

SJR

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KIDS &

Too Many Kids Are Getting A Real Bang Out of Life," announces a full-page ad in *The New York Times*—"Help Save The Next Generation."

The ad, purchased by Handgun Control, Inc., reflects the theme of the organization's latest push for the Brady bill. In a February press conference, Sarah Brady, Handgun Control's chairwoman, noted that nearly 4,000 Americans under the age of 20 had been murdered in 1991. (That number, actually closer to 3,700, covers a lot of ground. It's based on arrests, so it includes 18-year-old armed robbers shot by their victims. It also includes 19-year-old crack dealers shot by competitors.)

Brady did not suggest how many lives the Brady bill might save. Nor did she cite studies showing how similar laws, enacted by more than 20 states, have reduced crime. That's because there are no such studies. All the scholarly research has found that laws like the Brady bill have no statistically significant impact on crime.

But the whole idea of asking people to "do it for our kids" is to avoid such analysis. Gun control advocates are hammering at the issue of children and guns as never before, in the hope that it will be easier to enact gun controls aimed at adults in an atmosphere of panic about children.

America does have a serious problem with children and guns, but it's a problem quite different from the one described by American's gun prohibitionists and their Washington allies. Indeed, it's a problem that has been aggravated by anti-gun laws.

Consider now the repressive gun laws of cities such as Chicago, Washington, D.C., and New York: drive responsible gun use underground, while a man who operates a codega on the Lower East Side of New York City may keep an illegal pistol hidden under the counter in case of a robbery, he is not likely to take the gun to a target range for practice.

Even if the storekeeper managed to get a gun license, he could not take his teenage son to a target range to teach him responsible firearm use. Just to hold the gun in his hand under immediate adult supervision at a licensed range,

the teenager would have to obtain his own permit.

An airgun, which uses compressed air or carbon dioxide to propel a pellet, is safe enough to fire inside an apartment, yet New York City makes it illegal for supervised minors to touch one. The city thus closes off one more avenue for children to be taught proper firearm use and safety.

In this light, repressive gun laws are not merely ineffective. They actually foster misuse of firearms, including gun violence. By making firearm ownership illegal, or possible only for wealthy people with the clout to move through numerous bureaucratic obstacles, anti-gun laws render legitimate gun owners invisible. Children are left with criminals and violent television characters as their only models of gun use.

The experience with gun accidents shows the importance of teaching our children about proper firearm use.

Gun control advocates have sought to create the impression that firearm accidents involving children are a large and growing problem. Paradoxically, this impression has been reinforced by the very fact that such accidents are rare. Almost every time a child dies in a gun accident, the event is covered by the state's wire services, and sometimes by the national news. Many people mistakenly conclude that children die frequently in gun accidents and that sharp restrictions on gun ownership are necessary to address the problem. But gun accidents involving both children and adults have actually fallen dramatically in the last two decades, almost entirely because of private safety efforts.

In 1988, 277 children under the age of 15 were killed by accidental firearm discharges, according to the National Safety Council. That number represents a 48% drop from 1974, even as the number of guns per capita increased. From 1968 to 1988, the annual rate of fatal gun accidents fell from 1.2 per 100,000 Americans to 0.6. Thanks to private educational efforts, including programs sponsored by the NRA, the Boy Scouts, 4-H and other groups, the firearm accident rate has been cut in half.

Despite this impressive private-sector achievement, Sen. Howard Metzenbaum (D-Ohio) thinks that the government could do better. He proposes giving the Consumer Product Safety Commission authority over firearms, ostensibly to reduce accidents.

Rather than addressing real social problems that contribute to gun violence among children, opponents of gun ownership promote irrelevant "solutions" with distortions and fabrications.

BY DAVID P.

ARTICLE

GUNS

This move could be an indirect way to achieve gun controls far more sweeping and restrictive than Congress is likely to pass. With jurisdiction over firearms, the CPSC could, by unilateral administrative action, ban the future production and sale of all firearms and ammunition. Congress has forbidden the CPSC to regulate guns precisely because of such fears.

Short of banning firearms, the CPSC might require features intended to prevent accidents, such as child-proof grips or indicators that show when a gun is loaded. But such technological fixes, favorites of the gun control lobby, do not address the main cause of firearm accidents.

A 1991 study by the General Accounting Office found that 84% of gun accidents involve deviations from basic safety rules. For example, accidents occur when people carelessly wave a gun around, thinking it's unloaded, or put their fingers on the trigger prematurely. Safety education is therefore the best way to continue reducing gun accidents. Unfortunately, children whose parents have no interest in firearms are unlikely to hear gun lessons. Firearm safety programs ought to be expanded to reach more children.

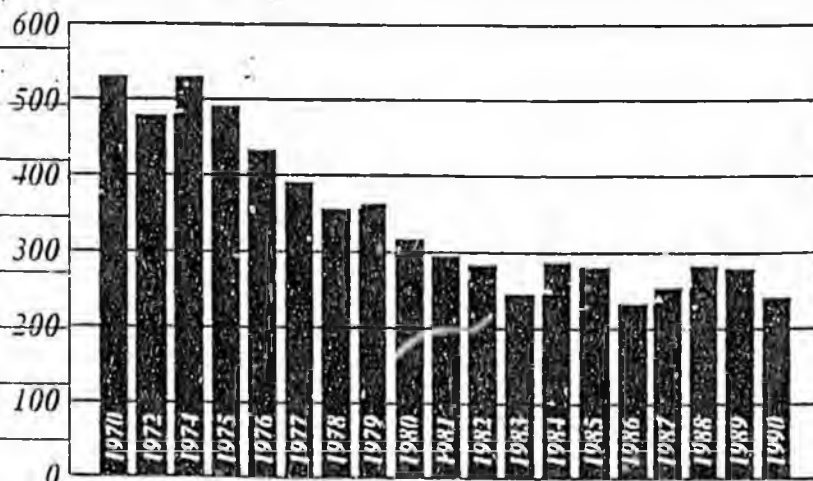
One successful effort to teach children about gun safety is the NRA's "Eddie Eagle" Elementary Gun Safety Education Program. The Eddie Eagle program offers curricula for children from kindergarten through sixth grade, using an animated video, cartoon workbooks, and play safety activities. The cartoon hero Eddie Eagle offers a simple safety lesson: "If you see a gun: Stop! Don't Touch. Leave the Area. Tell an Adult."

While schools and other social institutions have an im-

- Before completing sixth grade, the average American child watches 8,000 homicides and 100,000 acts of violence on television.—American Psychological Ass'n
- Two surveys of young American male violent felons found that 22% to 34% had imitated crime techniques they had watched on television programs.— M.S. Heller & S. Polsky, *Studies in Violence and Television*, p. 3059.
- Japan outlaws handguns and rifles and makes shotguns extremely difficult to obtain. Yet teenage suicide is 30% more frequent in Japan than in America.—L. Craig Parker, *The Japanese Police System Today: An American Perspective*, p. 149.
- While teenage suicide has remained stable in the U.S. in the last 15 years, teenage suicide has risen sharply in Europe, where gun control is much stricter. "Teenage deaths Increasing Across Europe,"—*CJ International*, (Nov.-Dec. 1991), p. 4.
- In recent decades the American firearms supply has risen . . . but as the number of guns has risen, the number of childhood gun accidents has fallen sharply, declining by nearly 50% in the last two decades.—(see below)

Decline In Accidental Childhood Gun Deaths

The number of gun accidents involving children has fallen by over 50%, even as the number of guns has increased substantially. The anti-gunners seek to confuse the issues of accidental shootings with the deliberate violence among young people, ignoring the successful role by NRA and others in addressing the gun safety issue.



portant role to play in gun safety. The primary responsibility rests with parents. A child who can, under parental supervision, invite a classmate to shoot a .22 rifle at a target range will be less intrigued by the possibility of surreptitiously playing with a pistol found in a closet.

In contrast to gun accidents, gun suicides do account for the deaths of many young people—more than 2,000 in 1990. From the mid-1950s to the late '70s, teenage suicide rose sharply, and most of the increase was due to gun suicides. But since then, the teenage suicide rate has remained stable, and so has the percentage of suicides involving guns. Teenagers are still less likely to commit suicide than any older age group.

Although the teenage suicide rate has been about the same since the late '70s, gun control advocates insist that immediate action is necessary to address this "crisis" as well. They often cite false statistics to justify their sense of urgency. In 1989, for example, the American Academy of Pediatrics told a congressional committee that "every three hours, a teenager commits suicide with a handgun." But this figure is valid only if one counts *all* suicides as handgun suicides, or if one calls every person under 25 a teenager.

