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Handgun Issue

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THE HANDGUN ISSUE

A

Position Paper

by the

Atlanta Regional Commission

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CHAPTER I - INTRODUCTION

In the multi-year criminal justice plan, Criminal Justice in the Atlanta Region - A Plan for Action, the issue of handguns and handgun control was addressed. Because of the magnitude of the issue, the Atlanta Regional Commission directed its Criminal Justice Planning Division staff to examine the subject, particularly the so-called "Saturday Night Special".

This document examines the most significant aspects of the handgun control controversy and makes appropriate recommendations. Every effort was made to analyze the facts surrounding handgun misuse and to explore some of the (so called) "myths" of the handgun control debate. The overall concern was to maintain a balance between the right of the individual to own, use or possess firearms and the right of all persons to be free from the threat posed by handgun misuse. The recommendations in this document are intended to reflect this concern.

Handguns, like the covered wagon and the pioneer, have been part of the American scene for centuries. We are all familiar with the phrase "winning of the West" and certainly the handgun is connected historically and perhaps even romantically with this refrain. It is not our purpose here, however, to examine and pass judgement on the role of the handgun in the settling of this country. Time does not permit us to engage

in such an endeavor nor is such an endeavor deemed necessary to appreciate the impact of the handgun on contemporary American life.

The rationale for preparing this document is based on a number of factors. First, while most firearms are used strictly for legitimate purposes, some are used to commit crimes (perpetrate criminal acts). Secondly, handguns have contributed to a tragic loss of life as a result of accidental discharge. Finally, by the very nature of its lethal capabilities, the handgun has been used by many to commit suicide.

Our concern is basic: Has the level of handgun misuse reached an intolerable level in our society? Are stricter controls over handguns desirable as a means to reduce this misuse?

This document examines the handgun problem. The issue itself has been emotionalized, but every effort has been made here to refrain from such temptation. Rather, this report attempts to examine the most pertinent elements of the handgun issue, objectively. The most significant arguments, on both sides, have been presented. It is not anticipated that all readers of this document will agree on the

extent of the handgun problem. Our purpose has been to examine available data, present objective conclusions, and make appropriate recommendations.

A summary of the various chapters follows: Chapter 2 attempts to establish a frame of reference from which to work. Chapter 3 addresses the levels of handgun misuse including crimes, accidents, and suicides. Chapter 4 examines the "Saturday Night Special" and the controversy surrounding this weapon. Chapter 5 reviews the constitutional question and reveals the legitimacy for governmental control of firearms. Chapter 6 examines the question, "Do handguns have a sporting use?" Chapter 7 examines some of the forms of handgun control presently in effect. Chapter 8 presents the various views on mandatory sentences for violent handgun offenders. Finally, a number of recommendations have been postulated based on the findings of this report.

CHAPTER II - HOW MANY HANDGUNS

No one really knows exactly how many handguns exist in the United States. Manufacturers are not required to report the total number of handguns produced and no systematic registration program exists which would indicate the number in existence. In addition, since many handguns are produced and obtained illegally, even a nationwide registration program would indicate only the number of legitimately produced handguns.

A number of agencies are responsible for enforcing the various firearms statutes at the state and federal level. The federal agency primarily concerned with the enforcement of federal firearms regulations is the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury (also referred to as ATF).

In testimony before the U. S. House of Representatives Judiciary Subcommittee on Crime, officials from ATF estimated that some 40 million handguns had entered the private sector by the close of 1974.¹ Approximately 2.5 million new handguns were sold into the private sector of this country in 1974.² If it is assumed that this rate of growth has continued, and there appears to be little evidence to believe otherwise, then the handgun population by the end of 1976 would have been approximately 47 million.

Compare the 47 million figure with the United States population (214 million as of April 1976), and the resulting computation indicates that there is slightly less than one handgun for every four persons in the United States.

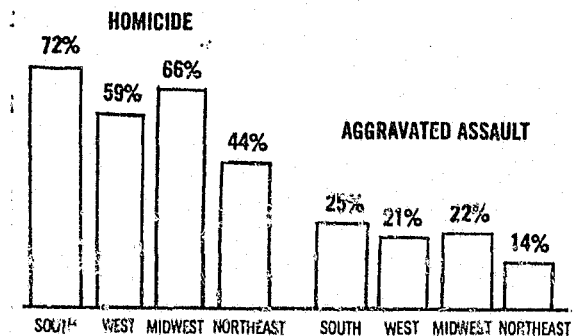
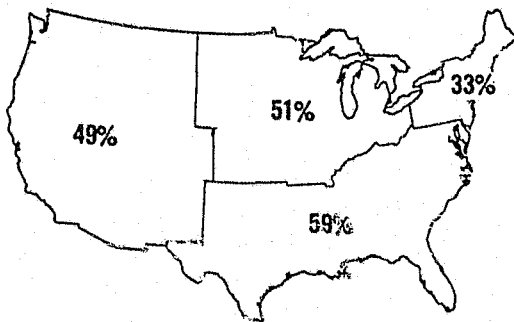
No attempt has been made to estimate the number of handguns in the Atlanta region, but if the national estimates hold true in the Atlanta area, almost 400,000 handguns in the Atlanta region would not be an unrealistic estimate.

