work.

Mr. DAVIS. Well, we will certainly undertake that and we will do the best we can. I see Mr. Corbin, the Assistant Director of Criminal Enforcement, flinching on my right here, but we will certainly undertake that and see how it comes out. The time—the timing—this could be, of course, the end result might not be available for some weeks. But, we will undertake it as best we can.

Mr. GEKAS. Well, the value of it, it seems to me, if I may as a professional staff member say, in trying to aid the subcommittee members in reaching a judgment on how to legislate, without the facts of how weapons go from the first retail purchaser through to the crime, we are legislating in the dark, and quite frankly, I think it is much more important to expend that time than to make 100 title VII cases, which may or may not have a substantial deterrent law enforcement impact.

So, I do think that whatever diversion would be required in such a sampling, and I know tracing 3,000 guns would be an enormous burden, but to trace a random sample, to give us an idea of how guns are traveling to New York City from the first retail purchaser, would be enormously important. And, I would hope that we could work closely with you to try and set up just exactly the kind of information that we are searching for.

Mr. DAVIS. Very good. We will undertake to do that, and get it started.

Mr. GEKAS. Thank you, Mr. Chairman.

Mr. DAVIS. I think the last time we had indicated through the charts the results of project I in the 12 cities that are here. I think we can go into detail, but the committee does have the charts available to

them, and certainly we would be happy to provide any additional information.

Mr. DANIELSON. Mr. Chairman?

Mr. CONYERS. I yield to the gentleman from California.

Mr. DANIELSON. Apropos of that, I have looked over your chart, and I note that one of the classifications that you have there is Saturday night special. In making that discrimination, what standard did you apply? Did you apply the standards that are in the factoring criteria? What standards did you apply?

Mr. DAVIS. No, sir. I will have to say very frankly we came up with our own criteria for the purpose of this project. We do not apply it, we have not applied it anywhere else. I think it is a very tough criteria.

One, in the criteria, is that the gun cost \$50 or less, that it was .32 or less caliber, and that the barrel was 3 or less inches. Now, to qualify, a gun had to meet all three.

In other words, if it were a \$75 gun, but still a .32 or less and a 3-inch barrel, it would not be. So, only those guns that met all three of these criteria were classified.

Mr. DANIELSON. You have only put on a fairly conservative, from the point of view of not including too many pieces within that category, definition?

Mr. DAVIS. Yes, sir. That is correct. And there is one other reason. I might say, why we adapted this particular one, not only because we thought it was conservative, but since we did not have the guns in hand; in other words, these guns were in the hands of police departments, and some of them, of course, being evidence in cases and things of this kind, so this test would be easy to apply from the standpoint of knowing what the model was, and, you know, this configuration.

Mr. DANIELSON. You did not ask the local authorities, then, whether it was a Saturday night special? You simply asked them the model and so forth, and then you applied that?

Mr. DAVIS. Yes, sir. And I might point out, the methodology here is we have a form 5000 which we call a tracing document. The local police fill in all of the essential information, and they include the barrel length and this kind of thing, and then, of course, from our knowledge of the current retail market, and the model of the guns, then we could determine what the retail value was.

Mr. DANIELSON. You made your own assessment of value, of dollar value?

Mr. DAVIS. Yes. That is correct.

Mr. DANIELSON. I understand it then. Thank you very much.

Mr. CONYERS. Mr. Davis, without jumping ahead of your presentation, is it not the case that even with your tough criteria established for project I, we found that there were plenty of expensive guns being used in the commission of crimes, as well as Saturday night specials?

It seems to me that that gets down to the proverbial bottomline of this, and it is something I think we ought to make clear and be sure we understand. And I want to be sure that I am making the correct assumption here.

Mr. DAVIS. Yes, sir. I might point out, Mr. Chairman, that 47 percent of those that we—well, of the 9,196 in the first 12 cities that were

received, that 47 percent of those—well, actually, the ones we successfully traced, 6,858, that 47 percent of those met the three criteria of our definition, so that for practical purposes, you could say about half were Saturday night specials and half were not.

Mr. CONYERS. Well, what conclusions does that lead us to?

I mean, can I raise the question that the abolishing of the Saturday night specials may not have as devastating an impact on the reduction of street crime as is generally thought? Is that an unfair assumption to those colleagues of mine who have introduced legislation abolishing the Saturday night specials?

Mr. DAVIS. Well, Mr. Chairman, it would almost have to depend on your definition of a Saturday night special.

Mr. CONYERS. Well, let's use the one that was in the legislation that passed the Senate.

Mr. DAVIS. That would be the criteria of factoring that was introduced by Senator Bayh, as I understand it?

Mr. CONYERS. Right.

Mr. DAVIS. Well, in there, of course, my recollection of this goes back to last year, but I am quite certain that in the factoring criteria, for example, that a barrel less than 3 inches would not be permitted, so that here again you are changing the game rule a little bit.

Now, there are many guns that maybe cost \$120, but they have a barrel that is 2 inches long, so that automatically under that criteria those guns would not be permitted. So, there is so much that depends on the definition itself, and I think, as Mr. Danielson has already indicated, that what you accomplish is based on the definition.

But, I can say that using a definition in which all three criteria had to be met, then I think probably your statement is correct, that the impact of applying that would, you know, while it might be somewhat substantial, it certainly would leave a big area that was not, or had not been addressed.

Mr. DANIELSON. Would the chairman yield?

Mr. CONYERS. Yes.

Mr. DANIELSON. I have one observation and one question I would like to run past you here.

One of the gentlemen on our staff was kind enough to tell me that it is his understanding that the factoring criteria which we discussed a while ago actually are the basic standards included in Senator Bayh's bill to distinguish between Saturday night specials and non-Saturday night specials.

Am I right on that?

Mr. DAVIS. Yes. That is correct.

Mr. DANIELSON. That type of a standard, I respectfully submit, would put a pretty high standard on the type of a gun which would be declassified from Saturday night special.

The other point is, in looking at your project I chart, and in view of your comments that \$50, 3 inches and some other factor you had there—

Mr. DAVIS. Yes, sir. .32 or less caliber.

Mr. DANIELSON. .32 or less caliber, there might be an awful lot of weapons picked up in Project Identification, which generally speaking by the public, knowledgeable public, at least, would still be considered Saturday night specials, but which are not so classified in your project

I chart, simply because your standard was so conservative that about the only thing you classified as a Saturday night special was really junk that a person should not use under any circumstances.

Mr. DAVIS. Yes, sir. That would be an accurate observation.

Mr. DANIELSON. So, your red line and green line up there, the red line being non-Saturday night specials and the green being Saturday night specials, as I understand it, the red line—I think I have got that right. I can hardly read it from here.

Mr. DAVIS. Yes, sir. The red is Saturday night specials, and the green are others.

Mr. DANIELSON. Yes, but actually, you could have a more accurate standard and shift considerably more guns out of the green category, which is, let us call it for this discussion, acceptable, into the red category, which, for this discussion, let us call Saturday night specials.

It need not be that equally balanced. It would show that much farther into the red zone.

Mr. DAVIS. Yes, sir. And of the various definitions, of course, that are currently being considered or have been considered in the past, again, you would get different results if you applied, for example, Congressman Dingell's current legislation which goes to melting point, tensile strength and the test for metals.

And of course, obviously you would get a different type of result.

Mr. DANIELSON. On that chart, red has the usual connotation of dangerous, I gather. You used the red for the bad guns?

Mr. DAVIS. I do not know whether that was conscious or not.

Mr. DANIELSON. Just so I know what we are talking about here, and the green means again good guns?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. All right. With a more careful and a yet realistic classification, a far greater number would be in the red category and a lesser number, a correspondingly lesser number in the green category?

Mr. DAVIS. That is correct.

Mr. DANIELSON. Of the yellows, which are stolen guns, are the yellows included in the red and green?

Mr. DAVIS. Yes, they would be.

Mr. DANIELSON. And the blues, out-of-State source, would likewise be?

Mr. DAVIS. Yes, sir.

Mr. DANIELSON. They would be included. Well, they probably all would be. Well, some of them would be in the red and the green at least?

Mr. DAVIS. Yes. In fact, the blue, of course, would include both the red and green, and the yellow would be in part of the red and green.

Mr. DANIELSON. The red and green have to do with the quality of the gun and the yellow and blue have to do with the source of the gun?

Mr. DAVIS. Yes, Yes, sir.

Mr. DANIELSON. I see. Thank you.

Mr. CONYERS. Mr. Gekas.

Mr. GEKAS. I wondered, may I suggest that you might use the graph that is the composite graph of all cities that depict rather than individually, which may be a little bit better. There, I think, you have changed your colors, though.

Mr. DANIELSON. Yes, you have changed the colors.

Mr. GEKAS. Now, Saturday night specials are the green or the blue. I beg your pardon, all handguns are the yellow and the stolen guns are orange?

Mr. DAVIS. Yes, sir. Which gives you the result, of course, of the 7,150 guns that were successfully traced. Of that, the 3,210 would have been under our definition of Saturday night specials. The green from sources outside of the State where the city was located, so that you can see there that well over half of the guns used in crimes in cities had their source from outside of that State.

Mr. DANIELSON. Mr. Chairman, may I point out, though, that it disturbs me a little bit. I somehow or other got the impression that many of the guns used in crime are stolen guns and here you have only got 502 out of some 7,150, about 7 percent.

Mr. DAVIS. Yes, sir. Now, this varies, and we found, for example, in New York City that about 10 percent were stolen. It varies from city to city, but you are entirely correct, that over the whole range of guns traced, that about 7 percent were stolen. And this may be of particular interest to the chairman in that in our project here that 92 percent of all firearms traced from Detroit, Mich., were traced to dealers in another State.

In New York City, 77 percent of the firearms that were traced were traced to dealers in other States.

Mr. GEKAS. First retail sale?

Mr. DAVIS. First retail sale, so we feel this is a good definition of source. We know that the gun originated in other than the place where it was eventually used in crime.

Mr. CONYERS. Do those statistics suggest there are strong local gun laws?

Mr. DAVIS. Sir, we found a direct correlation between, however you want to call it, the strictness of the local law and the number of guns that had their source outside of that area. And you can get some concept here in that in Kansas City, Mo., 65 percent, and in Philadelphia, et cetera, and these are all having sources in another State and so forth.

And then, to make a comparison, in New Orleans, where I think the parish has a fairly tough law, but the rest of the State does not, there were only 15 percent that had their source outside of the State of Louisiana.

And we have Atlanta, Ga., and again my understanding is the State does not have a very strict law, and only 19 percent came from sources outside of Georgia.

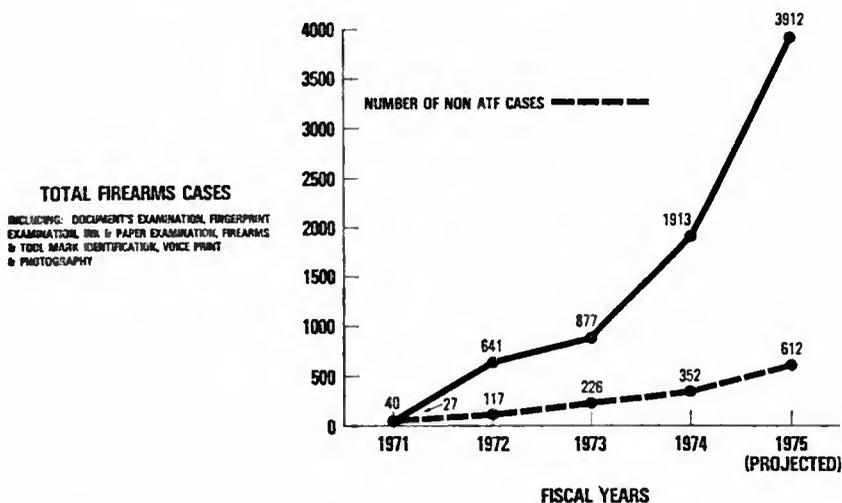
So, from that point of view, we do see a correlation between the severity of the local law or State law and their source of guns.

Mr. CONYERS. Thank you.

Mr. DAVIS. Again, we have available to the committee the specific statistics. I think it is of importance, and this came up before, if I can find the total for these—well, I might say that we did find, Mr. Chairman, certainly in the last six cities surveyed, we found an unusually high number of these guns that had gone through a pawnshop at least in the six cities, and we did not do it in the first four, and in the second eight we did, but in about 30-some percent, they had gone to a pawnshop before they were used in crime.

Then, if the committee has no objection, we will move on to the next area. We did want to indicate to the committee what we consider to be an important responsibility, as envisioned by Congress, and that is of assistance to State and local law enforcement officers.

IDENTIFICATION LABORATORY ATF HEADQUARTERS



The Gun Control Act of 1968 has its preamble and its purpose to assist Federal, State, and local law enforcement officers in their fight against crime and violence, so we have from that determined that we do have a responsibility in the firearms area to assist the State and local agencies in any way we can.

And I do not know that the committee wants to spend much time on this, but this chart indicates that in our identification laboratory, which is concerned with such things as fingerprinting and things of this kind, at least in fiscal year 1974, about 75 percent of our efforts in this laboratory were done at the request of State and of local law enforcement agencies.

I have already mentioned the fact that about 50 percent of our tracing effort is done for the benefit of State and local law enforcement to help them trace guns used in crime.

Mr. GEKAS. Mr. Chairman?

Mr. CONYERS. Yes.

Mr. Gekas.

Mr. DAVIS. The next chart—

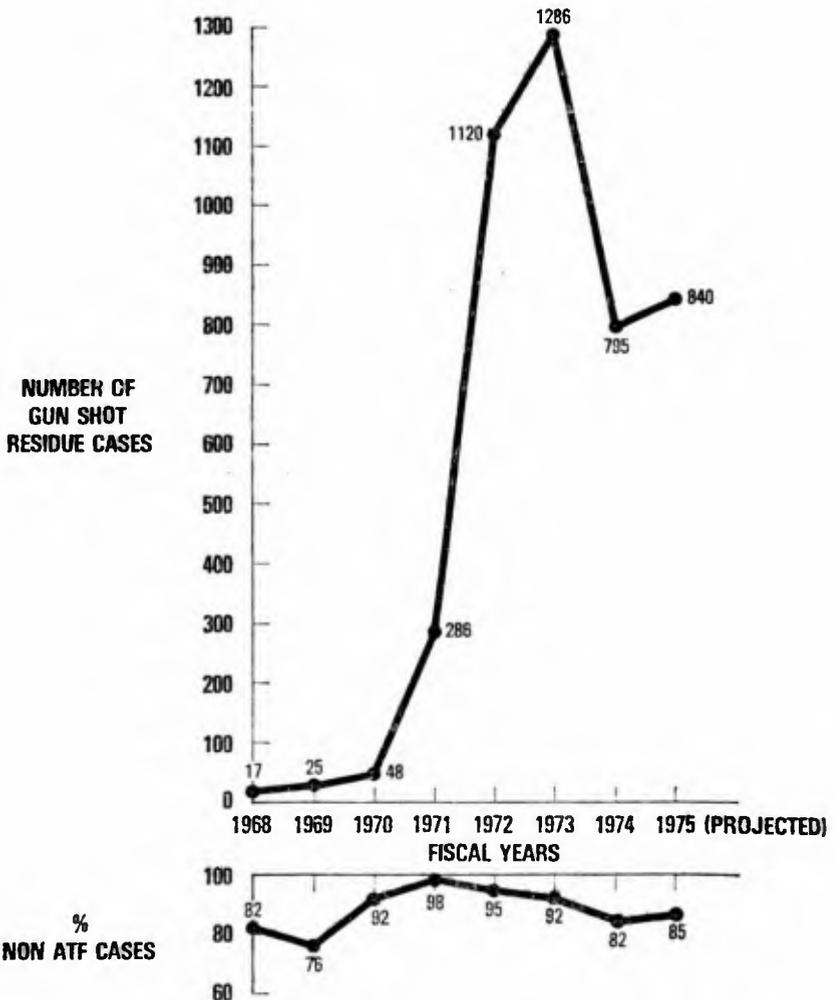
Mr. GEKAS. Mr. Davis, excuse me. Is it the case that in your tracing center you have not made a general announcement to the 40,000 local, State, and local law enforcement agencies that you have an identification laboratory capability, and that any local and State law enforcement agency that needs that capability can send the gun or whatever to you, and it will be analyzed?

Mr. DAVIS. No, we have not. We felt that to do so would really deluge us with requests.

Mr. GEKAS. You do not have the resources to handle those, but there is no question that if they knew you could do it, that you would be getting a lot of guns from Utah, or wherever?

Mr. DAVIS. Yes. There is no question about that, and certainly in the tracing area we felt that some kind of, you know, publicity regarding the capability would really—we have had a natural growth by word-of-mouth that has really kept us with a big backlog.

FORENSIC LABORATORY ATF HEADQUARTERS



The next one is gunshot residue. Gunshot residue, I might just indicate, is the process whereby when a person is suspected to have committed a crime with a gun that we have pioneered a kit which the State and local officers can use to swab the suspect's hands and so forth, and submit it to our laboratory, and a determination can be made if the individual has fired a gun recently. In this particular area, we are running about 80 percent, 79 percent of our total case analysis being done for the benefit of State and local enforcement organizations.

TRAINING OF STATE AND LOCAL LAW ENFORCEMENT OFFICERS

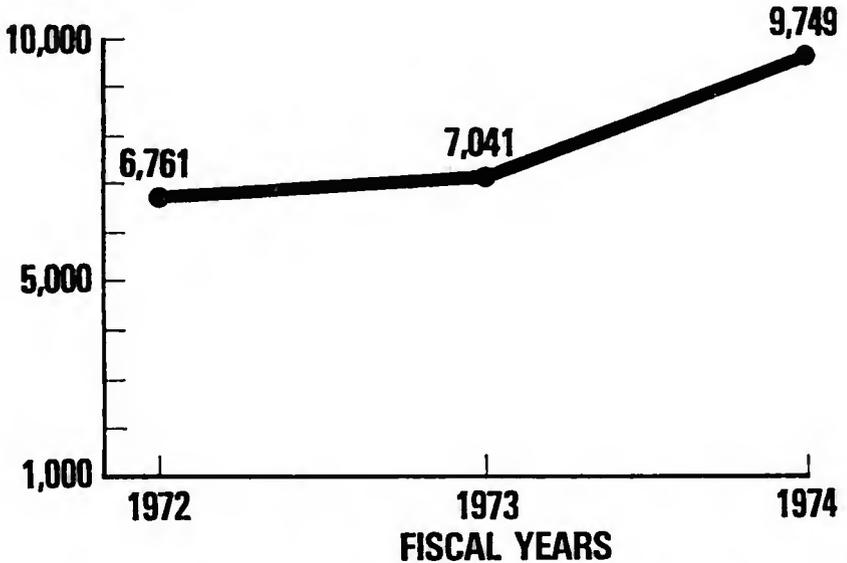
<u>REGIONAL TRAINING PROGRAMS</u> (BRIEF SEMINAR-LECTURE TYPE)	FY-74 (7-1-73 - 6-30-74)	FY-75 (7-1-74 - 1-31-75)
NUMBER OF: OFFICERS TRAINED	32,671	24,090
DEPTS REPRESENTED	5,306	3,213
PARTICIPANT MANHOURS	139,441	93,760
<u>HDQTR'S TRAINING PROGRAMS</u> (40-80 HOUR CLASSES)		
NUMBER OF: OFFICERS TRAINED	482	539
DEPTS REPRESENTED	52	61
PARTICIPANT MANHOURS	21,700	22,866

In the training area, we have two categories here, and one of them, of course, is what we might call informal training where we appear at police academies, or we set up short training programs for State and local law enforcement organizations, and then we do have an arrangement, an agreement with the Law Enforcement Assistance Administration, with a joint-funding approach, where we give them between 40 and 80 formal class hours. In the first category, as you can see, we have this fiscal year—well, last fiscal year, 1974, about 32,000 agents or local, State and local officers who were trained, representing about 5,360 departments, and so forth.

In the LEAA formalized training in fiscal year 1974, about 482 State and local officers representing 52 departments.

Again, we feel that it is important that the State and local officers know what the provisions of the Federal Firearms Act are, and that they be made aware of the assistance that we can provide them. And we have found, generally, this also makes them more aware of their own firearms laws and what their capabilities are.

ATF ENFORCEMENT REFERRALS - NON-BUREAU VIOLATIONS



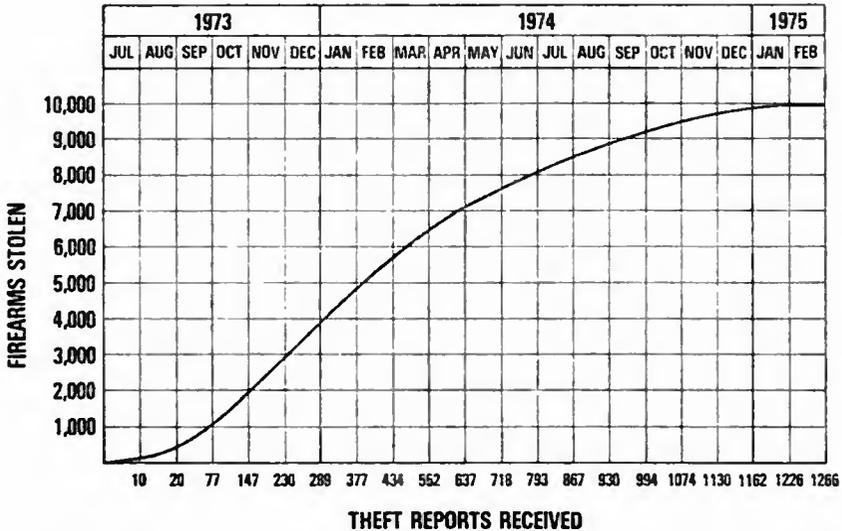
The next one is referrals. The chart there indicates that in fiscal year 1974 we made 9,749 referrals to other organizations, and while it is not reflected on the chart, about 80 percent of those referrals were to State and local agencies regarding suspected or known violations of their particular laws.

Then, I might point out, Mr. Chairman, that we do actively participate in investigations with State and local law enforcement officers when there is a suspected violation of the Federal laws, so that this joint investigation occurs, and, of course, the ultimate prosecution of the individual, should a crime be proved, would be determined at that point, whether he be prosecuted under State law or Federal law, depending on the severity of the crime and other factors.

So, we do spend a good bit of time, indirectly, there.

Mr. Chairman, at this point I would like to go into some specialized projects that we have undertaken. And I think some of these will be very meaningful information to this committee.

INTERSTATE FIREARMS THEFT PROJECT



The first one, as indicated by the chart, is what we call the interstate firearms theft program. Now, this came about when we began receiving information that there was a large number of handguns and other firearms being stolen from the interstate shipment of guns, from the manufacturer to the ultimate dealer or wholesaler. Our information was, at that point in time, that something like a thousand guns a month were thus being stolen.

So, we initiated a project on July 1 of 1973, which involved the voluntary cooperation of the carriers of the United States to report to ATF the loss or theft of firearms from interstate shipments. We, through various means, and this involved about 28,000 carriers, and ATF personally visited over 2,500 trucking companies, again to solicit their voluntary cooperation, and we have received 1,256 reports of lost or stolen firearms, and totally involving about 10,000 firearms having been stolen.

ATF has personally made 22 criminal cases involving 44 defendants, and we have recovered about 1,000 of these stolen weapons, either working alone or with State and local authorities.

Mr. CONYERS. How many have been stolen?

Mr. DAVIS. Those reported to us have been about 10,000, so we have recovered about 10 percent of the 10,000 stolen and, of course, we have made the cases that I have indicated.

Now we are quite pleased with this program, because it has, aside from the Federal presence in terms of making an active investigation when a report is received, made the carriers much more security conscious. For example, the United Parcel Service, which carries a good part of the traffic or the shipment of these weapons, has now begun installing magnetometers so that, you know, the employees, if they are involved, would be screened.

Colt Firearms, for example, has revised their entire method of shipping firearms in interstate commerce. They have gone to a container system, and they have cut down the shipments to a small number of distributors around the country. They use security guards to deliver them to the airport and, of course, they are met at their destination by people there.

So, we feel that this has had a very salutary effect. Now, instead of about a thousand, the reports of about a thousand firearms a month being received by AFT, it is now about three hundred a month, and we do not want to get complacent. We are constantly going around again, working with the carriers, making sure this is not just a factor of their not reporting, that this actually represents a decrease in thefts, and should we receive that during the committee hearings, we will certainly forward it.

Mr. CONYERS. Well, that is the point that I would like to raise with you now. The project on interstate firearms thefts suggests that we do not have any real way now of knowing who is producing the guns, and where they are going, and including the ones that are stolen out of production, and this is about the only way we have of getting a line on that particular subject matter.

Mr. DAVIS. Yes, sir. And, I might point out to the committee that this is a voluntary action on the part of the carrier. For comparison, under title XI of the Organized Crime Control Act of 1970, which involves the regulation of explosives, there is a provision of the law that the loss or theft of explosives must be reported to the local police and ATF within 24 hours of discovery.

Mr. CONYERS. And we do not have any comparable legislation in terms of firearms?

Mr. DAVIS. No, sir.

Mr. CONYERS. This whole question on these guns, these machines, if you will, which are causing such indiscriminate death, our legislation and our best efforts notwithstanding, at this point we do not really know how many guns are being produced, where they are going, how many are being stolen, except through your voluntary project here, which only gives us literally the tip of the iceberg, correct?

Mr. DAVIS. Yes, sir. And, I might point out, however, that the carriers and the trade associations have been very cooperative, but that there is a tendency for a program to sort of become stale after a period of time. We hope that is not the case here, and we are recontacting these people, and we want to make sure whether the drop in reported thefts from interstate commerce is truly representative of a decrease, rather than maybe some apathy on the reporting.

Mr. CONYERS. Are you going to be able to finish your presentation this morning, or do you think it will run a little bit over?

Mr. DAVIS. I think, yes, sir, I think it will probably run a little bit over.

Mr. CONYERS. Well, go right ahead.

Mr. DAVIS. Mr. Corbin, I think has made a valid point. We think a much higher percentage of stolen guns will ultimately be used in crime by the nature of their untraceability and so forth, so we are very concerned about stolen guns.

Mr. DANIELSON. Mr. Chairman, I would like to assure you that I think it almost necessarily follows that the guy that stole it is a thief in the first place.

