

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES,

1993-1994

1246

310

SJR

39

HFIN

FILE

(11)

Date Referred: April 19, 1994

HOUSE COMMITTEE REPORT
FURTHER REFERRALS:

Date of Committee Action: 4/30/94

The FINANCE Committee considered:

SJR 39

SENATE JOINT RESOLUTION NO. 39

RIGHT TO KEEP AND BEAR ARMS

Proposing an amendment to the Constitution of the State of Alaska to guarantee, in addition to the right of the people to keep and bear arms as approved by the voters at the time of ratification of the state Constitution, that the individual right to keep and bear arms shall not be denied or infringed by the state or a political subdivision of the state.

RECOMMENDATIONS:

be replaced with SJR 39 [] the same title [] a new title

[] have attached amendments(s)

[x] do pass

[] do not pass

[] no recommendations

[] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[] fiscal impact _____

[x] fiscal note(s) of of 900 1/24/94

[] zero fiscal note _____

[x] zero fiscal note(s) DPS 2/15/94

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Ronald J. Larson</i>	X	<i>Ronald J. Larson</i>			
<i>Terry Martin</i> martin	X	<i>Mark Stanley</i> Stanley		X	
<i>Ken Barwell</i> Barwell	X	<i>Jay Brown</i> Brown			X
<i>Ben Grossendort</i> grossendort	X	<i>Edmund P. Machean</i> Machean		X	
<i>Tom Therman</i> Therman	X				
<i>Richard J. [unclear]</i> [unclear]	X				

Edmund P. Machean
EDMUND P. MACHEAN
CHAIRMAN'S SIGNATURE
Ronald J. Larson
LARSON

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
 Sponsor: Senate State Affairs Component: General and Primary Elections
 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 G ⁺ /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 or 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 Phone: 465-4611
 Division: Division of Elections Date: 1/14/94
 Approved by Commissioner: John B. Coghill Date: 1/14/94
 Agency: Office of the Lt. Governor

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: SJR 39

Revision Date: _____ Dept. Affected: Public Safety
 Title: Processing an amendment relating to the BRU: Alaska State Troopers
individual right to keep & bear arms Component: Detachments
 Sponsor: Senate State Affairs
 Requestor: Senate State Affairs COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF-Program Receipts						
1006 GF:MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

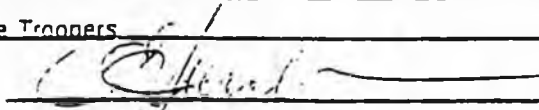
Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME	-					
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact upon the Alaska State Troopers anticipated.

Prepared By: Francis C. Allan Phone: 19071 259-5691
 Division: Alaska State Troopers Date: 01/21/94
 Approved by Commissioner:  Date: 01/21/94
 Agency: Richard L. Burton, Dept. of Public Safety

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SENATE JOINT RESOLUTION NO. 39

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Introduced: 1/10/94
 Referred: STA, JUD. FIN

A RESOLUTION

1 Proposing an amendment to the Constitution of the State of Alaska to guarantee,
 2 in addition to the right of the people to keep and bear arms as approved by
 3 the voters at the time of ratification of the state Constitution, that the individual
 4 right to keep and bear arms shall not be denied or infringed by the state or
 5 a political subdivision of the state.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

7 * Section 1. Article I, sec. 19, Constitution of the State of Alaska, is amended to read:

8 SECTION 19. RIGHT TO KEEP AND BEAR ARMS. A well-regulated
 9 militia being necessary to the security of a free state, the right of the people to keep
 10 and bear arms shall not be infringed. The individual right to keep and bear arms
 11 shall not be denied or infringed by the State or a political subdivision of the State.

12 * Sec. 2. The amendment proposed by this resolution shall be placed before the voters of
 13 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the
 14 State of Alaska, and the election law. of the state.

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 BRU: Division of Elections
Constitution of the State of Alaska
relating to the individual right to keep and Component: General and Primary Elections
bear arms
 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
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

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 or 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 Phone: 465-4611
 Division: Division of Elections Date: 1/14/94
 Approved by Commissioner: John B. Coghill Date: 1/14/94
 Agency: Office of the Lt. Governor

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO: SJR 39

Revision Date: _____ Dept. Affected: Public Safety
 Title: Proposing an amendment relating to the BRU: Alaska State Troopers
individual right to keep & bear arms Component: Detachments
 Sponsor: Senate State Affairs
 Requestor: Senate State Affairs COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1006 GF MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

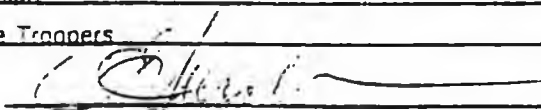
Estimate of current year (FY 94) impact: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME	-					
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact upon the Alaska State Troopers anticipated.

Prepared By: Francis C. Allan Phone: 907/259-5591
 Division: Alaska State Troopers Date: 01/21/94
 Approved by Commissioner:  Date: 01/21/94
 Agency: Richard L. Burton, Dept. of Public Safety

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Martin 4/30/94

A M E N D M E N T

| withdrawn
NO OBJ

OFFERED IN THE HOUSE

TO: HOUSE CS FOR SJR 39 (JUD)

Page 1, line 4:

DELETE: "unreasonably"

Page 1, lines 5 through 7:

DELETE: ", and establishing that the expanded right to keep and bear arms does not change the level of judicial scrutiny applicable to the review of laws relating to weapons"

Page 1, line 13:

DELETE: "unreasonably"

Page 2, lines 1 through 5:

DELETE: "* Sec. 2 Article XV, Constitution of the State of Alaska, is amended by adding a new section to read: SECTION 29. APPLICATION OF AMENDMENT OF SECTION 19 OF ARTICLE I. The 1994 amendment of Section 19 of Article I does not change the level of judicial scrutiny applicable to the review of laws relating to weapons."

Renumber the following bill sections accordingly.

Alaska State Legislature



House of Representatives

House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

SPONSOR STATEMENT FOR HCS SJR 39 (JUDICIARY)

Based on testimony presented in other committees in the House and also in the Senate, and based on my own experience and observations, the firearms laws enacted by the legislature have been reasonable and responsible and there is no reason to believe that fact is going to change in the future. To date, there have not been any bills introduced that would adversely affect all individuals' right to bear arms. Given the long history of firearms use in Alaska for self-protection, for sport, and for subsistence, it is doubtful the court would allow any broad ban on firearms.

*

As we've learned, if the constitution is going to be amended, it should be done carefully. We must recognize that the Alaska Supreme Court has the ultimate power in interpreting the state constitution, and that we in the legislature are often not in agreement with these court interpretations. Such was the case when the court struck down marijuana laws based on the right to privacy. Whenever the constitution is amended there is a risk that the court will apply the newly-adopted provision in a way that was not intended. To protect this amendment from an unwanted judicial interpretation, two changes are needed to SJR 39.

*

First, we must draft the amendment so as to use language that has been interpreted adequately by the court in the past. My committee substitute will thus insert the word "unreasonably", to read; "The individual right to keep and bear arms shall not be unreasonably denied or infringed by the State or a political subdivision of the State." The word "unreasonable" is found in both U.S. and Alaska constitutions and for over 200 years has protected against unreasonable searches and seizures.

*

Second, we must make sure that the amendment to the constitution does not cause the court to increase the level of scrutiny it applies to gun laws, which would increase the risk that a needed

firearm law could be struck down. To accomplish that goal, a new subsection (b) is needed, to read:

(b) The 1994 amendment of HCS SJR 39 does not change the level of judicial scrutiny applied in the review of laws relating to weapons.

In this way, our constitution will recognize the "individual", rather than the "collective", right to bear arms. The laws now on the books, and future laws that the legislature may wish to enact, will be subjected to a consistent level of judicial scrutiny rather than a level now not in use.

This wording thus addresses the specific concerns of both the proponents and the opponents of the measure. This is intended therefore to resolve an issue that has been the subject of intense legislative debate for over ten years. I believe this approach represents a "win-win" solution.



Alaska State Legislature

Session:
State Capitol
Juneau AK 99801-1182

Senate State Affairs

Interim:
716 W 4th Avenue
Anchorage AK 99501-2133

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 and the Fairbanks North Star Borough recently passed resolutions endorsing the individual right to keep and bear arms constitutional amendment and resolutions are currently pending in several other boroughs and cities throughout Alaska.

SJR 39
Senate Letter of Intent

1. SJR 39 NOT APPLICABLE TO PRIVATE ACTION

The legislature notes the consistency between the current language of article I, section 19 of the state constitution and the Second Amendment of the Constitution of the United States. Because of the similarity of language, the legislature is of the view that the interpretation adopted by the United States in Cruikshank v. United States, 92 U.S. 542, 23 L.Ed. 588 (1876), holding that the Second Amendment to the Constitution of the United States does not apply to regulate or interfere with private conduct, is equally valid as to the provision of the state constitution as it currently reads. The proposed amendment of article I, section 19 bars the state or a political subdivision of the state from acting to deny or infringe the right of an individual to keep and bear arms. It says nothing about conduct involving non-governmental parties. It is not intended to guide or interfere with private conduct. Therefore, the legislature is of the opinion that the amendment to article I, section 19 proposed by SJR 39 does not apply, and may not be read to apply, to regulate or interfere with private conduct.

2. STANDARD FOR JUDICIAL REVIEW UNDER SJR39 IS THE "LEGITIMATE AND COMPELLING GOVERNMENTAL INTEREST" TEST.

The legislature also notes the consistency in the language of the proposed amendment to article I, section 19 and comparable language defining the right of privacy set out in article I, section 22 of the state constitution and protecting personal privacy against government infringement. Because of the similarity of language between the two provisions, the legislature is of the view that the interpretation and standard of review adopted by the Alaska Supreme Court to circumscribe or abridge those rights under certain circumstances will also apply to the right defined by article I, section 19. The legislature believes that the applicable test should be the "legitimate and compelling governmental interest" test in the form applicable to

interpretation of the right to privacy, article I, section 22 of the state constitution. The test was first identified in Falcon v. Alaska Public Offices Commission, 570 P.2d 469, 476 (Alaska 1975), and more fully articulated and explained in Messerli v. State 626 P.2d 81, 86 (Alaska 1980). The test has worked well to protect the rights of Alaska's citizens in situations in which the asserted infringement involves a right that is not clearly defined by the courts as "fundamental." Therefore, the legislature is of the opinion that the standard of review contemplated by the amendment proposed to article I, section 19 by SJR 39 be one that precludes abridgment or interference by governmental action unless the government meets its substantial burden of establishing that an abridgment or interference with the right may be justified only by a legitimate and compelling governmental interest.

3. SJR39 DOES NOT PREVENT THE LEGISLATURE FROM LIMITING ACCESS AND POSSESSION OF ARMS BY CONVICTED FELONS AND THOSE CONVICTED OF CRIMES OF VIOLENCE.

As in the majority of jurisdictions whose constitutions contain similar guarantees of an individual's right to keep and bear arms, the proposed amendment of Article I, section 19 does not preclude the appropriate exercise of the police power. The exercise of the police power must be in a manner that satisfies the requirements of the applicable test. To that end, the legislature finds that there is both a legitimate and a compelling governmental interest in the enactment and enforcement of legislation prohibiting the possession of and access to firearms by those who, by their past conduct, have demonstrated an unfitness to be entrusted with their possession. Such legislation is both reasonably related to the protection of the general public from those who would use firearms to commit serious crimes and is sufficiently narrowly drawn to isolate those persons who, on the basis of their previous convictions for a serious offense, evidence a lack of fitness to be entrusted with these dangerous weapons for any reason. Specifically the legislature finds a legitimate and a compelling governmental interest in the enactment and enforcement of legislation limiting access and possession of arms by convicted felons and those convicted of crimes of violence.

SENATE STATE AFFAIRS COMMITTEE
Anchorage, Alaska
November 20, 1993
6:34 P.M.

MEMBERS PRESENT

Senator Loren Leman, Chairman

MEMBERS ABSENT

Senator Mike Miller, Vice Chairman
Senator Robin Taylor
Senator Johnny Ellis
Senator Jim Duncan

OTHER MEMBERS PRESENT

Senator Rick Halford
Senator Dave Donley

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 1

Proposing amendments to the Constitution of the State of Alaska relating to the individual right to keep and bear arms.

SENATE JOINT RESOLUTION NO. 34

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

PREVIOUS SENATE COMMITTEE ACTION

SJR 1 - See State Affairs minutes dated 9/17/93 and 10/23/93.

SJR 34 - See State Affairs minutes dated 9/17/93 and 10/23/93.

WITNESS REGISTER

Portia Babcock, Legislative Aide
Senate State Affairs
State Capitol
Juneau, Alaska 99801-1182

POSITION STATEMENT: Commented on SJR 1 and SJR 34.

Senator Donley
State Capitol
Juneau, Alaska 99801-1182

POSITION STATEMENT: Sponsor of SJR 1.

Senator Halford
State Capitol

Juneau, Alaska 99801-1182
POSITION STATEMENT: Sponsor of SJR 34.

Brian Judy
National Rifle Association
State Liaison
555 Capitol Mall, Suite 455
Sacramento, Ca. 95814
POSITION STATEMENT: Supported SJR 34.

Chris Sullivan
4155 McLean
Anchorage, Alaska 99504
POSITION STATEMENT: Supported SJR 34.

Aaron Shuler
1140 China Berry
Anchorage, Alaska 99504
POSITION STATEMENT: Supported SJR 34.

Steve Lord
P.O. Box 670271
Chugiak, Alaska 99567
POSITION STATEMENT: Supported SJR 34.

Doug Eischen
1140 W. 7151 Ct.
Anchorage, Alaska 99518
POSITION STATEMENT: Supported SJR 34.

Lloyd Barrus
P.O. Box 112853
Anchorage, Alaska 99511
POSITION STATEMENT: Supported SJR 34.

Jack Ramey
P.O. Box 3602
Kodiak, Alaska 99615
POSITION STATEMENT: Supported SJR 34.

Larry Shooshanian
14000 Jarvi Dr.
Anchorage, Alaska 99515
POSITION STATEMENT: Supported SJR 34.

Lorraine Jones
4810 Snow Circle
Anchorage, Alaska
POSITION STATEMENT: Supported SJR 34.

Bob Brumlow
3811 E. 84th

Anchorage, Alaska 99501
POSITION STATEMENT: Supported SJR 34.

Gary Kuhn
No address
U.S. Citizen
POSITION STATEMENT: Supported SJR 34.

Randy Smith
801 N. Bragaw
Anchorage, Alaska 99508
POSITION STATEMENT: Supported SJR 34.

Russell Kell
3113 Wesleyan Dr.
Anchorage, Alaska
POSITION STATEMENT: Supported SJR 34.

David Rogers
2148 Sunrise Drive
Anchorage, Alaska 99508
POSITION STATEMENT: Supported SJR 34.

Billy Toien
4518 E. 3rd Ave., #3
Anchorage, Alaska 99508
POSITION STATEMENT: Supported SJR 34.

William Young
5939 E. 38th Ct.
Anchorage, Alaska 99504
POSITION STATEMENT: Supported the right to bear arms.

Michael Nolen
3401 E. 66th Ave.
Anchorage, Alaska
POSITION STATEMENT: Supported SJR 34.

Robert Rapp
P.O. Box 90432
Anchorage, Alaska 99509-0432
POSITION STATEMENT: Supported SJR 34.

Kenneth Lower
1419 Elmendorf Drive
Anchorage, Alaska
POSITION STATEMENT: Supported SJR 34.

Daniel Stone
P.O. Box 111414
Anchorage, Alaska 99511
POSITION STATEMENT: Supported SJR 34.

Ron Hamman
1545 S. Hoyt, #29
Anchorage, Alaska 99508
POSITION STATEMENT: Supported SJR 34.

John Lawson
1236 East 72nd Ave.
Anchorage, Alaska 99508
POSITION STATEMENT: Supported SJR 34.

Paul Moore
300 Peppertree Lp.
Anchorage, Alaska 99504
POSITION STATEMENT: Supported SJR 34.

Dan McKnight
P.O. Box 942
Soldotna, Alaska 99669
POSITION STATEMENT: Supported SJR 34.

Derek Edmondson
1991 Fyfe Circle
Anchorage, Alaska
POSITION STATEMENT: Supported SJR 34.

Jack Ivy
P.O. Box 770025
Eagle River, Alaska 99577
POSITION STATEMENT: Supported SJR 34.

Jon Hodges
P.O. Box 3991
Alatak Bay, Alaska
POSITION STATEMENT: Supported the right to bear arms and
concealed carry.

Daniel Hawkins
P.O. Box 210543
Anchorage, Alaska 99021
POSITION STATEMENT: Supported the right to bear arms.

Eric Grosch
16300 Elizabeth Street
Anchorage, Alaska 99516
POSITION STATEMENT: Supported SJR 34.

John Aszmun
7420 Augustine Dr.
Anchorage, Alaska 99504
POSITION STATEMENT: Supported SJR 34.