In addition to exaggerating the extent of the problem, gun control supporters simply assume that fewer firearms would mean fewer suicides. One might speculate that the presence of a gun can turn a teenager's fleeting impulse into an irrevocable decision. If guns were less readily available, perhaps suicide would decline. This theory is intuitively plausible, but it is not consistent with the evidence.

In his 1991 book *Point Blank*, Florida State University criminologist Gary Kleck analyzes suicide rates and gun laws in every American city with a population over 100,000. He takes into account all the factors that might affect suicide, such as race (whites are more likely to commit suicide), religion (Catholics are less likely), economic circumstances and 19 gun control laws, ranging from waiting periods to handgun bans.

Kleck finds no evidence that any of the gun control laws had a statistically significant effect on suicide rates. While some gun control laws did affect the rate of gun sui-

cide, the total suicide rate remained the same. People who had decided to kill themselves simply substituted other, equally lethal methods.

Data from other countries appear to support Kleck's conclusion that gun control is not an effective way to reduce suicide. While teenage suicide has remained stable in the United States in the last 15 years, it has risen sharply in Europe, where gun control is much stricter.

In Great Britain, where gun laws are very strict and the gun ownership rate is less than one-tenth that in the U.S., adolescent suicide has risen by more than 25% in just five years. Similarly, in Japan handguns and rifles are illegal and shotguns very difficult to obtain. Yet teenage suicide is 30% more frequent in Japan than in the U.S.

Given the lack of evidence that gun control reduces suicide, anti-gun activists have resorted to "factoids" such as this one, reported by syndicated columnist Richard Reeves last September: "Teen-agers in homes with guns are 75 times more likely to kill themselves than teen-agers living in homes without guns. The story behind this claim illustrates how myths that support gun control are generated."

A 1991 article in the *Journal of the American Medical Association* discussed a study of several dozen homes in western Pennsylvania where a teenager had committed or attempted suicide or where a non-suicidal teenager who had been admitted to a psychiatric hospital lived. A home with a teenager who had committed suicide was twice as likely as the other homes to contain a gun.

In an editorial accompanying the article, three employees of the federal Centers for Disease Control incorrectly wrote: "The odds that potential suicidal adolescents will kill themselves go up 75-fold when a gun is kept in the home."

JAMA later published a retraction, noting that the 75-fold figure was incorrect: the increase was in fact twofold (and the number was merely a correlation, not proof of cause).

In his column, Reeves took the factoid one step further, telling his readers that it applied to all teenagers, even though all of the subjects in the study had serious psychological problems.

DID YOU KNOW THAT?

Myth "One child under 14 is accidentally shot to death every day in the USA." (Center to Prevent Handgun Violence)

* **Truth** True, if the year in question is 1979, when there were 364 such deaths. In 1990, the most recent year for which data are available, the number was 236, according to the National Center for Health Statistics. The number of fatal gun accidents among children has fallen by 56% since 1970, even as the gun supply has grown significantly.

Myth "In the past decade, more than 138,000 Americans were shot by children under the age of 6." (*Hartford Courant*)

* **Truth** No source is ever cited for this "factoid" because there is none. No government or academic agency even collects data to provide an estimate for the true figure.

Myth 135,000 children carry guns to school each day. (U.S. Sens. Biden and Chafee)

* **Truth** The 135,000 figure, also sometimes given as

186,000, is often attributed to the Department of Justice (DOJ), but no specific DOJ study is identified. The number is a huge distortion from the plausible 16,000 to 17,000 nationally extrapolated from criminologist Gary Kleck's data.

Myth "Firearms are responsible for the deaths of 45,000 infants, children and adolescents per year." (American Academy of Pediatrics)

* **Truth** Even if all persons 13-95 are considered "adolescents," this one can't be true. The 45,000 figure exceeds the total deaths in all ages from all causes related to firearms.

Myth "One million U.S. inhabitants die prematurely each year as the result of intentional homicide or suicide." (former Surgeon General C. Everett Koop)

* **Truth** According to the National Center for Health Statistics, in 1988 there were about 30,000 suicides (by all methods) and about 22,000 homicides (by all methods, including legal self defense). Thus, the "one million" claim is off by about 1800%.

Myth "Guns are the leading cause of death among older teenagers—white and black—in America." (*Newsweek*)

* **Truth** True for black males, but not for females or for males of other races.



Youngsters who learn about firearms in a constructive and responsible environment are less likely to have accidents, yet firearms education has a low priority with groups that claim to be concerned with firearms accidents.

Facts also play an important role in the debate about guns in school. Sen. John Chafee (R-Rhode Island) and Sen. Joseph Biden (D-Delaware) claim that "135,000 children carry a gun to school every day." Sen. Christopher Dodd (D-Connecticut) ups the figure to 186,000. The National Education Association puts the number at 100,000.

The only comprehensive data on this question come from a 1990 survey by the Centers for Disease Control that asked students if they carried weapons onto school grounds. Students who answered yes included all those who occasionally carried guns anywhere, such as in cars when driving at night in dangerous neighborhoods.

Interpreting the data realistically, Kleck, the FSU criminologist, estimates that one in every 800 high school students, which works out to 16,000 to 17,000 students nationally, carries a gun to school on a given day. Accordingly, guns play a relatively small role in the overall problem of violence in school.

Rather than address the real problem of discipline and security in many public schools, gun control advocates have argued for "gun-free school zones," which make possession of weapons within 1,000 ft. of school property a felony. Since the 1,000-ft. school zone encompasses over half the territory in most cities and towns, the school zone laws are frequently a backhanded way to outlaw the possession of firearms by adults on public property.

These laws can add to the regulatory obstacles that discourage people from using guns for protection. The crime of carrying without a permit is a misdemeanor in many jurisdictions, but gun-free school zones can turn it into a serious felony.

Even when narrowly drafted, school-zone laws are misguided. A comparison of the number of students carrying guns in school to the number of gun crimes committed in school indicates that the vast majority of students who carry firearms do so for noncriminal purposes.

Most students who carry guns are trying to protect themselves on the way to

and from school, as they pass through neighborhoods ruled by gangs, or in school itself. To focus on "guns in school" is to miss the larger picture of the violent conditions that make unarmed teenagers feel vulnerable.

While the claims of gun control advocates about a rising tide of gun accidents and gun suicides are false, there is no doubt that violent crime among teenagers is soaring. From 1985 to 1991, arrests of adults for murder declined, but arrests for murder of 17-year-old males rose by 121%, of 16-year-olds by 158%, of 15-year-olds by 217%, and of boys 12 and under by 100%.

Those figures conceal an even more serious problem. The murder arrest rate of whites between the ages of 10 and 17 was the same in 1989 as in 1980 (it dipped in the middle of the decade and then rose to its former level). Meanwhile, the black rate has skyrocketed.

Most of these homicides are carried out with handguns. Yet, if there is a relationship between gun density and homicide in the U.S., it is an inverse one. The regions with the most guns are the regions with the lowest homicide rates. And while whites have a higher rate of gun ownership than blacks, they have a much lower homicide rate.

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SUSAN R. Lamson, director of NRA-ILA's Federal Affairs Division, recently told the U.S. Senate Subcommittee on Juvenile Justice: "It appears that society's failure to deal with crime in a meaningful way, embodied in our 'catch and release' criminal justice system, begins with and has its most deleterious effects on our youth.

NRA is working with Congress to solve the problems of violent crime committed by juveniles, at the same time making sure that the rights of the millions of law-abiding young people are protected.



Southern States PBA Crime Control Landmark Law Enforcement Survey Shows Rank



Southern States PBA President Jack Roberts answers reporters' questions about the survey at July 9 press conference at Southern States PBA headquarters in Atlanta, Georgia.



LEAA Operations Director Ted Gogol explains significance of Southern States PBA gun control survey to a state legislator during the Southern Legislative Conference luncheon titled, "Gun Control: Southern Style" held in Mobile Alabama on July 11. Before HCI's Sarah Brady spoke at the luncheon, LEAA made sure every legislator and guest in attendance received a copy of the survey. In addition, LEAA officials explained why rank-and-file officers do not support gun control, and answered questions from legislators and the media.



LEAA Member Todd Pipkin (far left), a law enforcement officer with the Alabama Department of Conservation, discusses the Southern States PBA gun control survey with LEAA Executive Director Jim Fotis (center) and Spectrum Resources, Inc. President Scott Maddox prior to LEAA press conference on July 11 in Mobile, Alabama during the Southern Legislative Conference.