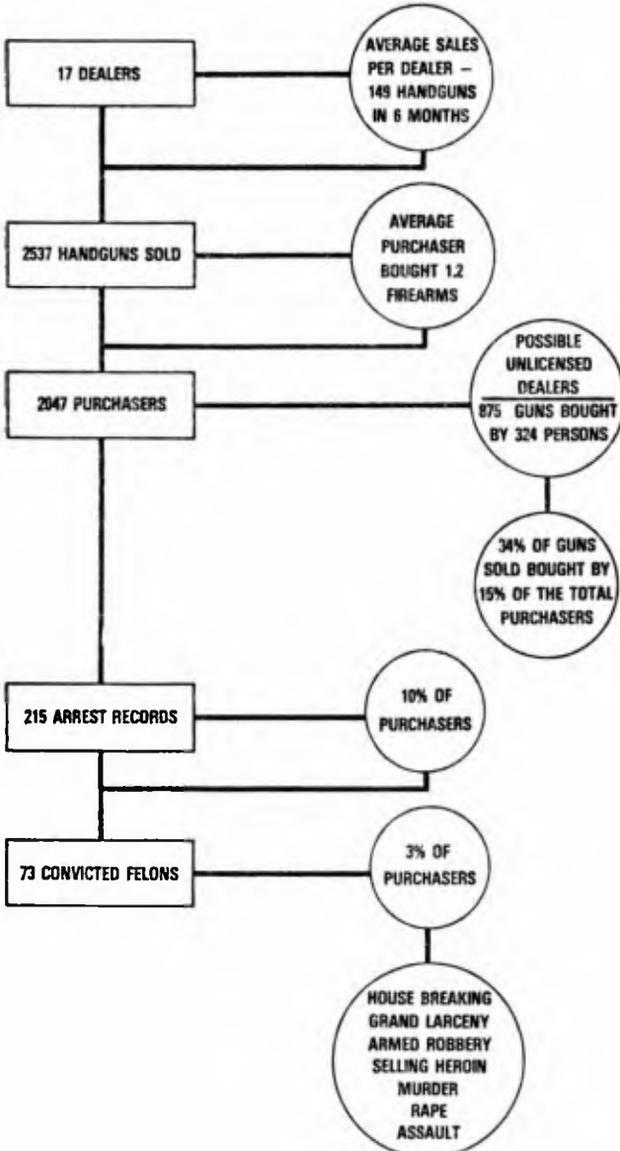
Mr. CONYERS. The crime is sure to follow.

Mr. DANIELSON. I just do not see how you can miss on that one.

Mr. DAVIS. We like to win some of them.

GREENVILLE PROJECT

(SURVEY OF HANDGUN SALES BY LICENSED DEALERS IN GREENVILLE, S.C. (5/1/74 - 10/31/74))



Well, this next one, I think, again will be of interest to the committee. Again, this is a special project that we call Greenville project. And what we wanted to do here, because of some indications we had under Project I that the Greenville area was a substantial source of weapons, particularly used in New York City crime, we went in to make a survey and to find out exactly who was buying these particular guns.

I might say that Greenville has a population of about 240,000 people in Greenville County, and this is from the Census and Greenville County has a total of 144 licensed dealers who sell handguns. These dealers sell about 8,000 handguns annually, and about 6,500 of these being sold by 12 dealers, including 2 pawnshops, and the sales take place just in or outside the city of Greenville, S.C., which has no law requiring handgun purchasers to obtain a permit, nor police records to check on handgun purchasers.

So, what our purpose here was in going to the area of this kind was to find out how many felons were purchasing guns in violation of the Gun Control Act of 1968, either by providing false identification or falsely signing the firearms transaction record, 4473.

Now, in November of 1974, we had our agents go into 17 licensed locations in and around Greenville. We took a 6-month period, May 1 through October 31, 1974, and found that these 17 licensees had sold a total of 2,537 handguns to 2,047 individual purchasers. And the Federal Bureau of Investigation had agreed to give a name check to all of the purchasers identified here to find out if they had criminal records.

Now, what we found out, and, of course, now we are dealing with the names of 2,047 purchasers that were submitted to the FBI, we found out that 215 had arrest records in the FBI files or approximately 10 percent of the purchasers. Now, the mere fact that they had an arrest record, of course, with the FBI does not mean they had been convicted of felonies, and, therefore, were proscribed from purchasing.

Now, we have found of that 215 that 94 of the purchasers did have felony records, and this was somewhere in the neighborhood of about 5 percent of those who purchased who were proscribed under Federal law.

I might point out, too, that a point that I am going to cover either today or later in the presentation is that there were multiple sales of handguns here.

And the next step that we did was of the 94 people with felony records; we reviewed the files to determine which of those were prosecutable under Federal law. In other words, some of them had felonies that had been committed so far in the past, and some of them were not properly represented by counsel or for other reasons, working with the United States Attorneys Office, so we felt that they did not warrant Federal prosecution.

To make a long story short, we will prosecute about 24 of those persons who unlawfully purchased handguns in this particular area.

I might point out, also, that in order to validate the sample, and I suspect I should not mention it for the record, but I do not know what difference it would make, we are going to a midwestern city of a similar size to also determine what it would look like there under the same kind of a study, so that we will not have just concentrated on one particular city.

The one thing I did want to mention, of course, one thing, the reason is to maybe lay some groundwork for a little later in the presentation, we did find that in the case of 324 purchases that the purchaser purchased more than one handgun. Now, I might add that some of these were from different dealers, some from the same dealer and so forth. But, immediately, you know, you start to question an individual who buys more than one handgun. And if my recollection is correct, it went up to as high as 30 handguns purchased by an individual. And, of course—

Mr. ASHBROOK. At that point, why do you question somebody who wants to purchase more than one handgun? Is that a test or subjective?

Mr. DAVIS. Well, yes. We feel, you know, that the ordinary individual really does not need 30 handguns and it is an indication that he is probably reselling them in violation of Federal law.

Mr. ASHBROOK. You mean, if I were to buy two handguns that you are going to assume that I am selling handguns?

Mr. DAVIS. Well, sir, right at the present time, we would not. We are undertaking what we call a multiple handgun sale purchase stand. We recognize the fact that there are certainly perfectly legitimate reasons why an individual might want two handguns, say one for him and one for his son, or where the head of a security agency might want to buy five handguns to outfit security guards that he has just put on the payroll. At the same time, we know there are many instances where a person buys quantities of handguns and many times they are up in the hundreds, merely for the purpose of going out and reselling them in violation of Federal law, without determining whether the individual is a felon or otherwise proscribed, or whether he is even a resident of the same State, and again, I am sort of anticipating a point further on in the presentation. But in other words, we will look at it as a warning flag, so that a dealer should have to report the sale of a handgun, more than one gun to the same individual at the same time, or during 5 business days.

Now, obviously, if an ATF agent checks that, and finds out that you are the head of a security agency, probably the inquiry would not go anywhere beyond that. Or if he found out that well, obviously, we are not going to be that concerned about the purchase of two handguns.

Mr. ASHBROOK. Could I ask you a question on that? Does it make any difference whether it is the same handgun or a different one? I mean, somebody buying two identical Colt .38 calibers, and maybe that would apply, but what if I buy a Colt .38 caliber and another type of gun? You mean if I buy two guns, somebody is going to come out and ask me questions about why I bought two guns?

Mr. DAVIS. No, sir. Not automatically.

Mr. ASHBROOK. But it will come to somebody's attention?

Mr. DAVIS. Yes, the dealer would report that to the local ATF office. Obviously, again, it would depend on the number of handguns and the type of handguns, and many other factors, on whether there would even be a sealed inquiry made. But, we have through our various investigations, including Project I, we have found out that it is a very common practice for people to buy a quantity of handguns, and then go out to the street and sell them without complying with Federal law. We feel that this is a loophole, you know.

Mr. ASHBROOK. Conversely, did you find it is a common practice for a number of people to buy two handguns just because they happen to want two handguns, like myself?

Mr. DAVIS. Well, yes. And, of course, we do not know how common that is. We can give you figures from the Greenville project to show multiple purchases, and I do not have them immediately available.

Mr. ASHBROOK. I do find it rather interesting that the inference is made almost automatically that there is something wrong.

Mr. DAVIS. Well, no, like here, you know there is no presumption of guilt. It merely means that this is something that maybe should be looked into, and, you know, if there is a legitimate reason for the purchase of the gun, why, certainly, there would be no, you know, no further action.

Mr. ASHBROOK. Well, assuming that I am a person that buys two handguns, and somebody comes out and questions me, do I have to answer?

Mr. DAVIS. No, not at all. What we would ordinarily do, you know, very frankly, would be very seldom that we are going to question somebody. But if you went in and bought further handguns, we could very well put you under surveillance, assuming that we checked out, you know—

Mr. ASHBROOK. Yes, sir, and you ought to do that, as a case example just to see what happens.

Mr. DAVIS. Like any investigator's lead, we would do the same thing if a dealer called us today, and he said, hey, you know, there is this fellow that has been coming in here, and has been, you know, buying 20 handguns at a time. We would put him under investigation. Now, it might turn out, as I say, that in checking him we might find that he is the head of a local security agency, and he has a very legitimate need for a number of hand guns, and we would drop it right there.

Mr. DANIELSON. Mr. Chairman, let me put in my observation. I think you would be remiss in your duties if you did not. I think the vast majority of gun owners are perfectly decent, law abiding American citizens like all of us try to be. But I do not think anybody who is legitimate, bona fide as a gun owner, a gun fan, would want some guy running around taking 30 .44 caliber magnums here, and 50 Police Specials there, and there is bound to be something crazy about that, and if there is a legitimate reason, they would probably be glad to tell you. Did you ever find a security agency that was unwilling to tell you why they brought 30 guns, for instance?

Mr. DAVIS. I am not sure that that specific situation has come up, but I am sure that they would not have any objection. Let me state, Mr. Ashbrook, that we are not trying to be, you know, devious about this. We are going to give every dealer a poster to put in his store, saying that I am required by Federal law to report to ATF the purchase of more than 1 handgun, under these conditions, and we would, you know, rather that he have a legitimate reason, which is fine, we would rather keep the guy from buying them so that we would not have to investigate him. You know, we would be very willing if the people did not intend to resell these in violation of Federal law, would just quit. But it takes a lot of manpower to follow up, so now, we are not trying to be devious or anything of that

kind. We certainly intend that the purchaser realizes this and we hope that it will be only the person who has a legitimate reason for buying them that will do so.

Mr. CONYERS. Your objective is to accomplish deterrents set for those who may have, in fact, unscrupulous purposes as opposed to legitimate purchasers of multiple handguns, who would still have no hesitation to go ahead and buy them, because he knows that he is in no way acting potentially illegally?

Mr. DAVIS. Yes, sir. I think that is it exactly.

Mr. CONYERS. Well, we are nearly out of time, and we are going to stop at noon. But counsel, Mr. Barboza, has told me he has two questions that are connected with our Chicago hearings that he would like to pose before we leave here today.

Mr. BARBOZA. Mr. Director, with respect to licensed dealers in the city of Chicago, after the staff reviewed the January 15 printout that your office provided us with of licensed dealers in the midwestern region, we found that there were 180 licensed firearm dealers in the city of Chicago proper. However, during a visit to the city of Chicago's Gun Registration Office, we found that they have listed a total of 31 dealers, of both long guns and handguns, and of those 31, six of them possessed dangerous weapons licenses which are in order to sell a handgun in the city of Chicago. You must purchase a dangerous weapon license for \$200. Now, Mr. Director, required we have no way of knowing how many of these 180 dealers in the city actually are selling handguns, but in issuing licenses would you not first check to determine whether or not an individual has the proper city licenses before issuing a Federal license?

Mr. DAVIS. No, sir. The determination has been made, and I will let Mr. Dessler respond to this further, that the issuance of a Federal firearms license is not dependent upon compliance with the State and local laws, so that even if a person who is allegedly carrying on a firearms business in an area zoned residential, and if it is a noncommercial zoned area, perhaps Mr. Dessler could explain this point to you.

Mr. DESSLER. Yes. The standards for licensing that are in 923 do not leave that discretion with the Secretary on whether to issue or not to issue the license. It is based upon a qualification under State or local law.

Mr. BARBOZA. Well, Mr. Dessler, section 922 of the act, 922(b)(2) states that:

Any firearm or ammunition to any person in any state where the purchase or possession by such person of such firearm or ammunition would be in violation of any state law or any published ordinance applicable at the place of sale, delivery or other induced position, unless the licensor knows or has reason to believe that the purchase or possession would not be in violation of such state law or such published ordinance,

... and it goes on.

Mr. DESSLER. That is correct.

Mr. BARBOZA. Is that not a means of insuring that the States' laws and local laws are upheld?

Mr. DESSLER. Yes. With respect to the purchase of firearms. In other words, the license to the dealer is prohibiting him from selling a firearm to an individual where the purchase or possession by that pur-

chaser would be in violation of State law. But that does not go to the qualification of the licensee to be licensed under Federal law.

Mr. BARBOZA. Even though you know by his business that he will actually engage in selling handguns?

Mr. DESSLER. That is correct.

Mr. DAVIS. If I might expand on that, as you are well aware, we provide to each licensed dealer a publication which lists therein all of the laws relating to the conduct of his business in every locality in the United States where they have laws. And this, of course, is used by him to determine whether a sale would be in violation of State or local law.

On the other hand, and I have been just informed by Mr. Higgins, who was formerly the regional director in the midwestern region that we have provided a list on all 180 Federal licensees to the city of Chicago. If I can surmise what has happened, to you, as we have indicated to the committee earlier, that probably 100 or more of these really are not engaged in the business of selling firearms.

Mr. DAVIS. We met one who testified.

So I think this is the big distinction. If this city of Chicago goes to a person who has received a Federal license, and under our qualifications, we determine that, in fact, he is not really not engaged in the business, in terms of their law, well, of course, they would, I assume, discount the thing, and move on to the ones that are actually actively engaged.

Mr. CONYERS. Mr. Ashbrook has a final question.

Mr. ASHBROOK. Mr. Davis, on the understanding that you are coming back the next time, instead of throwing something at you cold, when you come back, I wonder if it would be possible for your people to get information generally on the area of administration. Let me say, at the outset, that I recognize that as a matter of policy you are not going to comment on whether you favor legislation, but I am sure you must consider the aspects of implementing legislation, that this Congress might enact, someone, on the assumption you are going to the office of the Appropriations Subcommittee, if Congress were to enact mandatory legislation, could you give us, or gather some information, because I would like to ask a question regarding that legislation as it relates to personnel and costs. And secondly, if you can project it, what the administration and cost aspect might be if we were to confiscate or require the turning in of handguns, I would like to generally ask some questions next time on the administration.

Mr. DAVIS. Yes, sir. We will be happy to. And I might say fortuitously, some months ago, I appointed a committee within the Bureau to examine all aspects of cost and administration of all alternatives of gun control.

Mr. ASHBROOK. Fine.

Mr. DANIELSON. I would like to thank our colleague, Mr. Ashbrook, for bringing up that subject, and I certainly join in it. I will wish to inform the chairman now that if we should pass a gun control law sometime, I will seek at least to have it contain a provision as to authorization, because I feel the ATF should come back here periodically for authorization in order that we are bound to exercise effective oversight.

Mr. CONYERS. Well, that is a point that you have raised on other legislation.

Mr. DANIELSON. Right.

Mr. CONYERS. We in Judiciary are grateful to you. And I might say, commenting on my colleague of an Ohio observation, that you were not appropriately charged with the responsibility of commenting on legislative proposals. It makes it very important that we do ask the Secretary of the Treasury to join us before these proceedings are concluded, so that we may engage in that aspect of our deliberation.

Once again, we are very grateful to you, Director Davis, and your numerous associates for joining us in a very meaningful hearing. The subcommittee stands in adjournment at this point.

[At 12:05 p.m., the hearing was recessed, subject to the call of the Chair.]

ADDITIONAL STATEMENTS

STATEMENTS FOR THE RECORD SUBMITTED IN FEBRUARY

STATEMENT OF HON. FRANK ANNUNZIO, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF ILLINOIS

Mr. Chairman: I very much appreciate the opportunity to address the Committee regarding the matter of gun control, and the need to implement forceful legislation to control guns.

For too long, the emotional aspects of this issue have clouded over and delayed action on possible solutions, solutions that could have saved the lives of thousands of our citizens.

Our American attachment to the gun began when the first settlers disembarked on the shores of a strange new land. There was a wilderness to be tamed, and the gun became a symbol of survival. Firearms were necessary to kill game for food, to ward off predators, and to help protect the traveler from bandits. The gun enforced primitive justice on our new frontiers and was an essential instrument of combat against the Indian. In our first years the armed citizen-soldier was the country's first line of defense. It has been said that the Kentucky long rifle opened the frontier, the Winchester repeater won the West, and the Colt revolver made men equal.

So it has been said. But times have changed. The gun is no longer used as an instrument of bare survival. It is used to commit crime. It is used to kill, maim, rob, and assault our defenseless people.

We are all numb at reading the daily horrors in our newspapers that are committed by criminals armed with guns. The fear of violence may well be a reason so many more handguns are being purchased by individuals. But violence breeds violence. A 1973 study found that a fireman bought to protect a family is six times more likely to be used to kill a family member or friend.

No one even knows how many firearms there presently are in the United States but estimates are upwards of ninety million. And these firearms were responsible for 11,249 deaths in 1973, which represent almost two-thirds of the murders committed that year.

The United States is the only Western nation with no strict national handgun controls. Our homicide rate is over 50 times greater than that of Great Britain, and many times that of France, Denmark, and other Western countries.

The National Commission on the Causes and Prevention of Violence concluded way back in 1969, "We find that firearms, particularly handguns, play a major role in the commission of homicide, aggravated assault, and armed robbery, and that they are being used in greater percentages of these violent crimes." All the Commissions since, that have investigated the origins and manifestation of crime, have reported duplicate findings. How much longer is it going to take us to act to protect our citizens?

I think the time to act is now. I have sponsored H.R. 3194, "The Handgun Crime Control Act of 1975." This legislation would prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials and, where authorized, licensed importers, manufacturers, dealers, and pistol clubs. This legislation would provide for the establishment of a system whereby all citizens would be prohibited from buying, or otherwise obtaining a handgun not in their possession upon enactment of this bill.

It has been found that, with few exceptions, handguns are not used for sporting or recreational purposes, but H.R. 3194 does provide for pistol clubs and the leisure uses of pistols.

This legislation specifically addresses itself to the sale and use of both new and used handguns. This is particularly important in view of the fact that a substantial number of the handguns used in crime are acquired secondhand. I have long heard the emotional pleas of the riflemen and hunters, and this bill specifically excludes long guns and rifles. I assure you this is not the beginning of a nationwide rifle hunt. I feel the time for passage of handgun legislation is long overdue.

I have an abiding faith in our nation and our people, and I understand the tradition upon which our great country was founded.

In no way will passage of the Handgun Crime Control Act of 1975 negate our historic heritage or dismiss the foundations of freedom which we hold so dear. It is for our protection, to get the guns out of the hands of the criminals who are robbing our fellow citizens of their lives and possessions. I urge speedy passage of this legislation. How many more innocent victims' lives will have to be snuffed out because of criminal or careless use of handguns?

Mr. Chairman, at this point I would like to include in the official record of the hearings an editorial entitled, "Guns and the Rule of Law" which appeared in the February 15, 1975 edition of the Washington Post. The editorial follows:

[From The Washington Post, Saturday, Feb. 15, 1975]

GUNS AND THE RULE OF LAW

Every year, the owners of about 100 million motor vehicles in the United States go to one of the hundreds of motor vehicles bureaus in each of the 50 states and register their vehicles or renew their permits to operate those vehicles. No one finds anything extraordinary about that; it is done as a matter of course and with virtually no protest. No congressman feels compelled to inveigh against the automobile registration laws, no senator considers it essential to his political survival to oppose them. We all take it as a matter of course that we must regulate the widespread use of machinery as potentially dangerous as the automobile, and that we must have a way of keeping track of those who use them in the event of their misuse.

By coincidence, Americans are estimated to own about as many firearms as they do automobiles—100 million or close to two for each household. And unlike the automobile, whose essential purpose is transportation, guns are an essentially single-purpose commodity: they kill. Yet, we can regulate automobiles with relative ease, while regulating the gun is one of the most enduring political difficulties in our society. In part, the reason is that the gun is enshrined in our historical mystique. It is also the subject of an intense lobbying campaign based on a misguided interpretation of the Constitution. Whatever the reason, effective gun control has eluded our society while the tragedies proceeding from the proliferation of guns, especially in urban America, mount daily:

Dennis Banks, a good Samaritan, goes to the aid of a bus driver in Washington and is shot in the chest and dies; a public-spirited New Yorker goes to the assistance of an embattled police officer and loses his life, leaving six children orphans. Each day's news brings another grim reminder that the gun, especially the handgun, has no place in a crowded urban society.

As with illegal drugs, there is a tendency in the gun control debate to focus on the streets, where the worst of what guns can do is plainly seen. Thus, several cities have tried to buy guns from citizens, and without much effect on crime. The problem then is compounded because frustrated citizens see their tax dollars going to buy guns and yet they see no reduction in crime.

The weakness in the street approach is that as fast as the police in a city buy guns, more guns are poured into the market from various illegal channels. That is why this approach is as inadequate as trying to stop the drug traffic by picking up petty dealers and users.

If this Congress wishes to make the first serious dent in the gun market, it must begin with a careful study of the structure of that market. It must seek through hearings to discover where the great bulk of illegal guns comes from, how the guns reach the streets and who profits at each stage of that process. Several years ago, New York City which has the oldest and strictest gun control law in the country, did a study of the origin of those guns which were involved in several serious crimes. The study concluded that there is a network of underworld gun running, frequently originating in the South, that was responsible for pouring thousands of guns onto New York's streets. Congress must find out

how that system works, and how those illegal guns get into that network. Very little is known, for example, about the percentages of guns "lost" in the process of manufacture by reputable firms. Here again we find shades of the drug problem where, for example, amphetamines are legally manufactured and then "lost" in Mexico, only to reappear illegally on the streets and campuses.

STATEMENT OF HON. JAMES C. CLEVELAND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW HAMPSHIRE

Mr. Chairman, over the years, I have opposed Federal gun control laws because of my feeling that they will not prove effective in reducing the crime rate. Emphasis must be focused not on controlling firearms, but on punishing those who use them irresponsibly. One of the dangers of Federal legislation to control guns is that it could interfere with the rights of legitimate gun dealers, hobbyists, and sportsmen to keep and bear arms.

In my votes on legislation dealing with guns, I have supported regulation only when it served to stiffen penalties for those who misuse firearms or which was designed to keep these weapons away from individuals who are clear dangers to society (such as convicted felons). I have strongly opposed any Federal licensing or registration of guns, feeling that this is a matter best left to individual states and not an area where another Federal bureaucracy of dubious value should be created.

I do feel, however, that the limited uses of and the dangers presented by small handguns such as the so-called "Saturday night special" place these weapons in a distinct category. I support the Subcommittee's efforts to obtain all available facts and look forward to learning the results of your investigation.

STATEMENT OF HON. WILLIAM L. DICKINSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. Chairman, I appreciate the opportunity to submit a statement for the hearing record of the House Judiciary Subcommittee on Crime concerning gun control.

Gun control is an emotional issue. On the one hand it is hailed as the answer to the rising crime problem while on the other hand it is decried as the beginning of the end of our personal freedoms guaranteed by the Constitution. I am certain that it does not fit into the first category, and I can only hope that it does not fit into the second.

Statistics are often cited to show that the largest percentage of homicides as well as other crimes (such as armed robbery) is committed with handguns. The obvious conclusion to be gathered from such a statistic is that by strictly controlling guns, murders will sharply decline as will all "gun crimes." As pointed out in a recent article in Rifle Magazine, "[this] isn't necessarily true, but in any event, it's like saying that there are fewer truck accidents on roads where trucks are prohibited."

The fact that such a conclusion does not necessarily follow is put into perspective by Dr. Marvin Wolfgang who has done what I understand is the definitive work on "Patterns of Criminal Homicide." In his four-year study of Philadelphia criminal homicides, he concluded:

[M]any situations, events, and personalities that converge in a particular way that result in homicide do not depend upon the presence or absence of firearms. While it may be true both that the homicide rate is lower in Europe and that fewer homicides abroad involve use of firearms, it does not necessarily follow that the relatively high homicide rate in this country is merely due to greater accessibility of such weapons."

Evidently the Federal Bureau of Investigation agrees with Dr. Wolfgang's conclusion. In the Introduction to the Uniform Crime Reports published by the FBI, there is a section entitled "Crime Factors." In this section, factors contributing to crime are given with the admonition that "many factors . . . must be considered in a comparative study of crime." In the long list of factors are such diverse elements as population, economic status, climate and effective strength of the police force. The availability or lack of availability of guns does not appear because it is not considered to have an effect on actual commission of crime.

In a 1973 Chicago newspaper article, some interesting statistics along these lines were cited, and I believe they strengthen the argument that gun control or its absence does not affect crime commission.

[T]he state of Hawaii requires registration of all firearms. Yet it experienced a whopping 50 percent increase in homicides in 1971 against 1970, last year for which full comparative figures are available.

Similarly, New York state, which long has boasted of its Sullivan antigun law, experienced a hefty 26 per cent increase in homicides, for the same 1970-71 period.

On the other hand, such bastions of antigun law laxity as South Dakota, Oregon, Idaho, Arizona and Utah all registered sharp decreases in homicides in 1970-71.

South Dakota had a remarkable 63 percent decrease in homicides. Homicides in Oregon were down 27 per cent. Idaho had a 27 per cent decrease. Arizona was down 26 per cent, and Utah was down 16 per cent.

In Chicago, the situation has been somewhat analogous. In 1965, when Chicago had no gun registration law, there were 393 murders in the city.

In 1971, when every Chicagoan by law for three years had been required to register his firearms, Chicago had 824 murders—more than twice as many.

Of course, the rebuttal to such statistics is that we need stricter laws, but such a rebuttal cannot explain why the states with so-called "weak gun laws" have substantially lower crime rates than those with strong laws.

Another argument used to justify strict gun controls is the fact that such countries as England and Japan have stiff gun laws and low crime rates. Inspector Colin Greenwood, a superintendent with the West Yorkshire Constabulary in England, offers some interesting remarks on the effect of gun control on crime in England:

Before 1920, when for all practical purposes there were no restrictions on firearms of any kind, their use in serious crime was but a small fraction of today's figures. In 1920, strict controls were put on pistols, and the policy on the private ownership of pistols has been progressively tightened since.

For many years, these controls ran hand in hand with a low rate of crime. It was thought that the two were cause and effect. Then the crime rate soared. Somehow or other, despite all the controls, criminals were using pistols more and more often.

In relation to Japan, a Rifle Magazine editorial sets forth statistics that show that "[a]lthough few murders are committed in Japan, even fewer are committed in the U.S. by Japanese-Americans." The article noted that according to FBI arrest figures by race "the 1973 rate of arrest for murder among identified groups is lowest for Japanese." Other figures indicated "the murder arrest rate for Chinese-Americans is 4.1 per 100,000 residents; for American Indians, 14.9; for Negroes, 33.1; and for Whites and 'others,' 2.9."