Gerald Klien

12311 Tarey Rd.
Anchorage, Alaska 99516
POSITION STATEMENT: Supported SJR 34.

Ben Clayton
14501 Lach Lomand Lane
Anchorage, Alaska
POSITION STATEMENT: Supported SJR 34.

Bear Claw
HC 85, Box 9362
Eagle River, Alaska
POSITION STATEMENT: Supported SJR 34.

Kelly Smith
2901 W. 32nd
Anchorage, Alaska 99517
POSITION STATEMENT: Supported SJR 34.

David Dorring
2411 Bentern Circle, B-18
Anchorage, Alaska
POSITION STATEMENT: Supported SJR 34.

Mike Pulis
3945 Roundtop Circle
Anchorage, Alaska 99504
POSITION STATEMENT: Supported SJR 34.

Bruce Weisman
P.O. Box 91643
Anchorage, Alaska 99509
POSITION STATEMENT: Supported SJR 34.

Wayne Watt
21746 A Fig Street
Elmendorf Air Force Base
Alaska 99566
POSITION STATEMENT: Supported SJR 34.

William Watson
512 Muldoon
Anchorage, Alaska 99504
POSITION STATEMENT: Supported SJR 34.

Walter Hargis
8920 Pioneer Drive
Anchorage, Alaska 99504
POSITION STATEMENT: Supported SJR 34.

Kristina Carlson
1120 Norman, #6

Anchorage, Alaska 99504
POSITION STATEMENT: Supported SJR 34.

Gary Carlson
2439 Tulane
Anchorage, Alaska 99504
POSITION STATEMENT: Supported SJR 34.

Kevin Carlson
1120 Norman, #6
Anchorage, Alaska 99504
POSITION STATEMENT: Supported SJR 34.

Jim Elsan
8332 Endicott
Anchorage, Alaska 99502
POSITION STATEMENT: Supported SJR 34.

Allen Dubord
18111 Hidden Falls Ave.
Eagle River, Alaska 99577
POSITION STATEMENT: Supported SJR 34.

Keith Gastfield
11001 forest Dr.
Anchorage, Alaska 99516
POSITION STATEMENT: Supported SJR 34.

John Carli
P.O. Box 91123
Anchorage, Alaska 99509
POSITION STATEMENT: Supported SJR 34.

Marc Viens
2080 Waldron Way
Anchorage, Alaska 99507-1344
POSITION STATEMENT: Supported SJR 34.

Kirby Brown
11511 Targhee Loop
Eagle River, Alaska 99577
POSITION STATEMENT: Supported SJR 34.

Rebecca Long
3436 Upland Dr.
Anchorage, Alaska 99504
POSITION STATEMENT: Supported SJR 34.

Aaron Hastings
8401 Jupiter Dr.
Anchorage, Alaska 99507
POSITION STATEMENT: Supported SJR 34.

Jim Cann
107 Stewart Street
Anchorage, Alaska
POSITION STATEMENT: Supported SJR 34.

Ken Smith
4705 E. 112th Ave.
Anchorage, Alaska 99516
POSITION STATEMENT: Supported SJR 34.

Charles Martin
3440 Kachemak Circle
Anchorage, Alaska 99511
POSITION STATEMENT: Supported the right to bear arms.

Doug Becker
3324 Dickson Dr.
Anchorage, Alaska 99504
POSITION STATEMENT: Supported the right to bear arms.

Johann Hamerski, President
Bear Valley Community Council
P.O. Box 110371
Anchorage, Alaska 99511
POSITION STATEMENT: Supported SJR 34.

Dave Wolfe
8211 Pioneer Dr.
Anchorage, Alaska
POSITION STATEMENT: Supported SJR 34.

Jim Farr
3945 Geneva Place
Anchorage, Alaska 99508
POSITION STATEMENT: Supported SJR 34 and concealed carry
legislation.

Jerry Fogg
5713 Jennifer Circle
Anchorage, Alaska 99504-4341
POSITION STATEMENT: Supported the right to bear arms.

Mark Phillips
1314 Birchwood Street
Anchorage, Alaska 99508
POSITION STATEMENT: Supported the right to bear arms and the
right to concealed carry.

ACTION NARRATIVE

TAPE 93-38, SIDE A
Number 001

#SJR1

#SJR34

Chairman Leman called the Senate State Affairs Committee meeting to order at 6:34 p.m. Due to the lack of a quorum, he announced this meeting would be for the purpose of taking public testimony. He announced SJR 1 (RIGHT TO KEEP AND BEAR ARMS) and SJR 34 (RIGHT TO KEEP AND BEAR ARMS.)

PORTIA BABCOCK, Legislative Aide for Senate State Affairs, explained the difference between SJR 1 and SJR 34.

SENATOR DONLEY explained that there has been effort for the past 10 years to establish an individual constitutional right to keep arms in Alaska. This is part of the movement to strengthen state constitutions.

SENATOR HALFORD said that most political heads of police departments are for gun control and he thought the compromising language in SJR 1 wouldn't get them anywhere.

BRIAN JUDY, National Rifle Association, strongly supported clarifying the language of the Alaska Constitution and supported SJR 34.

Mr. Judy noted that the opposition came from law enforcement leaders, not the rank and file police who are afraid to express their opinions.

He said we do not need to regulate arms usage, but to penalize the criminal misuse of firearms. There is a need for clarification because federal laws regarding weapons are contradictory.

CHRIS SULLIVAN, NRA member, supported Mr. Judy's testimony. He added that even with our open carry law, it wouldn't mean much unless there were concealed carry permits available to those who reasonably need them. He supported SJR 34.

AARON SHULER, NRA member, supported Mr. Judy's testimony regarding concealed carry permits and supported SJR 34.

Number 275

STEVE LORD supported SJR 34. He thought that it was a right of a law abiding citizen to be able to carry a concealed weapon.

DOUG EISCHEM supported SJR 34. He said he might not be alive today if he didn't have a weapon concealed when his store was broken into.

LLOYD BARRUS supported SJR 34. He said we have a right to be

able to protect our families.

JACK RAMEY, testifying via teleconference, supported the right to bear arms.

LARRY SHOOSHANIAN, testifying via teleconference, supported SJR 34. He thought it was absolutely necessary. He said that guns protect him from his own government which is corrupt.

LORRAINE JONES, testifying via teleconference, supported SJR 34. She firmly believed in the 2nd amendment rights. Not only should you have protection for your family against outside danger, you also need it for protection against a hostile government.

BOB BRU'LOW, testifying via teleconference, said his students in Anchorage are very concerned about being able to protect themselves. He said weapons are necessary for defense of persons and country. He supported SJR 34.

Number 450

GARY KUHN, said the right to keep and bear arms by law abiding citizens needs to be preserved. He said people should talk to their friends about this issue.

SENATOR DONLEY supported that thought and added they should talk to the Governor's Office, the Department of Public Safety, and the Attorney General's Office.

TAPE 93-38, SIDE B
Number 001

RANDY SMITH supported the language in SJR 34.

RUSSELL KELL thought the U.S. was becoming a police state and supported SJR 34.

DAVID ROGERS, urged Alaskans to make a statement and to support SJR 34.

BILLY TOIEN, Alaskan Libertarian, supported SJR 34. He said Libertarians believe in the Americans right to decide how best to protect themselves, their families, and their property. The police do not provide security in our homes.

WILLIAM YOUNG said he was raised where a gun was part of a families' tools. He supported the right to bear arms.

MICHAEL NOLEN, NRA member and certified instructor supported SJR 34. He said a defenseless citizen would be at the mercy of the criminal element. The police can't protect each

individual, so the individual must be able to defend himself and his family by armed force if necessary.

JEFF NOLEN, NRA member, supported SJR 34.

ROBERT RAPP, NRA member, said this country was established as a republic. The federal government should not have an army because it represents a power that could take over the country. The states should have militias. He supported SJR 34.

KENNETH LOWER supported SJR 34. He said the Bill of Rights gives citizens the right to bear arms against its government. The government can be trusted less now than when it was first started.

Number 200

DANIEL STONE said the Bill of Rights protects the states against the federal government. He said SJR 34 is extremely critical at this point.

RON HAMMAN, NRA member, supported SJR 34. He said when guns go the freedom to worship, which is why our forefathers came to this country, is going to go also.

JOHN LAWSON supported SJR 34. He used liquor prohibition as an example of what gun prohibition would do. It would create a commodity, he said, which wouldn't work. We need to look at the real problems which are moral and ethical.

Number 325

PAUL MOORE, NRA member, supported SJR 34. We need to send a message to the criminal element that we are not going to "sit there and roll over and die." Law enforcement can't be everywhere at once. It is our right to protect our property, he said.

DAN MCKNIGHT, NRA member, said gun control is one step closer to one world government. He said he will never give up guns.

Number 375

DEREK EDMONDSON, supported SJR 34 and opposed SJR 1. He said the law cannot protect you until after the crime has occurred. People need a method to protect themselves until the police arrive.

JACK IVY, NRA member, supported SJR 34.

JON HODGES supported the right to carry a concealed weapon.

The citizens of this country need the right to protect themselves. We can't count on the government to do it.

DANIEL HAWKINS supported the right to bear arms.

ERIC GROSCH pointed out that it is the right of citizens to bear arms. The reason there is crime is not the proliferation of weapons. It's because people don't know the difference between right and wrong. He strongly supported SJR 34.

SENATOR DONLEY clarified that the reason he left militia in his bill is because he was requested to preserve reference to it in the constitution to accommodate people in the state militia.

Number 490

JOHN ASZMUN, NRA member, said he fears danger from the government, if citizens are not allowed to have guns.

GERALD KLIEN supported SJR 34. He thought the 2nd amendment is the most important amendment of the constitution, because without it there is no constitution.

BEN CLAYTON, NRA member, supported SJR 34. He supported the 2nd Amendment to the Constitution of the United States.

TAPE 93-39, SIDE A
Number 001

BEAR CLAW, Eagle River, Alaska, supported SJR 34. He has been a hunting guide and trapper for 20 years. He believes in the right to carry and conceal for all law abiding citizens.

KELLY SMITH said when the 2nd amendment was written so that the individual had the right to keep and bear arms. Only recent history has relegated that right to government militias. Citizens should have final recourse against a tyrannical government. He supported SJR 34.

DAVID DORRING supported SJR 34.

MIKE PULIS supported SJR 34 and not SJR 1. Our rights are not to be compromised, because then they become privileges granted by the state. Criminal misuse is the problem. He said many criminals would be created if there was a prohibition against guns.

BRUCE WEISMAN, NRA member, supported SJR 34. Citizens should have the right to carry concealed weapons.

Number 175

WAYNE WATT supported SJR 34.

WILLIAM WATSON said he has talked to thousands of people in his shop in Muldoon and has not met one who should really not have the right to keep and bear arms. She said he has talked to victims of a lot of crimes and not one of them had been armed. He has talked to people who have stopped rapes and other crimes and they were happy they had a fire arm to stop it. People need the opportunity to protect themselves and to protect others against criminals.

WALTER HARGIS supported SJR 34. He thought SJR 1 was ambiguous.

KRISTINA CARLSON supported SJR 34. She said an armed society is a respectable society. She said the right to bear arms is one of our constitutional rights. She said children are not taught in school that the Constitution gives them the right to bear arms.

GARY CARLSON strongly supported the SJR 34. He also supported a concealed weapons law. He noted that only 20% of the world is free. The rest of the people are under communism or tyranny or dictatorship and don't have the right to bear arms.

KEVIN CARLSON supported SJR 34. He said the government cannot be trusted which is why the Constitution supports the right to bear arms.

JIM ELSAN said he thought the reason people were taking more notice of crime is that it is being reported. He is not for any taxes or restrictions on fire arms or ammunition. He supports the right to carry concealed weapons.

Number 350

ALLEN DUBORD supported SJR 34.

KEITH GASTFIELD said the judiciary is the strongest part of our government. The legal gun owner is defined by SJR 34 and he supports it. He said the biggest gun problem is with juveniles and juveniles who don't know how to handle guns and don't have the responsibility.

JOHN CARLI, Eagle River, supported SJR 34. He said the purpose of law enforcement is to enforce laws, not protect you.

MARC VIENS, President, Partners In Profit, said that a gun ban is a precursor to restrictions on the way you worship, where you meet, etc. He supported SJR 34.

Number 425

KIRBY BROWN, NRA member, supported SJR 34, because it's the clearest language he has seen so far. He would like it to be even clearer on individual rights.

JOHN DICKENS said nine years ago after his brother's murder, he had to draw a weapon twice to preserve his own life from the people who killed him. Because he carries a large amount of cash regularly from his lodge to the bank, he asked Talkeetna police for advice. They told him to get a gun and practice with it.

RON BROWN said he has seen too many liberties taken away from us. He thinks we should always be able to bear arms when we want to - the way it was in the beginning. He supported SJR 34.

REBECCA LONG supported SJR 34.

AARON HASTINGS, part-time employee at a gun shop, strongly supported SJR 34. He said when he was in the Marines he took an oath to protect the Constitution of the United States from enemies both foreign and domestic. He views that as anyone who is trying to take away his constitutional rights to keep and bear arms and any other freedoms he has.

JIM CANN, NRA member, fully supported SJR 34. He said that whenever a crime is committed the police can't stop it. The only person who can stop it is an individual if he has the fire arms available.

TAPE 93-39, SIDE B
Number 001

MR. CANN explained that in Switzerland all males from the time they are 18 years old till 54, they are in a stand-by army. They have to keep, at least, a fire arm in their home. They have the lowest crime rate of any nation.

KEN SMITH supported SJR 34. He said all of our rights are god-given. The only ones we don't have are the ones our government has taken away from us.

CHARLES MARTIN said he was born and raised in New York City. He said gun laws do nothing to the criminal, but mostly affect law-abiding citizens. He supports any legislation that supports his right to defend himself.

DOUG BECKER said that recently he had the occasion to protect himself with a gun two months ago. He is very thankful he had the right to own and keep that fire arm.

JOHANN HAMERSKI, President, Bear Valley Community Council, said most of them support SJR 34. He said his wife had to fight back a violent rapist with a pistol a number of years ago. He has also stopped another rape with the use of a gun. He also saved himself from a car jacking in Florida when he pulled out a pistol.

DAVE WOLFE supported SJR 34.

JIM FARR, Attorney, pointed out the importance of the 2nd amendment. He supported legislation that would strengthen it. He also supported a concealed carry statute. He supported SJR 34. He also supported a habitual criminal statute in Alaska.

JERRY FOGG said the infringement on our rights to keep and bear arms is allowing the government to take over. People who commit crimes should be punished. It is not the guns that commit crimes.

MARK PHILLIPS supported the right to bear arms. He also thought we have a right to concealed carry.

SENATOR LEMAN thanked everyone for their participation and adjourned the meeting at 9:30 p.m.

#

SENATE STATE AFFAIRS COMMITTEE
Wasilla, Ak.
October 30, 1993

MEMBERS PRESENT

Senator Loren Leman, Chair

MEMBERS ABSENT

Senator Mike Miller, Vice Chair
Senator Robin Taylor
Senator Jim Duncan
Senator Johnny Ellis

OTHER MEMBERS PRESENT

Representative Pat Carney
Representative Ron Larson

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 1
Proposing amendments to the Constitution of the State of Alaska
relating to the individual right to keep and bear arms.

SENATE JOINT RESOLUTION NO. 34
Proposing an amendment to the Constitution of the State of Alaska
relating to the individual right to keep and bear arms.

PREVIOUS SENATE COMMITTEE ACTION

SJR 1 - See State Affairs minutes dated 9/17/93 and 10/23/93.

SJR 34 - See State Affairs minutes dated 9/17/93 and 10/23/93.

WITNESS REGISTER

Mark Chryson
2140 Wolverine Circle
Wasilla, Alaska 99654
POSITION STATEMENT: Supported SJR 34.

Paul Barelka
553 Robin Circle
Wasilla, Alaska 99654
POSITION STATEMENT: Supported the right to bear arms.

Scotty Parkes
P.O. Box 975566
Wasilla, Ak. 99687
POSITION STATEMENT: Supported the right to bear arms.

Mark Gordon
HC01 6131 AB
Palmer, Ak. 99645
POSITION STATEMENT: Supported SJR 34.

Ed Allen
2753 Porcupine
Wasilla, Ak. 99645
POSITION STATEMENT: Supported SJR 34.

Herbert Thompson
P.O. Box 1
Talkeetna, Ak. 99676
POSITION STATEMENT: Supported SJR 34.

Charles Marsh
P.O. Box 2750
Palmer, Ak. 99645
POSITION STATEMENT: Supported both resolutions, but preferred SJR 34.

Walt Warner
P.O. Box 520028
Big Lake, Ak.
POSITION STATEMENT: Supported SJR 34.

Alexander Clark
3900 Misty
P.O. Box 4022
Palmer, Ak. 99645
POSITION STATEMENT: Supported SJR 34.

Kenneth Smith
P.O. Box 3574
Palmer, Ak. 99645
POSITION STATEMENT: Supported the right to bear arms.