LEAA Executive Director Jim Fotis explains why law enforcement does not support restrictive gun control laws to CBS affiliate News Center Five reporter Kristen McFann at LEAA press conference in Mobile, Alabama on July 11 during Southern Legislative Conference.

and Gun Control Survey Results

and-File Officers DO NOT Support Gun Control

In a comprehensive effort to find out how its nearly 11,000 law enforcement members really feel about gun and crime control, Southern States Police Benevolent Association became the nation's first major law enforcement group to conduct a professional, scientific survey of its membership.

Southern States PBA has traditionally maintained a neutral position on gun control, but decided to poll its membership to resolve the controversy over claims by pressure groups on both sides of the issue as to the position of law enforcement.

"We simply had enough of every special interest group, including a number of national police organizations, claiming they spoke for rank-and-file officers on the subject of gun control," said Southern States PBA President Jack Roberts. "The only way to know how law enforcement feels about gun control is to ask them. And that's exactly what we did. What our members told us may be quite an eye-opener for some people, but it won't be to anyone who is in touch with street cops."

To ensure that the survey would accurately reflect its members views, a professional research firm, Spectrum Resources, Inc., of Tallahassee, Florida, was employed. "Our survey methodology was configured to preserve the objectivity of the Southern States PBA and to elicit accurate sentiments of the officers polled," Scott Maddox, president of the firm, said.

The results found that law enforcement officers resoundingly reject gun control laws as effective measures in deterring violent crime, and strongly support the right of citizens to own firearms.

Editor's Note: The survey was conducted in June of 1993. Out of 10,614 surveys mailed, 3,824 total responses were received, which is a response rate of 36%. Copies of the entire analysis of the survey (nearly 100 pages) including charts, graphs, cross tabulations, etc., are available from either LEAA or Southern States PBA. To obtain a copy, write to either organization and enclose a note requesting the survey with your name and address and include a \$5.00 check to cover printing and postage. LEAA's address is on the table of contents page.

1) In general, what do you think is the most pressing cause of violent crime in the United States today?			2a) How effective has the U.S. Congress been in dealing with violent crime? Has Congress been very effective, somewhat effective, only minimally effective, or not effective at all in dealing with violent crime?		
No. of Resp.	Percentage		3812	99.7%	Totals
3641	95.2%	TOTALS	3	0.1	Very Effective
1637	45.0	Drugs	246	5.6	Somewhat Effective
386	10.6	Family Values/ Decline Of Family	1796	47.1	Only Minimally Effective
151	4.1	Courts, Inadequate Sentencing	1751	45.9	Not Effective At All
370	10.2	Early Release/ Lack Of Punishment	48	1.3	Not Sure
39	1.1	Alcohol	2b) Please indicate which of the following options would be least effective in reducing violent crime? (pick only one option)		
62	1.7	Punishment Does Not Fit The Crime	3798	99.3%	Totals
139	3.8	Breakdown Of Criminal Justice System	435	11.5	Stop Early Release
35	1.0	Lack Of Education/ Ignorance	230	6.1	The Death Penalty
38	1.0	Federal Judges/ Politicians	188	4.9	More Police On The Streets
51	1.4	Television	226	6.0	Tougher Judges And Sentences
72	2.0	Crack Cocaine	2481	65.3	Stricter Gun Control Laws
80	2.2	Lack Of Religion/ Attention To God	238	6.3	Not Sure
28	0.8	Money	3a) There should be an immediate criminal background check on handgun purchases right at the gun shop.		
31	0.9	Youthful Offenders	3818	99.8%	Totals
21	0.6	Racial/Ethnic Problems	1813	47.5	Strongly Agree
40	1.1	Guns/Firearms	1330	34.8	Agree
117	3.2	No Fear Of Being Caught Or Punished	448	11.7	Disagree
156	4.3	Unemployment/ U.S.. Economy	141	3.7	Strongly Disagree
54	1.5	Liberalism/ Crininal Rights Favored	86	2.3	Not Sure
134	3.7	Other			

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Southern States PBA Crime Control and Gun Control Survey Results Continued from Page 31

3b) Other than for police and military, all guns should be outlawed.

3820	99.9%	Totals
69	1.8	Strongly Agree
64	1.7	Agree
1069	28.0	Disagree
2591	67.8	Strongly Disagree
27	0.7	Not Sure

3c) The entire criminal justice system needs major reform.

3821	99.9%	Totals
2283	59.7	Strongly Agree
1138	29.8	Agree
313	8.2	Disagree
25	0.7	Strongly Disagree
62	1.6	Not Sure

3d) The U.S. Constitution guarantees every law-abiding citizen the right to own a gun.

3820	99.9%	Totals
2249	58.9	Strongly Agree
1190	31.2	Agree
222	5.8	Disagree
94	2.5	Strongly Disagree
65	1.7	Not Sure

3e) People should have the right to own a gun for self-protection.

3819	99.9%	Totals
2540	66.5	Strongly Agree
1140	29.9	Agree
91	2.4	Disagree
19	0.5	Strongly Disagree
29	0.8	Not Sure

3f) A waiting period to purchase handguns will only affect law-abiding citizens — criminals will still be able to obtain handguns illegally whenever they want.

3798	99.3%	Totals
2201	59.5	Strongly Agree
1024	27.0	Agree
382	10.1	Disagree
92	2.4	Strongly Disagree
39	1.0	Not Sure

3g) The Federal government should take legal action to curb the amount of violence on television.

3818	99.8%	Totals
962	25.2	Strongly Agree
1468	38.4	Agree
939	24.6	Disagree
224	5.9	Strongly Disagree
225	5.9	Not Sure

3h) A Federal law should be passed allowing qualified law enforcement officers to carry a concealed firearm anywhere in the United States.

3814	99.7%	Totals
2852	74.8	Strongly Agree
742	19.5	Agree
129	3.4	Disagree
27	0.7	Strongly Disagree
64	1.7	Not Sure

3i) Based on my own experience, if the laws on handgun ownership were stricter than they are now, the overall number of violent crimes would be reduced.

3817	99.8%	Totals
284	7.4	Strongly Agree
653	17.1	Agree
1380	36.2	Disagree
1324	34.7	Strongly Disagree
176	4.6	Not Sure

3j) A gun is not an assault weapon if it fires only one bullet each time the trigger is pulled.

3807	99.6%	Totals
893	23.5	Strongly Agree
981	25.8	Agree
1039	27.3	Disagree
734	19.3	Strongly Disagree
160	4.2	Not Sure

4) All things considered, which of the following two options would you prefer — a bill requiring a five-day waiting period on the purchase of handguns, or a bill requiring an immediate criminal background check at the time of the sale?

3811	99.7%	Totals
881	23.1	Waiting Period
2430	63.8	Instant Check
213	5.6	Neither
80	2.1	No Opinion/ Not Sure
207	5.4	Both

5) Aside from your department-issued sidearm, do you have guns of any kind in your home?

3805	99.5%	Totals
3247	85.3	Yes
329	8.6	Refuse To Answer
229	6.0	No

6) How many years have you served in law enforcement?

3818	99.8%	Totals
248	0.5	0-2 Years
811	21.2	2-5 Years
1015	26.6	5-10 Years
1744	45.7	10 Years or more

7) Are you a sworn or non-sworn employee?

3806	99.5%	Totals
3687	96.9	Sworn
119	3.1	Non-Sworn

8) In general, do you serve in a rural or in an urban area?

3804	99.5%	Totals
1237	32.5	Rural
2440	64.1	Urban
127	3.3	Mixed Urban/Rural

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1,000,000 times a year according to a report from Morgan O. Reynolds, University of Texas, "Crime in Texas". Violent crime strikes a Texan every 22 seconds. Are our 45,000 Texas peace officers going to stop that? Not hardly. How many Texans are you willing to allow to be victimized to prevent CCW?

Texas CCW will prohibit those with class B arrests and include Disorderly Conduct and Public Lewdness as disqualifiers. It will be valid for only two years as opposed to four and will require 15 hours of training. The background check will be conducted by DPS who will require \$130.00 non-refundable fee, who will then contact the local agency for input. Applicants must be registered voters, which by itself eliminates a lot of folks.

Do Police Officers really understand this bill? Most of them who disagree believe it is a blanket carry bill, but when it is explained to them, they tend to change positions. More Police Officers than you think support this bill. Texas Municipal Police Officers Association and Texas State Troopers Association have publicly supported it. *Police Magazine* polled its readers and as reported in their January 1993 issue, more than 85% support concealed carry.

This is why LEAA and I support CCW. You know, when I think of CCW, I stop to think about those law-abiding citizens who will back me up when the stuff gets deep. My Department just recently awarded seven civilians for coming to the aid of a police officer. There are many citizens who will help out a cop in a jam, more than we think. Some of them may be Rambo or John Wayne, but did you know that in Florida after they enacted their CCW that they have had 16 total arrests for weapons violations over a three year period-- and one of those was for a lady who carried her pistol into a library!