CHAPTER III - THE HANDGUN DANGER

Most of the privately owned handguns in this country are never used in criminal acts. As the National Shooting Sports Foundation notes: "...if even one percent of those handguns (using the figure of 40,000,000) were used to kill people, there would be some 400,000 handgun slayings per year."³ This, of course, is not the case; but in 1973, according to the FBI's Uniform Crime Reports, 10,340 persons were murdered with handguns. In 1974, the figure rose to 11,124, declining in 1975 to 9,507.

The percentage of guns used in homicides and aggravated assaults coincides with estimates of levels of gun ownership in various sections of the country. The following illustration indicates a breakdown according to region:

Gun ownership and percentage gun use in homicide and aggravated assault by region.

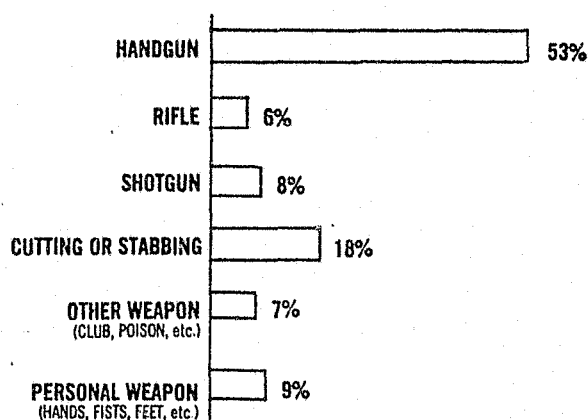


Sources: 1967 Uniform Crime Report, 1968 Harris poll.

According to these figures, the percentage of guns used in homicides and aggravated assaults is highest in the South--where the level of gun ownership is also the highest.

Handguns were involved in the majority of reported murders for 1973. The following chart indicates percentages for types of weapons used:

Murder by type of weapon used



Due to rounding, does not add to 100%

Source: 1973 Uniform Crime Report

In testimony before the Senate Juvenile Delinquency Committee in 1975, Attorney General Levy stated that handguns were used in one out of every three robberies and one out of every four aggravated assaults.

The 1974 statistics for the City of Atlanta were even higher. In that year, handguns were used in 55 percent of all robberies committed in the city, 45 percent of all aggravated assaults and 66.3 percent of the homicides.⁴

As a result of a fear of crime, many people possess handguns for self defense purposes. There is some reason to believe that crime in any given area decreases if the criminals believe the citizens of that area are armed. The National Shooting Sports Foundation, Inc., provides the following account:

In Orlando, Florida, after a series of brutal rapes, the police trained some 6,000 women in a firearms self defense course sponsored by a newspaper. The rape rate was cut in half the following year; during the first quarter of 1973 when the program was at its peak, there were only 3 rapes compared to 33 in the same period the previous year. Further, both robberies and burglaries declined and that year Orlando was the only major city in the U.S. to show an overall decrease in crime.

But according to the Public Affairs Committee, Inc., the situation in Orlando began to change shortly thereafter. In a pamphlet prepared by this organization, the following comments were made:

Such local phenomena are characteristically short-lived. By 1974, according to the recent FBI report, the Orlando area had a murder rate of 14.2, a rape rate of 48.7 and an aggravated assault rate of 377.2 per 100,000 population - among the highest rates in the country.

Firearms kept in the home may in fact deter criminals, but there are other problems connected with this practice.

Hence another issue in the gun control debate is the relation between firearms and accidents. According to a study by Case Western University in the Cleveland, Ohio area, a firearm kept by a civilian for protection is six times more likely to kill a family member or friend than an intruder or attacker. Certain mechanical devices are currently on the market which would enhance the safety of stored weapons. Unfortunately they are not widely used, however, the staff report of the National Commission on the Causes and Prevention of Violence reported: "Americans are currently dying from firearms accidents at a rate of about 2,900 per year, another 20,000 persons suffer accidental injuries each year from firearms." Firearms accidents follow the pattern of gun ownership; they are highest in the South and lowest in the East. Over half of all firearms accidents occur in or around the home, and about 40 percent of accident victims are children or teenagers.