Sam Rick
P.O. Box 877522
Wasilla, Ak.
POSITION STATEMENT: Supported the right to keep and bear arms.

Glenn C. Marden
P. O. Box 3552
Palmer, Ak.
POSITION STATEMENT: Supported the right to bear arms, but not the legislation.

Michael Carpenter
335 Boniface
Anchorage, Ak.

POSITION STATEMENT: Supported the right to bear arms.

Margaret Betts
P.O. Box 871012
Wasilla, Ak.

POSITION STATEMENT: Supported the right to bear arms and both pieces of legislation.

Mark Miller
HC01
P.O. Box 693611
Palmer, Ak. 99645

POSITION STATEMENT: Supported the right to bear all kinds of firms arms.

Mike Chryst
P.O. Box 872488
Wasilla, Ak. 99687

POSITION STATEMENT: Supported SJR 34.

Leo A. Brueggeman
P.O. Box 520684
Big Lake, Ak. 99652

POSITION STATEMENT: Supported SJR 34.

Sylvia Nichols
P.O. Box 4100
Palmer, Ak. 99645

POSITION STATEMENT: Supported the right to bear arms.

Kevin Robinson
P.O. Box 2711
Palmer, Ak. 99645

POSITION STATEMENT: Supported the right to bear arms and clearer language.

David McGraw
1500 Catalina Dr.
Wasilla, Ak. 99687

POSITION STATEMENT: Supported the right to keep and bear arms.

David McGraw II

POSITION STATEMENT: Supported SJR 34.

Marvin Cook
P.O. Box 9
Talkeetna, Ak. 99676

POSITION STATEMENT:

Michael Jordan
P.O. Box 84
Willow, Ak. 99688

POSITION STATEMENT: Supported SJR 34.

Gary McCrorey
HC33 Box 2900
Wasilla, Ak. 99654

POSITION STATEMENT: Supported SJR 34.

Richard Roberts
P.O. Box 1430
Palmer, Ak. 99645

POSITION STATEMENT: Supported SJR 34.

L.J. Zweirel
P.O. Box 1936
Palmer, Ak. 99645

POSITION STATEMENT: Supported the right to bear arms and SJR 34 and SJR 1.

Herb Marshall
P.O. Box 873745
Wasilla, Ak. 99687

POSITION STATEMENT: Supported the right to bear arms.

David Norton
P.O. Box 2742
Palmer, Ak. 99645

POSITION STATEMENT: Supported SJR 34.

David L. Lazer
HC01, Box 6877
Palmer, Ak. 99645

POSITION STATEMENT: Supported the right to bear arms, but to put it in clear language.

Noel Woods
Matanuska Valley Sportsmen
P.O. Box 827
Palmer, Ak. 99645

POSITION STATEMENT: Supported the right to bear arms.

Steve Lord
P.O. Box 670271
Chugiak, Ak. 99567

POSITION STATEMENT: Supported SJR 34.

Michael P. Favors
P.O. Box 2757
Palmer, Ak. 99645

POSITION STATEMENT: Supported the right to bear arms.

R. W. Sanderline
Wasilla, Ak. 99654

POSITION STATEMENT: Supported SJR 34.

Robert Kohler

Palmer, Ak. 99645

POSITION STATEMENT: Supported SJR 34.

Rick Bryant

2275 Gordon

Wasilla, Ak. 99687

POSITION STATEMENT: Supported SJR 34.

Randall C. Scherer

P.O. Box 870862

Wasilla, Ak. 99687

POSITION STATEMENT: Supported the right to bear arms.

William Wood

P.O. Box 3622

Palmer, Ak. 99645

POSITION STATEMENT: Supported the right to bear arms.

Alec C. Clark

P.O. Box 4022

Palmer, Ak. 99657

POSITION STATEMENT: Supported SJR 34.

Monty Cassidy

P.O. Box 521457

Big Lake, Ak. 99652

POSITION STATEMENT: Supported SJR 34.

Robert E. Lilly

P.O. Box 520396

Big Lake, Ak. 99657

POSITION STATEMENT: Supported the right to bear arms.

Jean Woods

P.O. Box 827

Palmer, Ak. 99645

POSITION STATEMENT: Supported the right to bear arms.

Laura Lahrson

P.O. Box 873411

Wasilla, Ak. 99654

POSITION STATEMENT: Supported SJR 34.

David Mitchell

P.O. Box 871388

Wasilla, Ak. 99687

POSITION STATEMENT: Supported SJR 34.

Edward Barno

2055 Gordon Circle
Wasilla, Ak. 99654

POSITION STATEMENT: Supported SJR 34.

Ron Arnold, President
Alaska Outdoor Council
2932 C Street, = B
Anchorage, Ak. 99503

POSITION STATEMENT: Supported SJR 34.

Bob Gabel
HC 32, Box 5247 A-8
Wasilla, Ak. 99654

POSITION STATEMENT: Supported the right to bear arms.

John Ward
2450 Wards Rd.
Wasilla, Ak. 99654

POSITION STATEMENT: Supported SJR 34.

Mr. Morgan
Eagle River, Alaska

POSITION STATEMENT: Supported SJR 34.

Jim Thompson
P.O. Box 876417
Wasilla, Ak. 99654

POSITION STATEMENT: Supported SJR 34.

ACTION NARRATIVE

TAPE 93-36, SIDE A
Number 027

CHAIRMAN LEMAN called the Senate State Affairs meeting to order and announced SJR 1 (RIGHT TO KEEP AND BEAR ARMS) and SJR 34 (RIGHT TO KEEP AND BEAR ARMS) to be up for consideration. He asked Portia Babcock, Aide to the Senate State Affairs Committee, to give an overview on the differences between SJR 1 and SJR 34.

Number 032

PORTIA BABCOCK explained the second section of SJR 1 includes a clause that has unclear language relating to other rights to bear arms laws and ordinances and said there is a question whether they would be protected in the constitution if this resolution passes.

There is another question about the effective date when the laws would be protected in the constitution.

SJR 34 was introduced to exclude the section 2 language, because it was so unclear.

REPRESENTATIVE RON LARSON explained the process for passing legislation to the audience.

REPRESENTATIVE PAT CARNEY commented that this was a large audience and this is how many people would always be at legislative hearings if the capitol was in Wasilla.

MARK CHRYSON, Gun Owners of American and Alaska Independence Party, supported the individual right to keep and bear arms. He supported SJR 34 because the language is much stronger.

PAUL BARELKA, Alaska Independence Party, commented that the Borough form of government is illegal, because it doesn't give them representation. They would like to have elected law enforcement officials to organize a militia to enforce the rights of Americans as written in the Constitution. He didn't have a preference for either resolution.

SCOTTY PARKES supported the right to bear arms.

MARK GORDON strongly supported the constitutional right of citizens to keep and bear arms. He supported SJR 34. He also supported permitting concealed carry and thought those who commit crimes with fire arms should be unmercifully and aggressively prosecuted.

ED ALLEN said that disarming the citizenry is not a good way to deal with misuse of arms. Guns are our last line of defense, he said and supported SJR 34.

HERBERT THOMPSON, Talkeetna resident, supported the right to bear arms.

Number 300

CHARLES MARSH asked for a brief explanation of the differences in the versions.

SENATOR LEMAN announced that he would accept written testimony as well as oral testimony.

MR. MARSH commented that the language "keep and bear arms" was not strong enough. He suggested stating "the individual's rights to legally own fire arms shall not be denied."

MS. BABCOCK again explained the differences between SJR 1 and SJR 34.

WALT WARNER, Willow, supported SJR 34. He asked what the legislature is doing about the assumption that when a fire arms accident happens at home, it gives the authorities the right to go in and seize every weapon in the house.

ALEXANDER CLARK, Wasilla resident, supported his testimony.

SENATOR LEMAN said they would get an answer regarding what the law enforcement agencies are doing.

KENNETH SMITH said he wanted to see very clear language on the right to bear arms, because we might need guns to protect ourselves from Washington someday. He said, "If legislation and the law is not legal, then to resist that law is not illegal."

TAPE 93-36, SIDE B

SAM RICKS, Point McKenzie resident, said his grandparents fought in the American revolution for just this purpose - for the right to keep and bear arms. He said he was a retired law enforcement officer and can't remember anyone ever going into someone's house and taking their fire arms without just cause.

GLENN MARDEN said his neighborhood has a reputation for shooting back and not dialling 911 and they don't have a crime problem. He said he would shy away from grandfathering in things that would be unconstitutional. The U.S. Supreme Court has never ruled in favor of the constitutional right to keep and bear arms to be a collective right. In seeking something else, they are admitting that the right to bear arms is a collective right and not an individual right.

MICHAEL CARPENTER asked Senator Leman what were the chances of this legislation passing. SENATOR LEMAN said getting it through House Judiciary might be difficult.

MARGARET BETTS supported the right to bear arms.

MARK MILLER supported the right to bear all kinds of fire arms.

MIKE CHRYST, Standing Against Government Excess (SAGE), supported SJR 34. Thomas Jefferson said, "The nice thing about the second amendment is that you never need it until they try to take it."

LEO BRUEGGEMAN supported SJR 34. He did not like the wording that exists now.

SYLVIA NICHOLS supported the right to bear arms.

Number 300

KEVIN ROBINSON supported law abiding citizens having the right to keep and bear arms. He thought the language should be a little more to the point.

DAVID MCGRAW supported the right to keep and bear arms.

DAVID MCGRAW II supported SJR 34.

MARVIN COOK supported SJR 34. He said the Constitution of the United States is being infringed on a regular basis. The right to bear arms should over rule the state prohibition for concealed carry. The concept that criminals should have all the advantages and lawful citizens have none is unbelievable.

MICHAEL JORDAN supported SJR 34.

GARY MCCROREY supported any bill to keep and bear arms. He wanted to be able to protect himself and his family against criminals.

RICHARD ROBERTS said the West Virginia amendment should be added to SJR 34.

L.J. ZWEIFEL said that law abiding citizens have the right to keep and bear arms and protect themselves against those who chose to break the law. She supported any legislation that was for the right to keep and bear arms.

HERB MARSHALL commented that the Constitution says time after time that it is an individual's right to bear arms, not just the army's right.

SENATOR LEMAN said that the Committee is serious about this legislation and they are having the meeting because they believe in it.

DAVID NORTON supported SJR 34, because it would not grandfather in existing laws or laws that would be made during the interim. He said his right to bear arms comes from God, not the constitution.

DAVID LAZER supported the right to bear arms and emphasized that the legislation, whatever the number, should have very clear language so that people understand what they are voting on.

NOEL WOODS, Matanuska Valley Sportsmen, supported the right to keep and bear fire arms.

TAPE 93-37, SIDE A

STEVE LORD said this country was founded by people who believed in God. God has been systematically destroyed in schools. He supported SJR 34 and said it supported the original Constitution of the United States.

MICHAEL FAVORS said we need to write our Congressmen, the President, etc. and let them know how we feel about the right to bear arms.

R. W. SANDERLINE supported SJR 34.

ROBERT KOHLER supported SJR 34.

RICK BRYANT supported the right to bear arms legislation. He supported SJR 34.

RANDALL SCHERER supported the right to bear arms.

WILLIAM WOOD said if we don't have the right to bear arms, other countries will just come in and take over.

ALEC CLARK, law enforcement officer, researched the records of 150 murderers. Out of those, only one individual purchased a fire arm for the sole reason of committing a crime. Everyone else used something that was already there - a truck, a wood stove, etc. The availability of fire arms is not responsible for the rise in crime. He supported SJR 34 and the West Virginia amendment.

REPRESENTATIVE LARSON commented that he favored the legislation regarding juveniles who commit felonies being tried as adults. He asked if they agreed. He received a lot of agreement from the audience.

MONTY CASSIDY supported SJR 34. He also liked the wording in the West Virginia amendment.

ROBERT LILLY supported the right to bear arms.

JEAN WOODS, National Rifle Association, explained that the second amendment of the Constitution was written by the founding fathers for a civilian army. Because the militia has changed, we have a standing army; but we still have the right to keep and bear arms as citizens to protect ourselves from domestic and foreign disorder.

LAURA LAHRSON, naturalized American citizen, said the three most important rights we have are the right to free speech, to vote, and to keep and bear arms. She supported SJR 34.

DAVID MITCHELL supported SJR 34 and the West Virginia amendment.

EDWARD BARNO supported SJR 34, but favored the language of the West Virginia Constitution.

ROD ARNOLD, President, Alaska Outdoor Council, supported SJR 34. He said it was important to have clear wording.

BOB GABEL supported the right to bear arms.

JOHN WARD supported the right to keep and bear arms. He pointed out that the whole Borough they are in is as big as West Virginia and they have only 2 police officers. He supported having a concealed carry permit program.

MR. MORGAN, Eagle River resident, supported SJR 34.

JIM THOMPSON said he was involved with the student exchange program and has a student from Czechoslovakia. This student said it was illegal to carry weapons of any sort there. People who hold office there cannot be overthrown because of their money and the time they have been in office. He supported SJR 34 and the West Virginia amendment.

REPRESENTATIVE PAT CARNEY said he appreciated the crowd.

SENATOR LEMAN thanked everyone for their participation and adjourned the meeting.

SENATE STATE AFFAIRS COMMITTEE
Soldotna, Alaska
October 23, 1993
3:00 P.M.

MEMBERS PRESENT

Senator Loren Leman, Chairman

MEMBERS ABSENT

Senator Mike Miller, Vice Chairman
Senator Robin Taylor
Senator Johnny Ellis
Senator Jim Duncan

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 1
Proposing amendments to the Constitution of the State of
Alaska relating to the individual right to keep and bear arms.

SENATE JOINT RESOLUTION NO. 34
Proposing an amendment to the Constitution of the State of
Alaska relating to the individual right to keep and bear arms.

PREVIOUS SENATE COMMITTEE ACTION

SJR 1 - See State Affairs minutes dated 9/17/93

SJR 34 - See State Affairs minutes da ted 9/17/93.

WITNESS REGISTER

Brad Bradney
P.O. Box 1601
Kenai, Alaska 99611
POSITION STATEMENT: Supported SJR 34.

Wesley Jones
P.O. Box 535
Seward, Alaska 99664
POSITICN STATEMENT: Supported SJR 34.

Michael Mooter
P.O.Box 1041
Seward, Alaska 99664
POSITION STATEMENT: Supported SJR 34.

Gordon Kessling
P.O. Box 32
Seward, Alaska 99664

POSITION STATEMENT: Supported SJR 34.
Amanuel Dabney
P.O. Box 665
Soldotna, Alaska 99664
POSITION STATEMENT: Supported SJR 34.

Alvin Bayer
P.O. Box 2822
Homer, Alaska 99603
POSITION STATEMENT: Supported SJR 34.

Tim Smith
P.O. Box 4393
Soldotna, Alaska 99669
POSITION STATEMENT: Supported SJR 34.

Russ Morrison
P.O. Box 4623
Soldotna, Alaska 99664
POSITION STATEMENT: Supported SJR 34.

Tom Vogel
2707 Wildwood Dr., #32
Kenai, Alaska 99611
POSITION STATEMENT: Supported SJR 34.

Richard Dubendorf
P.O. Box 67
Soldotna, Alaska 99669
POSITION STATEMENT: Supported SJR 34.

Roland Cusson
295 Riverside
Soldotna, Alaska 99669
POSITION STATEMENT: Supported SJR 34.

Vernon Thornton
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Soldotna, Alaska 99669
POSITION STATEMENT: Supported SJR 34.

May Alice Hopkins
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POSITION STATEMENT: Supported SJR 34.

Mike Mathews
P.O. Box 3086
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POSITION STATEMENT: Supported SJR 34.

Henry Moser

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POSITION STATEMENT: Supported SJR 34.

Thomas Eliason
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POSITION STATEMENT: Supported SJR 34.

Steven H. Mussman
373 West Vine Ave.
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POSITION STATEMENT: Supported SJR 34.

Bob Benedict
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Kenai, Alaska 99611
POSITION STATEMENT: Supported SJR 34.

Jeneane Benedict
P.O. Box 3216
Kenai, Alaska 99611
POSITION STATEMENT: Supported SJR 34.

Bill Boles
HCS Box 911
Soldotna, Alaska 99669
POSITION STATEMENT: Supported SJR 34.

Jim Jenckes
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POSITION STATEMENT: Supported SJR 34.

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44675 Wooded Lane
Soldotna, Alaska 99669
POSITION STATEMENT: Supported SJR 34.

Spencer Wyman
2800 Beaver Lp., #9
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POSITION STATEMENT: Supported SJR 34.

Jim Cooper
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Soldotna, Alaska 99669

POSITION STATEMENT: Supported SJR 34.

Ralph Dillon, Sr.

P.O. Box 1023

Sterling, Alaska 99672

POSITION STATEMENT: Supported SJR 34.

Kenneth Roberts

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POSITION STATEMENT: Supported SJR 34.

Bill Baucum

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Robert Hensler

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Lee Martin

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POSITION STATEMENT: Supported SJR 34.