The supposition has not happened. The media hype has not occurred. CCW will probably not increase the number of weapons already on the street that much. Those who are predisposed to carry are already carrying. Those who aren't, won't. Besides, we should be treating

everyone we deal with as if they were armed. In every contact we make there is a gun involved, our own.

Also in considering this issue you might ask yourself these three questions that I now ask other officers who respond negatively to CCW.

1. Does your wife carry?
2. Will you carry when you retire?
3. Do you know someone, who is not a police officer that is carrying a handgun, that you as a police officer have done nothing about?

If you answer any of these questions with a yes, then you should support CCW!

If you have any questions or comments please feel free to contact me home by phone or mail. I am usually available during the evenings. Also me solicit an invitation to address your area POA, FOP lodge or similar organization. I think I could find my way Ector County, Midland-Odessa.

Sincerely,
John Chapman

...Professional
...Responsible
...Confident
...Prepared
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DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 13, 1983

Redated 7/1/83 for printing purposes

The Honorable Pat Rodey
Senator
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

The Honorable Charlie Bussell
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Handgun Ban
Our file No.: 366-444-83

Dear Senator Rodey and Representative Bussell:

You have asked this office whether a landlord, through a leasehold agreement, may prohibit a tenant from possessing handguns. We conclude that in certain circumstances a landlord may restrict or prohibit the use and/or possession of handguns on property which is leased to another individual.

Our initial inquiry regarding this matter commenced with a review of relevant Alaskan Constitutional provisions. The Alaska Constitution directly addresses a citizens ability to bear arms at Article I, Section 19 which 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.

The language embodied in Alaska's Constitution pertaining to arms is virtually identical, save for two changes in punctuation, to language found in Article II of the United States Constitution. Article II of the United States Constitution was proposed by the Congress on September 25, 1789 and became the law of the United States on December 15, 1791. During the one hundred and ninety two years since adoption of the Second Amendment to the United States Constitution and the twenty-four years since the Alaska Constitution has been in effect, numerous court cases have interpreted the constitutional language which establishes the right to bear arms.

ATTORNEY GENERAL
LETTER 4/13/83

Hon. Pat Rodey, Senator
Hon. Charlie Bussell, Representative
Our File No.: 366-444-83

April 13, 1983
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We note the period since the adoption of the Second Amendment has witnessed an ever increasing issuance of opinions from the judiciary of the various states and the federal courts which place limits on an individual's ability to bear arms. Some commentators have theorized that the legislative and judicial limitations increased significantly with the availability of inexpensive surplus weapons following the American Civil War. ^{1/} According to this theory, the increase in restrictive gun control measures and corresponding judicial interpretations was associated with increasing acquisition of firearms by recently emancipated Black Americans and immigrants coupled with the increased availability of firearms in the post Civil War industrial America. The right of 'bearing arms' is not a right granted by the Constitution nor is it in any manner dependant upon that instrument for its existence. U.S. v. Cruikshank, 92 U.S. 553 (D.C.La. 1875).

While offering no judgment on the propriety or effectiveness of the restrictive legislative and judicial measures, we observe that the current state of the law pertaining to the constitutional language holds that:

[The] purpose of this amendment, guaranteeing that the right of the people to keep and bear arms, was to preserve the effectiveness and assure the continuation of the state militia. U.S. v. Oakes, 564 F.2d, cert. denied 98 S.Ct. 1493 (C.A. Kan. 1977).

* The modern judicial view has increasingly found that the guaranteed right to keep and bear arms is not an individually protected right, but rather a collective right which allows the people of the various states to serve in a militia. *
/ The contemporary judicial view in the great majority of states interprets the constitutional language as posing no limitations on the legislature's power to regulate the ownership or control of firearms. Whatever the scope of any common-law or constitutional right to bear arms, it is not absolute and does not guarantee to individuals the right to carry weapons abroad at all times and in all circumstances. Application of Atkinson, 291 N.W.2d 396 (Minn. 1980). By analogy then, a landlord, too, could restrict

^{1/} Kates, Don B. Restricting Handguns. North River Press, pages 7-30 (1979)

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the possession of handguns on property he or she owns and leases. If the State can restrict arms without running afoul of constitutional provisions, an individual almost certainly has similar abilities.

It is conceivable that a landlord's ban on handgun ownership could be challenged under constitutional doctrines which afford a right of privacy. The United States Constitution, while not containing an express provision guaranteeing privacy has been interpreted to afford an individual certain protections, Cf. Griswold v. Connecticut, 381 U.S. 479 (1965). "The Constitution extends special safeguards to the privacy of the home, including activities which might be prohibited in other contexts." Cf. U.S. v. Orto, 413 U.S. 137, 142 (1973).

While it is unlikely that a court would find that an individual's right to possess arms (for example a gun collection) is protected by the privacy shield of the U.S. Constitution, the argument could be maintained. We are unaware of this argument being successfully asserted in any anglo-american jurisdiction.

A more likely source of protection under the right to privacy doctrine may be afforded by the Alaska Constitution at Article I, Section 22 which states that:

The right of the people to privacy shall not be infringed. The legislature shall implement this section.

The Alaska Supreme Court has explicitly stated that the right of privacy guaranteed to Alaskans is broader in scope than that guaranteed by the federal constitution. Woods & Rohde, Inc., v. State, 565 P.2d 138 (1977). Even so, the meaning of privacy or necessity must vary depending on the factual context and the often compelling interests of society and the individual. State v. Glass, 583 P.2d 879 (1978). The test for what interests are protected under Alaska's constitutional right to privacy are, first, whether a person has exhibited an actual (subjective) expectation of privacy and, second, that the expectation be one that society is prepared to recognize as "reasonable". Hilbers v. Municipality of Anchorage, 611 P.2d 31 (1980).

The question of handgun ownership in Alaska and whether such ownership is "reasonable" in the context of a landlord tenant relationship is open ended. Probably the "expectation" and reasonableness of gun ownership in Alaska is different than the reasonableness of gun ownership in many other jurisdictions where actual firearm ownership and use is reduced. In any event,

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absent specific language under the Alaska Uniform Residential Landlord and Tenant Act, AS 34.03.010 et seq., or other relevant Alaska law, prohibiting inclusion of provisions in a leasehold agreement, we believe a landlord can properly restrict the terms of the tenancy. 2/ In all probability, under existing Alaska law, a landlord can restrict possession of handguns for tenants in a manner not unlike a landlord's ability to prohibit tenants from possessing dogs, operating businesses in a residential leasehold or operating obnoxious stereo equipment.

While a landlord will probably be able to impose a restriction prohibiting future tenants from possessing handguns, an across-the-board ban applicable to tenants with existing leasehold agreements may be invalid. Under classic contract principles, neither party to an agreement may superimpose an additional term on a valid contract without the consent of each party to the contract. Consequently, a landlord may not prohibit handgun possession among tenants during the pendency of an existing lease. Conversely, where a landlord and tenant agree to a lease agreement which contains a restriction banning handguns, remedial legislative action interpreting Alaska's right to privacy law to permit such possession probably would not invalidate existing prohibitions.

Finally, concern was expressed regarding the state's liability with respect to landlord/tenant agreements which prohibit handgun ownership in buildings located on property owned by the State. This last point is conceivably problematic if the land on which the Panoramic View Apartments are located is conveyed to the state as a result of the current Alaska Railroad transfer negotiations. Attached is a copy of a memorandum by Assistant Attorney General Jack McGee which deals with this subject.

2/ In passing, we note that a landlord concerned with unjustified gun play need not necessarily prohibit gun ownership. Other remedies exist for controlling individual tenants with a propensity to abuse gun ownership. Cf. Osness v. Dimond Estates, Inc., 615 P.2d 605 (1980), where the landlord obtained a Forcible Entry and Detainer (F.E.D.) thereby removing a tenant that proved incapable of properly handling firearms.

*

Redated 7/1/83 for printing purposes

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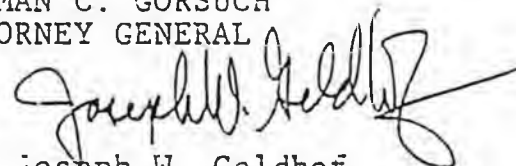
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We trust this response answers your inquiry. If you have any additional questions, please let me know.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:



Joseph W. Geldhof
Assistant Attorney General

JWG:vrb

cc: Norman C. Gorsuch
Attorney General

Ronald W. Lorensen
Deputy Attorney General

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SJR 39

Revision Date: _____ Dept. Affected: Office of the Governor
 Title: Proposing an amendment to the Constitution of the State of Alaska relating to the individual right to keep and bear arms BRU: Division of Elections
 Component: General and Primary Elections
 Sponsor: Senate State Affairs
 Requestor: _____ COMPONENT SERIAL NO. 22

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

Estimate of any current year (FY94) cost: \$ 0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary) *This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS15.58, and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be 53.4.