The purpose of citing such statistics in relation to the gun control arguments which use the experience of foreign countries as an example of success is evident in the following:

Obviously, if such wide discrepancies exist among sub-cultures within the U.S.—all groups equally exposed to the availability of guns—then it's ridiculous to attempt to compare U.S. laws and crime rates to foreign cultures.

The Supreme Court in 1939 ruled that the Second Amendment to the Constitution does not protect the right of private individuals to keep and bear firearms, and that is the current official position of the Federal Government. However, George Mason, who was largely responsible for the "Bill of Rights" to the U.S. Constitution, including the Second Amendment, stated during a debate in Richmond on June 16, 1788: "I ask who are the militia? They consist now of the whole people, except a few public officials." It is clear from these words that he did not mean the Second Amendment to restrict the right to bear arms to a select few, and it is our duty to see that his intentions are not twisted.

The blame for crime cannot be laid to availability of guns; it must be placed squarely on the shoulders of those who commit the crimes and on the attitudes of society which permit an atmosphere of violence, irresponsibility and lawlessness to prevail. Gun control is not the right treatment for the problem. As stated by Colin Greenwood:

The real problem lies in the increasing willingness of criminals to use a high degree of violence. The use of firearms is simply a relatively constant part of this. In other words, the use of firearms is a symptom and not a disease. No physician should seek to cure a disease simply by treating one symptom, and failing to treat the disease itself. A skin lotion will not cure smallpox.

To usurp the rights of law-abiding citizens in order to bring pressure to bear on law-breakers would be wrong in itself, but to do this with absolutely no reason to believe that the action would have a meaningful effect on crime would be ridiculous. Furthermore, to expect those who break laws already in existence to abide by new gun control laws is blind stupidity. If we are going to do anything about the use of firearms in the commission of a crime, let it be to increase penalties for those found guilty of such a violation rather than to punish the innocent even further.

Thank you, Mr. Chairman.

STATEMENT OF HON. MARJORIE S. HOLT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. Chairman, the issue of gun control has been with us for many years, and I am sorry to say it will be with us for many more years. It will continue to hound us so long as a certain element of the population believes that some instruments of violent crime are the source of violent crime.

That assumption, of course, is purest nonsense. The predators who prowl the cities and increasingly invade our countryside are not motivated to their crimes by the availability of guns. If they did not have guns, these same predators would use knives, baseball bats, spears, possibly even crossbows.

However, the plain fact is that guns will always be available to the criminal class of our society. There is no way to legislate them away. To make handguns illegal would have the effect of producing the most prosperous black market this country has seen since prohibition.

Gun control is terminology normally associated with government confiscation of handguns, which would require a great amount of cooperation from the citizenry. I have no doubt that a majority of citizens would obey the law, although many would have grave qualms about surrendering weapons they had purchased to protect their homes and families against marauders.

Meanwhile, I defy any advocate of gun control legislation to tell me how guns would be removed from the criminal class, from the outlaws who practice crimes such as rape and robbery. They would obtain the guns they need for their endeavors. Does anyone dare argue that the citizens do not need protection? In the five year period from 1968 through 1973, the rate of violent crime in the United States increased by more than forty percent. In 1974, the pace accelerated.

For very sound reasons, the people do not believe that our system of criminal justice offers them sufficient protection. There are literally millions of Americans who believe that possession of guns is a critical need for their own protection. To remove guns from decent citizens would not solve the problem of violent crime, and it would probably make those citizens more vulnerable to become victims of violent crime.

The former Attorney General, William B. Saxbe, recently offered us the only reasonable advice on how to reduce the rate of violent crime. He said that hardened criminals must be identified and removed from society to places of secure confinement for very long terms. This would require considerable reform of the court and parole systems, which use the prisons as revolving doors through which criminals are passed. It would require the construction of more prisons.

To give you an excellent example of the ineffectiveness of gun controls, I would refer you to the gun bounties offered by the Baltimore Police Department beginning last year. Some 14,000 guns were collected at a cost of approximately \$700,000 in an hysterical campaign.

The violent crime rate has not declined. It has increased. The message is that the predators did not surrender their guns, but were probably delighted that their victims were voluntarily disarming themselves.

For several years, Maryland has had a tough handgun control act on its lawbooks. It bans carrying handguns except for special and controlled circumstances for which licenses are issued. This law has had no noticeable impact on the crime rate, which continues racing upward.

Mr. Chairman, as long as government cannot assure the protection of citizens, I would urge this Committee to reject any legislation which would disarm them and make them more vulnerable to the predators.

STATEMENT OF HON. WRIGHT PATMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. PATMAN. Mr. Chairman, I appreciate this opportunity to comment briefly on the various firearms measures that have been introduced for House consideration during the 94th Congress.

The First Congress of the United States moved quickly, in 1789, to propose a series of Constitutional Amendments, as suggested by several states, to be our Bill of Rights. The fourth among the twelve Amendments proposed by the First Congress reads as follows: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." Subsequently ratified as the Second Amendment to our Constitution, this wording, while somewhat convoluted, makes clear that Americans have a Constitutional right to own firearms.

Consider, for example, that the comments of the state conventions which ratified the Constitution and recommended a firearms provision all made clear that there was to be a right to keep and bear arms. The New Hampshire Convention, in its June 21, 1788 ratification message, recommended an amendment to read as follows: "Congress shall never disarm any Citizen unless such as are or have been in Actual Rebellion."

On June 27, 1788, the Virginia Convention suggested an amendment as follows: "That the people have a right to keep and bear arms; that a well regulated Militia composed of the body of the people trained to arms is the proper, natural and safe defence of a free State." The New York Convention, on June 21, 1788, recommended the following wording: "That the People have a right to keep and bear Arms; that a well regulated Militia, including the body of the people capable of bearing Arms, is the proper, natural and safe defence of a free State." [Emphasis in original.] North Carolina, on August 1, 1788, suggested wording identical to the Virginia proposal; and Rhode Island on May 29, 1790—after the Constitution had been ratified by the requisite nine states—suggested the New York wording. Again, all make clear that the people have a right to keep and bear arms—a right independent of militia purposes.

While some form of regulation by the Congress may be Constitutionally permissible, I believe that any outright ban on firearms ownership can be accomplished only by Constitutional amendment. I submit, therefore, that the measures pending before this Committee purporting to prohibit handguns are unconstitutional on their face.

There are other bases for my opinion that confiscation proposals as well as licensing and registration measures are ill conceived. What kind of sense does it make to establish a national confiscation, licensing or registration program that would cost hundreds of millions of dollars to administer and inconvenience tens of millions of law-abiding American citizens when we have not made a really vigorous and concerted effort to attack the root of the problem—the use of firearms in the commission of felonies?

We have not established a sufficient differential between punishment for crimes involving firearms compared to crimes without firearms. We have not focused law enforcement efforts on investigation of crimes involving firearms although such violent felonies clearly deserve priority in police investigation. We have not provided for a sufficient differential between bail requirements for individuals arrested for felonies with firearms as compared to crimes without firearms. We have not encouraged prosecutors to seek maximum sentences for felons convicted of crime at gunpoint, we have not reduced discretion of judges in sentencing such dangerous offenders, and we have not restricted the discretion of parole boards in releasing these violent individuals from prison.

Mr. Chairman, the majority of crimes carried out at gunpoint are perpetrated by a handful of dangerous criminals—recidivists who, even when apprehended, are soon back on the streets to repeat their offenses. We should concentrate our efforts on these felons before enacting some burdensome and costly national firearms control system. This is particularly true since we have no solid evidence that a licensing or registration program would really deprive criminals of firearms. Due to the tremendous number of firearms already present in the United States, it is foolish to think that national licensing, registration or even confiscation could significantly reduce the frequency of crime committed at gunpoint. These restrictive schemes are, in my opinion, mere shams—and very expensive and burdensome ones destructive of traditional rights of American citizenship.

Mr. Chairman, I strongly support the measures before the Committee that would increase penalties for crimes committed with firearms and believe that we should go even further to insure that such crimes are given priority in police investigation, that bail requirements are tightened for such offenses, that maximum sentences are imposed and that parole of these dangerous offenders is stopped.

Further, I favor proposals to prohibit the so-called "Saturday night specials"—shoddily manufactured handguns that are of no value to anyone but criminals. Any weapon that is inaccurate beyond a few feet from the muzzle has no sporting or target use. In fact, it is questionable to me that such devices should even be called "firearms." Of course, the definition of "Saturday night specials" should be drawn so as to exclude legitimate handguns.

In addition, I favor the proposals to clarify the Consumer Product Safety Commission's total lack of jurisdiction to consider a haul of firearms or firearms ammunition. It is amazing to me that any Federal Court could conclude from the laws establishing the Commission that it has authority to ban handgun ammunition, but such a ruling has been handed down by the U.S. District Court for the District of Columbia and the Congress should quickly reverse this bizarre holding.

As for the various confiscation, registration and licensing proposals, I am unalterably opposed to such measures for reasons previously discussed and hope this Subcommittee will firmly reject such costly and burdensome measures. Let us, instead, launch an all-out attack, in cooperation with state and local governments, to get armed criminals off the streets and to deter others from using firearms in the commission of crime.

Thank you again, Mr. Chairman, for this opportunity to testify.

STATEMENT OF HON. JAMES H. QUILLEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. Chairman, on January 23, 1975, I introduced legislation to repeal the Gun Control Act of 1968. This bill—H.R. 1970—was referred to the Committee on the Judiciary and should be before your committee at this time.

Gun control is by no means a new issue, although it seems that every time an important or national figure is killed by a gun, the shouts for gun control become louder. Actually though, the first gun control laws were passed long before we were a nation. The earliest law relating to firearms in the American colonies was enacted in Massachusetts in 1692; it forbade carrying "offensive" weapons in public places. When the Bill of Rights was ratified in 1792, over a hundred years later, our Founding Fathers included the all-important Second Amendment for a reason; they were guaranteeing the specific right of our citizens to bear arms. *They* had had some time to think about the issue.

Our citizens today have a right to possess guns to protect themselves and their families and homes against the growing scourge of crime.

Yet some of our people feel that the solution to crime lies in gun control. To fight crime, they would strictly limit the right of our ordinary citizens to acquire or keep a gun. In order, so they say, to reduce the chance it might fall into the hands of assassins, ordinary criminals or other irresponsible persons.

I feel more gun control would serve to undermine the freedoms of our citizens. As it is, there are those who say that there are presently more guns than people in our United States. And who would give up these guns, law abiding people or hardened criminals who may have procured them illegally to start with? Who would be inconvenienced and lose respect for the law? Not the criminal—he lost his long ago.

I believe the potential value of gun control is simply not worth the cost. According to a 1971 Wall Street Journal editorial:

"The danger here is that effective gun control might come at too high a price, not so much in money as in liberty and privacy. It's like prohibition; to have really enforced that law you would practically have had to create a police state. Similarly, in the absence of draconian measures applied against the whole populace it is all too probable that the possession and use of guns would be little diminished."

Moreover, we would not want to victimize those among us who use and enjoy firearms for very legitimate reasons. The shooting sportsman does not contribute to crime, he helps fight it. The development of healthy outdoor interests has been the salvation of tens of thousands of youngsters in our troubled society. Yet

oppressive gun regulation requirements would harass sportsmen and lower the level of national marksmanship skills.

Perhaps more fundamental to understand is the fact that the gun is not the criminal. If it is the wave of crime we are worried about, gun control is not going to solve that for us. We have to go to the source of the problem—the criminals—and enforce existing laws, rather than add laws which would withhold from responsible Americans the right to own guns.

I urge the committee to consider my views. I believe we should direct our efforts elsewhere to stop the wave of crime that frightens our people. To solve a problem you must get to the source of it, and gun control is not the ultimate answer.

STATEMENT OF HON. ADLAI E. STEVENSON, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Mr. Chairman and Members of the Subcommittee: I thank you for the invitation to testify, and congratulate you on the Subcommittee's initiative in holding these hearings on the gun control issue. I firmly believe that action is required on this issue at the Federal level.

This year marks the second decade of my legislative involvement in the gun control issue. I began that involvement in 1965 as a member of the Illinois House of Representatives.

In those ten years not much has changed, except the horrendous statistics on gun violence.

In 1965, the Uniform Crime Reports published by the FBI noted a total of 9,850 murders; in 1974, the same publication noted a total of 19,510 murders—a virtual doubling over 1965—and the 1974 figures, to be published in a few weeks, will undoubtedly show the murder figure at over 20,000.

In 1965, Detroit—your home city, Mr. Chairman—experienced 140 homicides; by 1974 this figure had multiplied by nearly six times, to 801 homicides.

The chief villain in this grisly pageant of crime and death in America is the handgun; the pistol—too easily obtained, too easily concealed, too easily used to coerce, maim, and kill.

To take your city as an example again, Mr. Chairman, in 1965, 55 of the 140 homicides—or 39 percent—involved guns. In 1974, 440 of the 801 homicides—55 percent—involved handguns. The figures are similar for the major metropolitan area I represent, Chicago. And whereas less than 50 percent of the murders committed nationwide in 1965 were committed with handguns, that figure is now approaching 54 percent.

Also, in the first four years of the decade of the 1960's, an average of 600,000 handguns were manufactured yearly for the U.S. market. In 1965, 666,000 handguns were manufactured domestically. By 1973 that figure had risen to an estimated 2.5 million handguns. There were an estimated 30 million handguns in circulation in the United States in 1965; that figure is now estimated at over 40 million.

Nationally, the crime gun is the handgun. In the words of the Eisenhower violence commission staff printed almost six years ago: "The handgun is the dominant firearm used in homicides. When firearms are involved in an assault and robbery . . . the handgun is almost invariably the weapon." It is the instrument of more crime now than then.

I respectfully suggest that the time has come for Congress to stand up to the gun lobby.

It is time to save lives.

It is time to stem the bloodshed.

It is time we took the crime guns, the handguns, away from those who are most likely to misuse them.

In the last Congress I introduced legislation to control the continuing spread of handgun violence. Unfortunately, that bill never saw the light of hearings in the Senate. But I believe that the time for effective handgun control is at hand, and in the near future I intend to reintroduce my legislation with minor modifications.

My bill, S. 708 in the last session, is virtually identical to H.R. 1685 recently introduced by Congressman Gude and one of the subjects of your hearings. It applies to handguns only—the chief instrument of crime and violence in America.

The bill requires every handgun to be registered and every handgun owner to obtain a Federal license. It would in no way interfere with state laws and regulations concerning gun licensing and ownership. It applies to working pistols only—not antiques or replicas.

The program would be administered by the Secretary of the Treasury. Those who have a collection of handguns would pay only one registration fee, and registration and licensing fees would be minimal. And, though the bill requires that sportsmen and target shooters obtain a license, it does not threaten their ownership of pistols.

The bill requires that a handgun owner be at least eighteen years of age; that he be free of alcoholism, drug addiction or mental disease.

It requires that licensee be free of any criminal conviction carrying more than one year's imprisonment; that he not be a fugitive from justice; and that he be qualified to own a gun under all applicable Federal, state and local laws.

To apply for a license, the individual would fill out a simple application form, sign a statement to the effect that he may lawfully possess handguns and handgun ammunition under the laws of the United States and of the state and political subdivision of his residence, and submit a set of his fingerprints and a photograph.

The bill does not ban or confiscate any handguns, except "Saturday night specials." The bill does contain a provision granting compensation to lawful owners of handguns who voluntarily relinquish them.

The bill sets up penalties for violators: imprisonment not to exceed five years; a fine of \$5,000; or both.

The bill is a workable and practical answer to the plague of handgun violence. It recognizes the legitimate uses for handguns, but it also recognizes that you don't shoot ducks with a snub-nosed .38.

To those who believe the slogan that criminals—not handguns—commit crimes, this can be said. Criminals cause crimes—and handguns are the principal instruments of the death and injury they cause. Other instruments of possible injury which have legitimate uses—cars, even dogs—are licensed. There is no such instrument more sinister than the lethal, concealable pistol. If a gun is not used in a crime, the chance of death is five times less. Any policeman knows that a suspect who must rely upon a knife, a bottle or his fists is not so bold as one armed with a gun.

There are those who point out that gun control laws in the past have been less than effective. They are right. Our present gun laws are a patchwork of more than 20,000 laws—some ancient, some unenforced or unenforceable, all too narrow and too inconsistent to be nationally effective. But this is an argument for, not against, effective national laws.

The evidence is strong that in cities—such as Boston and New York—where gun control is strict, that the use of guns in homicides is less.

As it stands now, no state or locality can effectively control the ownership of handguns. Chicago, for example, has a strict ordinance providing for the registration of handguns. But all an individual, prohibited from ownership, need do to obtain a handgun is step beyond the city's jurisdiction. Perhaps the Committee is already aware of a recent study by the Alcohol, Tobacco and Firearms Bureau of a sample of handguns confiscated in New York. This study showed that only five percent of the handguns traced to retail transactions were originally sold in the State of New York, and that over half of all the handguns traced came from dealers in four southeastern states with high handgun populations and few controls on handgun sales.

The bill which I shall propose would require a Federal license before the individual could acquire a handgun anywhere in the nation—and that license would not be issued if the individual was not entitled to own a handgun under the laws of his state and locality as well as Federal law. It is remarkable that controls have been effective at all, considering the ease with which they are evaded. The bill which I propose, if enacted, would for the first time make it possible for state and local authorities to control effectively the ownership of handguns. And the Federal Government would itself be acting to keep handguns out of the hands of those most likely to misuse them.

Law-abiding gunowners—like myself—ought to accept gladly the minor inconvenience of handgun licensing and registration, in order to control the spread of criminal violence in America.

This bill is a compromise between the extremes of those who propose to outlaw all handguns and those on the other hand who resist any effort to control

the possession and ownership of any guns. It will be said, as it always is, that only the law-abiding will register their guns. But that is the point of the bill. Those unable or unwilling to register will be subject to prosecution. They can be disarmed. My bill pleases neither extreme. By the same token it ought to offer some common point, a compromise if you will, to all who want to do something to stem the rising tide of violence. As it is now, we face a standoff. The alternative to this kind of bill may be nothing, except more senseless, needless criminal violence.

The bill recognizes that many crimes are committed in moments of passion, and that violence is made possible by the easy accessibility of handguns. It offers law enforcement authorities a chance to trace handguns used in the commission of crimes to the offenders. It offers a means of cutting back on the accidental injuries, as well as crime, caused by the easy accessibility to handguns, especially unsafe and unsuitable handguns. States and localities would be able for the first time to adopt effective handgun controls.

The public dialogue is divided between the extremes: between charges of permissiveness on the one hand and of repression on the other; between rhetoric which breeds fear and rhetoric which breeds passivity; between those who believe we are a soft society and those who believe we are a sick society.

None of them, it seems to me, is right. I am not ready to admit that we are, and must be, in urban America, a gun-toting society—some vestige of an imaginary wild West past glorified in the movies and on television screens.

I am not ready to admit either that we are a sick society which nurtures violence; that we are more violent or bloodthirsty than other men in other lands. The evidence does not prove that we are innately violent; but it is clear that we have failed to keep guns away from violent men.

It is time to find some common ground.

It is time now to correct the ancient failure.

It is time to erase—as far as we are able—the fear that handguns spread.

It is time to protect the lives—of citizens, of policemen—that handguns endanger. In doing so, we will not damage any liberty which free and lawful men enjoy. We will, instead, honor the intention of those whose purposes when they founded our nation were “to form a more perfect union; to establish justice; to ensure domestic tranquility.”

STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman and Members of the Subcommittee: This is only the third time since November, 1963, that a subcommittee of the House of Representatives has held hearings on the issue of handgun control. In that period, more than 75,000 Americans—half again as many as lost their lives in Vietnam—were murdered by handguns. In that time, nearly 100,000 people have committed suicide with handguns. Since 1963, nearly a million robberies were committed with handguns.

This Committee has the opportunity—today—to put an end to this insanity. This Congress has the chance—this year—to redeem the pledges so many have made to put an end to this senseless violence which has claimed so many lives, and so many people who are dear to us—both personally and as a nation.

Mr. Chairman, there are enough firearms in this country to arm all the adults and half our children. There are more than two guns for every household in America. We have become a nation that is armed to the teeth.

The consequences are disastrous. In 1973 alone, handguns were used in the commission of 10,000 murders, 160,000 robberies, and ten thousand suicides. More than 1,600 people—many of them children—will be accidentally killed because handguns are nearby. And the rate of increase of these occurrences is accelerating yearly.

Mr. Chairman, this carnage must come to an end. This is not an issue of an alleged constitutional right to carry handguns—and this myth should be removed from debate as soon as possible. The Second Amendment defines the peoples' right to a militia for their protection, and not an inalienable right for individuals to maintain and use firearms. More than thirty-five years ago, when guns first came under Federal regulation, this interpretation of the Constitution was affirmed in *U.S. v. Miller*.

Gun control is a question of our citizens' well-being. Guns can and must be regulated in the best interests of our safety and welfare. We recognize such a

need with respect to the automobile—a far less dangerous mechanism. Why do we find it so difficult to control guns?

We no longer have a luxury of choice in this matter—if we ever did. If Congress does not act now, 20,000 more of our citizens will die this year because we failed to take the measures that are prudent and necessary.

It is a disgrace for a nation which proclaims the sanctity of life, and the right of an individual to pursue life, liberty and happiness, to tolerate the brutality and violence caused by handguns in our society.

Our people arm themselves for a variety of reasons—recreation and sport, as a hobby, and out of fear. So many of our citizens arm themselves because of a need to protect themselves against others who have guns as well.

But it doesn't work. The proliferation of guns hasn't deterred violence—it feeds it. The Eisenhower Commission found that most guns used in crimes were stolen from those who never commit crimes. The guns that are bought and used for defense are the very ones used for assault.

Mr. Chairman, I unequivocally support Rep. Bingham's bill which bans the importation, manufacture, sale, purchase, transfer, receipt, possession and transportation of handguns and handgun ammunition, except under specifically authorized and controlled circumstances.

This legislation is the least we can do if we are to begin to get a grip on this tragic situation. Only by taking our guns away can we begin to ensure the security to which our citizens are entitled.

Mr. Chairman, I urge this subcommittee to favorably report on Representative Bingham's bill, "The Handgun Control Act of 1975."

STATEMENTS SUBMITTED FOR THE RECORD IN MARCH

STATEMENT OF HON. JAMES T. BROYHILL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. Chairman, I would like to thank you and the members of this Committee for the opportunity to express my views on the subject of firearms legislation.

As you know, Mr. Chairman, there are hundreds of bills dealing with gun control that are introduced in each session of Congress. Certainly, these bills are inspired by a genuine concern in the Congress over the steadily rising crime rate in this country and the frightening rise in violent deaths and crimes involving firearms. Many of the bills which have been introduced deal with strict regulation or confiscation of handguns. I am opposed to legislation of this kind, which would unduly restrict the right of law-abiding citizens to own and use firearms for legitimate purposes. Mr. Chairman, I am keenly aware of the need for legislation to put an end to abuse of firearms by criminals in our society. I do not believe, however, that in our efforts to curb unlawful use of firearms that we should run rough-shod over the Second Amendment rights of law-abiding citizens to own firearms for legitimate purposes.

Proposals which would provide for universal registration or confiscation raise major questions aside from the obvious Second Amendment problems.

I refer to serious questions involving the necessary expansion of the police powers of the Federal government, even to attempt to enforce such laws. The inherent dangers to the right of individual privacy involved in enforcement of such proposed legislation would obviously be tremendous.

The problems inherent in proposals for registration or confiscation are glaringly obvious. Whether such proposals would solve the problem they are designed to combat is highly questionable.

Surely, no one in the Congress is so foolish as to believe that individuals with criminal intent would register their arms. The result of registration would only be the government's ability to trace an unlawfully used weapon to the honest owner from whom the gun had been stolen or lost. Likewise, Federal confiscation would only result in a direct violation of Second Amendment rights. Furthermore, those with criminal intentions could undoubtedly secure weapons through illegal means.

The intentions of those, Mr. Chairman, who would unduly restrict the right to ownership of firearms, are, I am sure, well-meaning. However, they certainly

are no more concerned than I over the increasing use of firearms for criminal purposes. Where we disagree is over a realistic solution to the problem. Rather than entangle lawful firearms users and criminal users in the same net, let us strike directly at the criminal user.

Let us enact responsible legislation restricting handguns which are completely unsuitable for sporting purposes. The cheaply made, unsafe, and usually imported so-called "Saturday night special" would fall in this category. Let us also pass legislation on the Federal level placing a mandatory additional sentence on those who use firearms in the commission of a crime.

I believe that there is no greater deterrent to those who would use guns illegally than the assurance of a stiff mandatory jail sentence for the additional offense of using a gun while committing a crime. Further, let us take a hard look at the feasibility of legislation which would prevent the all too frequent occurrence of individuals out on the streets as a result of easy parole or suspended sentences, who have been convicted repeatedly of felonies, often with firearms.

In closing, Mr. Chairman, I would like to repeat my deep personal concern over the rising crime statistics and urge you to take responsible actions in this matter. I am hopeful your Committee will pursue legislation which will restrict the criminal use of firearms and not the law-abiding citizens.

STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman and distinguished members of the Subcommittee, I am grateful to you for giving me an opportunity to speak here today on the subject of gun legislation. Rather than speaking about any particular bill, I would like to comment, in a general way, on what Chairman Conyers, in his opening statement of February 18, indicated the Subcommittee is trying to do, and talk about a few of the ideas being offered by some of my colleagues as ways to achieve those objectives.

You have before you more than 20 bills, varying widely in approach and philosophy. According to the Chairman, the main purpose of most of these bills is to keep firearms out of the hands of criminals and irresponsible individuals.

What troubles me is that many of these bills seek to address what Chairman Conyers accurately called "the nation's escalating crime rate" by what I regard as totally misdirected means: by inhibiting, suppressing, or even revoking the ownership of firearms by ordinary, law-abiding, wage-earning, tax-paying American citizens who have committed no crime, and who have done nothing themselves to justify such an abridgment of their liberty.

What is even more ironic is that none of these bills has any realistic prospect of reducing crime. It's easy to make things tough for the law-abiding citizen who owns or wants to buy a firearm—but he's not the one causing the problem. The reason for our pressing concern about crime today is not the occasional domestic shooting or accident. Crime is a national calamity because hold-up men, jukebox ruffians and other violent criminals have taken over the streets of our major cities, turning their residents into frightened prisoners terrified to venture out beyond their triple-locked doors, barred windows, and—in the more affluent neighborhoods—closed circuit television security systems.