Sterling Eide

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POSITION STATEMENT: Supported SJR 34.

Michael Masters

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Soldotna, Alaska 99669

POSITION STATEMENT: Supported SJR 34.

Jim Welborn

HC 01, Box 81

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POSITION STATEMENT: Supported SJR 34.

Bev Welborn

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POSITION STATEMENT: Supported SJR 34.

Greg Reser

44120 McLean Ct.

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POSITION STATEMENT: Supported SJR 34.

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POSITION STATEMENT: Supported SJR 34.

Dianna Chapman
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Gary Cadd
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Kenai, Alaska 99611
POSITION STATEMENT: Supported SJR 34.

Mimi Tolva
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POSITION STATEMENT: Supported SJR 34.

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POSITION STATEMENT: Supported SJR 34.

ACTION NARRATIVE

TAPE 93-34, SIDE A
Number 001

CHAIRMAN LEMAN called the Senate State Affairs Committee meeting to order at 3:00 p.m. Due to the lack of a quorum the meeting was convened as a work session to take public testimony on SJR 1 (RIGHT TO KEEP AND BEAR ARMS) and SJR 34 (RIGHT TO KEEP AND BEAR ARMS) to be up for consideration.

BRAD BRADNEY, Kenai, asked if this was the exact language that would be adopted. Senator Leman said it was possible to amend it still, but that the language fits in with the Alaska Constitution.

PORTIA BABCOCK, staff for Senate State Affairs, explained the differences between the two bills. The first sections are identical, but SJR 1 has a second section which has ambiguous and risky language according to a legal opinion from LAA. SJR 34 has language that is clearer, she said, and is supported by Senator Leman, other Senators, and organizations.

MR. BRADNEY opposed SJR 1 and supported SJR 34. He agreed that the language in SJR 1 was unclear.

Number 175

WESLEY JONES, Seward, supported SJR 34.

MICHAEL MOOTER, Seward, supported SJR 34.

GORDON KESSLING, Seward, supported SJR 34.

AMANUEL C. DABNEY, Soldotna, supported SJR 34.

ALVIN BAYER, Homer, strongly supported SJR 34.

TIM SMITH, Soldotna, supported SJR 34.

RUSS MORRISON, Soldotna, supported SJR 34.

Number 217

TOM VOGEL, Kenai, supported SJR 34.

Number 370

RICHARD DUBENDORF, Soldotna, supported SJR 34. He asked why the language was needed for court support of law enforcement. MS. BABCOCK answered that at the time the leadership decided they would not go any further with the bill without the support of the Chief of Police, the Governor, and the Department of Law. They felt this language was needed.

ROLAND CUSSON, Soldotna, supported SJR 34.

Number 425

VERNON THORNTON, Soldotna, supported SJR 34.

MAY ALICE HOPKINS, Soldotna, supported SJR 34.

MIKE MATHEWS, Soldotna, supported SJR 34. He said the idea was to clarify the right to bear arms which SJR 34 does best.

Number 4.5

HENRY MOSER, Soldotna, supported SJR 34.

THOMAS ELIASON, Seward, supported SJR 34.

STEVEN H. MUSSMAN, Soldotna, supported SJR 34.

BOB BENEDICT, Kenai, supported SJR 34. He said that he has helped catch two burglars, and it was only because he had a gun. The bad guys have them and the good guys need them too. He suggested we enact laws like England has that give ten years at the start just for using a gun and then add on the penalty for the crime besides.

JENEANE BENEDICT, Kenai, supported SJR 34. She said she always carries a hand gun to protect her life.

TAPE 93-34, SIDE B
Number 001

BILL BOLES, Soldotna, supported SJR 34.

JIM JENCKES, Kenai, supported SJR 34, because SJR 1 is not compatible with the federal constitution.

DAVE BEAR, Ninilchik, strongly supported SJR 34.

Number 100

MIKE DENISON, Soldotna, supported SJR 34.

SPENCER WYMAN, Kenai, strongly supported SJR 34.

JIM COOPER, Soldotna, strongly supported SJR 34.

RALPH DILLON, SR., Sterling, strongly supported SJR 34. He said he started taking his kids hunting when they were 5 years old and he taught them the right way to use a gun.

KENNETH ROBERTS, Sterling, strongly supported SJR 34.

BILL BAUCUM, Kenai, supported SJR 34.

ROBERT HENSLER, Soldotna, supported SJR 34. He said he sells firearms.

Number 200

LEE MARTIN, Homer, strongly supported SJR 34.

STERLING EIDE, Kenai, supported SJR 34.

MICHAEL MASTERS, Soldotna, strongly supported SJR 34.

JIM WELBORN, Kenai, supported SJR 34.

BEV WELBORN, Kenai, supported SJR 34. She said she wanted to be able to protect herself and her three daughters while her husband was gone.

GREG RESER, Soldotna, supported SJR 34 and opposed SJR 1.

Number 350

CALVIN CARY, Soldotna, supported SJR 34.

JAMES CHAPMAN, Soldotna, supported SJR 34.

DIANNA CHAPMAN, Soldotna, supported SJR 34.

Number 425

GARY CADD, Kenai, supported SJR 34. He said that our freedoms are under attack nationally. He noted that the Alaska State Constitution did not contain a legal description of the State and so the federal government could override state authority.

MIMI TOLVA, Homer, supported SJR 34 and opposed SJR 1.

Number 500

SHAWN ROBERTS, Soldotna, supported SJR 34.

TAPE 93-35, SIDE A

Number 001

JIM WELBORN said there would be a problem getting guns away from people if a law was passed against them. He was concerned that prohibiting arms contributed subtly to the concept of a "world order" which is explained in a book called The Order.

SENATOR LEMAN thanked everyone for their participation and adjourned the meeting at 5:00 p.m.

SENATE STATE AFFAIRS COMMITTEE
Fairbanks, AK
September 17, 1993
6:00 p.m.

MEMBERS PRESENT

Senator Loren Leman, Chairman
Senator Mike Miller, Vice Chairman
Senator Jim Duncan (participated
via teleconference from Juneau)

MEMBERS ABSENT

Senator Robin Taylor
Senator Johnny Ellis

OTHER MEMBERS PRESENT

Senator Mike Miller

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 1

Proposing amendments to the Constitution of the State of Alaska relating to the individual right to keep and bear arms.

SENATE JOINT RESOLUTION NO. 34

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

PREVIOUS SENATE COMMITTEE ACTION

SJR 1 - No previous action to record.

SJR 34 - No previous action to record.

WITNESS REGISTER

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Mr. Noel Napolilli, Chairman
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Sue Wilken, Legislative Chair
Fairbanks School Board
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Fairbanks, AK 99709

Mr. Steve Colboch
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ACTION NARRATIVE

TAPE 93-32, SIDE A

Number 001

#SJRI

#SJR34

CHAIRMAN LEMAN called the Senate State Affairs Committee meeting to order and advised the meeting was convened as a work session to review the resolutions although public testimony will be taken.

ANNETTE KREITZER, Staff to Chairman Leman, presented the sponsor statement on his behalf for SJR 4. She claimed that language contained in the Alaska Constitution is ambiguous and there have been numerous legislative attempts to clarify the right of an individual to own a firearm, regardless of the use of the firearm. Further, no Alaska Supreme Court interpretation has been done. In concluding her comments, she stated ". . . the individual right of Alaskans to own firearms for legal purposes should not be left open for unreasonable government intrusion or potential erosion of that right or to uncertain court interpretation."

CHAIRMAN LEMAN noted the differences between SJR 34 and SJR 1, also under consideration. SJR 1 contains a provision that the amendment would not change any municipal law related to firearms that is in effect on the date of ratification of the amendment (November, 1994).

Number 10.33

PORTIA BABCOCK, Committee Aide to Chairman Leman, speaking on her own behalf and the NRA, elaborated on the differences between the resolutions. The main difference being Section 2, added in SJR 2 (referenced above), and that the resolution does not effect the judicial standard of review.

CHAIRMAN LEMAN questioned MS. BABCOCK about existing borough or municipal laws that may be troublesome to firearm owners.

MS. BABCOCK responded that the concealed weapons laws and ordinances of municipalities were of most concern. With regard to the Municipality of Anchorage, if the state enacted a concealed weapons statute which would allow citizens to carry concealed weapons, it would be directly in conflict with a municipal ordinance currently in effect.

SENATOR LEMAN proceeded to call upon the following public witnesses.

MS. BONNIE WILLIAMS, Board of Directors of the Alaska Second Amendment Coalition (ASAC) testified on their behalf. She is also a life member of the National Rifle Association (NRA). She

supports SJR 34, and not SJR 1. She thought a conservation estimate would be twice as many firearms as people in Alaska; and in Fairbanks, probably 98 percent of households have at least one firearm. She commented on the high number of firearm-related activities, including people living by way of subsistence which includes all seasonal hunting, and recreational uses. She then addressed the constitutional rights and privileges regarding possession of firearms and the need to preserve that freedom. She supports the passage of SJR 34 so the issue will be placed on the ballot for vote.

CHAIRMAN LEMAN asked MS. WILLIAMS for clarification of the reason they do not support SJR 1. She responded that if the state constitution was amended, it should take precedence over local or municipal laws and ordinances; and she would prefer that nothing be left up to judicial review.

Number 20.21

MR. GARY HAMMOND testified in support of SJR 34 and in opposition to SJR 1. The reason for his opposition to SJR 1 is based on language in Section 29 concerning existing firearm laws, and difficulty with some other language contained in the resolution. He also questioned the provision of judges having the authority to interpret the law's intent; he prefers explicit language.

MR. NOEL NAPOLILLI, Chairman, Alaska Second Amendment Coalition, spoke in favor of SJR 34 and in opposition to SJR 1, for the same reasons stated by previous speakers. He commented on the need for the resolution such as the situation where the Attorney General's Office issued a letter instructing the state troopers not to sign Form Four for people who have applied for Class III weapons ownership. The reason he felt this was done was because the administration doesn't want the proliferation of those weapons among people. He has letters which have been circulated that bear this out. He commented that this example illustrated the unreasonable infringement by the administration, or any administration, which should not have the power to limit citizens' access to weapons just because they don't like them. SJR 34 would help protect the citizens from that kind of abuse of authority.

MR. KENNETH MAAHS, private investigator, was next to testify. Drawing from his experience in this area, he believes attempts to regulate gun ownership has not worked in reducing crimes. Rather, when you cut the ownership of firearms to citizens, the criminals have a larger chance to commit crimes. He felt that anytime you hinder people's right to defend themselves, it benefits the criminals. He felt the police are unable to adequately defend the citizens against criminals with weapons. Of the two resolutions, he favored SJR 34; and stressed the need for clear, concise language for the amendment.

Number 31.23

MR. LES ZERBE commented on the need for a state's constitution to be in agreement with the federal constitution which is clear to the individual's right to protect himself. He said the intent of the federal constitution, and framers of it, was for individuals to be able to protect themselves from their own government should it become necessary. So, provisions excluding certain kinds of firearms should not be included in any language of the state constitution as it was never intended for the military to become more powerful than its citizenry. He thought that if the law allowed everyone to carry a weapon, it would go a long way in protecting us from the criminal element in society.

MR. ZERBE supports SJR 34 which would put specific language guaranteeing firearm ownership in the state's constitution. The language should include latitude to allow concealed weapons for qualified individuals.

CHAIRMAN LEMAN asked his thought about limitations placed on children carrying firearms in school and what he would consider a "reasonable" restriction. MR. LES ZERBE responded that "reasonable" would include specific age, such as 18; and could contain other restrictions, such as having a clean record, and having firearms training.

MR. BRUCE CAMPBELL testified on behalf of the Tanana Valley Sportsmen's Association in support of efforts to clarify Section 19 of the Alaska Constitution. He referenced the opinion from the Attorney General's Office that "Section 19 'in the modern judicial view', only applied to the right of the state to form a national guard, possibly militia". They disagree with that opinion and find it extraneous and think it contributes to the reason why further clarification is needed. They favor the old language that was once SJR 1 (prior to new complicated language being added); and like SJR 34. It is his understanding, based on legal opinions from other states, that an individual right, such as this, does not restrict the police power of the state. As an instructor of firearms, he commented on the female's different attitude about safety and protection and increased interest in this area.

Number 40.20

CHAIRMAN LEMAN thanked him for testifying and asked about the Attorney General's opinion which he referenced. MR. CAMPBELL indicated it was from former Attorney General Norm Gorsuch and that he would provide a copy to the committee. CHAIRMAN LEMAN stated the committee would make whatever materials they have available to others upon request.

TAPE 93-32, SIDE B

Number .02

MISS GRACE MAAHS expressed her thoughts about the appropriate use of firearms, including training, and retaining individual possession for personal protection.

MR. DOUGLAS ALBRIGH, twenty-two year resident of Fairbanks, testified in support of SJR 34. He felt that SJR 1 contained fairly vague and ambiguous language which was open to interpretation. Regarding carrying firearms in schools, he stated that that action was covered by the federal Omnibus Crime Control Act, which made it illegal for anyone to carry firearms in school except for official purposes or school-sponsored activities. He expressed the need for a clear and simple state law in this area, such as that contained in SJR 34.

MR. TIMOTHY BAUMGARTNER, twenty-three resident of Fairbanks, spoke in favor of SJR 34. He travels in the wilderness and is concerned about retaining the ability to protect himself. Weapons in his home are used for several purposes: to hunt and provide food for families; to use them for protection from those that might harm them; and used as a means of teaching responsibility. He said that "having firearms is a traditional freedom" provided for by the Constitution.

Number 5.17

MR. DAVID WILLIAMS, also a resident of Fairbanks, addressed the historical perspective, especially as it related to the development of what was called (by British Jurist Sir William Blackstone) "the common law" which later became a part of American law in the form of the Bill of Rights. He paraphrased Sir Blackstone: "the right of self defense is an inherent right of man, older than states, and older than constitutions." So, the second amendment right is a right we have which cannot be taken away. He questioned whether the second amendment (U.S. Constitution) were inserted into the Alaska Constitution, if it would solve our problems.

CHAIRMAN LEMAN responded that the Alaska Constitution is written very similarly to the U.S. Constitution; therein lies the problem, as we no longer think in terms of militia charged with protecting citizens from government intrusion. Further, some state courts, but not Alaska at present, are dealing with the distinction between the individual and collective right.

MR. WILLIAMS referred to the language contained in Rhode Island law which states "the right of the individual to keep and bear arms shall not be infringed." He suggested that anyone interested call the Attorney General of that state as the law has worked quite well and they do not have problems controlling felons or anyone else from weapons ownership. Further, he said the Director of Public Safety mentioned that he was in favor of firearm ownership for

purposes of safety as it pertains to the concealed weapon law. He concluded that if we do not get this through, we may lose other rights, too.

CHAIRMAN LEMAN returned to the issue of using the language from the second amendment of the U.S. Constitution for Alaska. He commented that the language is the same; however, with various interpretations, it has led to the need for further clarification.

MR. WILLIAMS felt that the use of the collective term "people" (Bill of Rights) also referred to the individual, as interpreted by the Supreme Court.

Number 13.30

MR. TOM GORHAM spoke in favor of SJR 34 and not SJR 1 because SJR 34 eliminates much of the ambiguity and simplifies the law. He favors a concealed weapon plan and agrees it should be controlled to the point that the person applying for the permit should meet reasonable standards: meet age requirement, legally authorized to own a weapon, and training with weapons. He would like to see some restrictions removed, such as carrying a concealed weapon but not in public places; or carrying it in a vehicle if it is loaded. He felt if a person was deemed qualified to carry a weapon, it is arbitrary to limit it to certain locations or under special circumstances.

MR. GORHAM referred to the discussion of firearms for use by the militia versus individuals. He felt it was intended to address the individual need to carry firearms and that the language was dated and no longer pertinent in today's terminology or use. In response to Chairman Leman's question about firearms at schools, he reiterated that these problems are dealt with by other laws.

CHAIRMAN LEMAN discussed the previous legislative attempts to require training in firearms and water safety. MR. GORHAM said that given the misleading media exposure, he would like to see more attention given to providing training on the proper use of firearms.

Number 25.38

MS. SUF VILKEN, legislative chair, Fairbanks School Board, spoke on its behalf. She is also a thirty-eight year resident of Fairbanks and avid hunter and fisherwoman. The Board's main concern focusses on the political divisions of the state. The school board has designated the school and school ground as being gun-free zones. Parents are concerned with guns being carried across school grounds during hunting season and parents picking up children with gun racks in their cars. The schools are able to enforce laws prohibiting guns in school through the federal law. However, they are charged with the responsibility of assuring safety on school

grounds (not contained in federal law), so they support a gun-free designation in state law pertaining to the school grounds.

MS. SUE WILKEN described the situation in Fairbanks in which an armed parent was on school grounds in a truck, intending to threaten/harm a student. The board feels that the message needs to be clear that no weapons are permitted there; that school grounds, as well as the buildings, are safe.