Prepared by: Joseph L. Swanson, Director
 Division: Division of Elections
 Approved by Commissioner: John B. Coghill
 Agency: Office of th

Phone: 465-4611
 Date: 1/14/94
 Date: 1/14/94

PREPARER TO PR
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FISCAL NOTE

LEGISLATIVE OFFICE
ivo Office



Official Business

Alaska State Legislature

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT SJR 39

SJR 39: "Proposing an amendment to the Constitution of the State of Alaska relating to the individual right to keep and bear arms."

Article I of Alaska's Constitution declares the rights of Alaskans and each of the 23 sections is important in order to preserve our rights and civil liberties. The right to decide whether or not to own a firearm lies with each individual and most Alaskans believe this right to be protected in our State Constitution.

Article I, Section 19 of Alaska's Constitution reads: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

Although this language is common and currently does guarantee the individual the right to keep and bear arms, many have challenged it and will continue to do so. The language is ambiguous enough, that several attempts have been made in past Legislatures to clarify the right of the *individual* citizen to own a firearm, whether it be for hunting, recreation, liberty, or for defense of self, home, family or state.

There is no existing Alaska Supreme Court interpretation of this language as either assurance or prohibition of this right. There have, however, been numerous attempts to place restrictions on law-abiding citizens who own firearms, and the potential for unreasonable firearms restrictions is becoming more likely.

Thus, the Senate Committee on State Affairs, supported by eleven Senators, has introduced Senate Joint Resolution 39, which would place the issue of the right of the individual to keep and bear arms before the voters in the 1994 general election. This resolution would place the issue before the voters, so Alaskans can decide the issue.

The passage of this amendment will not abrogate the laws of the state restricting access of firearms by felons, juveniles, or the mentally incompetent. Although citizens have the constitutional right to free speech, they do not have the right to cry "fire" in a crowded theatre; they do not have the right to joke about hijacking an aircraft within earshot of airline security. When formulating public policy, it is necessary to balance the rights of the individual with the authority given to the state by its citizenry to protect the public. I believe this amendment will better ensure this balance in the future.

It is imperative that the state retain its authority to protect the safety of its citizens. It is neither my intent, nor my desire to interfere with the state's ability to reasonably protect the public from the misuse or inappropriate use of firearms. But, the individual right of Alaskans to own firearms for legal purposes should not be left open to potential unreasonable government intrusion, the potential erosion of that constitutional right, nor to uncertain court interpretation.

The Municipality of Anchorage recently passed a resolution endorsing the individual right to keep and bear arms constitutional amendment and resolutions are currently pending in Fairbanks and several other boroughs and cities throughout Alaska.

TO: PORTIA BABCOCK
FROM: JANE WINEINGER, NRA ALASKA GRASSROOTS
RE: STATE'S CONSTITUTIONAL PROVISIONS (CURRENT 1993)

ALASKA - "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."

ALABAMA - "THAT EVERY CITIZEN HAS A RIGHT TO BEAR ARMS IN DEFENSE OF HIMSELF AND THE STATE."

ARIZONA - "THE RIGHT OF THE INDIVIDUAL CITIZEN TO BEAR ARMS IN DEFENSE OF HIMSELF OR THE STATE SHALL NOT BE IMPAIRED, BUT NOTHING IN THIS SECTION SHALL BE CONSTRUED AS AUTHORIZING INDIVIDUALS OR CORPORATIONS TO ORGANIZE, MAINTAIN, OR EMPLOY AN ARMED BODY OF MEN."

ARKANSAS - "THE CITIZENS OF THIS STATE SHALL HAVE THE RIGHT TO KEEP AND BEAR ARMS FOR THEIR COMMON DEFENSE."

CALIFORNIA - NONE

COLORADO - "THE RIGHT OF NO PERSON TO KEEP AND BEAR ARMS IN DEFENSE OF HIS HOME, PERSON AND PROPERTY, OR IN AID OF THE CIVIL POWER WHEN THERETO LEGALLY SUMMONED, SHALL BE CALLED IN QUESTION; BUT NOTHING HEREIN CONTAINED SHALL BE CONSTRUED TO JUSTIFY THE PRACTICE OF CARRYING CONCEALED WEAPONS."

CONNECTICUT - "EVERY CITIZEN HAS A RIGHT TO BEAR ARMS IN DEFENSE OF HIMSELF AND THE STATE."

DELAWARE - "A PERSON HAS THE RIGHT TO KEEP AND BEAR ARMS FOR THE DEFENSE OF SELF, FAMILY, HOME AND STATE, AND FOR HUNTING AND RECREATIONAL USE."

FLORIDA - "(a) THE RIGHT OF THE PEOPLE TO KEEP AND BEAR ARMS IN DEFENSE OF THEMSELVES AND OF THE LAWFUL AUTHORITY OF THE STATE SHALL NOT BE INFRINGED, EXCEPT THAT THE MANNER OF BEARING ARMS MAY BE REGULATED BY LAW. (b) THERE SHALL BE A MANDATORY PERIOD OF THREE DAYS, EXCLUDING WEEKENDS AND LEGAL HOLIDAYS, BETWEEN THE PURCHASE AND DELIVERY AT RETAIL OF ANY HANDGUN. FOR THE PURPOSES OF THIS SECTION, "PURCHASE" MEANS THE TRANSFER OF MONEY OR OTHER VALUABLE CONSIDERATION TO THE RETAILER, AND "HANDGUN" MEANS A FIREARM CAPABLE OF BEING CARRIED AND USED BY ONE HAND, SUCH AS A PISTOL OR REVOLVER. HOLDERS OF A CONCEALED WEAPON PERMIT AS PRESCRIBED IN FLORIDA LAW SHALL NOT BE SUBJECT TO THE PROVISIONS OF THIS PARAGRAPH. (c) THE LEGISLATURE SHALL ENACT LEGISLATION IMPLEMENTING SUBSECTION (b) OF THIS SECTION, EFFECTIVE NO LATER THAN DECEMBER 31, 1991, WHICH SHALL PROVIDE THAT ANYONE VIOLATING THE PROVISIONS OF SUBSECTION (b) SHALL BE GUILTY OF A FELONY. (d) THIS RESTRICTION SHALL NOT APPLY TO A TRADE IN OF ANOTHER HANDGUN." THE LEGISLATURE OF THE STATE OF FLORIDA, IN A DECLARATION OF POLICY INCORPORATED IN ITS "WEAPONS AND FIREARMS" STATUTE, RECOGNIZES THE LAWFUL OWNERSHIP, POSSESSION AND USE OF FIREARMS FOR THE DEFENSE OF "LIFE, HOME AND PROPERTY" AND FOR USE IN TARGET PRACTICE, HUNTING AND "OTHER LAWFUL PURPOSES."

GEORGIA - "THE RIGHT OF THE PEOPLE TO KEEP AND BEAR ARMS SHALL NOT BE INFRINGED, BUT THE GENERAL ASSEMBLY SHALL HAVE POWER TO PRESCRIBE THE MANNER IN WHICH ARMS MAY BE BORNE."

HAWAII -- "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."

IDAHO - "THE PEOPLE HAVE THE RIGHT TO KEEP AND BEAR ARMS, WHICH RIGHT SHALL NOT BE ABRIDGED; BUT THIS PROVISION SHALL NOT PREVENT THE PASSAGE OF LAWS TO GOVERN THE CARRYING OF WEAPONS CONCEALED ON THE PERSON, NOR PREVENT PASSAGE OF LEGISLATION PROVIDING MINIMUM SENTENCES FOR CRIMES COMMITTED WHILE IN POSSESSION OF A FIREARM, NOR PREVENT PASSAGE OF LEGISLATION PROVIDING PENALTIES FOR THE POSSESSION OF FIREARMS BY A CONVICTED FELON, NOR PREVENT THE PASSAGE OF LEGISLATION PUNISHING THE USE OF A FIREARM. NO LAW SHALL IMPOSE LICENSURE, REGISTRATION OR SPECIAL TAXATION ON THE OWNERSHIP OR POSSESSION OF FIREARMS OR AMMUNITION. NOR SHALL ANY LAW PERMIT THE CONFISCATION OF FIREARMS, EXCEPT THOSE ACTUALLY USED IN THE COMMISSION OF A FELONY."

ILLINOIS - "SUBJECT ONLY TO THE POLICE POWER, THE RIGHT OF THE INDIVIDUAL CITIZEN TO KEEP AND BEAR ARMS SHALL NOT BE INFRINGED."