The vast preponderance of private firearms—statistically, 99 and some fraction percent—are owned by responsible people who will never use them in a crime. To me, the refusal of the most vocal advocates of anti-gun legislation to maintain a sense of proportion and fairness toward this vast majority of firearms-owning citizens presents an important civil liberties issue. I am deeply dismayed by the mad rush of people, who call themselves civil libertarians, to embrace the most oppressive measures against gun ownership as a badge of their liberal credo—measures these same people would soundly condemn in virtually any other context.

There is, I believe, something fundamentally wrong—repugnant to our traditional ideas of due process and individual merit—in branding a man as a probable future criminal because he owns, or desires to own, a firearm. It is a grotesque idea to suggest that firearms owners are somehow collectively responsible for crime, and should be penalized for it by being forced to relinquish an important part of their liberty.

Why should I have to give up a handgun I own? I have not murdered or robbed anyone, or used a handgun to commit a crime. If there is anything in my record

that suggests that I personally should be disqualified from handgun ownership, let that be cited against me. But I want to be judged as an individual. We give those accused of a crime the presumption of innocence; why should I not be presumed to be responsible until society can show otherwise?

And if I bought my handgun legally, why should anyone care what kind of handgun it is, whether it is a Saturday night special or something else? What difference does it make?

In short, gentlemen: it is, in my view, perfectly proper for society to try to keep any kind of gun away from an individual who, by his past behavior, has demonstrated he cannot be trusted to behave lawfully and responsibly. But until some valid reason can be shown why I, personally, should be classified along with the criminal, leave me alone!

You are going to hear that again and again: "Leave me alone!"

Don't get the idea it's just the one million odd members of the National Rifle Association who feel that way. If that were the case, the proponents of harsh anti-gun measures would have had their way long ago. The fact is that there probably are 40 million firearms owners in the United States, of whom perhaps a third—let's say 13 million—also own handguns.

What has been castigated as a "gun lobby" is not a lobby at all in the traditional sense. Make no mistake about that: it is a sizeable portion of the adult population cutting across all the recognized social, political, economic, geographic, racial, religious, and age lines.

Now obviously there is a broad spectrum of opinion in such a diverse group, and some of the people feel more strongly about their firearms rights than others. But I think it will suffice to say that, at the bottom line, most of them believe that a responsible person should not be prohibited from owning a firearm. And if the Subcommittee permits itself to become so distracted from that fact as to think it can legislate out of existence that which a substantial number of citizens believe to be one of their most basic rights, you will eventually be reminded of an unpleasant lesson this nation learned in the era of Prohibition: it doesn't work. It just creates widespread contempt for, and disobedience of, the law.

There are very few issues that generate that kind of emotion. Bussing is one that comes to mind, but there are others. What is common to them is that in each case, the government would do something to people, something they don't like. And it is a something that affects them very directly, personally, and tangibly.

If you want to gauge your constituents' feelings about handguns, forget the polls and newspaper editorials. Go back to your districts and talk to the people who own handguns. I personally would not want to have to explain to some citizens in my district—who are not criminals and who have done nothing wrong—why I had voted to take away their guns. When it is put on such personal terms, I cannot rationally justify such governmental action. And something which is wrong when applied to individuals does not become right when applied impersonally to the collectivity we call the public.

I have seen frequent references to public opinion polls purporting to show that 75 percent of those responding favored "some form of gun control." Nothing could be more irrelevant. If I had been polled, I might have responded in the affirmative myself. Being in favor of gun control is like being in favor of taxation. We all agree government can't be run without money, but when it gets down to what is going to be taxed, how much, and who is going to have to pay it, that solid consensus disappears.

And so it is with gun control. I don't know of any responsible person who thinks there should be no control on firearms ownership—such as laws excluding criminals from the legal channels of firearms purchase. I suspect that the 20 or 25 percent who professed being against gun control are reacting instead to what the code words "gun control" have come to mean—namely, additional oppressive controls on the citizenry, and no additional controls at all on the criminals.

I should add a caveat with respect to the accuracy of polls: they measure opinion only quantitatively—that is, the number of times an opinion is expressed. They don't measure the intensity or significance of that expressed opinion. The strength with which an opinion is held very often is a function of whose ox is being gored. It is as easy to be cavalier with somebody else's firearms ownership as it is to spend somebody else's money.

What is far more telling about the polls is the rather consistent response over the years—usually about 50 percent—who, even though they say they are in favor of more controls—do not think the additional laws will reduce crime at all.

The Chairman made reference in his statement to the possibility of a "slumbering majority" that might turn Congress out of office for failure to enact more gun controls. Frankly, I would be more worried about the voters who will be tangibly and very personally imposed upon by whatever legislation is enacted, and I would observe that the gun people already have a well-established reputation for political mobilization and one-issue voting.

The proponents of more gun laws say present laws are inadequate. That's not true. We have so many catchall gun laws now that it is virtually impossible for a criminal not to violate them. But the laws are not working because they are not being enforced in a way that both protects the public and deters others from violation.

I am coming increasingly to the belief that gun control is a legislative cop-out. It's a way for the Congress to pretend it is doing something to fight crime, without actually having to face the hard truth that we cannot any longer afford to indulge the permissive judicial and correctional attitudes toward criminals that have become so fashionable in recent years.

The courts and correctional authorities have taught a whole new generation of criminals that crime does pay. Or at least, if you are caught, nothing much will be done to you. You are slapped on the wrist and sent off to a counselor for rehabilitation.

Some sociologists have spread the notion that swift apprehension of criminals is a deterrent. That's baloney, and any policeman on the beat will tell you so. The criminal is out the courthouse door before the policeman finishes writing his arrest report.

Swift and long-lasting punishment is a deterrent, and even if it isn't, it does tend to postpone recidivism.

The lack of any meaningful deterrent—punishment has become declass  nowa-days—has swollen the ranks of the criminal element. The real reason prisons are overcrowded is because easy crime attracts so many young people who are not even fazed by the revolving-door sentences they are getting. We are catching more than ever before, and there isn't room for them all. And they are mostly repeaters. Some social reformers want to solve that problem by closing down the prisons, and turning them all loose!

There was a time long ago when it was an unwritten rule among burglars not to carry weapons. They knew that if they got caught, the judge would throw the book at them. Today, among street thugs, the question is not whether to use a weapon, the question is whether you should leave any witnesses alive who might identify you. From a standpoint of the probable penalty, there's very little incentive not to commit murder.

Gentlemen: there is a cauldron of public opinion brewing, but I don't think it's all for gun control. There is a good chunk of the public that is getting sick and tired of robberies committed by holdup men out on bond, and felony murders committed by killers on probation, and convicted felons who are supposed to be locked up running around on so-called "furloughs." There are people who are wondering about the sanity of judges who sentence under the Youth Corrections Act 18 and 19 year old thugs who engage in shoot-outs with police and whose average stay at such Federal facilities will be about 18 months, when they have to be kicked out to make room for more.

The public is paying the price for these social experiments, and it's getting tired of it. Before the Congress has any call to demand more sacrifice from the public—such as by further restricting their right to own firearms (something, incidentally, which is often referred to as "an inconvenience")—I think the Congress has an obligation to take action against the root cause of the crime: the criminal himself. How about "inconveniencing" him a bit?

A criminal who uses a gun, and the threat of instant death, to rob some innocent person is nothing less than an incipient killer. He falls into the same category as a rabid dog. He has demonstrated his unfitness to be free in society. If this Subcommittee is really interested in saving lives, it can start by imposing mandatory penalties on the criminal who robs with a gun. Put him away, and don't let him out . . . ever, if need be. You may save the life of the next person he would threaten to kill, and it will serve as an example to all the others who now think of a holdup as a not-too-serious caper. And the only freedom to be diminished will be that belonging to someone who doesn't deserve it in the first place.

Those who seek more gun laws have been very carefully cultivating by incessant repetition a number of myths that ought to be challenged, and I would like to draw attention to several of the most popular.

The first is that the Gun Control Act of 1968 is weak and ineffective. That is not true. Virtually all of the so-called weaknesses in the Gun Control Act stem not from any deficiency in the statute, but from insufficient enforcement.

New York City officials constantly complain that handguns are being brought into the city from a few gunshops in several southern states. They cite that as evidence that new laws are needed. But it's already illegal. Illegality is like pregnancy; it is not a matter of degree.

The Treasury Department last year issued a beautifully printed report showing this path of illegal guns into New York City. The southern gun shops have been identified. If they have figured that out, why don't they arrest the people responsible, and put a stop to it?

We also hear reports about out-of-state criminals buying firearms from licensed dealers by displaying phony identification. Again, there already is a very stiff penalty in the Gun Control Act of 1968, both for using false identification, and for buying a handgun outside your state of residence. Why aren't these laws being enforced, and why aren't dealers who do not pay proper attention to the validity of identification having their licenses lifted?

Another myth is that the "availability of guns causes crime." That too, is just not so. If it were, the world's highest crime rate would be in Switzerland, where every able-bodied male citizen keeps a machine gun in his home. Yet Switzerland has a lower homicide rate with guns, than Japan does without guns.

Incidentally, low homicide rates in Japan often are cited as evidence that gun controls "work." In fact, Japan's crime rates in virtually every type of offense, with or without guns, are uniformly low. The Japanese simply do not have as much crime of any kind, period. There is another difference, both in Japan and in Switzerland; when you commit a serious offense, they make you wish—for a long time—that you had not.

Guns do not cause crime. Crime is caused by human motivation, and if crime is to be combatted, that is where one must begin.

Chairman Conyers in his statement referred to 120 police officers who met their deaths "at the hands of a gun." Excuse me, but I have never been introduced to a gun that had hands. Nor to a gun that was, according to the statement, "responsible for deaths." Hands, and responsibility, belong to people, and what I find significant about the deaths of the policemen is not that two-thirds were killed with handguns, as opposed to long guns, but that two thirds were killed by previously convicted criminals.

We do not need to take away the guns; we need to put away the criminals.

I do not believe it is possible as a practical matter to keep guns away from criminals. It is sheer fantasy to think you can. Guns are like moonshine—they are not that complicated to make, and there is always somebody willing to supply the demand. Those who really want guns—as the IRA has demonstrated in Northern Ireland—will get all the guns they need, no matter how strict the laws are.

That brings to mind another fact about "handgun" control. Any fool who can push a hacksaw can make a handgun out of a shotgun or rifle in ten minutes, and there is no way to "regulate" that. The only way to eliminate handguns is to eliminate *all* guns, and it is foolish to make artificial distinctions. The firearms owners recognize this perfectly well, and if you are wondering why shotgun owners oppose the banning of handguns, that is the reason—they know they will be next on the chopping block.

There is still another fallacy. This one I think originated with the National Commission on the Causes and Prevention of Violence and has been repeated like gospel ever since. It is a popular notion among those who do not own guns and who are consequently afraid of them—essentially, it is that the danger of having a gun in the house outweighs the protection that gun provides against intruders.

The Commission concocted this idea from a few very carefully selected statistics comparing the number of robbers and burglars killed by householders with the number of fatal gun accidents in the home. Of course such a comparison is meaningless. It completely ignores countless cases in which crimes were averted, or a householder saved from possible injury without killing the intruder, and in some cases without ever firing a shot. It was enough that the citizen had a weapon and knew how to use it. Nor can such statistics measure the importance of the peace of mind of honest citizens who need not live in constant fear of intruders against whom they would otherwise be helpless. It

has nothing to do with whether such an emergency ever actually arises. Just knowing you have the capability of defending yourself is vital. You can't overestimate the value of that, and it is not reflected in statistics.

There are many who feel safer without a gun. That is their choice, and I would not quarrel with it. But whether I will be safer with or without a gun is a choice I would reserve for myself; it is offensive to me to think that the government should arbitrarily decide that I and millions of others no longer can be trusted with handguns.

The assertion also is made that those who want to protect themselves don't need handguns—a long gun serves just as well. That is sort of an ignorant argument, closely akin to the idea that handguns are evil because "they are designed only to kill." That is stupid. Virtually all firearms are lethal weapons. The important thing is that a handgun, or any other gun, is as good or as bad as the man or woman behind it. For a citizen's protection, a handgun has many advantages. It is easier to load and unload, easier and safer to store securely, easier to clear for action in an emergency, and easier in many cases to train a woman to use. If handguns are evil, and no good for self-defense, we should take all handguns away from police, and issue every patrolman a shotgun.

Some of my constituents have asked me why I sponsored a Saturday Night Special Bill. In view of what I have said here today, you might be wondering that too.

Let me start out by candidly acknowledging that all "Saturday Night Special" legislation contains a conceptual flaw—it is directed at a certain kind of a gun, not at the criminal misuse of *any* kind of gun. For reasons I have already stated, I question whether that makes good sense. And, while I have no particular love for cheap, poorly-made handguns, I cannot believe that the only people who buy them are criminals: I am compelled instead to conclude that there is a market for Saturday Night Specials because some poorer people who want—and badly need—protection simply cannot afford anything better.

Nonetheless, it has been obvious to me that Congress feels compelled to do something—anything—about Saturday Night Specials because the press has made it an unavoidable issue. You will recall that in the past, one of the principal problems in drafting this type of legislation has been to define in legal language exactly what a Saturday Night Special is.

Therefore, I formulated a bill to accurately distinguish cheap Saturday Night Specials from quality handguns, not because I am convinced that the former should be outlawed, but because I believe that if you are determined to have such a bill, this is the most sensible way to write it. And further, it gives the public some yardstick to judge whether other bills are really Saturday Night Special bills, or something else in disguise.

Many of my colleagues would prefer to meet the Saturday Night Special issue squarely, and precisely. Some have joined in cosponsoring my bill. There are others, however, who see Saturday Night Special legislation as a wonderful smokescreen for dragging into the SNS definition every handgun they can, with the idea of abolishing as many handguns as possible.

Accordingly, a number of bills introduced thus far would ban Saturday Night Specials on grounds that are not unlike to that type of weapon at all. Concerned firearms owners are justified in strongly opposing such measures, and I would like to describe the just a few of these concepts.

The first is the disingenuous notion that a Saturday night special is any handgun which is easily concealable. Of course, in practically every state, the term "concealed" or "concealable" weapon means "handgun," so a schoolboy can figure out where that leads.

Concealment, of course, is a matter of degree. All handguns are concealable, some are just more concealable than others. What does "easily concealed" mean? In ones pocket? Pockets, like pistols, come in large as well as small sizes. If a gun with a two-inch barrel is concealable, three inches is almost as concealable, and four inches only slightly more difficult to conceal. "Dirty Harry" in the movies concealed a .44 magnum with a 8¾ inch barrel under his coat. Who knows, somebody may call that a Saturday Night Special.

Small size is not unique to Saturday Night Specials: there are many high quality guns, including some used by police, that are not particularly big. That doesn't make them any less suitable for legitimate use.

I think you can expect opposition—and properly so—to any bill which seeks to ban certain handguns by reason of size or barrel length or similar characteristics linked to supposed "concealability." The reason is simple: such formulations are

purely subjective, and not susceptible to future limitation. Once firearms owners accept a ride on that toboggan slide, the bottom of the hill is the end of handguns.

For the same reason, a price tag criterion is objectionable. If a gun selling for less than \$25 is evil, how about one selling for \$26. Is that one "good"—or, as the anti-gun people will say after the book's been swallowed—is it just a "little less evil?"

The same objection applies to the "sporting purpose" criterion. It is a subjective term that can be continually redefined until some bureaucrat announces: "Handguns have no sporting purpose; they are just for killing people."

I don't believe the citizenry will be bamboozled into accepting "sporting purpose" as a limitation on legitimate ownership of firearms. If we took an informal poll in this room, I think we would find some people who own handguns, and they would probably concede that they have them partially, if not primarily, for defensive purposes. That is every bit as lawful, and legitimate, as any "sporting purpose, I can think of. And maybe more important, because it involves the traditional right of self-defense.

Speaking of polls, I think it is significant that of more than 60 million households in the United States, about 60 percent admitted having guns, and two-thirds of those listed self-defense as a reason for such ownership. You can draw your own conclusions about "sporting purpose."

There is one last consideration I would mention. I think it would be the most grievous mistake imaginable to try to enact legislation that would force a citizen to surrender a Saturday Night Special (or any other firearm) which he otherwise lawfully possesses. Some of the bills before you would do just that, either directly by forbidding possession, or indirectly, by imposing ridiculous conditions on his continued ownership.

Such a law would set into action a massive police effort directed not at the traditional criminal element, but at the citizenry in general. It would be aggravated by the fact that very few gun owners are gun experts—many of them honestly wouldn't know if their handgun was a Saturday Night Special or not. It can be predicted with certainty that there will be countless cases of unwitting, unintended, or just ignorant violations and that people who normally would never have a brush with the law will be arrested and prosecuted.

And if the police take the enforcement of such a confiscation law seriously, they can be expected to stage raids on the homes of people all across the nation suspected of possessing Saturday Night Specials. (As often as not, it will turn out to be some other kind of weapon.)

And for what? Don't we have enough criminals already? If a citizen has a Saturday Night Special in his home, and he is not bothering anybody, what difference does it make what kind of gun it is?

I can't think of any governmental activity more liable to turn citizens into spies against their neighbors, provoke bloodshed between citizens and the authorities and generally turn the country into a police state.

I would hope the Congress would have the good sense to say it is not worth it.

If you are going to go after Saturday Night Specials, you have to intercept them at the upper levels of distribution—at their points of manufacture and importation. There is not any other practical way to do it.

Let me conclude on this note. What I am suggesting to the Subcommittee, respectfully and very earnestly, is: don't get carried away with missionary zeal against "guns" on the premise that anything is worth trying to save lives. Maintain a sense of proportion.

We probably would save more lives—and without violating anyone's rights—by reducing the highway speed limit nationally to 25 miles an hour. Of course everyone would think that was preposterous and any such law would be shouted or laughed down. Everybody still wants to get where they are going quickly, and they pay the price of 50,000 lives a year. There could be some saving of life, as we found with the 55 mile an hour reduction, and probably we could save lives by going lower yet. But the public is not willing to do it; it would rather accept the risk. Essentially, it is a trade-off: lives vs. other considerations.

People do the same thing with alcohol, with cigarettes, and with other things. We deplore gun accidents, but in truth we would save far more lives with cheaper and simpler expedient—by a prohibition on swimming. The fatality rate from drownings is four times greater than from firearms accidents.

But we won't ban swimming—and I don't believe we should. That is because it is a legitimate, popular activity that people value greatly, and they are willing to accept the inherent risk.

Gentlemen, the same is true for firearms ownership. The people whose guns you are talking about are right here, all around you, in every walk of life. They are prepared to accept the risk of having firearms in society, because on balance it is something they value greatly. More than that, they see little reason to accept any more burdens on their freedoms so long as their lawmakers are unwilling to shift the weight squarely to the criminals who are primarily to blame.

I thank you.

STATEMENT OF HON. HAMILTON FISH, JR., A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW YORK

Mr. Chairman, I wish to express my thanks and appreciation to you and my other colleagues for this opportunity to appear today before my former Subcommittee.

The matter of gun control is important to me and to the citizens of New York State whom I represent, as it is to millions of our fellow citizens across this land who own and use firearms of all types—long guns and handguns—for hunting, target shooting, collecting, self-protection and other legitimate purposes.

Like Members of Congress, legitimate firearms owners have a deep concern over the rapid rise in violent crime, and expect the Congress to act to find solutions to this problem. But those who own the approximately 99.97% of the firearms which are NOT used for criminal purposes are fearful that proponents of even stricter gun control are seeking solutions in the wrong area of the problem.

Due to this legitimate concern over the increase in the rate of violent crime, the Congress may be able to pass anti-gun legislation. But in so doing we must take care we are moving toward solutions to crime, and not simply burdening the honest citizen while leaving the criminal armed. For it is clear to many that the problem of firearms misuse will not be solved by the belief that control of the gun itself is the only or even the major answer. Rather a broad treatment, such as the one I outline below, should be implemented to effectively cope with illegal gun use without infringing on our constitutional rights.

Because of their familiarity with firearms, legitimate gun owners strongly believe that along with the right to own and use firearms goes the responsibility for their proper use. They and I strongly believe that the answer to armed violent crime is putting the criminal on notice that he or she will be severely punished for the commission of such a crime with a gun. The proper solution is the prompt, certain, and severe punishment for those who misuse firearms.

To this end, I have recently introduced a bill (H.R. 4758) with fifty-five cosponsors, to provide for additional prison sentences for the use or possession of a firearm in the commission of a felony. In addition to receiving punishment for his other actions, the armed criminal will receive a separate sentence for being armed. This penalty cannot be reduced, nor can it be served concurrently with others. This approach is identical to a section in the Victims of Crime Act of 1973, passed by the Senate April 3, 1973.

Another issue is the requirement for record keeping on the sales of .22 caliber rimfire ammunition. These requirements serve no useful purpose, for it is impossible to relate any of the approximately four billion .22 caliber rimfire cartridges sold each year with the purchaser records. To continue the practice means a continued waste of tax dollars, cost to merchants, and unnecessary harassment of users. A bill to exempt the sale of .22 caliber rimfire ammunition passed the House in late 1970, but died in the Senate with the adjournment of the 91st Congress. Previous efforts for repeal have enjoyed the support not only of users, but of the Treasury Department which has the responsibility for enforcement of Federal firearm laws. This year, I am again cosponsoring legislation to repeal these reporting provisions.

Mr. Chairman, I wish to confront the matter of the increasing numbers of cheap handguns which enter society each year. I wish to approach this subject in a manner quite different from many of my colleagues. I suggest a method for stopping this which will not necessarily involve us in either Constitutional or gun control issues.

As you may already know, the Gun Control Act of 1968 prohibits the importation of certain firearms, including some types of handguns. In addition, the 1968 law also prohibits the importation of receivers and frames—major components for firearms.

The vast proliferation of cheap handguns in this country comes as a result of the importation of handgun parts (less frames) through an apparent "loophole"

which does not prohibit the entry of parts. The imported parts are then combined with frames of cheap domestic manufacture in cheap labor areas of this country.

It seems clear to me that closing this "loophole" would be a most effective way of drying up the source of cheap handguns. One need not be for or against gun control; one need not be concerned about Constitutional issues; one need not worry about workable definitions of so-called "Saturday Night Specials"; one need only be for assuring implementation of the intent of Congress in 1968 that no cheaply made handguns be permitted to enter this country.

Lastly, if this Subcommittee feels it necessary to ban a particular firearm, I would like to call your attention to a measure, which I have cosponsored (H.R. 3773), introduced by my distinguished colleague from Michigan, Mr. Dingell, H.R. 3773 would remove cheap, dangerous handguns from the market by applying a criteria of safety and quality instead of such arbitrary figures as size, barrel length or the number of points that a firearm may achieve under an arbitrary Treasury Department test. This bill prohibits the sale or delivery by licensed importers, manufacturers and dealers of handguns: (1) if the basic structural component thereof is a die casting of zinc alloy or other material having a melting temperature of less than 1000 degrees; (2) if the tensile strength is below 55,000 pounds/square inch; or (3) if the basic structural component is of slotted or powdered metal having a density of less than 7.5 grams per cubic centimeter. There may be questions as to elements of this formula the Subcommittee would want to investigate should it consider further this legislation.

I respectfully urge this committee to seriously consider these proposals which I have made. I caution you not to permit this Congress to become embroiled in needless controversies through the consideration of unacceptable and workable antigun proposals.

Thank you.

STATEMENT OF HON. DON FUQUA, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF FLORIDA

Mr. Chairman and Members of the Subcommittee, I welcome this opportunity to present a statement on the continuing problem of violent crime in the country and especially gun-related crimes. The fear of crime and the rising crime statistics warrant the speedy action taken by the Subcommittee in coming to grips with this very serious matter.

Although there is a great deal of disagreement about the best manner in which to deal with gun-related crime, depending in large part on one's view of the Constitution and extent to which one believes that the federal government can involve itself in the day-to-day lives of the American people, there is certainly agreement that the problem of violent crime is a national priority. The needless destruction of life and the grief and sorrow associated with gun-related crimes point to the critical need to formulate a meaningful answer to this major social problem.

As the Subcommittee may know, I have opposed per se gun control for as long as I have served in Congress. This is not because I want the senseless violence connected with street crime to continue nor because I want the criminal to have easy access to guns. My opposition involves the simple pragmatic realization that federally-imposed gun control such as being considered by the Subcommittee, will not have the desired effect. It goes without saying that an individual desperate and antisocial enough to commit a gun-related crime is desperate and antisocial enough to avoid gun controls.

This is not to say that there are not areas in which the federal government should step in and regulate. Cheap and poorly manufactured imported weapons are a continuing problem and contribute to the accessibility of weapons to the criminal.

Likewise, restrictions in the ability of convicted felons to own or possess firearms is within the appropriate scope of federal law. Machine guns and destructive devices are appropriate items for federal control and this authority certainly has my support.

In terms of general gun control, however, I believe that we should look at the root problem—the crime itself rather than the implement by which it is carried out. It is rather specious to assign lifelike qualities to a firearm and portray it as the villain and the criminal almost as a helpful pawn to the will of the firearm. We all recognize that it is the wanton and willful effort of an

individual who has so little concern for human life that he would place himself in an armed confrontation with another person impervious of the possible consequences. It is this interaction which must be addressed whether the manner of its execution is by firearm, knife, or any other device.

Accordingly, I have introduced legislation that will deal with the real problem of the criminal who embarks on a course of antisocial and destructive behavior. But, we are reminded that it is primarily the gun-related encounters that end in death. People often survive assaults while armed with other weapons or unarmed attacks, but gun-related attacks too often have fatal consequences. In this regard, special attention must be paid to the gun aspect of violent crime and I urge the Subcommittee to enact legislation which I have recently introduced. This bill, H.R. 465, is identical to a measure I have introduced in the past. It would repeal the Gun Control Act of 1968, reenact the Federal Firearms Act, make the use of a firearm to commit certain felonies a federal crime where that use violates State law. Essentially, my bill is designed to provide mandatory minimum federal prison sentences to any person who uses a firearm to commit any State or federal felony. This punishment it to be in addition to the punishment provided for the commission of the felony and will be for at least one year and not more than ten years for the first offense.

In other words, if an individual uses a firearm, including a starter gun which will expel a projectile by the action of an explosive, in a robbery or other violent crime, he is immediately liable for a minimum sentence of at least one year in addition to the penalty assessed for the robbery. In the case of his second or subsequent conviction, that person shall be sentenced to a term of imprisonment for not less than two nor more than twenty-five additional years. The legislation would preclude the court from suspending the sentence or from letting the sentence run concurrently with any term of imprisonment imposed for the commission of the felony.