Firearms rank nineteenth on the list of the top twenty hazardous products as established by the U.S. Consumer Product Safety Commissioner (see Table I). They rank considerably below bicycles, motor vehicles, football and baseball activity and also, prescription drugs. But the distressing fact remains that almost half of the victims of firearms accidents are children and adolescents.

Table I

Top 20 Hazardous Products from the Consumer Product
Safety Committee's Product Hazard Index Fiscal Year 1975

Rank	Product Class Description	AFSI *
1.	Bicycles and Bicycle Equipment	30.584
2.	Stairs, Steps, Ramps, and Landings	21.203
3.	Motor Vehicles	16.232
4.	Foods	13.657
5.	Power Lawn Mowers and Unspecified Lawn Mowers	11.977
6.	Football Activity and Equipment	11.719
7.	Baseball Activity and Related Activity	11.052
8.	Swings, Slides, Seesaws, and Playground Equipment	10.463
9.	Non-Glass Tables and Unspecified Tables	9.462
10.	Farm Supplies and Equipment	8.193
11.	Glass Unspecified	7.363
12.	Beds (Inc.: Springs & Frames, Bunk Beds, and Unspecified Beds)	7.206
13.	Nails, Carpet Tacks, Screws, and Thumbtacks	7.147
14.	Doors Unspecified	7.138
15.	Drugs, Prescription	6.873
16.	Chairs, Sofas, and Sofa Beds	6.827
17.	Swimming Pools and Related Equipment	6.346
18.	Basketball Activity and Equipment	6.278
19.	<u>Firearms</u> , Gunpowder, and Ammunition	5.729
20.	Home Structures Unspecified	5.704

Source: U.S. Consumer Product Safety Commission Product Hazard Index
Fiscal Year 1975

* The Age Adjusted Frequency Severity Index (AFSI) number, is derived by multiplying an estimate of the number of cases treated in hospital emergency rooms, based on a nationwide sample, by a severity rating taken from a one to eight scale that increases geometrically with the severity of injury, including deaths, from 10 to 2516. This product is then multiplied by 2.5 in cases involving children under 14 years of age in order to give added emphasis to products dangerous to children. The numbers are totalled and divided by 1 million. The last three digits of the quotient is the AFSI number.

Establishing (most) firearms regulatory programs probably have little effect on the number of firearm related accidents. Registration, licensing requirements and "waiting periods" would probably have little direct effect. Probably the only measures that would impact such would be removal of firearms from places where children can get to them, public education programs on firearms safety or, in the extreme, a total reduction in the number of firearms currently owned by citizens.

The staff of the National Commission on the Causes and Prevention of Violence stated that over 20,000 Americans commit suicide every year. Almost half (47%) of these persons use firearms. The staff summary states:

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

In 1974 there were 246 suicides in the Atlanta Region; however, there is no analysis of the number of times handguns were used.

CHAPTER IV - THE SATURDAY NIGHT SPECIAL

The growth of the gun control controversy brought about an examination of some of the weapons themselves. Many Americans are familiar with handguns, long rifles and shotguns produced by reputable firearms manufacturers--high quality firearms that, with proper care, remain functional for years. But with the growing concern over the issue of guns, and their use in crimes, came the realization that many weapons currently available were of poor quality and generally inexpensive. According to the United States Conference of Mayors, the phrase "Saturday Night Special" became popular in Detroit to describe the numerous cheap, flimsy and frequently unreliable handguns that flooded the city during the late 1960's and the early 1970's. These guns seemed to be favored as the \$15.00 weapon which could settle any annoying Saturday night argument.

It should be safe to assume that target-shooting enthusiasts and hunters are concerned with a number of factors connected with firearms, perhaps the most important being accuracy, durability and quality of workmanship. It is generally assumed that Saturday Night Specials do not possess any of these elements. As a result, numerous proponents of gun control measures have geared their efforts toward eliminating the "Saturday Night Special", but here is where the problem

really begins. In order to control something, you must establish a working definition. Unfortunately, no working definition for the "Saturday Night Special" has been developed, even though various measures of price, size, barrel length, metallurgical construction and caliber have been proposed. The following statement is typical of the problem:

While the ATF (Alcohol, Tobacco and Firearms Bureau) reports that 66 percent of handguns traced in New York City were "Saturday Night Specials" a similar study by the New York Police Department and the Mayor's Office concluded that only 30 percent of handguns confiscated were "Saturday Night Specials" and approximately one-half in the City's highest crime precinct were high quality, expensive weapons. We are clearly talking about the same weapons with different definitions.⁵

Because of the difficulty of defining "Saturday Night Special" by two or three specific characteristics, the overall quality of the handgun should be considered. The purpose is to discourage and eliminate low quality handguns.