INDIANA - "THE PEOPLE SHALL HAVE A RIGHT TO BEAR ARMS, FOR THE DEFENSE OF THEMSELVES AND THE STATE".

IOWA - NONE

KANSAS - "THE PEOPLE HAVE THE RIGHT TO BEAR ARMS FOR THEIR DEFENSE AND SECURITY; BUT STANDING ARMIES, IN TIME OF PEACE, ARE DANGEROUS TO LIBERTY, AND SHALL NOT BE TOLERATED, AND THE MILITARY SHALL BE IN STRICT SUBORDINATION TO THE CIVIL POWER."

KENTUCKY - "ALL MEN ARE BY NATURE, FREE AND EQUAL, AND HAVE CERTAIN INHERENT AND INALIENABLE RIGHTS, AMONG WHICH MAY BE RECKONED; THE RIGHT TO BEAR ARMS IN DEFENSE OF THEMSELVES AND OF THE STATE, SUBJECT TO THE POWER OF THE GENERAL ASSEMBLY TO ENACT LAWS TO PREVENT PERSONS FROM CARRYING CONCEALED WEAPONS."

LOUISIANA - "THE RIGHT OF EACH CITIZEN TO KEEP AND BEAR ARMS SHALL NOT BE ABRIDGED, BUT THIS PROVISION SHALL NOT PREVENT THE PASSAGE OF LAWS TO PROHIBIT THE CARRYING OF WEAPONS CONCEALED ON THE PERSON."

MAINE - "EVERY CITIZEN HAS A RIGHT TO KEEP AND BEAR ARMS AND THIS RIGHT SHALL NEVER BE QUESTIONED."

MARYLAND - NONE

MASSACHUSETTS - "THE PEOPLE HAVE A RIGHT TO KEEP AND BEAR ARMS FOR THE COMMON DEFENSE. AND AS, IN TIME OF PEACE, ARMIES ARE DANGEROUS TO LIBERTY, THEY OUGHT NOT TO BE MAINTAINED WITHOUT THE CONSENT OF THE LEGISLATURE; AND THE MILITARY POWER SHALL ALWAYS BE HELD IN AN EXACT SUBORDINATION TO THE CIVIL AUTHORITY, AND BE GOVERNED BY IT."

MICHIGAN - "EVERY PERSON HAS A RIGHT TO KEEP AND BEAR ARMS FOR THE DEFENSE OF HIMSELF AND THE STATE."

MINNESOTA - NONE

MISSOURI - "THAT THE RIGHT OF EVERY CITIZEN TO KEEP AND BEAR ARMS IN DEFENSE OF HIS HOME, PERSON AND PROPERTY, OR WHEN LAWFULLY SUMMONED IN AID OF THE CIVIL POWER, SHALL NOT BE QUESTIONED; BUT THIS SHALL NOT JUSTIFY THE WEARING OF CONCEALED WEAPONS."

MISSISSIPPI - "THE RIGHT OF EVERY CITIZEN TO KEEP AND BEAR ARMS IN DEFENSE OF HIS HOME, PERSON, OR PROPERTY, OR IN AID OF THE CIVIL POWER WHEN THERETO LEGALLY SUMMONED, SHALL NOT BE CALLED IN QUESTION, BUT THE LEGISLATURE MAY REGULATE OR FORBID CARRYING CONCEALED WEAPONS."

MONTANA - "THE RIGHT OF ANY PERSON TO KEEP OR BEAR ARMS IN DEFENSE OF HIS OWN HOME, PERSON, AND PROPERTY, OR IN AID OF THE CIVIL POWER WHEN THERETO LEGALLY SUMMONED, SHALL NOT BE CALLED IN QUESTION, BUT NOTHING HEREIN CONTAINED SHALL BE HELD TO PERMIT THE CARRYING OF CONCEALED WEAPONS."

NEBRASKA - "ALL PERSONS...HAVE CERTAIN...RIGHTS; AMONG THESE ARE...THE RIGHT TO KEEP AND BEAR ARMS FOR SECURITY OR DEFENSE OF SELF, FAMILY, HOME, AND OTHERS, AND FOR LAWFUL COMMON DEFENSE, HUNTING, RECREATIONAL USE, AND ALL OTHER LAWFUL PURPOSES, AND SUCH RIGHTS SHALL NOT BE DENIED OR INFRINGED BY THE STATE OR ANY SUBDIVISION THEREOF."

NEVADA - "EVERY CITIZEN HAS THE RIGHT TO KEEP AND BEAR ARMS FOR SECURITY AND DEFENSE, FOR LAWFUL HUNTING AND RECREATIONAL USE AND FOR OTHER LAWFUL PURPOSES."

NEW HAMPSHIRE - "ALL PERSONS HAVE THE RIGHT TO KEEP AND BEAR ARMS IN DEFENSE OF THEMSELVES, THEIR FAMILIES, THEIR PROPERTY, AND THE STATE."

NEW JERSEY - NONE

NEW MEXICO - "NO LAW SHALL ABRIDGE THE RIGHT OF THE CITIZEN TO KEEP AND BEAR ARMS FOR SECURITY AND DEFENSE, FOR LAWFUL HUNTING AND RECREATIONAL USE AND FOR OTHER LAWFUL PURPOSES, BUT NOTHING HEREIN SHALL BE HELD TO PERMIT THE CARRYING OF CONCEALED WEAPONS. NO MUNICIPALITY OR COUNTY SHALL REGULATE, IN ANY WAY, AN INCIDENT OF THE RIGHT TO KEEP AND BEAR ARMS."

NEW YORK - NONE

NORTH CAROLINA - "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; AND, AS STANDING ARMIES IN TIME OF PEACE ARE DANGEROUS TO LIBERTY, THEY SHALL NOT BE MAINTAINED, AND THE MILITARY SHOULD BE KEPT UNDER STRICT SUBORDINATION TO, AND GOVERNED BY, THE CIVIL POWER. NOTHING HEREIN SHALL JUSTIFY THE PRACTICE OF CARRYING CONCEALED WEAPONS, OR PREVENT THE GENERAL ASSEMBLY FROM ENACTING PENAL STATUTES AGAINST THAT PRACTICE."

NORTH DAKOTA - "ALL INDIVIDUALS ...HAVE CERTAIN INALIENABLE RIGHTS, AMONG WHICH ARE...TO KEEP AND BEAR ARMS FOR THE DEFENSE OF THEIR PERSON, FAMILY, PROPERTY, AND THE STATE, AND FOR LAWFUL HUNTING, RECREATIONAL, AND OTHER LAWFUL PURPOSES, WHICH SHALL NOT BE INFRINGED."

OHIO - "THE PEOPLE HAVE THE RIGHT TO BEAR ARMS FOR THEIR DEFENSE AND SECURITY; BUT STANDING ARMIES, IN TIME OF PEACE, ARE DANGEROUS TO LIBERTY, AND SHALL NOT BE KEPT UP; AND THE MILITARY SHALL BE IN STRICT SUBORDINATION TO THE CIVIL POWER."

OKLAHOMA - "THE RIGHT OF A CITIZEN TO KEEP AND BEAR ARMS IN DEFENSE OF HIS HOME, PERSON, OR PROPERTY, OR IN AID OF THE CIVIL POWER, WHEN THEREUNTO LEGALLY SUMMONED, SHALL NEVER BE PROHIBITED, BUT NOTHING HEREIN CONTAINED SHALL PREVENT THE LEGISLATURE FROM REGULATING THE CARRYING OF WEAPONS."

OREGON - "THE PEOPLE SHALL HAVE THE RIGHT TO KEEP AND BEAR ARMS FOR THE DEFENSE OF THEMSELVES AND THE STATE, BUT THE MILITARY SHALL BE KEPT IN STRICT SUBORDINATION TO THE CIVIL POWER."

PENNSYLVANIA - "THE RIGHT OF THE CITIZENS TO BEAR ARMS IN DEFENSE OF THEMSELVES AND THE STATE SHALL NOT BE QUESTIONED."

RHODE ISLAND - "THE RIGHT OF THE PEOPLE TO KEEP AND BEAR ARMS SHALL NOT BE INFRINGED."

SOUTH CAROLINA - "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."

SOUTH DAKOTA - "THE RIGHT OF THE CITIZENS TO BEAR ARMS IN DEFENSE OF THEMSELVES AND THE STATE SHALL NOT BE DENIED."

TENNESSEE - "THAT THE CITIZENS OF THIS STATE HAVE A RIGHT TO KEEP AND TO BEAR ARMS FOR THEIR COMMON DEFENSE; BUT THE LEGISLATURE SHALL HAVE POWER, BY LAW, TO REGULATE THE WEARING OF ARMS WITH A VIEW TO PREVENT CRIME."