The purposes of the criminal justice system are threefold: rehabilitation, restraint and retribution. It appears to me that too little attention has been paid to the restraint purpose of our criminal justice system and that all too often convicted felons are permitted to return to the society virtually immediately. My legislation would have the bonus effect of serving as a deterrent to gun-related crimes. Gun control measures would not have this impact because, as mentioned earlier, there is absolutely no reason to believe that a criminal would cooperate with such a law. It is my firm belief, however, that mandatory minimum sentences and expansion of the federal criminal law to include gun-related crimes which are currently within State jurisdiction, will have a major deterrent effect.

It is high time that voices were lowered on both sides of this important social debate. There is no disagreement that violent and gun-related crime must be discouraged. There should be no disagreement that this should be accomplished with the least possible encroachment by the federal government on the daily lives of the law-abiding citizen. It appears clear, therefore, that the imposition of minimum mandatory sentences will provide the necessary deterrent to violent crime and provide protection rather than harassment to the ordinary citizen. The involvement of the federal government in the lives of our citizens has grown to overwhelming proportions. I hope that the Committee will stifle the criminal's ability to live in society after committing a violent, gun-related act, rather than to stifle a basic freedom of the American people because of the irrational and senseless acts of those who will not live at peace in our society.

STATEMENT OF HON. JOHN PAUL HAMMERSCHMIDT, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ARKANSAS

Mr. Chairman and members of this distinguished panel: I welcome this opportunity to express my viewpoints on proposed restrictive federal gun control legislation, which you, Mr. Chairman, have correctly characterized as a highly volatile issue.

The subject is one which arouses the deepest sentiments and emotions. I believe that pro and con are motivated by sincere convictions and I know that this panel is approaching the subject in the manner you have aptly described as substituting reason for rhetoric.

Reason, then, must appropriately be the guiding force throughout these proceedings. It should be the common denominator that is manifested in the testi-

munity and the viewpoints to be received by the Committee, from the numerous and varied persons offering their opinion.

It is reason, therefore, which compells me to express the feeling that there are some things which we, in the Congress, cannot effectively legislate, notwithstanding the fact that our intentions and our aims are well-intended; notwithstanding the fact that all of us are desirous of doing something constructive and worthwhile to lessen the problems of crime and of violence in our society.

Mr. Chairman, I am convinced that by enacting national gun control legislation in the nature of regulation and control, restriction, registration, licensing or general prohibitions on possession and ownership, we will not be addressing ourselves to the true roots of the problem. I believe that Congress will be missing the mark if it approaches the issue in such a manner. The nature of the various proposals that have been offered and are to be considered by this Committee differs and they represent a broad range of firearms control legislation. I do not feel, however, that any of those proposals of a restrictive or regulatory nature will likely strike at the core of the problem. Should one of these measures be enacted by this 94th Congress, I contend that time will illustrate the correctness of this view.

Often, when we speak in terms of deterrents to crime and violence, for example with regard to the issue of capital punishment, we must out of necessity speak in abstract terms, making projections or evaluations that are really only academic.

However, while there may be no hard and clear statistics available on the potential deterrent to crime if more restrictive federal gun control legislation were implemented and administered, I feel the issue is more clearcut and definable: We cannot, by the mere passage of a bill, legislate guns out of the hands of those who are not law-abiding and who will somehow find the means of owning and possessing a firearm; no more than we could legislate morality by the passage of a statute.

This element in our society is not honor-bound to abide by the laws, and there are ample firearms laws on the books. The criminal element would, by nature, disregard any statute aimed at limiting, restricting or eliminating the availability or possession of firearms.

Of course, the ever-present potential of confiscation is so repugnant to me—and should be to all who truly wish to make meaningful contributions to this problem—that it bears mentioning here, albeit briefly. Not even enactment of a law which would literally seek to remove all guns from the hands of all citizens in this country would prevent criminals or those committing crimes of passion from possessing guns.

Mr. Chairman, no one knows exactly how many guns are owned by how many Americans, although estimates have been made that there are more than 200,000,000 firearms of various kinds in this country. The handgun is very clearly preferred by the criminal and it is underscored that this preference exists despite the fact that handguns are generally acknowledged to be far more scarce in numbers than are rifles or shotguns. The use of handguns far outnumbers the use of shotguns or rifles even in areas where handgun ownership is legally controlled and the rifles or shotguns are not controlled by law. Certainly, this should tell us something about handgun restrictions.

On the general issue of gun control, countless studies have borne out the futility of controlling or restricting the possession of firearms, including one made by the California Department of Justice, which stated: "[T]he mere availability of weapons lethal enough to produce a human mortality bears no major relationship to the frequency with which this act is completed. In the home, at work, at play, in almost any environmental setting a multitude of objects exist providing means of inflicting illegal death. . ."

Mr. Chairman, the commission of a crime, a murder, or any act of violence is not dependent upon the availability of firearms. By tracing the roots of the motivation behind such acts, we may see beyond the gun in the hand. We *must* look beyond the firearm, for the core of the motivation behind such acts is not the gun; it is the person and the mentality of the person committing the crime or act of violence with the firearm.

The countless reams of information, statistics, reports, studies, and so on that relate to this issue do bear out certain trends and certain facts which are compatible with the view I have expressed. We are all privy to this information—it is accessible—so I will not belabor the issue.

By merely stating, or enacting a statute stating, that it will not be lawful for anyone convicted of a crime or is a fugitive from justice to own a firearm, possession of a gun cannot be legislated away. There is, in fact, an existing federal statute of this nature, title 15, United States Code, section 902(f), which very plainly states the illegality of firearms possession by such persons.

And, there are the thousands of State, federal and local laws already on the books relating to firearms control. Therefore, the need for additional legislation is non-existent. A major thrust of any effort in this regard should be toward enforcement of those existing laws, although I doubt their impact or effectiveness. The constitutions of the majority of the States contain sections on firearms which very closely resemble the Second Amendment of the United States Constitution. Many read as follows: "The people shall have the right to bear arms, for the defense of themselves and the state."

I believe the constitutionality of any federal gun control law has been very clearly resolved in numerous court cases which are well-documented. The question of constitutionality is frequently underscored in discussions of firearms legislation. It is a valid question and has, by all accounts, in my view, been illuminated and resolved. The Second Amendment prevails.

The right of citizens to protect themselves and their property is wholly fundamental and is, unfortunately, too often ignored by advocates of stringent gun control legislation. Any infringement on this constitutional safeguard is anathema to the overwhelming majority of Americans.

Mr. Chairman, I cannot subscribe to any effort or action that would penalize the vast majority of American citizens who are law-abiding and who respect and adhere to the laws. Gun registration, licensing, control, or restriction is entirely futile as a crime-reduction measure, for the reasons heretofore outlined.

I personally favor and advocate an alternative approach to this entire problem, which I believe would be far more sensible, reasonable and effective: The imposition of very stringent, mandatory penalties upon conviction for the use of a firearm in the commission of a crime. Here again, the question of deterrence comes into play. I am convinced that such action, if applied firmly and consistently, would serve as a far more effective and meaningful deterrent to crimes and acts of violence than would any artificial attempt, through legislation aimed at controlling, restricting or eliminating firearms ownership.

The application of common sense in this issue would far better serve the interests of reason, as we seek reasonable solutions.

Thank you, Mr. Chairman, and the members of this Committee, for the opportunity to offer these thoughts of opposition to restrictive federal gun control legislation.

STATEMENT OF HON. ALBERT W. JOHNSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman and distinguished members of the Subcommittee: A number of bills has been introduced in the House, many of which would control guns. The ostensible purpose of these bills is to control crime by outlawing guns. I submit that what we have is a crime problem, not a gun problem. To get at the criminal who uses a gun in the commission of a crime by abridging the Second Amendment freedoms of the people is a step toward tyranny.

In an interview which appeared in the U.S. News & World Report of March 31, 1975, and the American Bar Association Journal of March 1975, Chief Justice of the Supreme Court, Warren Burger, noted the oppressive increase in court cases, and stated that what is urgently needed are more judges who are paid better salaries. This and other remedial legislation recommended by Chief Justice Burger should be given prompt consideration. Loading up the courts with ill-considered legislation, such as gun control, will solve little, if anything. The law will be unenforceable and most likely unconstitutional.

Virtually every city and State have gun laws on their books, but this has not deterred the criminal. New York has the Sullivan Act on its books, the toughest gun control law in the country, and it has done little to deter crime, particularly those committed with firearms. There are several million illegal firearms in New York City alone.

Trying to get at the nonlaw-abiding citizen by penalizing the law-abiding citizen will merely foster more crime by leaving innocent people defenseless, and diverts attention away from the dismal failure of the criminal justice system to cope

adequately with criminality. We have convoluted our thinking by overemphasizing the rights of the criminal over the rights of the victim. Many States are now trying to correct that imbalance because more than 20 States have reinstated the death penalty.

I have many sportsmen in my district who use their firearms for hunting and sports competition. These people, ranging from the young to the old, learn how to handle a firearm properly and with respect. They operate within the law, and are very careful not to endanger anyone's life. These people are overwhelmingly against any Federal gun control legislation which would abridge their freedoms as guaranteed by the United States Constitution.

Mr. Chairman, I would like to insert in the hearing record at this point an article written by Mr. Robert J. Kukla, a native of Chicago and a graduate of Northwestern University School of Law. Mr. Kukla has appeared on radio and television, written many editorials and articles, and is the author of a new book, *Gun Control*. Mr. Kukla's article, "It's a Crime Problem—Not a Gun Problem," deserves serious consideration by the Members of the Subcommittee on Crime.

The article follows.

[From The American Mercury, Spring 1975]

IT'S A CRIME PROBLEM—NOT A GUN PROBLEM

(By Robert J. Kukla)

Robert J. Kukla is a native of Chicago and a graduate of Northwestern University School of Law. He has been actively engaged in activities related to the question of gun control since 1958 when he began serving as Legislative Committee Chairman of the Illinois State Rifle Association. Since 1966 Mr. Kukla has been a Director of the National Rifle Association of America and member of its Executive Committee. He has appeared on radio and TV, and has written many editorials and articles. He is the author of a new book, *Gun Control*, which has received excellent reviews. The 448-page book is available from The American Mercury, P.O. Box 1306, Torrance, Ca. 90505, at \$8.95.

For the past several years the American public has been deluged with misleading propaganda directed at the objective of securing enactment of unwise and unworkable firearms laws at every level of government. The rationale for such proposals, many of which offend every basic tradition and principle of this country, has been the unfounded allegation that the mere physical presence of guns, per se, causes crime, and that the systematic prohibition of firearms to the average American would, somehow, result in a significant reduction in violent crime. This is simply not true.

Gun control, as that term is commonly used today, constitutes nothing more than a monumental hoax and a fraud upon the American public. Although gun control proposals pretend to be directed towards the laudatory objective of reducing the incidence of violent crime, they tend in fact to aggravate the very conditions fostering crime by diverting attention away from the dismal failure of the criminal justice system to adequately cope with criminality.

In point of fact, as a society, we have simply failed to provide an efficient means whereby criminals can be apprehended, speedily prosecuted, reliably convicted, jailed and kept in jail. In turn, that failure, or lack of resolve, to treat crime and the people who commit criminal acts for what they really are, stems primarily from a philosophical repudiation of, and retreat from, the traditional American concept of an egalitarian social order built upon individual freedom exercised within the context of individual responsibility.

During the past decade we have witnessed the emergence of numerous apologists for criminality who have summarily rejected the concept of personal responsibility for individual acts of crime, and who have attempted with alarming success to popularize and establish in its place the alien theory of collective or communal guilt for the alleged failures of society.

Among the more obvious fruits of this liberal penal philosophy is a system of procedural rules and evidentiary requirements so technical in nature, and so convoluted in practice, as to virtually assure the substantial reduction of police effectiveness in the control of criminals. It has produced a system so warped by the liberalization of penal, parole and probation procedures that hardened crim-

inals, contemptuous of "law and order," are being continually turned loose back into an unsuspecting society where they are again free to prey on innocent victims.

Criminals on parole kill again

According to carefully documented FBI reports, there were 786 police officers killed in the line of duty during the ten year period from 1963 through 1972, and a total of 1,064 offenders were identified in connection with those killings. The FBI states that 825 of those offenders (76%) had records of prior criminal arrests; 641 of that number (59%) had been convicted of those prior offenses, and 391 of those who were convicted (61%) received leniency in the form of parole or probation. More incredible yet, fully 178 of those killers of policemen were actually out of jail either on parole or probation at the very moment that they killed a police officer.

It is also pertinent to observe that, since the virtual elimination of the death penalty was engineered a few years ago, there have been over 130 murders committed inside of San Quentin prison alone. Perhaps even more astounding is the fact that last year a person convicted in the State of Texas for six murders, and sentenced to serve six 99-year prison terms, will be eligible for parole in only eight and one-half years.

The glaring failure of gun control laws to significantly affect the criminal element, as well as to the reasons therefor, can be graphically portrayed by examining the experience of the City of Chicago.

It has been estimated that there are presently some 20,000 gun laws in the United States, a number of which are operational in Chicago. The National Firearms Acts were on the federal books since their enactment in the 1930s, and the Federal Gun Control Act of 1968 eliminated interstate mail-order sales of guns. Since 1968, Illinois has required a license to purchase or possess either firearms or ammunition; additionally, Chicago residents have been required to register every firearm they own with city authorities. In 1965, before there was either a city registration ordinance or a state licensing law, there were 395 persons murdered in Chicago. In 1973, five years after the enactment of those two new laws to "control guns," a record number of 864 persons were murdered in Chicago and 1974 recorded nearly 1,000 murders.

Criminals Released on Technicalities

According to official sources, there were more than 5,000 persons arrested for illegal use of weapons in Chicago during 1973, however, of those 5,000 fewer than 80 were actually sentenced to jail and the vast majority of cases were dismissed, as they are consistently for various technicalities. Also, in 1973, Chicago recorded 317,279 criminal offenses of all kinds, of which some 247,341 were found to constitute valid offenses. Of the latter category, 88,781 were cleared through arrests, however, these resulted in only 4,436 indictments by the county grand jury and, of these, only 1,702 were ever sentenced to prison.

The record also shows that the average trial for armed robbery in 1972 was postponed some twelve times, with one case having been continued 45 times, a devastatingly clear indication of the dangerously deteriorating ability of the criminal justice system to cope with criminality.

Moreover, this state of affairs has not occurred suddenly, but has merely achieved imperative proportions in recent years. For example, in 1935, when Illinois had a population of 8,000,000 persons, there were some 16,000 inmates in the penitentiary system; today, 1975, with a state population of nearly 12,000,000 persons, there are only some 9,000 persons in Illinois jail cells.

Further Emasculation Proposed

This monstrous social cancer is still being further exacerbated by many persons who, in the name of humanism, are seriously proposing an additional liberalization of this country's penal system, including such goals as: the elimination of minimum sentences for particular crimes; establishment of codd prisons; imposition of a 10-year moratorium on prison construction; retention of a prisoner's civil rights; an elimination of prison guard uniforms, badges and weapons, all as was recommended last year by the National Advisory Commission on Criminal Justice Standards and Goals.

Anti-gun proposals are based on the faulty assumption that the increased sale of firearms in recent years constitutes, in and of itself, a basic cause of crime, when it would be far more rational to conclude that the sale of guns is, to a significant degree, merely an effect of the public's fear of rising crime.

Such a conclusion was suggested by the National Commission on the Causes and Prevention of Crime in its Report of the Task Force on Firearms, which stated: ". . . increases in the crime rate occur for reasons unrelated to home firearms possession, and it is certainly possible that the crime rate may indeed be a cause of the increase in firearms ownership." The public has become increasingly alarmed and apprehensive over what it perceives as the open and notorious contempt shown by lawless elements not only towards the law, but towards the police and even the courts, all of which contribute towards the determination of law-abiding citizens to restore to themselves the means of doing that which they fear government either can no longer, or will no longer do for them; namely, protect the safety and lives of their families, as well as their property.

Guns are not the Problem

America does not have a "gun problem," and gun control does not equal crime control. We have a crime problem, but for those who take the trouble to examine the facts and are both psychologically and politically free to interpret them fairly and objectively, it is abundantly clear that the problem with crime has nothing whatsoever to do with guns but, rather, lies squarely upon the manner in which the criminal element is regarded and treated by the institutions upon which society must rely for law enforcement and the administration of justice. Crime will continue to grow unless and until criminals and mental incompetents are effectively separated from useful society by means of appropriate and, if need be, permanent institutionalization.

America does not need any more gun control laws. What it desperately does need is a system to provide fast, just and certain punishment for crimes of violence; an end to the vicious cycle of plea bargaining and excessive continuances; and a restoration of capital punishment. In addition, there is a need for stiff minimum mandatory consecutive penalties for crimes of violence to serve as a powerful deterrent to those individuals who, in their absence, lack the motivation and discipline to adhere to the rules of civilized behavior.

STATEMENT OF HON. STEWART B. MCKINNEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. Chairman: The price of crime, like everything else, has gone up. However, beside the tragic loss of life and the staggering cost in dollars, our continuing inability to deal with urban crime and all other manifestations of lawlessness exacts a price in a more precious currency than money—respect for law. Recently, I saw the motion picture *Death Wish* which brought the audience to its feet when the film's "hero" brutally took the law into his own hands in revenge against a common criminal. Clearly, the danger in the glorification of vigilante justice, Mr. Chairman, lies in the degradation of legal justice. For in comparison, our judicial system seems slow, cumbersome, expensive and fall less simple a solution to an all too common problem—crime.

If the American people are to avoid grasping for so-called "quick" and "simple" solutions to crime, couched in vengeful anti-crime rhetoric, delivered by T.V. heroes and compromising constitutional safeguards in the process, we must provide the basis for a new respect for law. We can no longer call for an understanding of the criminal unless the law manifests an equal awareness of the plight of crime's victims. While we continue to learn about the social and economic causes of criminal activity, we cannot allow the streets of our cities and towns to become huge crime laboratories where honest taxpayers must daily live in fear for their property and their lives.

This is not to say that current efforts in the areas of prison reform, behavioral research and the search for the socio-economic roots of crime should be diminished. On the contrary, I believe commitments in these areas should be continued and increased. So too, federal efforts to aid local law enforcement and crime prevention should be strengthened; but we cannot delude ourselves into thinking that this is enough. Until we know why criminals act, the law must be firm and swift to deliver the message that anti-social, disruptive and destructive behavior—no matter what the cause—will be met with stern yet just punishment. Such a message serves to deter those who would commit crime and to assure all of us that the law is not working at cross-purposes with those who desire to live a peaceful and productive life.

I ask that you keep these thoughts in mind as you consider the various legislative proposals designed to restore order as the product of law and end the reign of the common criminal as the tyrant of our city streets. In this context, it seems clear that weapon registration or other administrative controls—gun control—are simply not enough. Any policeman would testify to the ease with which criminals procure and subsequently dispose of cheap guns, knives and other weapons. Thus gun control merely defines the problem, rather than solves it, by insuring that only criminals will possess unlicensed weapons.

However, I do think restriction on the production and sale of so-called "Saturday night specials" would more effectively remove the cheap guns from the hands of would-be criminals. Close regulation of the size, construction, and the quality of the metals used in gun production would clear the shelves of the cheap and dangerous weapons which today are used in most crimes.

Aside from the availability of inexpensive guns, perhaps the most obvious weakness in the law which frustrates its effectiveness as a crime deterrent is the visible inconsistency and even laxity of criminal sentences. Given the widely known fact that only a small number of street crimes ever result in an arrest and conviction, it can be no surprise that reduced or suspended sentences do little to instill confidence in the American public and even less to deter crime. This, added to the known high rate of recidivism among offenders almost demands the public to conclude that continued leniency demonstrates a misplaced compassion for the criminal at the further expense of the citizen.

I think it's time sentencing patterns stopped being confused with rehabilitation efforts. The courtroom is not the place to manifest our ongoing and necessary efforts to expose the prime causes of criminal behavior. That is why I hope you will give special consideration in these hearings to proposals to require a separate, stern and non-reducible penalty for commission of a felony aided by the use of a deadly weapon of any kind. Twenty states already have such laws. I believe that federal courts should follow the states' lead in this and impose an additional five or ten year penalty for the use of any weapon in the commission of a crime. This would demonstrate federal approval of this deterrent device and perhaps induct the remaining states to enact similar laws. I would go even further to employ one of the many means of federal persuasion, such as a percentage reduction in LEAA funds, to produce state compliance. That, however, is a matter for subsequent legislation.

In conclusion, I appreciate the committee's attention to my views on crime, views which reflect the over-riding concern of almost every constituent who has written or called me recently. The enormity of the problem and the apparent impotence of all attempts to reduce court delays, improve law enforcement equipment and personnel and effect a solution to crime are of vital interest to every citizen. They begin to doubt the practical and philosophical wisdom of adherence to a system of laws which would rather ignore the suffering of crime's victims, both past and potential, by extending every effort to minimize that of the criminal. As these hearings progress, I hope you will bring these considerations to bear in choosing the steps this Congress will take to re-establish public confidence in the rule of law.

STATEMENT OF HON. EDWARD R. ROYBAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, I would like to thank the committee for this opportunity to testify today.

Today in most major cities it is very easy to obtain a handgun. It has been reported that in some areas guns can be rented by people who are about to engage in criminal activity. This makes it more difficult for the police to track and apprehend the offender. This illegal trafficking in handguns poses a grave threat to the safety of every law abiding citizen.

There are upwards of 210 million firearms in the United States; this figure includes over 40 million handguns. These handguns don't just sit in people's drawers or hang on drawing room walls. Almost 70% of all murders in 1974 were committed by the handgun. In 1973, 172 of our 276 firearm murders in Los Angeles were committed by handguns. Yes, desperate individuals—and even teenagers—are using guns to kill and rob our neighbors and threaten our safety.

Perhaps some of the 2.5 million handguns bought every year are being purchased to protect a man and his family, but as the National Commission on the Causes and Prevention of Violence said in 1969, "... firearms in the home are

probably of less value than commonly thought in defending the householder's life against intruders. . . ." This Commission also found that handguns play a major role in the commission of homicide, assault, and armed robbery, and that they are being used more and more in violent crime.

I think the time to act is now. The Congress should pass legislation that can deter the dreadful wave of crime and killing we have seen sweep over our land. I have sponsored H.R. 3086, called "the Handgun Crime Control Act of 1975." This legislation would prohibit the importation, sale, purchase, transfer, receipt, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, where authorized, licensed importers, manufacturers, dealers, and pistol clubs.

H.R. 3086 would also provide for the establishment of a system whereby all citizens would be prohibited from buying or otherwise obtaining a handgun not in their possession upon enactment of this bill. There are incentives, in fact, for those who own handguns to surrender them to the government.

There is nothing in the "Handgun Crime Act of 1975 that would interfere with the legitimate activities of hunters or sportsmen. These people have been the victims of handguns in the wrong hands as well.

For too many years, the emotional ramifications of this issue have postponed action of possible solutions, while more and more of our populace is killed, robbed, or otherwise threatened by criminals who readily arm themselves with shotguns. Mr. Chairman, I urge the passage of H.R. 3086, a bill I feel that truly provides a way to protect our populace from the current scourge of handgun crime.

STATEMENTS SUBMITTED FOR THE RECORD IN APRIL

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

Mr. Chairman: I appreciate this opportunity to testify today on behalf of the stringent need for some form of gun control.

I myself have sponsored H.R. 3086, the Handgun Crime Control Act of 1975. This bill would prohibit the importation, sale, purchase, transfer, receipts, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, where authorized, licensed importers, manufacturers, dealers, and pistol clubs.

The Handgun Crime Control Act of 1975 would also establish a system whereby all citizens would be prohibited from buying, or otherwise obtaining a handgun not in their possession upon enactment of this bill. There are also provisions for reimbursement when those who own handguns surrender them to the government.

There may be over 210 million firearms in the United States today, enough for almost every one of us, man, woman, and child alike, to arm ourselves. But for what?

The statistics tell us for what. Almost 70 percent of all murders in 1974 were committed by the handguns. In New York City, in 1973, 810 murders were committed with handguns, out of 851 total with firearms.

Way back in 1969 the National Commission on the Causes and Prevention of Violence found that:

" . . . Firearms, particularly handguns, play a major role in the commission of homicide, aggravated assault, and armed robbery, and . . . they are being used in greater percentages of these violent crimes."

I am most concerned with the effect of these handguns in my own city of New York. New York City has the Nation's most stringent local gun controls. To own a long-gun or handgun in the City you must have a license. To get such a license an applicant is fingerprinted and his background is investigated in detail over a period of several weeks. Those with histories of mental disorder, felony convictions or drug or alcohol abuse are automatically denied licenses. To own a handgun the applicant must pass the same kind of vigorous background check and also show specific, legitimate need for the weapon. As of November, 1973, only 28,000 civilians were licensed to own a handgun in New York, including sporting target shooters.

These local gun controls in New York City have worked to curb violent crime, but it is apparent that they are undermined by the absence of uniform Federal

gun control. The easy availability of firearms throughout the United States has critically limited the effectiveness of our local controls.

In 1972, more than 51 percent of the murders in New York City involved the use of firearms, with 4,362 assaults with guns, and 21,567 robberies with guns. With the exception of a few rare incidents, all of these crimes—the murders, robberies, and assaults—were committed with unregistered firearms by persons not licensed to possess them in New York City.

Ninety-seven percent of these guns were traced to retail sales outside of New York City, and almost 70 percent of the guns came from four States in the South: South Carolina, Georgia, Florida and Virginia.

Mr. Chairman, there was even one case in which a comprehensive police effort uncovered a black market operation alleged to be "running" hundreds a week into New York. Of 200 guns in just one shipment, almost all of them were subsequently seized in connection with arrests for attempted murder, armed robbery and assault.

It should also be pointed out that less than one-tenth of one percent of the thousands of people licensed to carry handguns in New York City have used their guns to commit a murder or a robbery.

We cannot let the flagrant abuse of millions of handguns, which are good for little else than to maim and kill other people, continue to threaten our very safety. I urge the passage of H.R. 3086, so that all our citizens—can be protected in a comprehensive and consistent way.

STATEMENT OF HON. DAN ROSTENKOWSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman, I appreciate being allowed to offer this testimony to your committee while you are in my own city of Chicago.

The legislation you are holding hearings on today is a matter of grave concern to Chicagoans and to all Americans.

The phrase "law and order" has been much used by politicians in our country in recent years. Let me tell you what I mean by law and order. Law and order means that our citizens should not have to flee their urban neighborhoods because of rising crime rates. It means people walking their own streets without fear of mugging by a gun toting thug. Law and order means taxicab drivers, dry cleaners, store owners and gas station attendants are going to work without the fear of being robbed at gunpoint and possibly being shot.

These seemingly idyllic conditions can exist. That they don't is painfully obvious. Recent statistics show an enormous increase in violent crime: murder, rape, assault, and robbery, in the past year—well over 17% increase in many instances. And this is not just in cities. The greatest increases have been in suburbs and rural areas.