MR. STEVE COLBOCH, a firearms dealer, fully supports SJR 34. He is opposed to restricting firearms, such as in the above situation, as a parent may pick up a child from school with plans of going hunting immediately. He felt the example was an isolated instance and that authorities should have been called if the man was posing a threat.

TAPE 93-33, SIDE A
Number .01

MR. COLBOCH continued his testimony regarding the need to address this issue.

CHAIRMAN LEMAN talked about the committee's intent to get the resolution out and voted on.

MR. NOEL NAPOLILLI returned to the table to comment on the issue of weapons on school grounds. He felt that posting the school grounds was meaningless in this example. The only people who will pay attention to the restriction will be law-abiding citizens which pose no threat. He thought there were enough restrictions regarding the use of children using firearms.

MS. BONNIE WILLIAMS testified again on this issue. She commented on laws prohibiting carrying firearms on planes, and that the school board would not be prohibited from making a ruling about firearms on school grounds.

CHAIRMAN LEMAN thanked all the participants for their contributions, and talked about the distinctions between the resolutions. He stated further testimony would be forthcoming during the session. The committee plans to have additional work sessions, including Anchorage on November 21-22, and other locations.

CHAIRMAN LEMAN adjourned the meeting at 7:40 p.m.

#

ice of The Times

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 evil 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 live 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. Sure, 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 editors don't like them and the Alaska Constitution does not specifically address the

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.

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

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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.

Hon. Pat Rodey, Senator
Hon. Charlie Busseil, 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 & Ronde, 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

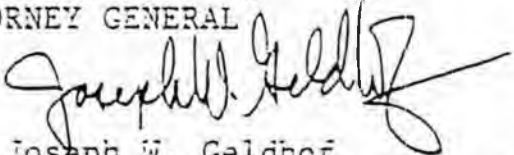
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We trust this response answers your inquiry. If you have any additional questions, please let me know.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Joseph W. Geldhof
Assistant Attorney General

JWG:vrh

cc: Norman C. Gorsuch
Attorney General

Ronald W. Lorensen
Deputy Attorney General

April 20, 1994

House Finance Committee
Alaska State Legislature
Juneau, Alaska

Dear House Members,

In reference to SJR 39 proposing an amendment to the Constitution of the State of Alaska regarding the individual right to keep and bear arms, I submit the following observations.

When the House Judiciary Committee added the word "unreasonably" to the resolution, they clouded the clear intent set forward in the original resolution. What is the definition of unreasonable? Courts argue over much more concise language than this ambiguous term. It appears to me that a clear majority of the voting public desire an amendment that spells out in concrete terms that the individual right to keep and bear arms shall not be denied.

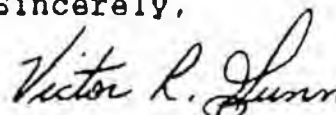
The original resolution was about defining a constitutionally protected right. Citizens of the State of Alaska asked their legislature to bring forward an amendment that clearly defines one of their rights and submit it to a vote of the people. It seems that a minority of the House wants to ensure that this gun related amendment be so watered down or ambiguous that this exercise in popular democracy would be a wasted effort.

Next, the reference to "level of judicial scrutiny" also serves to thwart the intent of the proposed amendment. In a memorandum to Senator Leman, legislative counsel Jack Chenoweth pointed out that he couldn't "point to a body of case law and conclude that a particular standard applies." Again, this type of language clouds the intent of the amendment. It should be deleted.

I point out that law enforcement has nothing to fear from law abiding citizens. There are existing laws protecting us from criminal use of firearms. This amendment is not going to dilute the authority of police to enforce existing statutes. As the Deputy Chief of Police in Fairbanks I would prefer to focus on crime control, not gun control.

I respectfully recommend that you delete the House Judiciary amendments and return the resolution to it's original wording.

Sincerely,



Victor R. Gunn
PO Box 73802
Fairbanks, AK 99707-3802
907-457-8159

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."

Gun Control



Crime Control



he United States is, by almost any standard, well-armed. Civilians own 120 million to 200 million firearms, of which 35 million to 70 million are handguns.

Being armed is not the same as being safe, however, if these statistics bear out: Handguns are used in over three-quarters of homicides and four-fifths of robberies with a firearm. Of 1.8 million violent crimes committed in 1990, 28 percent involved firearms, according to the FBI; of 23,000 homicides, guns were the instrument of death for 64 percent. A review of Chicago police records showed gun assault was five times more likely to end in death than a knife assault.

Information like this comes from many sources—FBI reports, Department of Justice and the National Institute of Justice studies, victim and criminal surveys, police records, criminal justice research. Some of it is well-founded, some not; some well-founded research gets misquoted or used out of context. Sources of information often do not say how they gathered it. Numbers, in short, can be viewed with healthy skepticism.

The important fact is, no matter what the statistics regarding gun-related crimes, law officers are the ones who deal with the reality of gun crimes. Not only do they battle gunwielding criminals and view the aftermath of gun-perpetrated violence, some 95 percent of law officers feloniously killed in 1991 were killed by firearms.

Gun control or lack of it, then, affects law enforcers more than any other segment of society. *POLICE* magazine wants to give you the most recent information regarding gun control, including how it affects crime, public safety and officer safety. In addition, it hopes to give you the latest thinking from leaders in policing, gun use and research. Seven agreed to take part in an informal forum, each answering the same questions.

★ **Richard M. Aborn** is president of **Handgun Control, Inc.**, a national citizens' organization working for passage of federal gun-control legislation. Founded in 1974 by families of gun victims, it has a membership of 350,000.

★ **Mike Canning** was chairman of the **Law Enforcement Steering Committee (LESC)** at the time of the interview. Because the chairmanship rotates quarterly, Canning agreed with reluctance to represent the group here. The Steering Committee is a nonpartisan coalition of 11 national law enforcement associations: Federal Law Enforcement Officers Association, Fraternal Order of Police, International Association of Chiefs of Police, International Brotherhood of Police Officers, Major City Chiefs, Police Executive Research Forum, Police Foundation, National Association of Police Organizations, National Organization of Black Law Enforcement Executives, National Sheriffs Association, and National Troopers Coalition, for which Canning is the registered lobbyist in Washington. LESG formed in 1985 to protect the 1968 Gun Control Act and continues to inform lawmakers of police views on a variety of public-safety issues.

★ **Jim Fotis** is executive director of **Law Enforcement Alliance of America (LEAA)**, begun in 1991 out of absolute frustration with this nation's failed criminal justice system. It is a non-union, non-profit national advocacy organization funded by membership dues and grants from organizations, including the NRA. Its 30,000 members comprise mostly police of all ranks, with about 10 percent civilians.

★ **Robert [Name obscured]** is president of the **International Union of Police Associations (IUPA)**, a labor organization representing 40,000 rank-and-file officers in 200 U.S. cities and counties.

★ **Wayne Lamerre** is chief executive officer for the

BY KATY BENSON

National Rifle Association (NRA), a 120-year-old organization for firearms education. Since 1975, it has had a lobbying arm, the NRA Institute for Legislative Action, which fights for the right of law-abiding citizens to keep and bear arms. NRA membership numbers around 3 million.

★ **Dewey R. Stokes** is national president of the Fraternal Order of Police (FOP). The nation's largest police union, it represents over 210,000 police officers of all ranks.

★ **Franklin E. Zimring** is a William Simon professor of law at University of California, Berkeley, and director of the Earl Warren Legal Institute. He directed research for the Task on Firearms of the National Commission on the Causes and Prevention of Violence, concluded in 1969. Since then, he has researched the relationship between firearms and violence, helping to influence U.S. gun-control policies.

In this article "gun control" refers mainly to two measures that were part of the 1992 anti-crime omnibus bill before the U.S. Senate. The Brady Handgun Violence Prevention Act, or Brady bill, would mandate a national five-day waiting period for gun purchase, during which time law officials could check the buyer's background for criminal or other prohibitive history. The Schumer Assault Weapons Act would ban the future domestic manufacture and importation of 14 semiautomatic assault weapons. (The term assault weapon in and of itself draws considerable fire. For our purposes we define it as a non-sporting weapon designed for military purposes.)



Does your organization represent the majority opinion of rank-and-file officers?

Every group believes that it does, of course. Unfortunately, no single survey has managed to get the opinion of all the officers in the nation. The six responders who represent law officers call upon a

variety of polls, surveys, votes, membership figures and anecdotes as proof that they speak for the majority.

"That's *all* we represent, is rank and file," says IUPA's Kliesmet. "We're a real labor organization." IUPA delegates, who are elected at an open meeting and meet biannually, must approve any public position. As a result, it takes no stand on some issues, such as whether to support the pending assault weapons ban.

While Handgun Control includes law officers among its members, it is primarily a lobbying, rather than police, organization. However, Aborn notes, "Law enforcement has been at the forefront of the cry for gun control."

He is perhaps referring to the Steering Committee, which supports both the Brady bill and the assault weapons ban. One of the beauties of the organization is that it represents both management and labor. Canning says, "Five of the 11 groups are solely or primarily for rank and file, including Canning's National Troopers Coalition (NTC)"

Each group has its own ways of determining a consensus. The 40,000 strong NTC, for example, cannot take a position until elected delegates vote on the issue at the national conference, and then only if the vote is virtually unanimous. In addition, it routinely takes national polls of its members.

The FOP, another Steering Committee member, represents mostly street officers and some management (although a breakdown has never been done). It, too, acts only on the vote of elected delegates; the last biannual meeting had 2,500 of them.

Stokes, a Columbus, Ohio, patrol officer, went further than the convention to determine police feelings about gun control. A few years ago, he paid the polling firm Hart & Associates to do a random survey of law officers. It reported just 20 percent opposed to an assault weapons ban and 10 percent opposed to the Brady bill.

NRA and LEAA, who also claim to represent the majority opinion of rank-and-file officers, cite a study that reported almost the opposite findings. Published in *Law Enforcement Technology*, July/August 1991, it was based on 2,000 responses to a survey sent to the magazine's mailing list (an 8 percent response rate). Forty-two percent of respondents were street officers, the rest middle or upper management.

Together, 77 percent said gun control infringes on a citizen's right to bear arms; 85 percent said gun control does not lessen crime; 79 percent opposed a ban on assault weapons; and 93 percent felt citizens should use handguns for protection. Only 44 percent supported a waiting period for handgun purchases; but 78 percent favored a computerized check on purchasers.

Fotis says the LEAA frequently surveys its membership, of which four-fifths are law enforcement related, including members gained from a recent alliance with the Southern States Police Benevolent Association. Like the FOP, it has never determined a management vs. labor ratio.

The NRA is "without doubt, the largest rank-and-file organization in the country," LaPierre says. Its members, of which 200,000 (7 percent) are police, are surveyed annually on issues; however, results were unavailable.

Gun-control advocates like to argue that Stokes' continued re-election to head the country's largest police labor organization proves the majority of rank and file support gun control. Otherwise, why would they re-elect one of its most hardworking supporters? LaPierre answers, "Stokes gets re-elected for a number of other issues," but not for his gun-control stance.



How do gun-control laws affect citizens, in terms of crime and safety?

"In my lifetime, gun control won't have anything to do with crime and safety," Kliesmet says. The only thing laws can affect are the future, and the Brady bill won't touch the near future, he adds.

Yet IUPA backs the bill, with revisions. Foremost, it would specify a two-week waiting period. Then, the bill needs to look ahead. "It's not being realistic about who's going to pay for it," Kliesmet says. Who will fund background checks? How will this gargantuan computerized network be set up in the first place? And what will police liability be if they make a mistake?

Although IUPA has not taken an official stand for or against a ban on assault weapons, Kliesmet, a former NRA member, thinks they should be the first target in a gun control effort.

"I've been an avid hunter all my life, and I've never seen anyone with assault rifles."

The NRA maintains that gun laws—some 20,000 of them—do nothing to protect citizens. "Laws that have real potential for impacting criminals are not being enforced," LaPierre says. Existing laws, as well as ones pending, force "honest citizens" to jump through hoops to comply, while criminals "smirk and disregard" them. Instead of one more law, LaPierre advocates enforcing the laws that "go directly to the felon and gun."

In applying stiffer sentences, if nowhere else, the NRA and the FOP share common ground. When a gun is used in committing a crime, the gun aspect is usually plea-bargained away, Stokes says. His recommendation is to "make sure that person is punished for using a gun, and do it 100 percent of the time."

Most gun control laws do not touch crime because criminals move outside the law, control opponents argue. LaPierre adds that most crimes are committed by repeat offenders. Fotis of the LEAA takes it a step further. "What restrictive gun control laws have done is place the honest, law-abiding citizen in greater jeopardy by reducing their ability to protect themselves ... from violent criminals," he says. He quotes a National Center for Policy Analysis study that claims Americans use guns for self-protection about one million times each year.

Other studies, however, suggest that guns in the hands of law-abiding citizens frequently become a problem. Handgun Control cites an FBI Uniform Crime Report statistic revealing that in 1987, only 178 handgun homicides by private citizens were considered justifiable. And Zimring's research flatly contradicts LaPierre's "repeat criminal" statement (expressed by others as well), at least in the homicide category: He finds most murders are committed by people previously unconvicted of a felony and therefore able to pass a background check.

Zimring concludes in a *Scientific American* article (Nov. 1991, Firearms, Violence and Public Policy) that "evidence provides reasons for discomfort on both sides of the political struggle." Data shows that the more available guns are, the more likely death is in violent crime—one point for gun control. But data also shows that laws do not effectively slash the number of guns used in crime—one point for no gun control.

"It's very difficult to make handguns hard for bad guys to get if you give them to good guys," he says. A true waiting period in which a background check is conducted could help weed out the good from the bad, balancing a "modest at best" impact on gun violence with moderate inconvenience to law-abiding gun buyers. But, Zimring warns, "A law that makes a big dent will have to go considerably beyond the relative inconvenience of the Brady bill." It would make people mad and cost plenty, too.

Stokes suggests, perhaps impulsively, making handgun purchase as expensive and bureaucratically tedious as for automatic weapons. "That'd go further than I'd like to see," he admitted, "but we've got to do something."

The FOP officially supports gun control only as one aspect of crime control. "We don't believe the Brady bill is going to stop all gun violence in America," Stokes says, "but it's another means to curb the violence." Specifically, it would "put obstacles in the way of the criminal element." 22 percent of whom do buy firearms over the counter (Stokes cites a 1988

National Institute of Justice study for this figure) and might be stopped by a background check.

Stokes points out a number of advantages the Brady bill would offer law enforcement. First, it would make money available to cities and counties toward enforcement. This would encourage states to upgrade their records system; eventually, checks would take less than five to seven days to complete. Preventing even a fraction of assaults and homicides saves law enforcement time and money. Noting that a homicide investigation takes anywhere from two days to two years, Stokes says, "Any time spent on record checks could be offset by time saved in homicide investigations."

No gun-control proponent interviewed believes the Brady bill or an assault weapons ban alone can wipe out crime. Rather, we can "strive for a patchwork of measures that together do something," Canning says.

All 11 groups comprising the Steering Committee back the Brady bill and banning of the manufacture and sale of certain assault weapons. Yet they understand the measures to be single steps. "Law enforcement doesn't believe gun control is the answer to handgun use in crime. Neither is tougher punishment," Canning says. "The answer is in a society that values life." While law enforcement can both reflect and shape that value, it certainly cannot do the job alone.



Does an armed citizenry affect the way a police officer does his or her job?

Responses ranged from no to yes, with most somewhere in between. By "armed citizenry," we refer to the possibility of every (or the majority of) law-abiding citizen having a firearm to protect self and family, as the NRA maintains is our right. As Fotis of LEAA points out, "A long-standing legal principal, as stated by the U.S. Supreme Court, ... is that police have no duty to protect individual citizens." Just one officer patrols for every 3,200 people, an impossible ratio for individual protection, he adds.

"Citizens are a tremendous asset to law enforcement," Fotis says. Of the nearly 1 million times a year that citizens use firearms to protect themselves, in 98 percent of the cases, the intended victim merely brandishes the weapon or fires a warning shot. The same NCPA study found, however, that a criminal is three times more likely to be killed by his victim than by the police.

LaPierre joins Fotis in citing a Department of Justice (DOJ) survey, done by Wright and Rossi, of incarcerated felons. Over half said they would not attack a victim they knew to be armed, and four-fifths said they would try to find out if a person was armed before committing a crime. Two-fifths of the criminals had backed away from a crime because they believed the would-be victim was armed.

Stokes tells the story with different figures. He also calls upon a DOJ report that claims less than 1 percent of rapes were prevented by firearms, and only 1.5 percent of crime is deterred by an armed citizen.

LaPierre points to the Los Angeles riots of April 1992 as an

Funny You Should Ask

Last November, POLICE published a "Vote by Mail Survey" asking for your opinion on gun laws and crimes. "If gun control affects you or your job as a police officer, please answer this questionnaire," we wrote. "It" could be the understated qualifier of the year.

Over 300 of you responded, many at length and with great feeling. We'd like to share our findings and some of your thoughts here.