With this in mind, a method has been designed which will measure the overall quality and not address any single characteristic disproportionately. The mechanism is simple: Various criteria of handguns are considered, given weights and corresponding points. A handgun must receive over 45 points for a revolver and 50 points for a pistol to be legally sold, purchased, owned, or possessed. For example, all guns with short barrels would not be illegal if other redeeming features are present. Appendix A is the recommended definition of "Saturday Night Special".

CHAPTER V - THE CONSTITUTIONAL QUESTION

Constitutional questions invariably arise whenever firearms legislation is proposed: Do private individuals have the constitutional right to bear arms? Is this an unqualified right? Can state and federal governments constitutionally regulate firearms, their ownership, purchase and use?

A staff report to the National Commission on the Causes and Prevention of Violence found that there was a considerable body of thought that individuals had an inherent right to have their own weapons at the time of the American Revolution. Generally, however, the staff to the National Commission found that "This history supports the view that the second amendment was designed to protect the state militia, not to promote the individual's use of firearms."

Handguns were not known until the fourteenth century and it was not until the reign of King Alfred of England that we find any definitive legal statement quoted in two Blackstone Commentaries: "The free man had not only the right but the duty to bear arms for the defense of England." The concept of mutual defense, or a militia, was obviously being emphasized. In the eighteenth century Blackstone recognized three classes of rights: personal security, personal liberty, and private property. In obtaining and protecting these rights, Sir William Blackstone in 1765 enumerated as one method the

bearing of arms for defense suitable to condition and degree and such as one allowed by law.

Colin Greenwood from the Institute of Criminology at Cambridge University states: "...right to keep arms was a part of the Common Law of England and I believe that I have been able to establish that the Second Amendment is based on the Common Law which should have applied to the colonies before Independence... which was suppressed by the British in America."

The U.S. Constitution was submitted to the states for ratification on September 28, 1787, and the struggle between Federalists and Anti-federalists reached bitter intensity. Several states criticized the absence of basic human rights. Samuel Adams of Massachusetts stated the "constitution (should) never be construed to authorize Congress to prevent the people of the United States, who are peaceable citizens from keeping their own arms."

James Mason and James Madison proposed the following: "The right of the people to keep and bear arms shall not be infringed, a well armed and well regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms shall be compelled to render military service in person." The probable intent was that the right to bear arms was to assist the militia.

New Hampshire proposed that "Congress shall never disarm any citizen unless such are or have been in actual rebellion." It should be noted that eight of the original colonies contain a section on the right to bear arms in their respective state constitutions. Five of these directly specify the right of citizens to bear arms for defense of themselves. Three give the right in conjunction with the well regulated militia proposition. Thirty-five state constitutions mention the right to bear arms. Twenty-five of these specify individual rights.

Law libraries have little material dealing with the Second Amendment. The Supreme Court has addressed this issue directly only once. The Court has avoided the issue of the Second Amendment on a number of occasions and disposed of cases on independent grounds. An example of this is *Tot v. U.S.* (319 US 463), where the most remarkable fact was that the Court did not mention the Second Amendment.

In 1875 Chief Justice Waite wrote in the case of *U.S. v. Cruikshank, et al* (92 US 542) that "the second amendment means no more than that it shall not be infringed by Congress, and has no other effect than to restrict the powers of the national government...". However, Justice Woods took this position further in *Presser v. Illinois* (116 US 252)

when in 1865 he gave the Court opinion stating: "The provision in the Second Amendment...is a limitation only on the power of Congress and not of the States. But in view of the fact that all citizens capable of bearing arms constitute the reserved military force of the national government as well as in view of its general powers, the states cannot prohibit the people from keeping and bearing arms, so as to deprive the United States of their rightful resource for maintaining public security." Justice Brown reiterated this in 1894 in giving the majority opinion in *Miller v. Texas* (153 US 535).

In the 1939 decision of *U.S. v. Miller* (307 US 174) Justice McReynolds gave the Court opinion in the only instance where the Supreme Court was faced with the issue of the constitutionality of a federal firearms regulation and was forced to determine the nature and extent of the Second Amendment's prohibitions against congressional infringement. The Court declared unequivocally the obvious purpose of the second amendment was to support and effectuate the militia and "...must be interpreted and applied with that end in view." It further held that if a weapon does not bear reasonable relationship to the preservation of a well-regulated militia, the amendment would not affect the power of Congress to prohibit the keeping and bearing of such an instrument (the weapon in question was a sawed-off shotgun).