That many of these crimes are linked with readily available handguns is undeniably true. In this city of Chicago last year, 68% of the murders were committed with firearms. In over half of the murders in Chicago—that is 490 individual lives—the handgun was the murderous weapon. And this is in a city with one of the strictest gun control laws in the nation. All six police officers killed in the line of duty last year were murdered with handguns.

Clearly something must be done if our cities are to maintain an appearance of civilization. The U.S. Treasury Department and the U.S. Bureau of Census estimate that there are at least 40 million handguns in circulation with an additional 2.5 million handguns entering the market place each year.

Our cities are becoming (or have already become) armed camps. Criminals have guns, ordinary people buy guns to "protect" themselves against criminals who in many cases steal those same guns to become further armed. The result—arms escalation is occurring in our own streets and neighborhoods.

To correct the problem of easy access to these weapons of death requires that we eliminate the source of supply. To this end Congressman Abner Mikva and I have introduced our bill, H.R. 3086, to ban the manufacture, sale, distribution, importation or transfer of handguns.

That gun control requires federal action can be seen in the cases of the cities of Chicago and New York City. Each city has felt the need for gun control laws but finds such laws circumvented by the absence of restriction in other areas.

In New York City, studies of the origin of weapons used in gun assisted crime cases revealed that 69% of such weapons were originally purchased in four southern states which have relatively lax gun laws.

Chicago has a similar problem. While it is difficult to purchase a gun in the city, almost anyone can purchase a gun in the surrounding suburbs.

Unfortunately, cities cannot seal off their boundaries and hire border guards to check every arriving individual or parcel as nations can. If this were possible, perhaps a uniform federal regulation would not be necessary.

I have high hopes that such legislation will be passed this year. Congress must take this strong and fundamental position to save human lives.

Our bill would provide such a step. This bill bans the manufacture, sale, and trafficking of handguns. It has provisions to exempt licensed pistol clubs and curio or collector items. Moreover, this legislation calls for a bounty to be given to individuals who voluntarily turn in their handguns, thus further enhancing the effect of drying up the supply of handguns.

The results of the recent poll by the Checker Cab Company and the Yellow Cab Company of Chicago area taxi cab riders revealed that 84.6% of these riders are in favor of such a bill which would restrict the availability of handguns for non-law enforcement purposes.

The Chicago Retail Cleaners and Tailors Association is sponsoring such a poll also. While these results are not yet available preliminary results indicate a similar response.

Joining these two groups in sponsoring handgun polls is the Chicago Retail Druggists' Association with their 3,000 stores throughout Chicago and Illinois. Other businesses and civic groups have expressed interest in polling their customers and members, such as the Chicago Chapter of the League of Women Voters.

Furthermore, in recent years, many other distinguished groups of Americans have spoken out against the handgun epidemic. Three presidential commissions—the National Advisory Commission on Civil Disorders in 1968, the National Commission on the Causes and Prevention of Violence in 1969, and the Brown Commission on the Reform of Criminal Laws in 1970—together with the United States' Conference of Mayors, have urged stringent Federal firearm controls. Yet we still have not passed the legislation which could have prevented much tragic gun violence.

As I stated on the floor of the House on February 8, 1975, the day our bill was introduced: "Gun control legislation does not curtail individual liberty, but protects liberty, and indeed life, by restricting possession of the weapons most frequently used for crime and killing. It is a kind of national insanity that allows the frenzy of the gun lobby in this country to put the convenience and amusement of gun enthusiasts ahead of the welfare and safety of the American people. The United States is no longer a frontier society. Pistols as playtoys are not tolerable in urban communities."

This legislation cannot induce every criminal to surrender his crime tools but it would begin the process of curbing the spread of pistols and make it more difficult for potential criminals to obtain their weapons.

Our legislation is a step towards achieving that law and order which will permit our citizens to fully enjoy their homes, neighborhoods and cities.

STATEMENTS OF PRIVATE ORGANIZATIONS SUBMITTED FOR THE RECORD

AMERICAN BAR ASSOCIATION,
Washington, D.C., June 2, 1975.

Hon. JOHN J. CONYERS,

Chairman, Subcommittee on Crime, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased, as President of the American Bar Association, to respond to your request for the views of the American Bar Association on firearms control legislation. The American Bar Association supports the enactment of appropriate state and federal legislation to promote effective control of importation, sale, transportation, and possession of firearms.

In 1965 the ABA urged the Congress to amend the federal Firearms Act to prohibit the shipment of firearms in interstate commerce, except among federally licensed manufacturers, dealers, and importers. This amendment was made a part of the Gun Control Act of 1968. Subsequent to the enactment of the Gun Control Act of 1968, the Association, in 1973, reaffirmed its policy supporting effective firearms controls.

Enclosed are copies of the American Bar Association's firearms control resolutions of 1965 and 1973, which constitute the full text of the official position of the Association. Copies of the accompanying reports, upon which our House of Delegates based its actions, are also enclosed for the record.

A further, detailed report with recommendations, supporting strong firearms control measures, will be brought before the House of Delegates at its forthcoming 1975 Annual Meeting, August 11-14. We shall advise you of the action taken on these recommendations. However, the enclosed reports are submitted to you at this time in view of the scheduled completion by the Subcommittee on Crime of the current consideration of firearms control legislation prior to the ABA's Annual Meeting.

Sincerely,

JAMES D. FELLERS.

Enclosures.

AMERICAN BAR ASSOCIATION—SECTION OF CRIMINAL LAW

Recommendation

This Section of Criminal Law recommends adoption of the following:

Resolved, That the American Bar Association reaffirms the position it took in 1965 recommending, in principle, the enactment of appropriate state and federal legislation providing effective control of the importation, sale, transportation and possession of firearms; and

Be It Further Resolved, That the President or his designee be authorized to present the views of the American Bar Association to the appropriate committees of Congress.

Report

The above recommendation is submitted to the American Bar Association's House of Delegates with the unanimous approval of the Council of the Section of Criminal Law which acted for the Section on December 7, 1972. The purpose of this proposal is to update the Association's long-standing and prudent practice of endorsing legislation aimed at reducing gun-related crime in America.

In a report to the House of Delegates during the 1965 Annual Meeting, the chairman of the Criminal Law Section, Major General Kenneth Hodson, wrote that, "for a number of years, the Section of Criminal Law has considered that the loose and ineffective controls on the sale of firearms, particularly handguns, has been a contributing factor to the increasing crime rate." The report's recommendation that the Association support passage of S. 1592, a bill aimed principally at controlling the interstate commerce in firearms, was overwhelmingly adopted by the House of Delegates by a vote of 184 to 26. Due to congressional inaction on that bill, the House of Delegates reiterated its support for the firearms control bill in a second resolution adopted during the 1966 Annual Meeting. The Association's 1965 resolution specifically indicated support for federal legislation which would "(1) prohibit the shipment of firearms in interstate commerce except between federally licensed manufacturers, dealers and importers; (2) prohibit sales by federally licensed dealers of shotguns and rifles to persons under 18 years of age; (3) prohibit sales by federally licensed dealers of all other types of firearms to persons under 21 years of age; (4) prohibit felons, fugitives and persons under indictment of felonies from shipping or receiving firearms in interstate commerce; (5) control commerce in large caliber weapons; (6) restrict the sale of handguns to residents of the state where purchased; and (7) limit the unrestricted volume of imported weapons."

Although S. 1592 was not enacted, Congress did pass the 1968 Gun Control Act (P.L. 90-618, 82 Stat. 1213) and the 1968 Omnibus Crime Control and Safe Streets Act (P.L. 90-351, 197). Together, these two laws accomplish most of the goals urged by this Association in 1965. However, the long-range effect of these laws has proven both effective and faulty.

One of the major goals of this Association's 1965 resolution was to stop the massive importation of foreign-made, easily concealed and usually poorly

constructed handguns which, because of their low-cost availability and small size, are used in a large percentage of armed crimes of violence. Thus, the 1968 Act had the positive effect of substantially reducing the importation of foreign-made handguns "not suitable for sporting purposes." For the first six months of 1968, foreign-made handguns were being imported at an annual rate of 1,239,930. In 1970 the total number of imported handguns had dropped to 279,536 (Cong. Rec., Aug. 7, 1972, S. 12926). However, an unforeseen loophole in the Act quickly became apparent as domestic manufacturers skirted the restriction on handgun importation by importing handgun parts instead.

In contrast to the above figures of imported handguns, the Internal Revenue Service reports that, in the first eleven months of 1971, domestic manufacturers produced 1,477,664 handguns for private sale. (Cong. Rec. July 20, 1972, S. 11341)

During the past two years of the 92nd Congress, some sixty-eight "gun control" bills were introduced. Although none was passed, those bills which generated the most interest—one of which passed the Senate—were aimed primarily at closing the loophole of the 1968 Act by applying the same standards to domestically produced handguns as have applied for the past four years to foreign-made handguns. The hearings and debates which accompanied these bills brought to light some startling statistics and facts.

The 1971 Uniform Crime Reports, compiled by the FBI, indicates that 51% of the estimated 17,630 murders committed in 1971 were accomplished with a handgun. Including rifle and shotgun murders, the percentage rises to 65%. The FBI notes that, "the significant fact emerges that most murders are committed by relatives of the victim or persons acquainted with the victim. It follows, therefore, that criminal homicide is, to a major extent, a national social problem beyond police prevention". (U.C.R., p. 9) This statement is substantiated by the appalling fact that over seven of every ten murders occur either within the family unit or were the result of romantic triangle and lover's quarrels and other arguments. The remaining murders resulted from suspected and known felonious activity such as robberies and sex crimes. These figures suggest an ironic and distressing conclusion, for it appears that since the majority of murders are committed with a handgun in the heat of anger or disagreement, with the antagonists at least known to each other, if not related, and considering the National Commission on Causes and Prevention of Violence's estimates that half of this nation's 60 million households are armed, the resulting conclusion is that an individual is more likely to die by handgun fire simply by possessing such a weapon for self-defense. In fact, this point was substantiated in Senate testimony (Cong. Rec., Aug. 7, 1972, S. 12928); the mere presence of a firearm in a home subjects the owner to a four times greater risk of death or injury by gunfire than if that same person faced a burglar, rapist or kidnaper unarmed.

An additional misconception is highlighted by the fact that the estimated 30 million armed households frequently provide the most available source of criminal's weapons. It is indeed ironic that the very weapons owned for purposes of self-protection against housebreakers usually end up to be the weapon a housebreaker uses to ply his trade. Though complete figures of the number of stolen weapons used criminally are impossible to compile, law enforcement officials generally agree that most illicit weapons were stolen from households and businesses.

On June 26, 1972, my predecessor, Justice William H. Erickson of the Colorado Supreme Court, wrote the Chairman of the House Judiciary Committee who was then presiding over hearings on a number of handgun control bills. Noting that, "neither the Section of Criminal Law nor the House of Delegates of the American Bar Association has studied these bills", Justice Erickson wrote that, "I have no authority to address myself to these specific pieces of legislation . . . However, as spokesman for our Section, I am most eager to express the previously established support and encouragement of the American Bar Association, in principle, for legislation aimed at reducing crime through control of the sale, registration and possession of firearms".

Because the Association's 1965 resolution had been officially deleted as obsolete, Justice Erickson requested the former Director of the Federal Bureau of Prisons and past chairman of this Section, James V. Bennett, to head a special committee to study the current relationship between firearms abuse and the soaring crime rate. Justice Erickson felt that it is "increasingly important that the Section of Criminal Law take prompt action in recommending an up-to-date position on

[firearms regulations] which might become the subject of a report with a recommended position for adoption by the House of Delegates so that the American Bar Association will not be found wanting."

This report and recommendation is in partial fulfillment of that request.

During the past five months, Mr. Bennett's committee has begun a study of the history of federal and state attempts to reduce gun-related crime and violence, the various procedures by which such crime might be reduced and how the legitimate interests of sportsmen can be protected. That committee has recommended two ways by which the previously established commitment of this Association to the principle of reducing gun-related crimes would be enhanced. The first suggestion is embodied in the attached recommendation: that the Association update its seven-year-old policy statement as an indication of its continuing concern for the soaring crime rate. The second suggestion, not a part of the attached recommendation, is simply that continued effort be focused on procedures by which state, local and the federal government might cooperate to reduce gun-related crime, violence and delinquency.

This Section is persuaded that the beginning of a new Congress is an ideal time for the Association to reiterate its past support for attempts to reduce gun-related crime. However, this Section feels that the immense difficulties encountered in studying any type of proposed firearms regulations require caution and extreme objectivity. Thus, this recommendation would allow the Association to become involved in current debate without being limited to supporting a particular proposal. The attached recommendation is based on the premise that the federal legislation enacted since the American Bar Association's last official statement, over seven years ago, dictates a present need to reiterate our concern. Such a statement as the attached recommendation does not bind the Association to support a specific bill but, rather, states a firm conviction that the organized legal community will continue to serve in its traditional role of advisor to Congress and leader in its concern for law enforcement and criminal justice.

Because of the interest of other segments of this Association, copies of this report have been distributed to the National Conference of Commissioners on Uniform State Laws, the Division of Judicial Administration, the National District Attorney's Association, National Association of Attorneys' General, the Committee on State Legislation, the Section of Family Law, the Section of Local Government Law, the Section of Individual Rights and Responsibilities, the Department of Justice, the Law Student Division, the Young Lawyers's Section and National Association of Criminal Defense Lawyers.

Respectfully submitted,

KEITH MOSSMAN, *Chairman.*

REPORT OF THE SECTION OF CRIMINAL LAW

RECOMMENDATION*

Resolved. That the American Bar Association urges the Congress of the United States to enact S. 1592, 89th Congress, or similar legislation which would amend the Federal Firearms Act to prohibit the shipment of firearms in interstate commerce except between federally licensed manufacturers, dealers and importers; to prohibit sales by federally licensed dealers of shotguns and rifles to persons under 18 years of age, and of all other types of firearms to persons under 21 years of age; to prohibit felons, fugitives and persons under indictment of felonies from shipping or receiving firearms in interstate commerce, and to control commerce in large caliber weapons; to restrict the sale of handguns to residents of the state where purchased; and to limit the unrestricted volume of imported weapons.

Be it Further Resolved. That the Section of Criminal Law be authorized to present the views of the American Bar Association to the appropriate committees of Congress on such proposed legislation.

REPORT

Federal action directed at the control of firearms originated, for modern purposes of criminal control, in the National Firearms Act of June 26, 1934, which is

* The recommendation was adopted. See page 324.

now set out in Sections 5801-62 of the Internal Revenue Code of 1954. This Act, passed in reaction to the gang wars of the Prohibition Era and the post-Prohibition crime waves, was directed at preventing criminals from obtaining firearms, such as machine guns, cane guns, sawed-off shotguns, silencers and similar weapons, which are particularly suitable for criminal use. The Act provides for special licensing taxes on importers, manufacturers, dealers and pawnbrokers dealing in such arms, imposes heavy transfer taxes on the transfer of such arms, requires the registration of such arms upon transfer and the registration of persons possessing such arms. Although written as a revenue measure, it was clearly intended to control the criminal commerce in firearms of a criminal character and provided penalties of up to five years' imprisonment.

The Federal Firearms Act of June 30, 1938, 15 U.S.C. §§ 901-09, was designed to suppress crime by regulating the traffic in firearms and ammunition, and applied to all firearms. Its legislative history shows particular concern with "roaming racketeers and predatory criminals who know no state lines—a situation beyond the power of control by local authorities to such an extent as to constitute a national menace." *United States v. Platt*, 31 F. Supp. 788, 790 (S.D. Tex. 1940); see *Hearings on H.R. 9066 Before House Committee on Ways and Means*, 73d Cong., 2d Sess. (1934). The Act requires a dealer to obtain a federal dealer's license by filing an application with the Internal Revenue Service and paying a fee of one dollar. However, because of the simplicity of this requirement and of the other record keeping required by the law, this Act has been called a "mail-order operation" in itself. *Hearings Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary*, 88th Cong., 1st Sess., pt. 14, at 3209 (1963).

The assassination of President John F. Kennedy on November 22, 1963, with a rifle reported to have been purchased by the accused assassin through the mails, brought public and congressional scrutiny to bear on the availability of firearms in the United States through mail orders and other uncontrolled channels of distribution. However, consideration of this problem had preceded that tragic event; concern with juvenile crime in which the use of "mail-order" weapons was an increasing factor led to hearings by the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary during early 1963, and legislation directed at the types of weapons used by juvenile criminals was introduced in August, 1963 by Chairman Dodd and other members of the subcommittee. The assassination brought the introduction of numerous other bills, the expansion of the Dodd bill, and greater concern about this problem.

S. 1975, 88th Cong., 1st Sess., was introduced on August 2, 1963, by Senator Dodd for himself and other members of the Juvenile Delinquency Subcommittee, but this proposal was not enacted. Other legislation proposing varying techniques for controlling the interstate shipment of firearms was introduced in the House of Representatives and in the Senate. In addition, resolutions were introduced in the House of Representatives authorizing an investigation of the sale of firearms in interstate and foreign commerce.

On March 22, 1965, Senator Dodd introduced S. 1592, a bill to amend the Federal Firearms Act. Basically, the proposed legislation is designed to accomplish the following:

First: It would prohibit the shipment of firearms in interstate commerce, except between federally licensed manufacturers, dealers, and importers. This provision would have the effect of prohibiting the so-called mail-order traffic in firearms to unlicensed persons. It would leave to each state the responsibility and authority for controlling the sale and disposition of firearms within its borders. There are several important exceptions to this general prohibition against interstate shipment. Sportsmen could continue to take their shotguns or rifles across state lines. Pistols could be carried in interstate commerce but only for a lawful purpose and only in conformity with state laws. Further, firearms could be shipped to a licensee for service and return to the sender. However, a nonlicensee could no longer buy weapons from out-of-state mail-order dealers. Sales would be made by retail dealers and would thus be subject to record-keeping requirements. These records would then have new meaning; they would not be rendered futile by an unrecorded flow of mail-order guns.

Second: Licensed retail dealers would be required to limit sales of handguns to residents of their state who are 21 years of age or older; they would be prohibited from selling any firearm to a person under the age of 18. In accordance with regulations to be prescribed by the Secretary of the Treasury, licensed dealers would be required to ascertain the identity and place of residence of a

purchaser. Further, it would be unlawful for a dealer to sell a firearm to any person when he knows or has reasonable cause to believe that such person is under indictment for or has been convicted of a felony, or is a fugitive from justice. These provisions of the proposed legislation do not address themselves to the question of permits to possess or to use firearms, leaving it to the states and local communities to decide what they need and want in that regard. Thus, for example, while the bill limits the sale of shotguns and rifles to persons who are at least 18 years of age, it does not preclude such persons from using guns if such use is permitted by state or local law.

Third: The bill would raise the annual license fees for a dealer from the present token of \$1.00 to \$100. It would also establish a license fee of \$250 for a pawnbroker who deals in firearms. Specific standards are established under which an application for a license shall be disapproved, after notice and opportunity for a hearing. The purpose of this provision of the proposed legislation is to limit the issuance of licenses to bona fide dealers. Under existing law, anyone other than a felon can, upon the mere allegation that he is a dealer and the payment of a fee of \$1.00, demand and obtain a license. According to the Secretary of the Treasury, some 50 or 60 thousand people have done this, some of them merely to put themselves in a position to obtain personal guns at wholesale. There would be nothing to prevent them from obtaining licenses in order to ship or receive concealable weapons through the mails, or to circumvent state or local requirements.

Fourth: The bill would permit the Secretary of the Treasury to curb the flow into the United States of surplus military weapons and other firearms not suitable for sporting purposes. However, weapons imported for science, research, or military training, or as antiques and curios, could be allowed.

Fifth: The importation and interstate shipment of large caliber weapons, such as bazookas and antitank guns, and other destructive devices would be brought under effective federal control.

The Subcommittee to Investigate Juvenile Delinquency of the Senate Judiciary Committee has been holding hearings on S. 1592, commencing shortly after the introduction of this legislation. The testimony of witnesses appearing before the subcommittee has generally favored enactment of the legislation, particularly the testimony of witnesses who are concerned with any facet of law enforcement. The principal objections to the legislation seemed to stem from the National Rifle Association and its members. The position of the NRA was commented upon by Attorney General Katzenbach in a statement to the subcommittee on May 19, 1965, excerpts of which appear below:

"This measure is not intended to curtail the ownership of guns among those legally entitled to own them. It is not intended to deprive people of guns used either for sport or for self-protection. It is not intended to force regulation on unwilling states.

"The purpose of this measure is simple: it is, merely, to help the states protect themselves against the unchecked flood of mail-order weapons to residents whose purposes might not be responsible, or even lawful. S. 1592 would provide such assistance to the extent that the states and the people of the states want it.

"There is demonstrable need for regulation of the interstate mail-order sale of guns. This bill is a response to that need. It was carefully drafted; it is receiving detailed attention from this Subcommittee.

"But, nevertheless, S. 1592 now has itself become a target—for the verbal fire of the National Rifle Association and others who represent hunters and sporting shooters. These opponents feel their views most deeply, as is evident from the bitterness and volume of their opposition. It is no secret to any member of Congress that the NRA sent out a mailing of 700,000 letters to its membership urging a barrage of mail to Senators and Congressmen.

"There is no question that the views of the NRA should be heard and given full weight. There is no question that so many people with an interest in gun legislation should have every opportunity to express it. But those views also need to be evaluated and thus I would like now to turn to analysis of the opposition arguments.

"It has been suggested, for example, by Franklin Orth, executive vice president of the NRA, that S. 1592 gives the Secretary of the Treasury 'unlimited power to surround all sales of guns by dealers with arbitrary and burdensome regulations and restrictions.'

"I fear this is an exaggeration flowing from the heat of opposition. The Secretary's regulations must be reasonable. I should think that the reasonableness of the regulations promulgated by the Secretary of the Treasury under the existing provisions of the Federal Firearms Act would contradict the assumption of 'burdensome regulations.'

"Further, the Administrative Procedure Act assures all interested parties of an opportunity to be heard before the issuance of substantive rules and regulations. The NRA and other gun interests have, in the past, taken full advantage of this opportunity and clearly could do so in the future. And still further, the regulations are subject to review and reversal by the courts and by Congress should they be felt arbitrary and capricious.

"It has also been suggested that S. 1592 requires anyone engaged in the manufacture of ammunition to pay \$1,000 for a manufacturer's license. The bill does not do so. It does not cover shotgun ammunition at all, and the license fee for manufacturers of other types of ammunition is \$500.

"It is true that anyone selling rifle ammunition, even .22 caliber, would be compelled to have a \$100 dealer license. Why shouldn't he? He is dealing ammunition for a lethal weapon. The many dealers in ammunition who also sell firearms would not, however, be required to pay an additional ammunition fee. Nor is there anything in the legislation that would as has been stated, require a club engaged in reloading for its members to obtain a manufacturer's license.

"A further specific objection raised against this measure is that it would forbid a dealer to sell to a non-resident of his state. The objection is stated in a misleading way. The bill does forbid such sales of hand guns, but it specifically excepts weapons like rifles and shotguns most commonly used by sportsmen and least commonly used by criminals.

"A similar objection is made on the grounds that the measure would prohibit all mail-order sales of firearms to individuals. While this is an accurate description of the measure with respect to interstate and foreign commerce the bill would not foreclose now allowable shipments within a state. Any control of such commerce is left to the states.

"One last comment on the specific NRA objections, as expressed in the letter sent to its membership. The letter described this measure as one which conceivably could lead to the elimination of 'the private ownership of all guns.' I am compelled to say that there is only one word which can serve in reply to such a fear—preposterous.

"More generally, I really cannot understand why the legislation we are talking about should seem a threat at all to sportsmen, hunters, farmers and others who have a productive or necessary or enjoyable interest in the use of rifles, shotguns or sporting hand guns. Nothing that we propose here could intelligently be construed as impaling the enjoyment they derive from shooting.

"This legislation would, indeed, make some changes in the distribution of firearms. It would, indeed, by outlawing mail-order sales of firearms between states, bring about changes in the commercial firearms world. It would, indeed, challenge interests which have thrived on the present state of unregulated chaos. But such a challenge is tragically overdue.

"Which is more significant, the right not to be slightly inconvenienced in the purchase of a firearm, or the right not to be terrorized, robbed, wounded, or killed?

"As the chief law enforcement officer of the United States, I come before you today to ask you to supply the only conceivable answer to that question. I come, with all the urgency at my command, to ask the Subcommittee to report this measure favorably and to ask the Congress to enact it without delay."

Two further objections have been made to the proposed legislation. The first that it is unconstitutional, and the second is that, even if enacted, the criminal will still get guns by the simple process of stealing them or buying them from a "gun bootlegger."

With respect to the constitutional issue, both the Secretary of the Treasury and the Attorney General of the United States have affirmed that the bill was carefully drafted to insure its constitutionality. It is the view of the Section of Criminal Law that there is not merit to an objection to the legislation on constitutional grounds. The vast body of authority under the Commerce Clause supports federal control of the distribution of firearms by means of interstate commerce. Further, it seems clear that the right to bear arms protected by the

Second Amendment relates only to the maintenance of the militia; that Amendment does not prevent the reasonable regulation of interstate commerce in firearms in the interest of public safety. It should be noted that the legislation does not apply to agencies and departments of Federal, State, and local governments.

With respect to the second objection, viz., that, even if the legislation is enacted, it will not prevent the criminal from obtaining a gun, the statement made by the Secretary of the Treasury to the subcommittee is illuminating. Excerpts follow:

"Mr. Chairman, I am happy to appear before your Committee in association with my colleague, the Attorney General, and other representatives of the Administration in support of S. 1592 to amend the Federal Firearms Act, because I feel that enactment of this piece of legislation is of great importance to the welfare of this country and its citizens.

"S. 1592 is designed to implement the recommendations which the President set forth with respect to firearms control in his message to the Congress of March 8, 1965, relating to law enforcement and the administration of justice.

"The President, in that message, described crime as 'a malignant enemy in America's midst' of such extent and seriousness that the problem is now one 'of great national concern.' The President also stated, and I quote from his message, 'The time has come now, to check that growth, to contain its spread, and to reduce its toll of lives and property.'

"As an integral part of the war against the spread of lawlessness, the President urged the enactment of more effective firearms control legislation, and cited as a significant factor in the rise of violent crime in the United States 'the ease with which any person can acquire firearms.'