TEXAS - "EVERY CITIZEN SHALL HAVE THE RIGHT TO KEEP AND BEAR ARMS IN THE LAWFUL DEFENSE OF HIMSELF OR THE STATE; BUT THE LEGISLATURE SHALL HAVE POWER, BY LAW, TO REGULATE THE WEARING OF ARMS, WITH A VIEW TO PREVENT CRIME."

UTAH - "THE INDIVIDUAL RIGHT OF THE PEOPLE TO KEEP AND BEAR ARMS FOR SECURITY AND DEFENSE OF SELF, FAMILY, OTHERS, PROPERTY, OR THE STATE AS WELL AS FOR OTHER LAWFUL PURPOSES SHALL NOT BE INFRINGED; BUT NOTHING HEREIN SHALL PREVENT THE LEGISLATURE FROM DEFINING THE LAWFUL USE OF ARMS."

VERMONT - "THAT THE PEOPLE HAVE A RIGHT TO BEAR ARMS FOR THE DEFENSE OF THEMSELVES AND THE STATE- AS STANDING ARMIES IN TIME OF PEACE ARE DANGEROUS TO LIBERTY, THEY OUGHT NOT TO BE KEPT UP; AND THAT THE MILITARY SHOULD BE KEPT UNDER STRICT SUBORDINATION TO AND GOVERNED BY THE CIVIL POWER."

VIRGINIA - "THAT A WELL REGULATED MILITIA, COMPOSED OF THE BODY OF THE PEOPLE, TRAINED TO ARMS, IS THE PROPER, NATURAL, AND SAFE DEFENSE OF A FREE STATE, THEREFORE, THE RIGHT OF THE PEOPLE TO KEEP AND BEAR ARMS SHALL NOT BE INFRINGED; THAT STANDING ARMIES, IN TIME OF PEACE, SHOULD BE AVOIDED AS DANGEROUS TO LIBERTY; AND THAT IN ALL CASES THE MILITARY SHOULD BE UNDER STRICT SUBORDINATION TO, AND GOVERNED BY, THE CIVIL POWER."

WASHINGTON - "THE RIGHT OF THE INDIVIDUAL CITIZEN TO BEAR ARMS IN DEFENSE OF HIMSELF OR THE STATE SHALL NOT BE IMPAIRED, BUT NOTHING IN THIS SECTION SHALL BE CONSTRUED AS AUTHORIZING INDIVIDUALS OR CORPORATIONS TO ORGANIZE, MAINTAIN, OR EMPLOY AN ARMED BODY OF MEN."

WEST VIRGINIA - "A PERSON HAS THE RIGHT TO KEEP AND BEAR ARMS FOR THE DEFENSE OF SELF, FAMILY, HOME, AND STATE, AND FOR LAWFUL HUNTING AND RECREATIONAL USE."

WISCONSIN - NONE

WYOMING - "THE RIGHT OF THE CITIZENS TO BEAR ARMS IN DEFENSE OF THEMSELVES AND THE STATE SHALL NOT BE DENIED."

Daily News guys just don't get it on guns

by PAUL JENKINS

The guys over at the Daily News just don't get it when it comes to guns and the pesky notion of individual freedom, and that's understandable.

They adhere to an ancient and repeatedly discredited dogma that attributes vil to inanimate objects and demands subjugation of individual rights to the whims of liberals because, well, the rest of us are dummies who don't know what's good for us.

And, because in their view the road to utopian socialism — and believe it, that's where they want to go — sometimes is rocky, they are not above stretching the truth to make another mile or two.

The latest evidence is in an embarrassing editorial this week ripping Assemblyman Dick Traini. The News asserts Traini is getting schizo because he wants the Assembly to endorse a state constitutional amendment dealing with the right to keep and bear arms.

They claim his effort on behalf of the amendment somehow is at odds with his drive to keep kids from carrying guns without their parents' written permission. They claim that the proposed amendment would be bad, bad, bad; that it would overturn a host of reasonable gun controls, such as bans on concealed weapons, convicted felons carrying guns, and possessing guns on school property.



Jenkins

That is a lie. That is not a misunderstanding of facts known far and wide. That is not a misrepresentation. That is a lie.

Article 1, Section 19 of the Alaska Constitution — entitled "Right to Bear Arms" — reads: "A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

Nifty but nebulous, and just a bit ambiguous.

Sen. Loren Leman and many others in the Legislature worry that the section does not address specific individual rights, and, because the Daily News and other gun-haters are always looking for a way to disarm the rest of us, the senators thought they might try to clarify the constitution to ensure the individual right to keep and bear arms. They came up with



Senate Joint Resolution 34.

It would allow voters next year to amend the state constitution to include the sentence: "The individual right to keep and bear arms shall not be denied or infringed by the State or a political subdivision of the State." It also would amend the section's title to read: "Right to Keep and Bear Arms."

From that, the Daily News somehow surmises the end of the world is just around the corner: that all gun laws will go out the window.

How can that be?

We have the freedom of speech, but we cannot veil "Fire" in a crowded theater. We have the freedom of the press, but cannot libel with impunity. We have the freedom of religion, but we cannot engage in human sacrifice. We have the right of assembly, as long as we remain peaceful and first get a permit. We have all kinds of seemingly absolute rights that are tempered by lesser law.

Courts across the nation, from the lowest to the highest, repeatedly have ruled that local political jurisdictions have the right to regulate firearms. Surely, the Daily News is aware of some of the decisions.

The constitutional amendment proposed by Leman and others does nothing to abrogate the notion that, yes, cities or the state can regulate guns.

But what it does do is make it more difficult for a government entity in Alaska to one day say: Everybody must turn in their guns because the Daily News

notion of an individual's rights to firearms.

It does not dismantle laws keeping guns out of schools. It does not dismantle laws aimed at keeping guns out of the hands of felons. It does not give each of us the absolute right to carry a concealed weapon anywhere we choose.

But the Daily News guys know all this already. They are not telling you what really sticks in their craw. In the Daily News' view, the absolute worst thing this amendment would do is specifically protect individuals from their government. That's it.

They don't want you to have guns — or ammunition, for that matter. They want to disarm you and make you believe that will make you safe. They desperately want the government to do their dirty work for them. They think this amendment may slow that process. They think anybody who supports it is part of what they see as the problem.

Presto — Dick Traini is a schizoid idiot, the Daily News says.

Hardly. He's right as rain on this issue.

The only schizoid idiots in this whole sorry mess are Daily News writers and editors who fear individual rights and work to ensure ours are buried by the government.

I wonder what they think is going to happen to their First Amendment rights when they've succeeded in denying the rest of us our Second Amendment rights.

Like I said, they just don't get it.

Paul Jenkins is an editor of The Anchorage Times.

EDITORIALS

TAKING A STAND

Gun control can creep up on all Alaskans if they're not vigilant

It doesn't matter if you are male, female, white, black or Native — civil rights are important to all Alaskans. Because of this, I would encourage you to defend our most cherished and fundamental rights; the right to keep and bear arms.

This right could be jeopardized by the vague wording in the Alaska State Constitution. It states:

"A well-regulated militia being necessary to the security of a free state, the right of the people to bear arms shall not be infringed."

This article only says the people can bear arms, but makes no provision for keeping them. Because this language is so poorly written, the courts could interpret it to mean the people only have the right to bear arms while serving in the military reserve or national guard.

The Alaska attorney general's office confirmed our worst fears in a letter to Sen. Pat Rodey dated April 13, 1983. According to Assistant Attorney General Joseph Geldhof, "the modern judicial view has increasingly found that the guaranteed right to keep and bear arms is not an individually protected right, but rather a collective right which allows the people of the various states to serve



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in a militia."

Because of this legal opinion, Sen. Rodey has tried to restore your rights for nine years. His resolution would clarify and reaffirm our commitment to the individual's right to keep and bear arms. It states:

"The individual right to keep and bear arms shall not be denied or infringed by the state or a political subdivision of the state."

The Senate was committed to restoring this right, so it passed the resolution without change. Since then, the anti-gun politicians serving on the House State Affairs Committee have rewritten the measure. The new version 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 denied. The individual right to keep and bear arms shall not be *unreasonably* infringed by the state or a political subdivision of a state."