But first, a warning: This is an informal survey. Researchers, officials and advocates on either side of the issue should not use these results out of their very unscientific context. We don't even know for certain that the responses are from police officers (although we assume they are). What we sought were ideas from individual rank-and-file law enforcers.

Does gun ownership by citizens negatively affect your job? Does it decrease public safety? Does it increase public safety? Ninety percent of respondents said no to the first two questions, and 88 percent said yes to the third. Citizens with guns endanger neither each other nor you, and often serve the public good. Several respondents referred to the Los Angeles riots or, as this writer did, Hurricane Andrew as an argument for an armed citizenry: "Armed homeowners took the burden off law enforcement ... and proved that they are a welcome force in keeping law and order ... when we are not strong enough to do it ourselves."

Another wrote that many instances of citizens using guns to deter crime do not get reported. "On three separate occasions a potential adversary decided to leave me alone when he realized that I was armed," he said.

Do you support any assault weapons bill that would ban importation and U.S. manufacture of specific semiautomatic assault weapons? Eighty-five percent of

respondents do not and, almost unanimously, cite the same reasons. These were specified in an essay question requesting "reasons for or against controlling the purchase of assault-type weapons."

"Assault weapons are controlled under the National Firearms Act of 1937!" noted one respondent. "A semiautomatic is *not* an assault weapon *by definition*, only by sensationalist news media distortion."

Another wrote, "Boy, do I hate this term 'assault weapons'! I suppose there could be a meaningful discussion of this issue if there was a single definition of the phrase."


A California reserve officer wrote, "I doubt a definition that has any validity can be agreed upon, because

the criteria used thus far are ... so general as to include almost all semiautomatic long arms. ... The weapons identified as assault weapons were chosen ... on the basis of their militaristic appearance."

They look scary, many of you agreed—certainly not cause for a law against them. But a sergeant from Salt Lake County commented on an attitude that a mean-looking weapon can foster: "The sense of 'power' you have holding an assault rifle is much different than holding a 30.06 deer rifle. Looks will take control of thoughts."

Many respondents addressed this question via the Second Amendment's "right to bear arms." But a Los Angeles sheriff's deputy and former

Survey Response



1. Do you support the Brady Bill, including a waiting period and background check before a handgun can be sold?
23% YES 77% NO
2. Do you support any assault weapons bill that would ban importation and U.S. manufacture of specific semiautomatic assault weapons?
15% YES 85% NO
3. Does gun ownership by citizens increase public safety?
85% YES 15% NO
4. Does gun ownership by citizens decrease public safety?
10% YES 90% NO
5. Does gun ownership by citizens negatively affect your job?
10% YES 90% NO
6. Should training or certification of gun owners be required by law?
48% YES 52% NO

NRA member would "ban anything that doesn't serve a useful purpose. ... The 'it's my right' crap doesn't cut it when cops are dying. 'Sporting?' Please."

"Well, guess what?" another California officer wrote. ~~The~~ **Second Amendment was not** drafted to protect hunting or sport shooting. It was drafted to ensure that people had the ability to kill other people. Deer and pheasant do not become tyrants. People do. ... Those who suggest at least registering such things as assault rifles miss the whole point. If the government has the names of everyone who owns a weapon, then those weapons become useless either as a deterrent against tyranny or as a means of removing it."

Do you support the Brady bill, including a waiting period and background check before a handgun can be sold? Seventy-seven percent of respondents said no, a few with reservations. A fish and game officer from New Mexico wrote: "If a National Felon Registry could be established, it would serve many useful ... purposes ... and if firearms dealers could be connected into the system, to provide background checks, that would get my support." Others suggested an instant background check would provide some measure of safeguard without impeding legitimate gun purchases.

Respondents were most evenly split on this question: Should training or certification of gun owners be required by law? Fifty-two percent said no. Since many of the written comments supported education and training programs, the "nay" may have been directed at the "required" aspect. Several writers suggested a licensing program similar to a driver's license. Calling it a "gun owner's certificate," one described a program in which prospective gun owners pass a firearms safety course and background check. The certificate would allow the holder to instantly purchase a firearm over

the counter. ~~Others thought~~ **gun safety should be a** ~~mandatory school class~~. **In your opinion, what is the key to reducing gun-related crimes?** Overwhelmingly, among both camps, respondents felt ~~gun owners should~~ **owners should** ~~be responsible for crimes~~. That led almost unanimously to a second area of improvement, the justice system. **Enforce the existing laws, sentence criminals swiftly, and impose penalties for gun-related crimes, allow no plea bargains and make the criminals serve their sentence.**

A few thought the question misplaced the emphasis. "The problem is violence," wrote one. "The symptom is gun-related crime, and it is only a symptom."

A Eureka, Calif., officer who agreed with that assessment added, "The key to reducing violent crimes lies in reducing the glorification of violence." Others echoed the sentiment, that more assault weapons show up in Hollywood movies than on the streets, distorting the image of their "sexiness."

One answer in particular summed up the thoughts of many, separate respondents. This Maryland park ranger wrote, "I believe catching the criminals before they become violent and teaching them that the system is difficult to beat and that they will be punished for their crimes, coupled with rehabilitative programs and a chance to become a productive member of society with a job and abode, would do more to fight gun-related crime and crime in general than any gun control would do."

A final word for those who wrote to complain that neither police management nor police organizations represent the rank and file view: Send copies of the letters you sent us to all the people in the article. You can't be heard if you don't speak up.

—Kary Benson

example of why citizens need to be armed and how California's 15-day waiting period failed "honest" citizens in that crisis. A provocative magazine ad, focusing on the riots, asks, "How many crimes were prevented by California's gun control laws? None." Of course, such a statement is impossible to prove or disprove, but the NRA contention is that more "honest" people could have defended life and property if able to purchase guns on the spot.

Canning takes exception to this position. "The L.A. riot was an example of society run amok, period. It was not a matter of gun control, it was mayhem. And if everyone had had guns, it would've been worse."

Kliesmet considers both sides. Having seen armed citizens successfully saving their businesses from arson while police were nowhere to be seen, he concedes, "People may need to take care of themselves. On the other hand, it may be better to have social programs."

"More guns in citizens' hands could only confuse the officers' job," Stokes says. An officer has to make a judgment based on what he sees; that is harder when more parties are pointing guns. "Arming everyone is a ludicrous idea," he says. "I thought we got rid of that in 1865. Even when the cowboys came to town, the sheriff made them turn over their guns."

Zimring refers to this as "unilateral disarmament," the paradox of police favoring gun control. He believes that, rather than guns in the home, it is guns in cars and other concealed places that could affect officers' comfort level and safety.

"Handguns are virtually alone the weapon that threatens police lives," he says. Although the FBI figure for 1991—48 out of 69 felonious officer deaths, or 70 percent—is lower than the figure he estimated, it remains significant.



Should training or certification of gun owners be required? If so, are law enforcement agencies the best ones to provide it?

"A gun is a very dangerous weapon. Before we put it in a person's hands, we should require they go through safety training," Aborn says.

"Will it reduce crime? I can't argue that. They're not related issues," he continues.

(Continued on page 85)

Gun Control

(Continued from page 57)

expressing the opinion of all the respondents. "But it will dramatically affect accidents."

The question of safety vs. protection make for a "double-edged sword," Zimring says. "People buy guns for home safety, but the first thing they're told is to lock up their guns and ammunition. That doesn't give them the psychological safety factor they're wanting."

Kliesmet joins the majority in backing off on mandated training or certification. He suggests that insurance companies could require gun owners to prove they have passed safety courses.

The NRA recommends training for all owners and offers extensive training programs to the public as well as to law enforcement. LaPierre refers to the NRA as "the Red Cross of safety training." According to its literature, in 1988 it conducted 64 schools to train and certify just police and security firearms instructors.

"The problem with mandated training," LaPierre says, "is the darned debate with people wanting to prevent honest Americans from owning guns and using any law in the book to make it difficult."

In general, respondents believed that law enforcement is certainly well-qualified to offer training, but not the only choice. Most importantly, police agencies could not afford to bear the financial burden of public training programs.



What do you believe is the most important aspect of reducing gun-related violence?

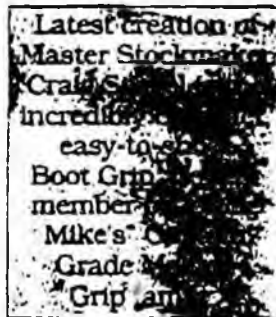
"People getting serious about it," Kliesmet says. "I'm not talking about politicians or police. I'm talking about the people, the community working with the police."

He does not believe gun control can stop crime. Instead, he would emphasize social programs to tap the root of crime, and, once the crime is done, "punishment instead of rehabilitation." With a



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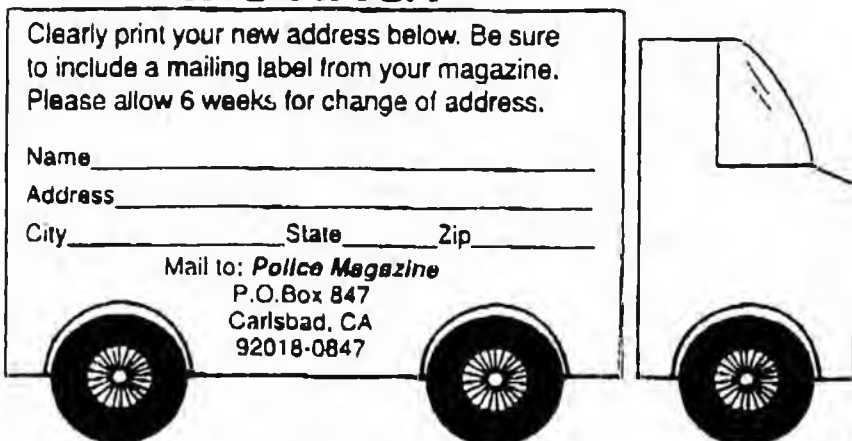
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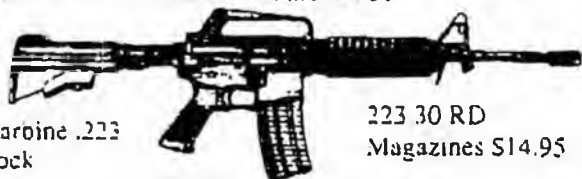
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first offense, give the criminal a break; with the second, give him time; with the third, give him the maximum sentence with no parole.

He, like LaPierre, blames the justice system. It fails not just society, but police who risk their lives to apprehend criminals who are quickly released, LaPierre suggests. "Read any paper to see what every police officer knows: The justice system begins and ends with police picking up the suspect."

Deterrence is one answer, he says. Stick to the laws and make the laws stick. Another way is to prevent crime: Let citizens lawfully use guns to protect themselves. "The government should not be able to take away from the victim the option of being able to defend his own life," LaPierre says.

Stokes, too, touts stricter administration of gun-related laws as a key to reducing gun crimes. And, like LaPierre, he would battle gun crimes with prevention, but agreement ends there. "From a law enforcement perspective, prevention of crime is the most effective means of reducing violent crime," Stokes says. "So, keep the criminal element from getting guns."

The evidence that gun availability is directly proportional to the likelihood of people being killed or seriously wounded during a crime is central to Zimring. "My own view is, we can't make a big dent in the problem of gun violence unless we address that," he says. "And there are no cheap solutions."

Aborn feels there is no single solution. "We need a multidisciplinary approach," he says. We need to think of violence as a public health menace and bring in medical professionals. Sentences of gun traffickers need to be increased. The Bureau of Alcohol, Tobacco and Firearms needs the database resources to track illegal trafficking.

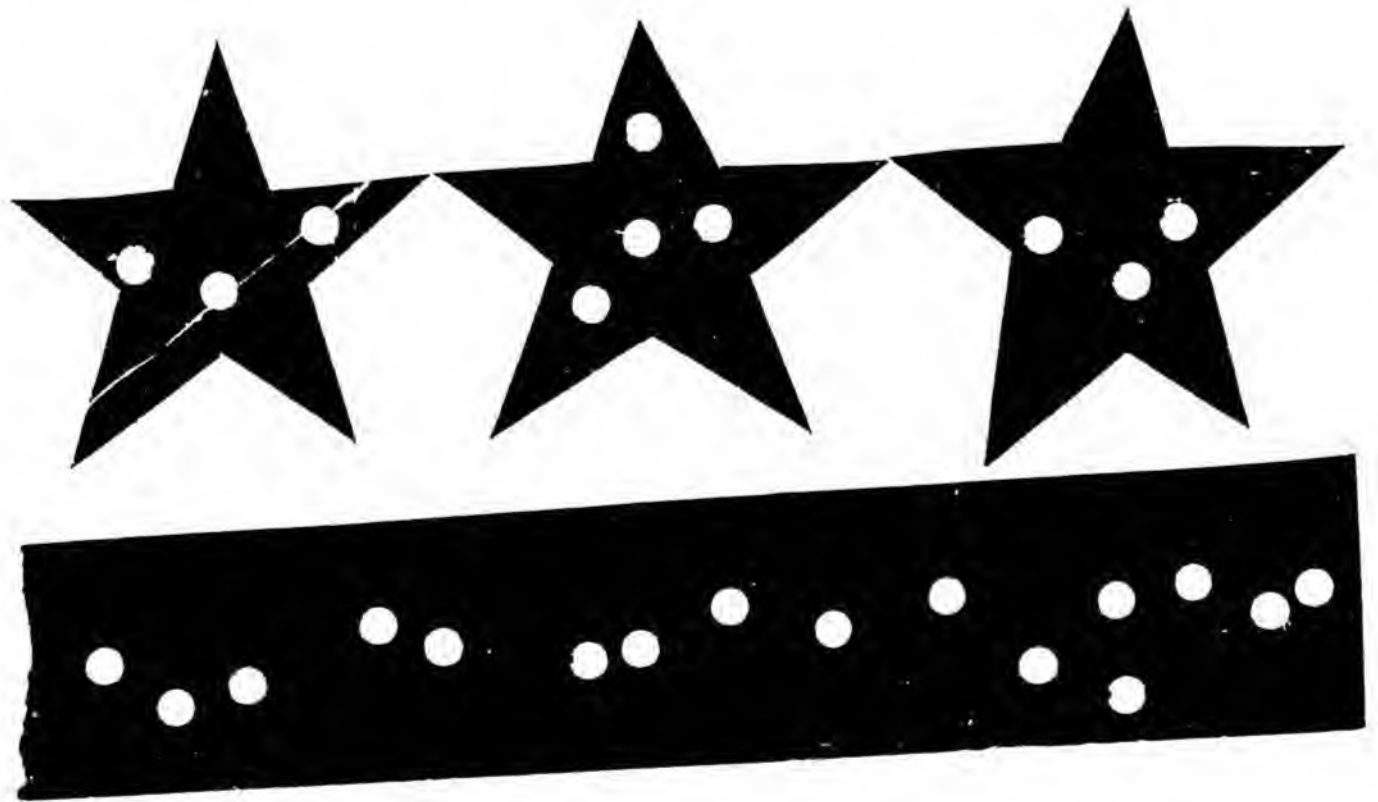
The entertainment industry, too, must be responsible for portraying the "real human dimension of gun violence," Aborn says. Schools need to instill in students the "character and intellectual tools to talk their way out of violent situations."

"We have to rid ourselves of the notion that there's nothing we can do except carry a gun." ■

Katy Benson is a free-lance writer based in San Diego and a frequent contributor to POLICE.

THE FALSE PROMISE OF GUN CONTROL

by DANIEL D. POLSBY



*Gun-control laws may save some lives, but they can never stem the flow of guns,
and they divert attention from the roots of our crime problem*

DURING the 1960s and 1970s the robbery rate in the United States increased sixfold, and the murder rate doubled; the rate of handgun ownership nearly doubled in that period as well. Handguns and criminal violence grew together apace, and national opinion leaders did not fail to remark on the coincidence.

It has become a bipartisan article of faith that more handguns cause more violence. Such was the unequivocal conclusion of the National Commission on the Causes and Prevention of Violence in 1969, and such is now the editorial opinion of virtually every influential newspaper and magazine, from *The Washington Post* to *The Economist* to the *Chicago Tribune*. Members of the House and Senate who

have not dared to confront the gun lobby concede the connection privately. Even if the National Rifle Association can produce blizzards of angry calls and letters to the Capitol virtually overnight, House members one by one have been going public, often after some new firearms atrocity at a fast-food restaurant or the like. And last November they passed the Brady bill.

Alas, however well accepted, the conventional wisdom about guns and violence is mistaken. Guns don't increase national rates of crime and violence—but the continued proliferation of gun-control laws almost certainly does. Current rates of crime and violence are a bit below the peaks of the late 1970s, but because of a slight oncoming bulge in the at-



risk population of males aged fifteen to thirty-four, the crime rate will soon worsen. The rising generation of criminals will have no more difficulty than their elders did in obtaining the tools of their trade. Growing violence will lead to calls for laws still more severe. Each fresh round of legislation will be followed by renewed frustration.