"The President recognized the necessity for state and local action, as well as federal action, in this area and he urged 'the governors of our states and mayors and other local public officials to review their existing legislation in this critical field with a view to keeping lethal weapons out of the wrong hands.' However, the President also clearly recognized in his message that effective State and local regulation of firearms is not feasible unless we strengthen at the federal level controls over the importation of firearms and over the interstate shipment of firearms. The President advised that he was proposing draft legislation to accomplish these aims, and stated, and I quote, 'I recommend this legislation to the Congress as a sensible use of federal authority to assist local authorities in coping with an undeniable menace to law and order and to the lives of innocent people.'

"Anyone who reads the papers today or hears the news on radio and television cannot help but be appalled at the extent of crime and lawlessness in this country and at the extent of the loss of lives through the use of weapons in the hands not only of criminals but also juveniles, the mentally sick and other irresponsible people. Every day the lives of decent American citizens, our greatest national asset, are being snuffed out through the misuse and abuse of firearms by persons who should not have access to them.

"What the bill does is to institute federal controls in areas where the federal government can and should operate, and where the state governments cannot, the areas of interstate and foreign commerce. Under our federal constitutional system, the responsibility for maintaining public health and safety is left to the state governments under their police powers. Basically, it is the province of the state governments to determine the conditions under which their citizens may acquire and use firearms. I certainly hope that in those states where there is not now adequate regulation of the acquisition of firearms, steps will soon be taken to institute controls complementing the steps taken in this bill in order to deal effectively with this serious menace.

"Since a bureau of my Department is responsible for the administration of the Firearms Act, I am particularly anxious that the changes proposed in the bill with respect to the issuance of licenses to manufacture, import and deal in firearms be adopted. Under existing law, anyone other than a felon can, upon the mere allegation that he is a dealer and payment of a fee of \$1.00, demand and obtain a license. Some 50 or 60 thousand people have done this, some of them merely to put themselves in a position to obtain personal guns at wholesale. The situation is wide open for the obtaining of licenses by irresponsible elements, thus facilitating the acquisition of these weapons by criminals and other undesir-

ables. The bill before you, by increasing license fees and imposing standards for obtaining licenses, will go a long way toward rectifying this situation.

"One misconception about this bill which has been widely publicized is that it will make it possible for the federal government to institute such regulations and restrictions as will create great difficulties for law-abiding citizens in acquiring, owning or using firearms for sporting purposes. This is absolutely not so. Sportsmen will continue to be able to obtain rifles and shotguns from licensed dealers and manufacturers subject only to the requirements of their respective state laws. Indeed, they can travel to another state and purchase a rifle or shotgun from a licensed dealer there and bring it home with them without interference. Only two minor inconveniences may occur for the sportsmen of this country. They will not be able to travel to another state and purchase a pistol or concealable weapon, and they will not be able to obtain a direct shipment from another state of any type of firearm. On this latter point, the inconvenience is more apparent than real because the large mail order houses have outlets in most of the states and the bill will permit mail order shipments to individual citizens from these outlets.

"These minor inconveniences have been found to be necessary in order to make it possible for the states to regulate effectively the acquisition and possession of firearms. Obviously, state authorities cannot control the acquisition and possession of firearms if they have no way of knowing or ascertaining what firearms are coming in to their states through the mails, or, in the case of concealable weapons, by personally being carried across state lines.

"Today, the people of the United States are living under the most ideal conditions which have ever existed for any peoples anywhere on earth. Yet much of this is threatened by the spreading cancer of crime and juvenile delinquency. It is absolutely essential that steps such as those proposed in this bill be taken to bring under control one of the main elements in the spread of this cancer, the indiscriminate acquisition of weapons of destruction. In concluding my statement, may I say that the Department's experience with the existing Federal Firearms Act has resulted in a feeling of frustration since the controls provided by it are so obviously inadequate in the ways that I have indicated. In drafting S. 1592 we have had in mind these inadequacies and now have, we believe, a bill, which, when enacted, will provide effective controls without jeopardizing or interfering with the freedom of law-abiding citizens to own firearms for legitimate purposes. I strongly support the enactment of S. 1592."

For a number of years, the Section of Criminal Law has considered that the loose and ineffective controls on the sale of firearms, particularly handguns, has been a contributing factor to the increasing crime rate. At the Midyear Meeting of the American Bar Association in February, 1964, the Section recommended to the House of Delegates that action should be taken by the Association "to draft a uniform state firearms statute and appropriate federal legislation." During the Annual Meeting in August, 1964, the Section presented a program on the subject, "The What, When and Why of Gun Legislation." Distinguished speakers, including a law enforcement officer, a judge, a private citizen, and representatives of the National Rifle Association explored the subject in depth and detail. Although no formal action of the Section followed this panel program, it was clear that the sentiment of the large majority of the members attending the session favored more effective firearms controls.

In summary in determining whether the American Bar Association should support the enactment of S. 1592, or similar federal legislation, the following specific questions and answers should be considered:

First: Does the relatively free interstate traffic in firearms contribute materially to the increasing crime rate in the United States? *Answer:* The available evidence indicates clearly that a considerable number of crimes are committed by persons who have been able to acquire firearms easily, particularly handguns.

Second: Is it within the constitutional power of the federal government to establish controls on the interstate movement of firearms? *Answer:* No lengthy legal brief is necessary to show that the federal government under the Commerce Clause is empowered to establish reasonable controls upon the interstate movement of firearms.

Third: If the states and local governments enacted stringent controls on the purchase, possession, and use of firearms, would it be necessary or desirable for

the federal government to legislate in this area? *Answer:* Although stringent state and local control of firearms would assist materially in reducing the possession and use of firearms for unlawful purposes, state and local controls cannot be effective unless the federal government prevents the relatively free and unimpeded flow of firearms into the several states through the channels of interstate commerce.

Fourth: Are the controls contained in S. 1592 reasonable? *Answer:* Few persons will interpose reasonable objections to the purpose or to the major provisions of S. 1592. Reasonable men might differ as to the necessity for certain of the specific provisions. For example, it can be argued that the provisions which preclude a licensed retail dealer from selling rifles and shotguns to persons under the age of 18, or from selling handguns to persons under the age of 21, are an unwarranted usurpation of the power of the states and local governments to decide who may possess and use firearms. However, almost everyone would agree that these restrictions are reasonable if firearms are to be kept out of the hands of irresponsible juveniles. Further, it is clear that the control of such sales, even though local in nature, can best be established by federal insistence, through licensing procedures, that dealers adhere to fixed standards in all of the states. Otherwise, it would be difficult to prevent a juvenile from purchasing a firearm in a state where the sale is permitted, and carrying it to a state where such a sale is prohibited.

The Council of the Section of Criminal Law is of the opinion that S. 1592 represents a reasonable and desirable step forward in law enforcement. Although this legislation will cause minor inconvenience to the law abiding citizen who desires to buy a gun, it will not prevent him from acquiring one. This minor inconvenience is the price that must be paid if the federal government is to do its part to assist the states in maintaining effective control over firearms.

For the above reasons, the Section of Criminal Law, acting through its Council in accordance with Section 6, Article VI, of its By-Laws, recommends that the American Bar Association support the enactment of S. 1592, or similar federal legislation.

Respectfully submitted,

KENNETH J. HODSON, *Chairman.*

STATEMENT OF THE AMERICAN JEWISH CONGRESS ON FEDERAL GUN CONTROL LEGISLATION

The American Jewish Congress welcomes this opportunity to submit its views on proposals pending before this subcommittee dealing with federal gun control legislation. An organization of American Jews, the American Jewish Congress has a long tradition of concern for the safety and well-being of all people.

We believe that the fabric of our society is threatened by the appallingly high rate of violent death and injury caused by firearms in this country. The climate of fear that has been generated—in cities, in suburbs and even in rural areas—undermines our efforts to deal with pressing social problems. It turns Americans in on themselves and inhibits effective joint action in support of human goals.

It is past time for effective governmental action on this problem. The size of the problem, however, is such that it cannot be dealt with by state laws. We therefore believe that the most effective form of gun control legislation would be a Federal law prohibiting the manufacture, importation, sale, and ownership of all types of handguns and handgun ammunition, with an exception for law enforcement officials.

The need for legislation

The need for effective gun control legislation can be seen in a number of disturbing statistics. It is estimated that, of the 210 million privately owned firearms in the United States, there are approximately 40 million handguns. This figure is growing by approximately 2.5 to 3 million each year. Handguns have been responsible for 25,000 deaths annually—sixty-nine deaths each day of the year. Of these 25,000 deaths, 12,000 are homicides, 10,000 are suicides and 3,000 are accidents.

To place these figures in perspective, it is useful to note that, while there have been 800,000 Americans killed by firearms since 1900, only 627,000 Americans have been killed in all wars from the Revolution through 1968. One percent of all deaths in this country are caused by guns, with forty percent of

these firearms fatalities being persons 19 years old or less. Additionally about 200,000 Americans are wounded by firearms each year.

In 1973, there were 131 police officers killed in the United States and Puerto Rico; 124 were the victims of guns and 90 were the victims of handguns. In 1972, 74 police officers were killed by handguns. In the decade ending in 1973 a total of 613 police officers died of wounds inflicted by handguns.

The handgun is a frequent tool in perpetrating serious crime. As Attorney General Edward H. Levi recently said: "The Federal Bureau of Investigation's latest figures indicate that the rate of serious crime—murder, forcible rape, robbery, aggravated assault, burglary, larceny, and auto theft—was 17 percent higher in 1974 than in 1973. That is the biggest increase in the 42 years the Bureau has been collecting statistics. Since 1960, the rate has increased about 200 percent. Among the serious crimes, those involving violence or the threat of it have also been on the increase, in large part because of increases both in the cities and in the suburban areas around them. Once composed mainly of crimes of passion within families or circles of acquaintances, the murder rate lately has included increasing numbers of crimes in which the perpetrator and victim were strangers. Impersonal, passionless murder on the street has come to symbolize to many people the insecurity of living in crowded urban environments. (Address, Law Enforcement Executive Narcotics Conference, April 6, 1975.)"

The handgun is simply an instrument of human carnage. It accounts for approximately half of all homicides committed per year in America. We are frequently told that possession of a firearm is necessary for protection of the innocent. This contention is refuted by the fact that the most frequent victim of handgun murders is a person with whom the often unintended killer is well acquainted. In fact, 73% of all murders in 1972 were committed by persons who had never previously violated the law. About 25% of murders occur within families and, of these, firearms account for approximately 60%. Finally, 44% of all felony murders were committed by felons using firearms. The statistics for suicides and accidents are similarly alarming.

The nature of the problem was correctly summarized by the Attorney General (*ibid*): "A handgun makes an individual in a city too powerful for his environment. It is a menace because it can be so readily hidden. It is a mechanism that translates passion or a passing evil intent into destruction. The possibility, or in some neighborhoods knowledge, that people roam the streets with handguns in their pockets has called into question the safety of even venturing out from behind locked doors. And the fear of handgun violence has provoked people to purchase their own handgun for self-defense, causing a proliferation of arms that aggravates the basic problem. In short, handguns pose a great threat in cities beleaguered by violence."

Legislation prohibiting the ownership and use of concealable guns, with appropriate exceptions for law enforcement officials, would have the special merit of being preventive rather than corrective. Murder and other violence have always been illegal. Yet, the data set forth above shows that they are likely to continue at a high level as long as they can be committed easily and on the spur of the moment. It is for that reason that we believe broad restraining legislation is necessary.

Constitutionality

Opponents of gun control legislation frequently predicate their position on the Second Amendment of the Constitution. That Amendment provides: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

Plainly, this does not mean that individuals *qua* individuals have a right based on constitutional mandate to possess firearms. Such an interpretation of the Second Amendment requires ignoring its opening language which makes it clear that the right to bear arms exists solely for the purpose of maintaining a "well regulated militia." It would be absurd to apply that term to the tens of thousands of individuals now roaming the country with concealed handguns. It is not surprising, therefore that previous gun control legislation in this country has withstood judicial review. See *United States v. Miller*, 307 U.S. 174 (1939) (upholding the constitutionality of the National Firearms Acts, 48 Stat. 1236-1240).

The only true bar to effective federal gun control legislation, we submit, is lack of congressional action. We are pleased to note that thorough and meaningful consideration is being given at this session of Congress to the gun control problem

and we are hopeful that, as a result of this Subcommittee's deliberations, effective legislation will be adopted.

The pending bills

There are three principal approaches to gun control currently being advocated. They call for (1) prohibition of handguns; (2) registration and limited prohibition of handguns; and (3) limited prohibition of handguns in urban high crime centers.

A. Handgun Control Act of 1975; H.R. 40, S.750.—H.R. 40, sponsored by Rep. Jonathan B. Bingham, would enact a "Handgun Control Act of 1975." A companion bill, S. 750, has been introduced by Senator Phillip A. Hart. We believe that this type of bill comes closest to what is needed in the way of gun control legislation.

The Hart-Bingham bill would outlaw the private possession of handguns and handgun ammunition, with limited exceptions. Persons owning handguns prior to the bill's enactment would be able to sell them to the government at fair market value. The exemptions would recognize various legitimate purposes of handgun ownership. They would permit handguns to be manufactured for and owned by (a) licensed professional security guard services; (b) The United States and any State or political subdivision; (c) pistol clubs licensed by the Secretary of the Treasury; and (d) licensed firearms collectors who render their firearms and ammunition inoperable.

We believe this approach to be particularly salutary in that it would apply to handguns in general rather than solely to the so-called "Saturday Night Special." While the Saturday Night Special does pose a special threat to society, the problem we have described above is not limited to this particular phenomenon. For example, the New York City police department reports that 75% of the guns it confiscates are "quality" weapons as opposed to cheap ones.

The American Jewish Congress believes that the ownership and possession of handguns should be outlawed entirely, with an exception only for law enforcement officials. The exceptions in the Hart-Bingham bill are broader in some respects. We question whether a persuasive case has been out for these broader exceptions. However, we do not believe that they would substantially limit the effectiveness of the proposal and we have no doubt that this measure would be the most effective of the three considered here.

B. Federal Handgun Control Act of 1975; S. 1447.—Senators Edward M. Kennedy and Adlai E. Stevenson have proposed a more limited approach. A bill they have sponsored in the Senate (S. 1447) would, among other provisions, require that handgun owners be at least 18 years of age and that they be free of alcoholism, drug addiction or mental disease. Licenses would only be granted those without criminal records and would be issued following the filing of an application, accompanied by a photograph and fingerprints. The bill would provide for government confiscation of the Saturday Night Special, for which the owner would receive compensation. Domestic manufacture of handguns "with a barrel less than 6 inches in length" would be prohibited.

This proposal, essentially limited to registration and licensing, represents a compromise. We suggest that the history of compromise in gun control legislation is one of feeble efforts with tragically limited results. Registration alone does not insure the removal of guns and ammunition from the marketplace, nor does it effectively curb violation of the law by those who wish to possess and use unregistered guns. Moreover, properly registered guns can and do injure and kill as effectively as unregistered guns. They can be a source of crime if used by thieves and burglars, frequently against those from whom they are stolen.

We believe further that the proposed limited ban on the Saturday Night Special would not protect American society from the dangers of handguns. There are too many handguns already owned by Americans. And, even if meaningful standards can be established to define and identify these cheap weapons, it is naive to think that ingenious and imaginative manufacturers will not quickly find a way to circumvent them. Furthermore, it is not at all clear that banning the Saturday Night Special would even begin to resolve the problems created by handgun ownership since it has been shown that the Saturday Night Special does not constitute even a major proportion of the 40 million handguns which are privately owned.

C. Geographic Limitations on Handgun Ownership.—In an address before the Law Enforcement Executive Narcotics Conference on April 6, 1975, the Attorney

General suggested a somewhat complex mechanism for imposing federal gun control in critical urban geographic areas. According to the Attorney General's proposal, the transport, transfer, or sale of handguns and handgun ammunition would be prohibited in urban areas where the crime rate was higher than the national average by a stated percentage or was higher than the national average and increasing at a rapid rate. The prohibition would be removed when the "crisis level of violence had clearly passed." A secondary feature of the Levi proposal would be a prohibition of Saturday Night Specials.

We believe that there are basic flaws in the thesis on which the Attorney General's proposal rests. Control within limited geographic areas is plainly not as extensive as the broad nature of the handgun issue and would not be addressed to the true character of the problem. In particular, the Attorney General's proposal is open to criticism because:

(1) It would have the effect of shutting the barn door after the horse is stolen, since Federal gun control would only be instituted after some defined rise in the crime rate had occurred. Meanwhile, it would do nothing to prevent crime from increasing to the defined level.

(2) Effective control of guns requires a nationwide ban. While control of guns would in theory be limited to, for example, Standard Metropolitan Statistical Areas, a person could still easily obtain a gun by travelling beyond these defined geographical areas.

(3) Control of guns in specific urban areas would do nothing to prevent deaths and injuries in areas where control would not be imposed.

(4) The assumption that the prohibition of handguns could be safely removed once the level of violence dropped is unrealistic. Prohibition of handguns limited in respect to both time and area is not likely to "change people's habits with respect to handguns," as Attorney General Levi suggests.

Conclusion

Among the qualities of life that are highly valued in the Jewish tradition is maintenance of the freedom and dignity of the individual. In our view, achievement of that objective of society is now jeopardized by widespread fear of violent crime—a fear largely generated by the virtually unlimited ownership of concealable firearms and their all too frequent use. We therefore express the hope that the United States Congress will promptly enact effective legislation barring ownership and possession of handguns except by those charged with responsibility for enforcement of the law.

Respectfully submitted,

PAUL BERGER,

Co-Chairman, Commission on Law, Social Action and Urban Affairs.

JOSEPH B. ROBINSON,

Director, Commission on Law, Social Action and Urban Affairs.

AMERICAN JEWISH CONGRESS.

STATEMENT OF C. WAYNE ZUNKEL ON BEHALF OF THE CHURCH OF THE BRETHREN GENERAL BOARD IN SUPPORT OF GUN CONTROL LEGISLATION

I am C. Wayne Zunkel, 500 Cedar Street, Elizabethtown, Pennsylvania, a pastor and member of the Executive Committee of the General Board of the Church of the Brethren. I speak for that Board which is the top administrative body of our denomination and which represents approximately one thousand congregations across this country.

In 1968, our General Board adopted the following "Statement on Firearms Control," which reads, in part:

Background

The assassinations of John F. Kennedy, Martin Luther King, Jr., and Robert F. Kennedy, the riots in our major cities, and a growing climate of violence call attention to the critical need in our nation for more effective firearms control.

Every day, fifty people in our nation are killed because of the misuse of firearms. As a church which has long opposed war because it destroys life, we cannot be unmindful that the death toll for Americans has been much greater from guns in our own country than from all the battles in which we have engaged since the Revolution. Taking one year as an example, in 1966, 5,008 Americans

were killed in combat in Vietnam. In that same year, guns killed more than 17,000 persons of the 100,000 actually shot in America.

Nearly a million guns are imported and two million more are made and sold in this country each year. One study found that forty-two percent of male senior high school students in a selected sampling, owned a shotgun or rifle. As a church which has long advocated disarmament in international affairs we now declare that it is also time for arms control in domestic life. The effectiveness of such control is affirmed by studies of the Federal Bureau of Investigation showing that the percentage of gun murders in states having gun controls is substantially less than in states having minimal or no controls.

The degree of violence in this country is directly related to the abundance of bullet weapons. With the exception of the United States, most highly developed and urbanized countries have laws which make private ownership of firearms illegal without a special permit. Few guns are permitted in England; even policemen are not ordinarily armed. In 1962, only 29 persons were killed by guns in all of England and Wales. The Netherlands with similar restrictions had not a single firearms homicide in the three years 1960, 1961, 1962. Other European countries have carefully developed firearms control. In Japan, the private ownership of handguns is completely outlawed. Surely the experience of these countries and our own testify to the need to take legal steps to preserve life by controlling firearms.

Resolution

The General Brotherhood Board of the Church of the Brethren, believing in the sacredness of human life and the obligation of the state for the safety of its citizens:

1. Calls for much stronger federal and state legislation in controlling the sale, ownership and use of firearms and ammunition;
2. Encourages our members and the general public to support such legislation . . .

The statement concluded:

While control of firearms will not eliminate the causes of crime and social disorganization, it will prevent much tragic loss of life. All the private and government resources at our command must be used to rid our society of lethal violence.

The current situation

Since that statement was made, the problem has grown. There were 10,340 murders by handguns in 1973—one every 48 minutes. That was nearly twice the number of such murders by handguns in 1967.¹ The figures are all too familiar to your committee. Seventy-three percent of all handgun murders are committed by people who have never broken the law.² More Americans have been killed by privately owned guns than have died in all of America's wars since and including the Revolutionary war.³ For every intruder stopped by a homeowner with a gun, there are four accidents in the home.⁴ Ninety-nine percent of home burglaries occur when no one is at home. The likelihood is, therefore, that the gun will be stolen. Over 500,000 guns are stolen each year in our nation.⁵ Almost every handgun ever used in a criminal act was at one time owned by an honest citizen!⁶

The Bible describes the story of civilization as beginning in a Garden and ending in a City—a new Jerusalem which will one day be. The history of our nation shows the same kind of movement. We began with a rustic frontier where every family could hew out an existence and a future for himself and where individual initiative, brute strength, and hardy resourcefulness could ensure survival and carve out relative comfort. But today the frontiers are of a different nature. Instead of vast unexplored timberland and unplowed plains waiting to be claimed, we live in the pressure cooker of modern urban life where each of us is tied, for better or worse, to millions of nameless faces which press in upon us from every side. When the pressures of unemployment or a long hot summer cause tempers to become high, there is a run on gun shops, and the unrestricted right to bear arms means an explosive situation, a tinder box needing only a match to set off mass violence. We then experience a free-for-all "open season" on everyone.

¹ U.S. News and World Report, February 10, 1975.

² Lindsay: "The Case for Federal Firearms Control" by the Criminal Justice Coordinating Council of New York City, November, 1973.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Senator Phillip Hart in Congressional Record, February 19, 1975.

Even apart from the extreme situations which can quickly come upon us, the presence of unlimited, unrestricted lethal weapons in our modern settling causes much pain and tragedy.

Arguments of the opposition

The issue of gun control has been clouded by strong fears and a highly organized lobby at the expense of Americans generally and also at the expense of the thoughtful sportsman.

The fears in the minds of many sportsmen are that registration will become a local political issue or that obtaining a permit will place one at the arbitrary mercy of a minor political official for approval. To some it is the last stand of American individualism and their own "manhood". The great underlying fear by some has to do with a basic mistrust of government. They see the right to bear arms without restraint as the last hope against being swallowed up by an ever encroaching governmental power which they cannot fully understand, and which they feel already regulates their life with too great a strangle-hold.

The other side is that fair and strict controls may be the best insurance the sportsman has that his right to a gun will be preserved! The most logical comparison is the automobile. There was a time when travel was by horse-drawn carriage or on foot. When the first cars made their appearance and when speeds were relatively low, strong laws didn't matter nearly so much as today.

If there were no registration laws or inspection requirements, the typical American automobile lover might argue with strong emotional feelings that to have any controls is the beginning of the end of his freedom, that state or federal control might take away his "right to drive". But, in fact, the opposite is true. If automobiles are to continue to be a part of our way of life, registration and control are essential to the preservation of the right to drive, and every thoughtful, and most thoughtless, drivers now recognize this as true.

Therefore, without qualification we say that the right to guns in the kind of society already upon us is best served by the very controls which some now so emotionally oppose. Such controls will be to the advantage of the thoughtful, responsible sportsmen among us.

Solutions

A piecemeal approach will not suffice. This has been tried and found woefully wanting. Franklin E. Zimring, the University of Chicago law professor who analyzed the first five years of the 1968 law's operation, cited a Treasury Department study showing that of some 5000 illegal handguns seized by police in New York City in 1973, the majority that could be traced came from six states in the South where gun laws are weak. New York City has probably the strictest gun laws in the nation, yet only 28,000 of the city's estimated 1.3 million handguns have been registered.⁷ What is needed is a strong federal law that will apply equally to all parts of the country. What John Donne wrote as poetry several hundred years ago is hard fact today. "No man is an island" in fast-paced, close-living, 20th century U.S.A.

As has been pointed out repeatedly, our own nation lags far behind the modern world in the control of firearms. At the time of the rash of national assassinations in 1968, an Associated Press release reminded readers that most other civilized nations have already enacted gun controls.⁸ Among the nations listed were France, England, West Germany, Spain, the Soviet Union, Norway, Sweden, Italy and Belgium. Not since the gangster era of the 1930's where we finally agreed to remove machine guns and sawed-off shotguns from public use, has there been any serious effective attempt at gun control in our nation. As a result, the total number of gun deaths in all other free nations is exceeded by the number of gun deaths in the U.S. alone.⁹

Nations like Japan and England which have strict controls over handguns also have low gun murder rates. To remove the handgun does not end crime, but it has in other nations significantly reduced the number of violent crimes. Statistical research is readily available to verify this.¹⁰ For most serious hunters, handguns are extra baggage, not necessary for sport.

The time has come for legislators to look unfounded emotions, fears and highly organized self-interest squarely in the eye, and enact strong, responsi-

⁷ U.S. News and World Report, February 10, 1975.

⁸ Associated Press, June 6, 1968.

⁹ Lindsay: "The Case for Federal Firearms Control".

¹⁰ U.S. News and World Report, February 10, 1975.

ble controls which can help to make the lives of us all a little safer, which will ultimately preserve the very rights of those now opposed to gun control, and which will help remove fear from gun owners and all Americans.

We call upon this Subcommittee, the entire Judiciary Committee, and the Congress to take the responsible step now to eliminate handguns from private individual ownership and to move on toward effective registration and controls of all other guns in American life.

Please contact me or our Washington Office, 100 Maryland Ave., N.E., Washington, D.C., 20002, for any further information or testimony which we may provide.

STATEMENT OF INTERNATIONAL CONFERENCE OF POLICE ASSOCIATIONS

Mr. Chairman, for the record my name is Robert D. Gordon and I am the Executive Director of the International Conference of Police Associations which is the largest police union in the country, representing over 170,000 police officers in 500 locals throughout the United States and Canada. On behalf of our President, Edward Kiernan, I would like to thank the Chairman and the members of the House Judiciary Committee, Subcommittee on Crime, for allowing me to submit this testimony.

Undoubtedly, along with the testimony from a number of other associations, we will see a drastic change in future gun laws which directly affect our citizens. It is not our intention to play on the hysteria that is rampant throughout this country or to present charts and photographs of police officers and citizens lying dead in the streets whose lives have been snuffed out by a handgun. Nor, do we intend to present the cases of police officers who have given their lives over the past five years. I am confident that you, the members of Congress, are well aware of the death toll due to handguns. I am also sure that the Congress is aware that this number increases each year. We intend to present our proposal to put a halt to the slaughter of our citizens. I hope that this committee will recommend to their fellow members in Congress, that there be enacted and passed into law a mandatory five-year prison term for anyone who commits a crime with a weapon. This term must be in addition to any other sentence he or she be charged with. Our proposal also includes that there be absolutely no provision for parole or plea bargaining.