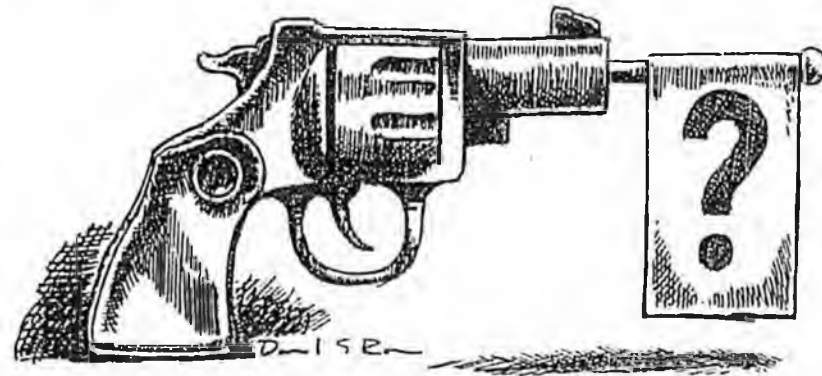
The word "unreasonably" is like a rubber band: It can be stretched to encompass any meaning the bureaucrats want. Because of this, your rights are in jeopardy. Those responsible for this new language are: Chairman Kubina, (D) District 6; Rep. Choquette, (R) District 6 8-B; Rep. Gruenberg, (D) District 11-B.

The only representative to stand up for your rights was Rep. Bruckman, (D) District 8-A.

The next obstacle in this fight is Rep. Dave Donley and his House Judiciary Committee. By inaction, Rep. Donley, (D) District 11-A, could let this resolution die in committee.

It is unfortunate these elected politicians do not believe in the individual right to keep and bear arms.

According to a recent article in the Fairbanks Daily News-Miner, the Hickel administration is also after your guns. Apparently, the



appointed lawyers at the attorney general's office have been leading the fight. They claim the individual right to keep and bear arms would invalidate existing laws that prohibit criminals from owning guns.

Let's look at the evidence.

The state of Rhode Island has the most explicit constitutional provision regarding this right. It simply states: "the right of the people to keep and bear arms shall not be infringed."

During my recent conversation with Rhode Island Assistant Attorney General Mike Stone, I asked this question: "Has the Rhode Island Constitution guaranteeing the right to keep and bear arms invalidated existing gun laws or allowed criminals the

legal right to own a gun in Rhode Island?"

He replied with a resounding "no." Chapter 1147 of the Rhode Island Statutes explicitly "prohibits mental incompetents, drunkards, aliens and people who have been convicted of a violent crime from possessing a firearm."

Here's the point. The Rhode Island Legislature has enacted many laws that prohibit criminals and other undesirable persons from possessing firearms. In fact, Rhode Island has some of the most restrictive gun laws in the country.

Attorney Stone also said the right to keep and bear arms provision in the U.S. Constitution did not invalidate federal firearms laws.

The Gun Control Act of 1968 explicitly prohibits "felons, fugitives from justice, people addicted to controlled substances, the mentally defective," and others from possessing firearms.

Despite overwhelming evidence against their argument, the lawyers at the Alaska attorney general's office continue their assault on your rights.

Let me conclude by saying this. Senate Joint Resolution 1, as introduced by Sen. Rodey, would preserve your right to keep and bear arms, but the anti-gun politicians have compromised the measure by inserting bad language.

We cannot afford to take this right for granted any longer.

Instead, let us re-affirm our commitment to civil rights by sending a message to Rep. Donley and the House Judiciary Committee. Tell them time is running out and you want action.

Vote for SJR1 as submitted by Sen. Rodey.

Gary Hammond is an accounting student at University of Alaska Fairbanks and president of the UAF Politics Club. Opinions expressed in Taking a Stand do not necessarily reflect the editorial position of The Anchorage Times.

Gun-control provides primer on political philosophy

How can one best illustrate, to an inquiring youth, the differences between conservatives and liberals? Abstract principles — bloodless ephemeral — don't make a strong impression. It's best, perhaps, to use a single issue as an example — political philosophy by metaphor, so to speak.

As Congress and the Clintons prepare their next assault on the American people's right to keep and bear arms, let's try gun control as our primer.

Liberals are statist — collectivists who believe government control is the solution to society's ills. Are people shooting each other? The liberal's answer is for government to take all the guns away. Conservatives are individualists; they resent and resist the collective (the state) curtailing their liberty. Take guns away from violent criminals — not from me, they say.

Liberals are elitists; they don't trust common folk



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with the power that comes with control of a deadly weapon. Conservatives are populists who have faith in average Americans and their ability to handle firearms.

Liberals are utopians; if properly managed and controlled, society, and mankind, can approach perfection. Thus, if you make a law against guns and hire a lot of police, people won't shoot each other any more! Conservatives are realists;

they know there will always be criminals (who are by definition scofflaws) who will manage to arm themselves. Disarming the law abiding will only embolden the lawless.

Liberals are fantasists; they are infatuated with gestures. No one seriously believes enactment of the Brady Bill, with its five-day waiting period, will have any real impact on violent crime in America. But, to liberals, it was important to do something, if for no other reason than to make oneself feel good and demonstrate that one really really cares. Conservatives believe in substance, not symbolism. To them, dealing with crime means putting criminals behind bars and keeping them there.

Liberals are inclined to a certain daintiness, or a kind of fecklessness when confronted with the brutality of thugs. The constabulary, don't you know, is employed

to deal with such things. It is not a citizen's place to have to dirty one's linen in taking on criminals oneself. Conservatives believe in self-reliance. If confronted by an assailant, they prefer a .357 to 911.

Liberals are trendy, and naturally attracted to fads. Gun ownership is so passe. Gun control is so modern. Conservatives are traditionalists. Two hundred and 18 years ago the Shot Heard Round the World — precipitating the War of Independence — was fired because the Brits tried to confiscate a colonial armory. If keeping and bearing arms was good enough for our Founding Fathers, it's good enough for us.

To liberals, the foundation of American liberty — the Constitution of the United States — doesn't necessarily mean what it actually says. They argue that as our society evolves, the Constitution likewise changes with the times. Judges and law-

yers, trained at elite law schools, determine the pace and direction of the evolution of interpretation. Conservatives honor the Constitution, and every word of it, above all documents, save one. The framers knew precisely what they were doing when they wrote it, and it literally means what it says. The recognition, in the Second Amendment, that the people's right to bear arms themselves shall not be infringed upon is, and always shall be, the highest law of the land.

Liberals today are the establishment in this country, the powers that be, the elites who control most major American institutions. In the universities, the major newspapers and magazines, the television networks, the film and recording industries, the Congress, government bureaucracies, the law schools, the main-line churches, charitable foundations, in publishing and advertising — in all these and many more

positions of influence, liberals dominate American society. They like their power, and despise any threat to it, however remote. A well-armed citizenry contains the possibility of posing such a threat.

Conservatives are, at least potentially, revolutionaries. They take to heart the admonishments of the grandest document of them all — the Declaration of Independence. Thomas Jefferson's charge to the generations who succeeded him — that it is not only their right, but their duty, to throw off despotism — is taken quite seriously by American conservatives. If and when that time ever comes, they want to be armed.

□ Fritz Pettyjohn, an Anchorage lawyer, served in both the Alaska state Senate and the Alaska House of Representatives.

Difference of opinion

In the slick insert from Arctic Power that appeared in the Fairbanks News-Miner last week, former Kaktovik Mayor Herman Aishanna is quoted as saying, "The people of Kaktovik ... are insulted when people try to tell us this (the coastal plain of the Arctic Refuge) should be a wilderness area, as if we don't exist and have no rights to live, hunt and work here."

Mr. Aishanna should know better, and I suspect maybe he does.

The difference between those who want to

great biological importance. Not unreasonably, the Arctic Slope Regional and Kaktovik Inupiaq corporations wish to pursue what they see as further economic development in their region. We understand that, but we also see that oil development on state lands has already brought the North Slope a strong economic base, including the highest per capita income in the United States, and a very large trust fund. In that context, our contention that the highest value of this one piece of Alaska's coastline lies in its wilderness and habitats, and that it deserves protection as an intact, unique

each one alive, and yet we send our young who have never committed a crime to a foreign country to be killed and to kill other young people who have never committed a crime either. This can't be true, can it?

I wish Howard Weaver would donate his brain to science ... soon.

— John J. Cowdery

Wake up before it's too late

I find it hard to believe how much space you allotted to tell us the tobacco executives believe that their product is not harmful on Dec. 7. And on the front page even! How

in a talk show. Yes, a lot is said at a PTA meeting, however, I disagree with "no point and you come to your own conclusion." Our children's education is reliant on a system that has become political, which makes it ever more important for parents, teachers, principals and those concerned about the education of our children to attend these meetings and become involved.

Without Central Council PTA meetings, and those involved in them, we would not have positive programs for our children such as POPS (parents on playground), Child Watch, and an Earthquake Disaster