Gun-control laws don't work. What is worse, they act perversely. While legitimate users of firearms encounter intense regulation, scrutiny, and bureaucratic control, illicit markets easily adapt to whatever difficulties a free society throws in their way. Also, efforts to curtail the supply of firearms inflict collateral damage on freedom and privacy interests that have long been considered central to American public life.

Thanks to the seemingly never-ending war on drugs and long experience attempting to suppress prostitution and pornography, we know a great deal about how illicit markets function and how costly to the public attempts to control them can be. It is essential that we make use of this experience in coming to grips with gun control.

The thousands of gun-control laws in the United States are of two general types. The older kind sought to regulate how, where, and by whom firearms could be carried. More recent laws have sought to make it more costly to buy, sell, or use firearms (or certain classes of firearms, such as assault rifles, Saturday-night specials, and so on) by imposing fees, special taxes, or surtaxes on them. The Brady bill is of both types: it has a background-check provision, and its five-day waiting period amounts to a "time tax" on acquiring handguns. All such laws can be called scarcity-inducing, because they seek to raise the cost of buying firearms, as figured in terms of money, time, nuisance, or stigmatization.

Despite the mounting number of scarcity-inducing laws, no one is very satisfied with them. Hobbyists want to get rid of them, and gun-control proponents don't think they go nearly far enough. Everyone seems to agree that gun-control laws have some effect on the distribution of firearms. But it has not been the dramatic and measurable effect their proponents desired.

Opponents of gun control have traditionally wrapped their

WE KNOW A GREAT DEAL ABOUT HOW ILLICIT MARKETS FUNCTION. WE MUST

arguments in the Second Amendment to the Constitution. Indeed, most modern scholarship affirms that so far as the drafters of the Bill of Rights were concerned, the right to bear arms was to be enjoyed by everyone, not just a militia, and that one of the principal justifications for an armed populace was to secure the tranquillity and good order of the community. But most people are not dedicated antiquitarians, and would not be impressed by the argument "I admit that my behavior is very dangerous to public safety, but the Second Amendment says I have a right to do it anyway." That would be a case for repealing the Second Amendment, not respecting it.

FIGHTING THE DEMAND CURVE

EVERYONE knows that possessing a handgun makes it easier to intimidate, wound, or kill someone. But the implication of this point for social policy has not been so well understood. It is easy to count the bodies of those who have been killed or wounded with guns, but not easy to count the people who have avoided harm because they had access to weapons. Think about uniformed police officers, who carry handguns in plain view not in order to kill people but simply to daunt potential attackers. And it works. Criminals generally do not single out police officers for opportunistic attack. Though officers can expect to draw their guns from time to time, few even in big-city departments will actually fire a shot (except in target practice) in the course of a year. This observation points to an important truth: people who are armed make comparatively unattractive victims. A criminal might not know if any one civilian is armed, but if it becomes known that a large number of civilians do carry weapons, criminals will become wavier.

Which weapons laws are the right kinds can be decided only after considering two related questions. First, what is the connection between civilian possession of firearms and social violence? Second, how can we expect gun-control laws to alter people's behavior? Most recent scholarship raises serious questions about the "weapons increase violence" hypothesis. The second question is emphasized here, because it is routinely overlooked and often mocked when noticed; yet it is crucial. Rational gun control requires understanding not only the relationship between weapons and violence but also the relationship between laws and people's behavior. Some things are very hard to accomplish with laws. The purpose of a law and its likely effects are not always the same thing. Many statutes are notorious for the way in which their unintended effects have swamped their intended ones.

In order to predict who will comply with gun-control

laws, we should remember that guns are economic goods that are traded in markets. Consumers' interest in them varies. For religious, moral, aesthetic, or practical reasons, some people would refuse to buy firearms at any price. Other people willingly pay very high prices for them.

Handguns, so often the subject of gun-control laws, are desirable for one purpose—to allow a person tactically to dominate a hostile transaction with another person. The value of a weapon to a given person is a function of two factors: how much he or she wants to dominate a confrontation if one occurs, and how likely it is that he or she will actually be in a situation calling for a gun.

Dominating a transaction simply means getting what one wants without being hurt. Where people differ is in how likely it is that they will be involved in a situation in which a gun will be valuable. Someone who *intends* to engage in a transaction involving a gun—a criminal, for example—is obviously in the best possible position to predict that likelihood. Criminals should therefore be willing to pay more for a weapon than most other people would. Professors, politicians, and newspaper editors are, as a group, at very low risk of being involved in such transactions, and they thus systematically underrate the value of defensive handguns. (Correlative, perhaps, is their uncritical readiness to accept studies that debunk the utility of firearms for self-defense.) The class of people we wish to deprive of guns, then, is the very class with the most inelastic demand for them—criminals—whereas the people most likely to comply with gun-control laws don't value guns in the first place.

DO GUNS DRIVE UP CRIME RATES?

WHICH premise is true—that guns increase crime or that the fear of crime causes people to obtain guns? Most of the country's major newspapers apparently take this problem to have been solved by an article published by Arthur Kellermann and several associates in the October 7, 1993, *New England Journal of Medicine*. Kellermann is an emergency-room physician who has published a number of influential papers that he believes discredit the thesis that private ownership of firearms is a useful means of self-protection. (An indication of his wide influence is that within two months the study received almost 100 mentions in publications and broadcast transcripts indexed in the Nexis data base.) For this study Kellermann and his associates identified fifteen behavioral and fifteen environmental variables that applied to a 388-member set of homicide victims, found a "matching" control group of 388 non-homicide victims, and then ascertained how the two groups differed in gun ownership. In interviews Kellermann made clear his be-

AUST MAKE USE OF THIS EXPERIENCE IN COMING TO GRIPS WITH GUN CONTROL.

lief that owning a handgun markedly increases a person's risk of being murdered.

But the study does not prove that point at all. Indeed, as Kellermann explicitly conceded in the text of the article, the causal arrow may very well point in the other direction: the threat of being killed may make people more likely to arm themselves. Many people at risk of being killed, especially people involved in the drug trade or other illegal ventures, might well rationally buy a gun as a precaution, and be willing to pay a price driven up by gun-control laws. Crime, after all, is a dangerous business. Peter Reuter and Mark Kleiman, drug-policy researchers, calculated in 1987 that the average crack dealer's risk of being killed was far greater than his risk of being sent to prison. (Their data cannot, however, support the implication that ownership of a firearm causes or exacerbates the risk of being killed.)

Defending the validity of his work, Kellermann has emphasized that the link between lung cancer and smoking was initially established by studies methodologically no different from his. Gary Kleck, a criminology professor at Florida State University, has pointed out the flaw in this comparison. No one ever thought that lung cancer causes smoking, so when the association between the two was established the direction of the causal arrow was not in doubt. Kleck wrote that it is as though Kellermann, trying to discover how diabetics differ from other people, found that they are much more likely to possess insulin than nondiabetics, and concluded that insulin is a risk factor for diabetes.

The New York Times, the *Los Angeles Times*, *The Washington Post*, *The Boston Globe*, and the *Chicago Tribune* all gave prominent coverage to Kellermann's study as soon as it appeared, but none saw fit to discuss the study's limitations. A few, in order to introduce a hint of balance, mentioned that the NRA, or some member of its staff, disagreed with the study. But readers had no way of knowing that Kellermann himself had registered a disclaimer in his text. "It is possible," he conceded, "that reverse causation accounted for some of the association we observed between gun ownership and homicide." Indeed, the point is stronger than that: "reverse causation" may account for *most* of the association between gun ownership and homicide. Kellermann's data simply do not allow one to draw any conclusion.

If firearms increased violence and crime, then rates of spousal homicide would have skyrocketed, because the stock of privately owned handguns has increased rapidly since the mid-1960s. But according to an authoritative study of spousal homicide in the *American Journal of Public Health*, by James Mercy and Linda Saltzman, rates of spousal homicide in the years 1976 to 1985 fell. If firearms increased violence and crime, the crime rate should have increased throughout the 1980s, while the national stock of privately owned handguns increased by more than a million units in every year of the decade. It did not. Nor should the rates of violence and crime in Switzerland, New Zealand,

and Israel be as low as they are, since the number of firearms per civilian household is comparable to that in the United States. Conversely, gun-controlled Mexico and South Africa should be islands of peace instead of having murder rates more than twice as high as those here. The determinants of crime and law-abidingness are, of course, complex matters, which are not fully understood and certainly not explicable in terms of a country's laws. But gun-control enthusiasts, who have made capital out of the low murder rate in England, which is largely disarmed, simply ignore the counterexamples that don't fit their theory.

If firearms increased violence and crime, Florida's murder rate should not have been falling since the introduction, seven years ago, of a law that makes it easier for ordinary citizens to get permits to carry concealed handguns. Yet the murder rate has remained the same or fallen every year since the law was enacted, and it is now lower than the national murder rate (which has been rising). As of last November 183,561 permits had been issued, and only seventeen of the permits had been revoked because the holder was involved in a firearms offense. It would be precipitate to claim that the new law has "caused" the murder rate to subside. Yet here is a situation that doesn't fit the hypothesis that weapons increase violence.

If firearms increased violence and crime, programs of induced scarcity would suppress violence and crime. But—another anomaly—they don't. Why not? A theorem, which we could call the futility theorem, explains why gun-control laws must either be ineffectual or in the long term actually provoke more violence and crime. Any theorem depends on both observable fact and assumption. An assumption that can be made with confidence is that the higher the number of victims a criminal assumes to be armed, the higher will be the risk—the price—of assaulting them. By definition, gun-control laws should make weapons scarcer and thus more expensive. By our prior reasoning about demand among various types of consumers, after the laws are enacted criminals should be better armed, compared with noncriminals, than they were before. Of course, plenty of noncriminals will remain armed. But even if many noncriminals will pay as high a price as criminals will to obtain firearms, a larger number will not.

Criminals will thus still take the same gamble they already take in assaulting a victim who might or might not be armed. But they may appreciate that the laws have given them a freer field, and that crime still pays—pays even better, in fact, than before. What will happen to the rate of violence? Only a relatively few gun-mediated transactions—currently, five percent of armed robberies committed with firearms—result in someone's actually being shot (the statistics are not broken down into encounters between armed assailants and unarmed victims, and encounters in which both parties are armed). It seems reasonable to fear that if the number of such transactions were to increase because

criminals thought they faced fewer deterrents, there would be a corresponding increase in shootings. Conversely, if gun-mediated transactions declined—if criminals initiated fewer of them because they feared encountering an armed victim or an armed good Samaritan—the number of shootings would go down. The magnitude of these effects is, admittedly, uncertain. Yet it is hard to doubt the general tendency of a change in the law that imposes legal burdens on buying guns. The futility theorem suggests that gun-control laws, if effective at all, would unfavorably affect the rate of violent crime.

The futility theorem provides a lens through which to see much of the debate. It is undeniable that gun-control laws work—to an extent. Consider, for example, California's background-check law, which in the past two years has prevented about 12,000 people with a criminal record or a history of mental illness or drug abuse from buying handguns. In the same period Illinois's background-check law prevented the delivery of firearms to more than 2,000 people. Surely some of these people simply turned to an illegal market, but just as surely not all of them did. The laws of large numbers allow us to say that among the foiled thousands, some potential killers were prevented from getting a gun. We do not know whether the number is large or small, but it is implausible to think it is zero. And, as gun-control proponents are inclined to say, "If only one life is saved . . ."

The hypothesis that firearms increase violence does predict that if we can slow down the diffusion of guns, there will be less violence: one life, or more, *will* be saved. But the futility theorem asks that we look not simply at the gross number of bad actors prevented from getting guns but at the effect the law has on *all* the people who want to buy a gun. Suppose we succeed in piling tax burdens on the acquisition of firearms. We can safely assume that a number of people who might use guns to kill will be sufficiently discouraged not to buy them. But we cannot assume this about people who feel that they must have guns in order to survive financially and physically. A few lives might indeed be saved. But the overall rate of violent crime might not go down at all. And if guns are owned predominantly by people who have good reason to think they will use them, the rate might even go up.

Are there empirical studies that can serve to help us choose between the futility theorem and the hypothesis that guns increase violence? Unfortunately, no: the best studies of the effects of gun-control laws are quite inconclusive. Our statistical tools are too weak to allow us to identify an effect clearly enough to persuade an open-minded skeptic. But it is precisely when we are dealing with undetectable statistical effects that we have to be certain we are using the best models available of human behavior.

SEALING THE BORDER

HANDGUNS are not legally for sale in the city of Chicago, and have not been since April of 1982. Rifles, shotguns, and ammunition are available, but only to people who possess an Illinois Firearm Owner's Identification card. It takes up to a month to get this card, which involves a background check. Even if one has a FOID card there is a waiting period for the delivery of a gun. In few places in America is it as difficult to get a firearm legally as in the city of Chicago.

Yet there are hundreds of thousands of unregistered guns



SAME THING. THE UNINTENDED EFFECTS HAVE OFTEN SWAMPED THE INTENDED ONES.

in the city, and new ones arriving all the time. It is not difficult to get handguns—even legally. Chicago residents with FID cards merely go to gun shops in the suburbs. Trying to establish a city as an island of prohibition in a sea of legal firearms seems an impossible project.

Is a state large enough to be an effective island, then? Suppose Illinois adopted Chicago's handgun ban. Same problem again. Some people could just get guns elsewhere: Indiana actually borders the city, and Wisconsin is only forty miles away. Though federal law prohibits the sale of handguns in one state to residents of another, thousands of Chicagoans with summer homes in other states could buy hand-

guns there. And, of course, a black market would serve the needs of other customers.

When would the island be large enough to sustain a weapons-free environment? In the United States people and cargoes move across state lines without supervision or hindrance. Local shortages of goods are always transient, no matter whether the shortage is induced by natural disasters, prohibitory laws, or something else.

Even if many states outlawed sales of handguns, then, they would continue to be available, albeit at a somewhat higher price, reflecting the increased legal risk of selling them. Mindful of the way markets work to undermine their efforts, gun-control proponents press for federal regulation of firearms, because they believe that only Congress wields the authority to frustrate the interstate movement of firearms.

Why, though, would one think that federal policing of illegal firearms would be better than local policing? The logic of that argument is far from clear. Cities, after all, are comparatively small places. Washington, D.C., for example, has an area of less than 45,000 acres. Yet local officers have had little luck repressing the illegal firearms trade there. Why should federal officers do any better watching the United States' 12,000 miles of coastline and millions of square miles of interior? Criminals should be able to frustrate federal police forces just as well as they can local ones. Ten years of increasingly stringent federal efforts to abate cocaine trafficking, for example, have not succeeded in raising the street price of the drug.

Consider the most drastic proposal currently in play, that of Senator John Chafee, of Rhode Island, who would ban the manufacture, sale, and home possession of handguns within the United States. This proposal goes far beyond even the Chicago law, because existing weapons would have to be surrendered. Handguns would become contraband, and selling counterfeit, stolen, and contraband goods is big business in the United States. The objective of law enforcement is to raise the costs of engaging in crime and so force criminals to take expensive precautions against becoming entangled with the legal system. Crimes of a given type will, in theory, decline as soon as the direct and indirect costs of engaging in them rise to the point at which criminals seek more profitable opportunities in other (not necessarily legal) lines of work.

In firearms regulation, translating theory into practice will continue to be difficult, at least if the objective is to lessen the practical availability of firearms to people who might abuse them. On the demand side, for defending oneself against predation there is no substitute for a firearm. Criminals, at least, can switch to varieties of law-breaking in which a gun confers little or no advantage (burglary, smash-and-grab), but people who are afraid of confrontations with



criminals, whether rationally or (as an accountant might reckon it) irrationally, will be very highly motivated to acquire firearms. Long after the marijuana and cocaine wars of this century have been forgotten, people's demand for personal security and for the tools they believe provide it will remain strong.

On the supply side, firearms transactions can be consummated behind closed doors. Firearms buyers, unlike those who use drugs, pornography, or prostitution, need not recurrently expose themselves to legal jeopardy. One trip to the marketplace is enough to arm oneself for life. This could justify a consumer's taking even greater precautions to avoid apprehension, which would translate into even steeper enforcement costs for the police.

Don Kates Jr., a San Francisco lawyer and a much-published student of this problem, has pointed out that during the wars in Southeast and Southwest Asia local artisans were able to produce, from scratch, serviceable pot-metal counterfeits of AK-47 infantry rifles and similar weapons in makeshift backyard foundries. Although inferior weapons cannot discharge thousands of rounds without misfiring, they are more than deadly enough for light to medium service, especially by criminals and people defending themselves and their property, who ordinarily use firearms by threatening with them, not by firing them. And the skills necessary to make them are certainly as widespread in America as in the villages of Pakistan or Vietnam. Effective policing of such a cottage industry is unthinkable. Indeed, as Charles Chandler has pointed out, crude but effective firearms have been manufactured in prisons—highly supervised environments, compared with the outside world.