From the outset, this may appear to be a hard stand and yet this stand must be implemented at once. We have heard the complaints that the judges are too lenient. The prosecuting attorneys are often to blame for allowing admitted felons to plead to lesser charges. The judicial system is tied into knots by the bonding process whereby a felon is out on the street to use another handgun before the police officer has finished filing his report. If mandatory sentences are imposed there will be no passing of the proverbial buck.

The police officers of this nation have attended the hundred of funerals and wept for the widows and families of their slain partners. Yet, they refuse to become involved in legislation that would put a stop to these killings simply because we lead ourselves to believe that only the law abiding citizens would register their guns and the criminal element would not. This may indeed be a fact. However, the officers and members of this Association unanimously agree that a mandatory five-year prison sentence coupled with a ten-year term for a second offense, will most assuredly serve as a deterrent, especially when it is mandated by law.

It seems strange that no one objects to obtaining a hunting license, which is mandated in almost every state. As a matter of fact, I would venture to say that almost every American citizen possesses no less than four forms of registrations such as a drivers licenses, hunting and fishing licenses, dog licenses, registration of heavy equipment, bicycles and licensing of doctors, dentists, liquor stores and the list goes on and on. Yet, the cry of those that oppose gun registration is "That's how Hitler Started".

Recently, we have heard racial references to gun control as witnessed on a recent television program in Washington, D.C. Anyone who injects race into this issue is not only doing himself and his family a great disservice but is advocating that one segment has the right to bear arms against the other.

Bold steps must be taken to prevent anyone from committing a crime with a weapon. I am certain that only upon the enactment of a strong bill will the violent crime of murder of law abiding citizens cease. We have seen the attempted

assassination of a governor, the assault of a U.S. Senator, the killing of a President, his brother, an outstanding civil rights leader and over 500 police officers. Yet, nothing has been done by our elected officials to put a stop to the senseless killing of these people. For a mere \$25.00, anyone can obtain a gun far easier than an 18 year old can obtain a drivers license or purchase liquor. The public at large is demanding that Congress put a stop to the claims of gun lobbyists that it is their constitutional right to bear arms and that no one should restrict the sale, purchase and registration of firearms. Are we to suppose that it is also unconstitutional to have Federal laws governing the possession of sub-machine guns? Do we declare unconstitutional the Federal laws regulating the carrying of weapons aboard aircraft? Or, is it our constitutional right to sell or purchase heroin?

In closing, let me say that the Members of Congress have a great responsibility upon their shoulders to recommend to the full House a strict law with a mandatory sentence. I am confident that this 94th Congress will go down in History as the Congress who returned sanity to our Nation relative to the sale and possession of handguns.

Sincerely,

ROBERT D. GORDON,
Executive Director.

STATEMENT OF DR. A. DUDLEY WARD ON BEHALF OF THE BOARD OF CHURCH AND SOCIETY OF THE UNITED METHODIST CHURCH REGARDING BANNING HANDGUNS

We appreciate the opportunity to testify before the House Subcommittee on Crime with respect to handgun control.

I am A. Dudley Ward, General Secretary for the Board of Church and Society of the United Methodist Church. The Board of Church and Society is one of four national program boards of the United Methodist Church. I would like to present the official policy position of our church as determined by its General Conference. The General Conference is the highest legislative body of United Methodism. It meets every four years and consists of about 1,000 duly elected members of the clergy and laity representing various occupations, geographical areas, age spans, and racial and ethnic backgrounds.

As recently as 1972 our General Conference took a position on the question of handgun control. It then declared:

In an increasingly complex and urbanized society it is impossible to protect life and maintain public order when individuals have unregulated access to firearms. Therefore, the Church records its support for the licensing of all gun owners and the registration of all firearms. Licensing provisions should require adequate identification of gun owners and provide basic standards with respect to age, absence of mental illness, and lack of a serious criminal record. These and other objective standards should be applied in determining the denial of any license. Reasonable and effective state licensing and registration provisions should be required by federal law. If states fail to act within two years to provide adequate measures in accordance with federal standards, then federal licensing and registration provisions should apply.

In accordance with the recommendations of the National Commission on the Causes and Prevention of Violence, we endorse the elimination of private ownership and use of hand guns, except in extremely limited instances. Looking at the statement as a whole the Church went on record supporting licensing and registration of rifles and shotguns combined with the banning of handguns, except in extremely limited instances.

"Except in extremely limited instances" is not defined in the statement, but it is reasonable to assume the sensible exceptions—as provided in legislation proposed by Representatives Bingham, Fauntroy, Harrington, Mikva, Drinan, etc.—would meet these requirements. In other words, it would be acceptable if handguns were possessed only by the military, police, security guards, and pistol clubs where they would be kept under secure conditions. Another exception might be antique gun dealers where only guns manufactured before 1890 would be sold. For the sake of public safety it might be best if such handguns were rendered unfireable before a sale or trade was made.

The Christian faith is based on reverence for life and the value of the human person. It is opposed to all that would cheapen, assault and destroy human life. In recent years the handgun—responsible for 53% of murders in the United

States in 1973—has been the primary weapon used in fomenting fear, violence and death in our society.

Certainly if there were no handguns in the United States, knowing what we know now, we surely would not begin to introduce the some 40 million such weapons extant in the nation. In the same way, if there were a means open to get back to handguns zero, we should use that means. In a number of bills before the House—such as H.R. 40 (introduced by Congresswoman Bingham) such an opportunity would be open to us through making handguns in possession of the general public illegal. Therefore, we vigorously support H.R. 40 and any other legislation which would effectively ban handguns from ownership, possession and use by the ordinary citizen.

Because the handgun is available and concealable it has become the favorite weapon of street crimes, crimes of passion, and suicides. I am convinced that such killings would be greatly reduced if the handgun were not readily available.

The most logical step in controlling firearms in America today is to ban handguns. This action would not interfere with normal legal pursuits of the hunter and sportsman. As one who owns several rifles and shotguns, I can well appreciate the concern of those who would not wish to have their sporting activities in the field interfered with. But that is not what we are talking about today. We are proposing legislation which would affect handguns only. It is a well-known fact that the major purpose of a handgun is to kill people, not to kill game. Therefore, such instruments ought not to be in the hands of the American public at large.

The householder, who generally buys his gun to protect his domicile, would actually be better off without a gun. A study was made in the Cleveland area in 1973 of the protection afforded homes by guns between 1958 and 1972. It was found that, during this period, although 17 burglars, robbers, or intruders were killed by householders, six times that many gun deaths occurred in the homes of the area during the same 14 years. There is little reason to believe that such findings would not be verified in city after city across the United States.

If handguns were not readily available in the home, there are two types of gun killings which could be sharply reduced—crimes of passion and suicides. In 1973 some 71 percent of the murders in the country occurred among people who knew one another—family, neighbors, and “friends.” Since 53 percent of all murders were by handgun we can rightfully assume that a large proportion of the crimes of passion were committed with a handgun. In such instances, the assailant is usually sorry the next day; but the gun was available during a dispute and it was used. In most cases the new murderer had never been convicted of a crime before. But the argument occurred and the gun was conveniently at hand. If a handgun had not been so readily available, there might have been a scuffle, or fistcuffs, but no one dead.

Availability of guns is no doubt an important factor in the many deaths in the nation by suicide—estimated at about 10,000 per year. Again, a large percentage of these are with handguns. A person goes into emotional depression. A gun is available either in the home or at the nearby gun shop or hardware store. The gun is used even though such a person might well have come through his depression cycle a month later had he lived. The finality of using a gun for suicide purposes is all too apparent in contrast with other methods which might have been used—sleeping pills or the slashing of wrists.

One can have little confidence that “Saturday Night Specials” legislation will prove effective. It may do some good in cutting into petty street crime, that is, street stick-ups and robberies of gasoline stations and Seven-Eleven stores. It is doubtful that inroads will be made into professional crime where better and more reliable weapons are likely to be used.

Furthermore, “Saturday Night Specials” are very difficult to define in a way that is meaningfully restrictive. If barrel length is specified, manufacturers can lengthen the barrel by a half inch and be excluded from definition. If alloy is specified, the metal component can be changed to circumvent what is outlawed.

We hope the Congress will not be satisfied to pass a law regarding cheap handguns—which might relate to about 20 percent of the problem—and then lead the public to believe that the gun control problem has been taken care of for another ten years. Such encouragement of false hopes, I believe, would be doomed to early disappointment.

Registration of handguns would be helpful in only a limited way. It would identify the owner of a murder or assault weapon after the crime was committed—if you could find the gun.

Licensing of handgun owners, perhaps the most promising control mechanism next to outright banning, also has its limitations. It probably would successively screen out from gun ownership many persons with a serious criminal record. But it is a sobering thought that, in 1972, 73 percent of all murders were carried out by people who had never before broken the law. Thus, screening out criminals from owning guns will not make a major impact on reduction of murders.

The best hope actually lies in banning handguns from general ownership in the United States. In Britain it is very difficult to secure a gun. To purchase a gun there one must receive a police permit. Very few are issued for handguns. In 1972 there were two handgun murders in London while in Boston, with one-twelfth the population, there were 43. More people are murdered by handguns every 39 hours in the United States than were murdered by all firearms in England throughout the year of 1972.

If handguns were made illegal in the United States, most Americans, who are generally law-abiding, would turn in their guns. It is true that criminals would not. But as time went on, the supply available to criminals would begin to dry up. A large proportion of guns used by criminals have been stolen; these would not now be available. Many criminals commit petty offenses. Handguns in their possession or in their automobiles would be lifted. Thus, if criminals could not buy or steal handguns and their current store became diminished as time went by, the United States would be in the position of moving toward a less violent and more civilized society. We hope and pray that such a day will soon come.

Therefore, we strongly urge this Subcommittee, the whole Judiciary Committee, and the entire Congress to take the responsible step now to make major progress in the area of crime prevention: support legislation to eliminate handguns from private ownership in U.S. society.

I appreciate the opportunity of presenting this testimony before the Subcommittee today.

A. DUDLEY WARD.

STATEMENT FOR THE RECORD SUBMITTED IN JULY

STATEMENT OF HON. JOHN P. MURTHA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Chairman Conyers, Members of the Subcommittee. I want to thank the members of the Crime Subcommittee for accepting and considering this testimony. I would also like to congratulate you on the diligent job you have been doing in considering gun control legislation.

To begin I would like to state briefly my own position on this issue. At this time I see no further gun control proposal I could support. To date I have not seen a proposal that will accomplish the goals of its advocates without fanning the fears of its opponents. I have personally co-sponsored legislation in this Congress preventing the Consumer Product Safety Commission from issuing a ban against the sale of handgun ammunition. Besides my personal opposition to the ban, I reject this as a backdoor approach to law-making. The final question on gun control rests with the people's elected representatives in Congress, not with untouchable personnel in the bureaucracy.

Having reached my own conclusions from studying this question, I want to discuss briefly some ideas, comments, and suggestions that I hope will add to the committee's general debate over gun control.

Let me start with a vital distinction. The urban experience with guns differs dramatically from the rural experience. In our metropolitan areas, the gun is a source of power, a means of violence, and a device for using force. In contrast, in the rural sections of Pennsylvania such as I represent, it is a source of sport and a means of outdoor enjoyment.

The firearm is part of our rural culture in Pennsylvania. Its proper use is deeply instilled from early youth through adulthood. A close association develops between a firearm, its owner, and the outdoors. The youth is taught the proper use of the firearm. He is taught how to handle and clean it properly. He is taught

not to abuse its potential power. He is taught how to use it legitimately, in season, for the sport of hunting.

In the hectic pace of metropolitan Washington, D.C., it may seem like a page from the American past, but in Central Pennsylvania the picture is repeated regularly of Saturday morning hunting trips with a father and his son. From those trips comes an appreciation and love for the out-of-doors, conservation, and wonderment of nature. That environmental concern carries through the young boy's lifetime.

It would be ignoring the truth to say we didn't have some hunters who are more interested in the kill than the sport, who are reckless and who tramp the outdoors rather than respect it. But this is a distinct minority; and they are hated even more by the true sportsmen, than they are by the rest of society.

Two final comments in this section on the hunter. First, I believe it is worth noting that even with the minority of reckless hunters, no species of animal in modern times has ever entered the endangered species list because of controlled, sport hunting. This is not a reckless pastime. Second, neither can it be ignored that the hunter's dollar in registration fees has supported many of the wildlife programs throughout the nation which have helped greatly to protect and preserve several endangered species.

All this is background to say that while I don't agree with Attorney General Edward H. Levi's present approach to ban sales in high crime urban areas, I do think it is healthy that the proposal recognizes the difference between the urban and rural gun problem. The only way the debate will ever develop realistic alternatives is to recognize this difference.

A major problem with the Attorney General's proposal is that it has fanned the hunter's fear that any type of control, in any location, will be the first step to larger, more encompassing gun confiscation and regulation. No law works without public support. The task of this subcommittee—and I recognize it is a most difficult task—is to work for goals acceptable to the entire public. In such a debate the situation and fears of the sportsmen are essential knowledge.

Next, I would like to make a recommendation to this committee. I would like to suggest a test of a strong, nonappealable, mandatory penalty for committing a crime with a gun. We've had some scattered, mandatory penalty laws, but we've never enforced them on a nation-wide basis that would influence public attitudes.

Often the crime committed with a gun is a crime of short-term passion. The mandatory penalty will not halt such a crime. But many other crimes result from careful planning. I believe the knowledge that an extra, firm, inexcusable penalty awaits a person if he commits that crime with a gun would result in fewer crimes committed with guns and fewer accidental murders. Such an approach also develops a nation-wide response without being unfair to the rural dweller who would not have his sport interfered with, but would pay the same penalty if he misuses his firearm.

I do not think registration or confiscation is a viable alternative at this time. Why? First, I oppose the massive bureaucracy that would inevitably result from such a plan. I don't think we need that extra layer of government in the daily lives of our people, and I don't think we need that extra taxpayer expense.

The second and more important reason is simply that it won't work. It's too easy to beat. I don't care how many persons you employ, an unregistered gun will still be available. The result will be to place a new burden on the legal gun user without really affecting the illegal user. A figure I ran across recently was that in the District of Columbia, out of 51,645 registered firearms, only 16, or roughly $\frac{1}{3}$ of 1% were used during 1974 to commit a crime. This figure from a city where all guns bought through a gun store are registered and where all new citizens who own a gun are required to register within 48 hours of moving to the city. The criminal will still obtain a gun, and the goal of withholding firearms from the criminal population simply will not be accomplished.

I served with the U.S. Marines in South Vietnam and during the war there was a harsh restriction against American or South Vietnamese soldiers obtaining weaponry. The result was a flourishing market of illegal sales that was always one-step ahead of the law. The same result would occur in the United States.

One final suggestion: as I noted earlier, many crimes committed with guns are crimes of passion. I would support a national law that will prevent im-

mediate sale of guns. Right now most individuals in most states can walk in and immediately purchase a gun. Possibly we should consider making that person wait, say 48 hours, before he or she can pick up a gun. No federal registration, no permanent records, just make it illegal for the weapons dealer to sell the guns immediately. Twelve states (including Pennsylvania) plus the District of Columbia now have such laws ranging from a two to five day waiting period. It's not fool-proof, there would be violations of such a law, but I think it would work to prevent some crimes of passion or self-destruction and would also give us a law with which to penalize the weapons dealers who are operating illegally.

These represent some of my ideas. I hope they are helpful in the debate your committee is developing. If I can leave you with just one thought from this testimony, it would be to ask that you recognize and remember the rural firearms user, the special relationship he has with his guns, and the need for laws that recognize his law-abiding use of the gun.

Again, many thanks for your attention, and for the thorough job you are doing on behalf of Congress in developing the debate on this issue.

SUPPLEMENTAL COMMENTS OF HON. JONATHAN B. BINGHAM IN RESPONSE TO A QUESTION BY HON. GEORGE E. DANIELSON ON FEBRUARY 20, 1976, BEFORE THE HOUSE JUDICIARY SUBCOMMITTEE ON CRIME

In my view, the ability of the Congress to regulate weapons, including a ban on the possession of handguns, is grounded in the Commerce Clause and the Necessary and Proper Clause of Article I, Section 8 of the U.S. Constitution.

The Supreme Court has long espoused the view that it will not substitute its judgment for that of the Congress in the regulation of interstate commerce, unless the relation of the subject of regulation to interstate commerce and its effect upon it are clearly non-existent. *Stafford v. Wallace*, 258 U.S. 495 (1922). Indeed, the Court, in the same opinion, noted that it is primarily for Congress to consider and decide the dangers posed to interstate commerce and meet them.

The evidence that handguns pose a threat or burden on interstate commerce exists; it is as visible, and as horrible, as that produced by the abuse of narcotic drugs. My bill recognizes and declares that handguns constitute a burden on interstate commerce, as well as threatening domestic tranquility. The power to ban private possession of handguns is the ultimate form of regulation to remove that threat or burden on interstate commerce, but it is no less legitimate than licensing, or other milder forms of regulation. The power to regulate includes the power to prohibit. *Gibbons v. Ogden*, 9 Wheat. 1, 196 (1824).

I was asked whether my bill and the federal prohibition of the possession of dangerous drugs are based on the same power of Congress under the Constitution—the power to levy and collect taxes. On reflection, I would respectfully submit that the drug laws are not based on the taxing power.

Although our drug laws (like our firearms laws) at one time had their Constitutional roots in the Federal taxing power (e.g., the Marijuana Tax Act of 1937), Congress has since seen fit to ground the drug laws (as it has the firearms laws) in the Commerce Clause. The Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Chapter 13) (like the Gun Control Act of 1968) is clearly based on the power to regulate interstate commerce. The Congressional findings in section 101 of that Act state:

"(3) A major portion of the traffic in . . . (drugs) . . . flows through interstate commerce. Incidents . . . which are not an integral part of . . . interstate . . . (commerce) . . . such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce . . ."

I submit that the same reasoning supports a ban on the possession of handguns. There is a direct effect upon interstate commerce because many handguns, like narcotics, are transported in interstate commerce after manufacture; handguns, like narcotics, usually have been transported in interstate commerce immediately before their local distribution; handguns, like narcotics possessed by individuals, usually flow through interstate commerce immediately prior to such possession; handguns, like narcotics, when locally distributed and possessed by individuals, contribute to swelling the interstate traffic in such commodities; handguns, like narcotics, manufactured and distributed intrastate can-

not be differentiated from handguns manufactured and distributed interstate. It is not feasible to distinguish, in terms of control, between intra- and inter-state tainted weapons. Federal control of the intrastate incidents of the traffic in handguns is as essential to the effective control of the interstate incidents of such traffic as such intrastate controls are essential to control interstate drug traffic.

The constitutionality of the Federal drug laws, including the ban on possession, has been repeatedly upheld by the U.S. Court of Appeals as a legitimate exercise of Congressional power under the Commerce Clause. (E.g., *U.S. v. Lopez*, 459 F. 2d 949 (1972), and *U.S. v. Cerrito*, 413 F. 2d 1270 (1969)). In the latter case, the Court opined that it will look to the Congressional findings as a basis for determining that challenged statutes are constitutional. The inescapable conclusion is that the Courts would sustain a ban on the private possession of handguns.

This is not to say that the taxing power is not a legitimate means of regulation. Much existing gun control legislation reposes in the Internal Revenue Code. It would be a mistake, however, to assume that the Constitutional basis for firearms registration is grounded in Title 26. We use the tax power simply because it is a practical means of carrying out the enforcement of the firearms registration requirements of the Gun Control Act of 1968.

Consider the findings in that Act, P.L. 90-351 (18 app. U.S.C. 1201 *et seq.*): "The Congress finds and declares that the . . . possession . . . of a firearm by felons, veterans who are discharged under dishonorable conditions, mental incompetents . . . (and certain other individuals) . . . constitutes . . . a burden on commerce or threat affecting the free flow of commerce." It is quite apparent that the 1968 Federal gun law is based on the Congress' power to regulate interstate and foreign commerce under Article, Section 8, Clause 3 of the U.S. Constitution.

Chief Justice Marshall, in *McCulloch v. Maryland*, 4 Wheat, 316 (1819), wrote, "Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are Constitutional." It is an uncontested proposition that it is within the scope of the Constitution for the Congress to regulate the interstate flow of handguns, and upon a Congressional finding that the only effective way to eliminate that flow is to ban absolutely handgun possession by private citizens, such a prohibition would be an appropriate and constitutional exercise of Congressional power under the Commerce Clause and the Necessary and Proper Clause.

THE DEPARTMENT OF TREASURY,
BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS.
February 12, 1975.

CHIEF OF POLICE,
Minneapolis Police Department,
Minneapolis, Minn.

DEAR CHIEF JENSEN: This report relates to an ATF Program—"Project I"—in which all handguns obtained by the Minneapolis Police Department during a 90 day period from July 1, 1974 thru September 30, 1974 were traced by ATF. The primary thrust of the project was to assist the Minneapolis Police Department in identifying local handgun problems and to effectively enforce the Gun Control Act. Traces were made from the manufacturer to the retail dealer level, and only continued further in instances where information was needed to complete a criminal investigation.

195 handguns were traced and the following disclosed:

- 48% were purchased in the Minneapolis metropolitan area;
- 42% were the "Saturday Nite Special" variety;
- 22% were originally purchased out of state;
- 16% were reported stolen;
- 11% were purchased from one local firearms dealer.

No pattern was formed for the firearms from out of state, however, more originated from Kansas City, Missouri; Chicago, Illinois; New York City, New York; and Tuscaloosa, Alabama than any other city.

From the attached statistics the following could be generalized: Minneapolis Police Department receives an average of 65 handguns per month. Approximately half of these are those commonly referred to as "Saturday Nite Specials". Almost half of the firearms had been purchased in the Minneapolis metropolitan area.

One of every ten handguns are purchased from one local firearms dealer. Approximately one of every five handguns are picked up for violation of the City Weapons Ordinance. 16% of the handguns obtained are involved in violent crimes.

Your assistance and cooperation in this program is again appreciated. Hopefully, this survey will aid us both in locating problem areas involving handguns.

MICHAEL Q. HALL,
Special Agent In Charge,
Bureau of Alcohol, Tobacco, and Firearms.

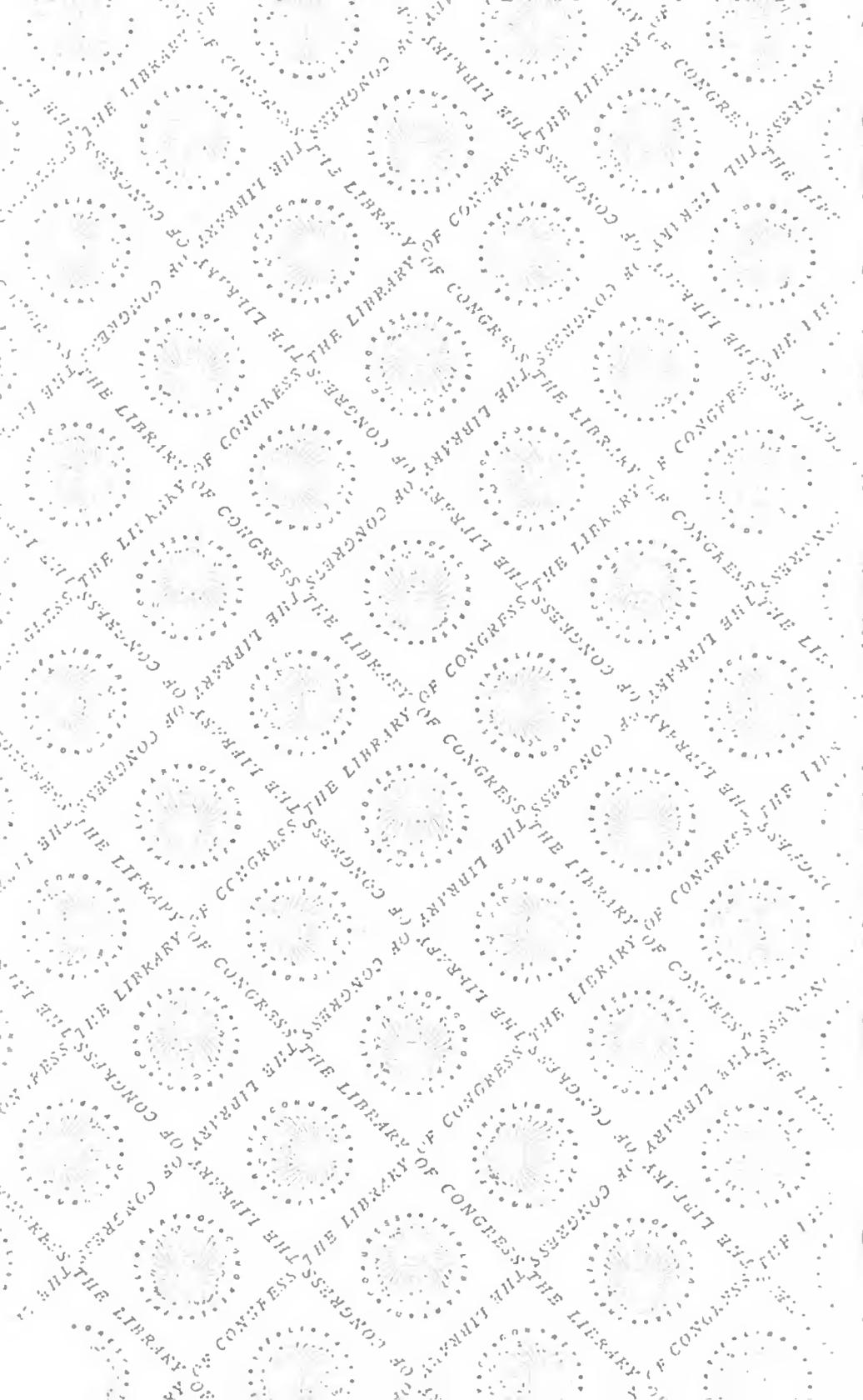
Statistics:

Total handguns traced.....	195
Major brands.....	114
Other brands.....	81
Handguns purchased in the Minneapolis metropolitan area.....	94
Handguns originally purchased out of State.....	43
Handguns reported stolen.....	32

These handguns were involved in the following crimes.

	Number of guns	Percentage
Safekeeping.....	50	26
Weapons ordinance.....	40	21
Aggravated assault.....	17	9
Domestic.....	14	7
Robbery.....	13	7
Stolen.....	7	3
Abandoned.....	6	3
Homicide.....	2	1
Miscellaneous with stolen.....	25	-----
Combination of offenses.....	15	-----
Miscellaneous offenses.....	6	-----
Total handguns.....	195	-----





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