Seeing that local firearms restrictions are easily defeated, gun-control proponents have latched onto national controls as a way of finally making gun control something more than a gesture. But the same forces that have defeated local regulation will defeat further national regulation. Imposing higher costs on weapons ownership will, of course, slow down the weapons trade to some extent. But planning to slow it down in such a way as to drive down crime and violence, or to prevent motivated purchasers from finding ample supplies of guns and ammunition, is an escape from reality. And like many another such, it entails a morning after.

ADMINISTERING PROHIBITION

ASSUME for the sake of argument that to a reasonable degree of criminological certainty, guns are every bit the public-health hazard they are said to be. It follows, and many journalists and a few public officials have already said, that we ought to treat guns the same way we do smallpox viruses or other critical vectors of morbidity and mortality—namely, isolate them from potential hosts and destroy them as speedily as possible. Clearly, firearms have

at least one characteristic that distinguishes them from smallpox viruses: nobody wants to keep smallpox viruses in the nightstand drawer. Amazingly enough, gun-control literature seems never to have explored the problem of getting weapons away from people who very much want to keep them in the nightstand drawer.

Our existing gun-control laws are not uniformly permissive, and, indeed, in certain places are tough even by international standards. Advocacy groups seldom stress the considerable differences among American jurisdictions, and media reports regularly assert that firearms are readily available to anybody anywhere in the country. This is not the case. For example, handgun restrictions in Chicago and the District of Columbia are much less flexible than the ones in the United Kingdom. Several hundred thousand British subjects may legally buy and possess sidearms, and anyone who joins a target-shooting club is eligible to do so. But in Chicago and the District of Columbia, excepting peace officers and the like, only grandfathered registrants may legally possess handguns. Of course, tens or hundreds of thousands of people in both those cities—nobody can be sure how many—do in fact possess them illegally.

Although there is, undoubtedly, illegal handgun ownership in the United Kingdom, especially in Northern Ireland (where considerations of personal security and public safety are decidedly unlike those elsewhere in the British Isles), it is probable that Americans and Britons differ in their disposition to obey gun-control laws: there is reputed to be a marked national disparity in compliance behavior. This difference, if it exists, may have something to do with the comparatively marginal value of firearms to British consumers. Even before it had strict firearms regulation, Britain had very low rates of crimes involving guns: British criminals, unlike their American counterparts, prefer burglary (a crime of stealth) to robbery (a crime of intimidation).

Unless people are prepared to surrender their guns voluntarily, how can the U.S. government confiscate an appreciable fraction of our country's nearly 200 million privately owned firearms? We know that it is possible to set up weapons-free zones in certain locations—commercial airports and many courthouses and, lately, some troubled big-city high schools and housing projects. The sacrifices of privacy and convenience, and the costs of paying guards, have been thought worth the (perceived) gain in security. No doubt it would be possible, though it would probably not be easy, to make weapons-free zones of shopping centers, department stores, movie theaters, ball parks. But it is not obvious how one would cordon off the whole of an open society.

Voluntary programs have been ineffectual. From time to time community-action groups or police departments have sponsored "turn in your gun" days, which are nearly always disappointing. Sometimes the government offers to buy guns at some price. This approach has been endorsed by Senator Chafee and the *Los Angeles Times*. Jonathan Alter, of *News-*

week, has suggested a variation on this theme: youngsters could exchange their guns for a handshake with Michael Jordan or some other sports hero. If the price offered exceeds that at which a gun can be bought on the street, one can expect to see plans of this kind yield some sort of harvest—as indeed they have. But it is implausible that these schemes will actually result in a less-dangerous population. Government programs to buy up surplus cheese cause more cheese to be produced without affecting the availability of cheese to people who want to buy it. So it is with guns.

One could extend the concept of intermittent roadblocks of the sort approved by the Supreme Court for discouraging drunk driving. Metal detectors could be positioned on every street corner, or ambulatory metal-detector squads could check people randomly, or hidden magnetometers could be installed around towns, to detect concealed weapons. As for firearms kept in homes (about half of American households), warrantless searches might be rationalized on the well-established theory that probable cause is not required when authorities are trying to correct dangers to public safety rather than searching for evidence of a crime.

In a recent "town hall" meeting in California, President Bill Clinton used the word "sweeps," which he did not define, to describe how he would confiscate firearms if it were up to him. During the past few years the Chicago Housing Authority chairman, Vincent Lane, has ordered "sweeps" of several gang-ridden public-housing projects, meaning warrantless searches of people's homes by uniformed police officers looking for contraband. Lane's ostensible premise was that possession of firearms by tenants constituted a lease violation that, as a conscientious landlord, he was obliged to do something about. The same logic could justify any administrative search. City health inspectors in Chicago were recently authorized to conduct warrantless searches for lead hazards in residential paint. Why not lead hazards in residential closets and nightstands? Someone has probably already thought of it.

IGNORING THE ULTIMATE SOURCES OF CRIME AND VIOLENCE

THE American experience with prohibition has been that black marketeers—often professional criminals—move in to profit when legal markets are closed down or disturbed. In order to combat them, new laws and law-enforcement techniques are developed, which are circumvented almost as soon as they are put in place. New and yet more stringent laws are enacted, and greater sacrifices of civil liberties and privacy demanded and submitted to. But in this case the problem, crime and violence, will not go away,

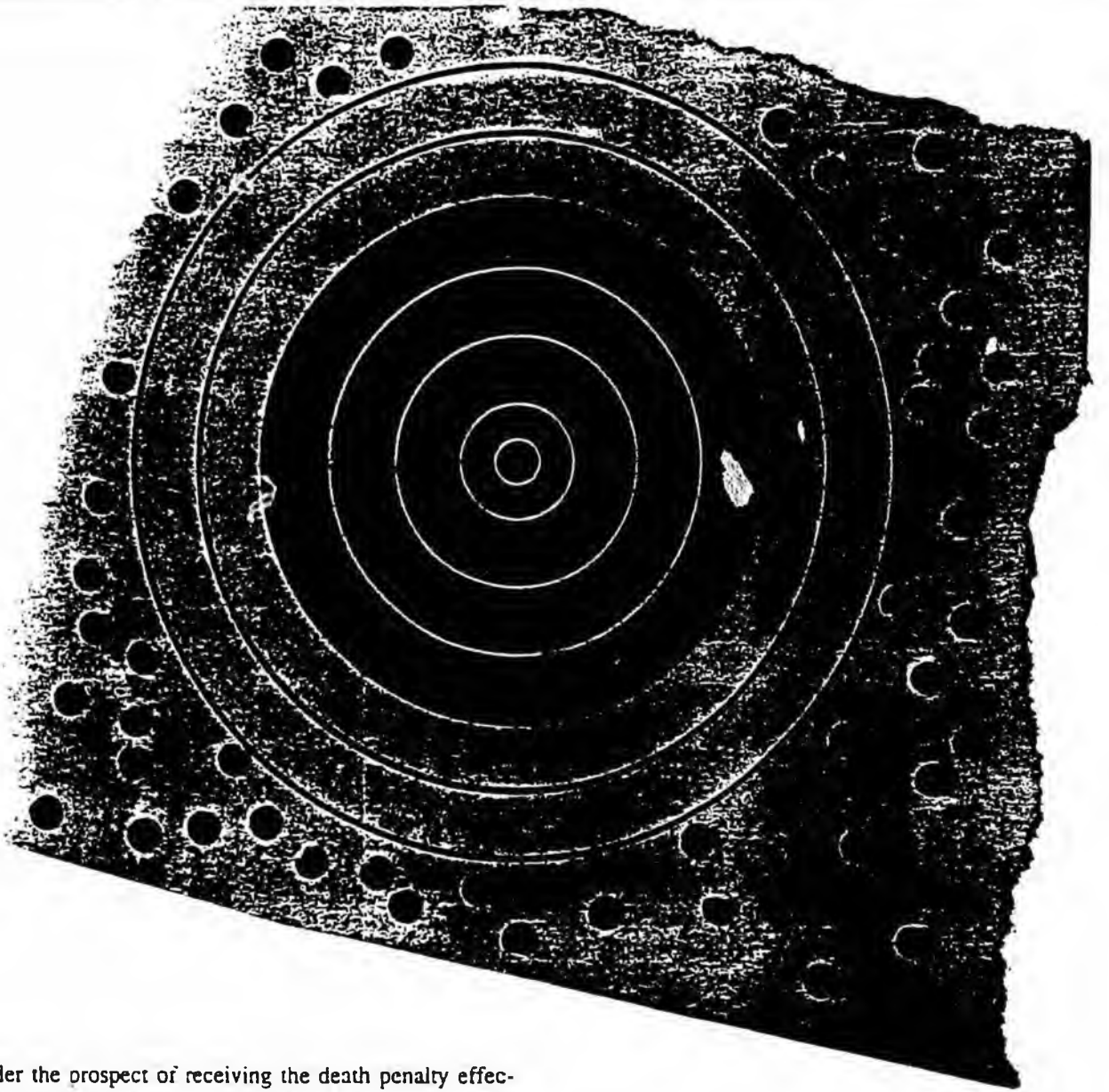
because guns and ammunition (which, of course, won't go away either) do not cause it. One cannot expect people to quit seeking new weapons as long as the tactical advantages of weapons are seen to outweigh the costs imposed by prohibition. Nor can one expect large numbers of people to surrender firearms they already own. The only way to make people give up their guns is to create a world in which guns are perceived as having little value. This world will come into being when criminals choose not to use guns because the penalties for being caught with them are too great, and when ordinary citizens don't think they need firearms because they aren't afraid of criminals anymore.

Neither of these eventualities seems very likely without substantial departures in law-enforcement policy. Politicians' nostrums—increasing the punishment for crime, slapping a few more death-penalty provisions into the code—are taken seriously by few students of the crime problem. The existing penalties for predatory crimes are quite severe enough. The problem is that they are rarely meted out in the real world. The penalties formally published by the code are in practice steeply discounted, and criminals recognize that the judicial and penal systems cannot function without bargaining in the vast majority of cases.

This problem is not obviously one that legislation could solve. Constitutional ideas about due process of law make the imposition of punishments extraordinarily expensive and difficult. Like the tax laws, the criminal laws are basically voluntary affairs. Our system isn't geared to a world of wholesale disobedience. Recalibrating the system simply by increasing its overall harshness would probably offend and then shock the public long before any of its benefits were felt.

To illustrate, consider the prospect of getting serious about carrying out the death penalty. In recent years executions have been running at one or two dozen a year. As the late Supreme Court Justice Potter Stewart observed, those selected to die constitute a "capriciously selected random handful" taken from a much larger number of men and women who, just as deserving of death, receive prison sentences. It is not easy to be exact about that much larger number. But as an educated guess, taking into account only the most serious murders—the ones that were either premeditated or committed in the course of a dangerous felony—there are perhaps 5,000 prisoners a year who could plausibly be executed in the United States: say, 100,000 executions in the next twenty years. It is hard to think that the death penalty, if imposed on this scale, would not noticeably change the behavior of potential criminals. But what else in national life or citizens' character would have to change in order to make that many executions acceptable? Since 1930 executions in the United States have never exceeded 200 a year. At any such modest rate of imposition, rational criminals should

THERE IS NO SUBSTITUTE FOR ADDRESSING THE ROOT CAUSES OF CRIME—BAD EC



consider the prospect of receiving the death penalty effectively nil. On the best current evidence, indeed, they do. Documentation of the deterrent effect of the death penalty, as compared with that of long prison sentences, has been notoriously hard to produce.

The problem is not simply that criminals pay little attention to the punishments in the books. Nor is it even that they also know that for the majority of crimes, their chances of being arrested are small. The most important reason for criminal behavior is this: the income that offenders can earn in the world of crime, as compared with the world of work, all too often makes crime appear to be the better choice.

Thus the crime bill that Bill Clinton introduced last year, which provides for more prisons and police officers, should be of only very limited help. More prisons means that fewer violent offenders will have to be released early in order to make space for new arrivals; perhaps fewer plea bargains will have to be struck—all to the good. Yet a moment's reflection should make clear that one more criminal locked up does not necessarily mean one less criminal on the street. The situation is very like one that conservationists and

hunters have always understood. Populations of game animals readily recover from hunting seasons but not from loss of habitat. Mean streets, when there are few legitimate entry-level opportunities for young men, are a criminal habitat, so to speak, in the social ecology of modern American cities. Cull however much one will, the habitat will be reoccupied promptly after its previous occupant is sent away. So social science has found.

Similarly, whereas increasing the number of police officers cannot hurt, and may well increase people's subjective feelings of security, there is little evidence to suggest that doing so will diminish the rate of crime. Police forces are basically reactive institutions. At any realistically sustainable level of staffing they must remain so. Suppose 100,000 officers were added to police rosters nationwide, as proposed in the current crime bill. This would amount to an overall personnel increase of about 18 percent, which would

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be parceled out according to the iron laws of democratic politics—distributed throughout states and congressional districts—rather than being sent to the areas that most need relief. Such an increase, though unprecedented in magnitude, is far short of what would be needed to pacify some of our country's worst urban precincts.

There is a challenge here that is quite beyond being met with tough talk. Most public officials can see the mismatch between their tax base and the social entropies they are being asked to repair. There simply isn't enough money: existing public resources, as they are now employed, cannot possibly solve the crime problem. But mayors and senators and police chiefs must not say so out loud: too-disquieting implications would follow. For if the authorities are incapable of restoring public safety and personal security under the existing ground rules, then obviously the ground rules must change, to give private initiative greater scope. Self-help is the last refuge of nonsoundrels.

Communities must, in short, organize more effectively to protect themselves against predators. No doubt this means encouraging properly qualified private citizens to possess and carry firearms legally. It is not morally tenable—nor, for that matter, is it even practical—to insist that police officers, few of whom are at a risk remotely as great as are the residents of many city neighborhoods, retain a monopoly on legal firearms. It is needless to fear giving honest men and women the training and equipment to make it possible for them to take back their own streets.

Over the long run, however, there is no substitute for addressing the root causes of crime—bad education and lack of job opportunities and the disintegration of families. Root causes are much out of fashion nowadays as explanations of criminal behavior, but fashionable or not, they are fundamental. *The root cause of crime is that for certain people, predation is a rational occupational choice.* Conventional crime-control measures, which by stiffening punishments or raising the probability of arrest aim to make crime pay less, cannot consistently affect the behavior of people who believe that their alternatives to crime will pay virtually nothing. Young men who did not learn basic literacy and numeracy skills before dropping out of their wretched public schools may not have been worth hiring at the minimum wage set by George Bush, let alone at the higher, indexed minimum wage that has recently been under discussion by the Clinton Administration. Most independent studies of the effects of raising minimum wages show a similar pattern of excluding the most vulnerable. This displacement, in turn, makes young men free, in the nihilistic, nothing-to-lose sense, to dedicate their lives to crime. Their legitimate opportunities, always precarious in a society where race and class still matter, often diminish to the point of being for all intents and purposes absent.

Unfortunately, many progressive policies work out in the same way as increases in the minimum wage—as taxes on

employment. One example is the Administration's pending proposal to make employer-paid health insurance mandatory and universal. Whatever the undoubted benefits of the plan, a payroll tax is needed to make it work. Another example: in recent years the use of the "wrongful discharge" tort and other legal innovations has swept through the courts of more than half the states, bringing to an end the era of "employment at will," when employees (other than civil servants) without formal contracts—more than three quarters of the work force—could be fired for good reason, bad reason, or no reason at all. Most commentators celebrated the loss of the at-will rule. How could one object to a new legal tenet that prohibited only arbitrary and oppressive behavior by employers?

But the costs of the rule are not negligible, only hidden. At-will employment meant that companies could get out of the relationship as easily as employees could. In a world where dismissals are expensive rather than cheap, and involve lawyers and the threat of lawsuits, rational employers must become more fastidious about whom they hire. By raising the costs of ending the relationship, one automatically raises the threshold of entry. The burdens of the rule fall unequally. Worst hit are entry-level applicants who have little or no employment history to show that they would be worth their pay.

Many other tax or regulatory schemes, in the words of Professor Walter Williams, of George Mason University, amount to sawing off the bottom rungs of the ladder of economic opportunity. By suppressing job creation and further diminishing legal employment opportunities for young men on the margin of the work force, such schemes amount to an indirect but unequivocal subsidy to crime.

The solution to the problem of crime lies in improving the chances of young men. Easier said than done, to be sure. No one has yet proposed a convincing program for checking all the dislocating forces that government assistance can set in motion. One relatively straightforward change would be reform of the educational system. Nothing guarantees prudent behavior like a sense of the future, and with average skills in reading, writing, and math, young people can realistically look forward to constructive employment and the straight life that steady work makes possible.

But firearms are nowhere near the root of the problem of violence. As long as people come in unlike sizes, shapes, ages, and temperaments, as long as they diverge in their taste for risk and their willingness and capacity to prey on other people or to defend themselves from predation, and above all as long as some people have little or nothing to lose by spending their lives in crime, dispositions to violence will persist.

This is what makes the case for the right to bear arms, not the Second Amendment. It is foolish to let anything ride on hopes for effective gun control. As long as crime pays as well as it does, we will have plenty of it, and honest folk must choose between being victims and defending themselves. ♦