Three years later in a lower court decision (Cases v. U.S. (131 F.2d 916) it was held that the reasonable relationship principle was inadequate in itself and each "second amendment challenge must be decided on its own facts." This case was not reversed. An earlier lower court decision (U.S. v. Adams, 11F Supp 216) agreed the amendment referred to the militia when it stated that the "Constitutional provision...referred to militia and to the collective body and not to individual rights, and did not grant to racketeers and desperadoes the privilege to carry weapons of the character dealt with in the National Firearms Act" (i.e., submachine guns, sawed-off shotguns, etc.).

Because of the large interest in firearms registration, it is important to look at another aspect of the constitutional question.

In 1968 three cases gave a strong precedent for invoking the fifth amendment privilege against self-incrimination, an individual right not to aid the government in securing one's own conviction.

In Marchetti v. U.S. (390 US 39) the Court held that the requirement that gamblers register and pay the \$50 occupational tax creates substantial risks of self-incrimination, in that compliance therewith significantly enhances the likelihood of criminal prosecutions under both federal and state laws, and, therefore, non-compliance cannot be criminally punished.

In *Grosso v. U.S.* (390 US 62) the Court held that the requirement that gamblers file special monthly reports as a condition to payment of the excise tax leads to the production of readily incriminating evidence, and, therefore, the Fifth Amendment precludes a criminal conviction for failure to pay that tax.

In *Haynes v. U.S.* (390 US 85) the court ruled that a proper Fifth Amendment claim provides a full defense to prosecution either for failure to register or for possession of an unregistered firearm under the National Firearms Act, since such provisions require admission of unlawful possession.

The most prudent way to view these cases is to assume that Fifth Amendment objections to firearms registration will be sustained when those statutes require a person to reveal that he is in violation of some federal, state or local law. This could lead to violators of federal, state or local laws being immune from registration laws.

A reasonable conclusion is that the U.S. Constitution does not prohibit the Federal Government from reasonable regulation of firearms, nor does it prohibit the various states from reasonable regulation of firearms. The Second Amendment is generally a restriction on the Federal Government and not on the states.

The U.S. Constitution and the Georgia Constitution give the individual citizen a right to bear arms. The manner in which firearms may be purchased, owned, or used is subject to regulations. Legislation, either in substance or form prohibiting ownership of firearms, would be unconstitutional.

CHAPTER VI - HANDGUNS AS SPORTING WEAPONS

Some debate centers around the question of whether or not the handgun serves a valid sporting purpose. While even most gun control advocates agree that rifles and shotguns retain usefulness as sporting weapons (usually for hunting or target shooting) many maintain that the handgun cannot claim the same distinction. Instead, some gun control proponents argue that the only valid function of a handgun is to kill human beings.

The booklet, "Handgun Control...Issues and Alternatives," prepared by the Handgun Control Project of the United States Conference of Mayors, contains a statement by Kenneth Fuller Lee, written in the January, 1934, issue of American Rifleman:

Pistols and revolvers ought never to be considered in the light of supplanting the rifle or shotgun. No man in his right mind would think of deliberately setting out on a trip after big game armed solely with the belt gun.... The ancient belief that a man's pistol might save his life in case his rifle jams during a determined charge is mostly, in my opinion at least, a matter of fallacious theory. About the only North American game which is likely to do much charging is the Alaskan Brown Bear -- and who wants to face a charging brownie at close range with any pistol yet devised by man?

The same booklet goes on to state, "It is apparent that the opponents of handgun control for propaganda purposes have reversed their view that handguns are useless for hunting and are now vigorously promoting the idea that new ammunition makes accurate handguns a natural weapon for hunting." Simply because Mr. Lee would not choose to use a handgun on a charging brownie, can it safely be said that other persons might not choose to use handguns on other forms of game?

"Handgun Control...Issues and Alternatives" also notes that, "In a national sample of gun owners conducted in 1964, 95 percent mentioned hunting as a good reason for owning a rifle or shotgun, while only 16 percent cited hunting as a good reason for owning a handgun." But can an argument written in 1934 or even in 1964 before handgun hunting became popular or legal in many states be considered a valid argument? Certainly stronger and more current arguments exist against the use of handguns as sporting weapons.

Finally, "Issues and Alternatives" states that "...only a small percentage of people use their weapons for target shooting." The percentage may in fact be small but we should remember that target pistol shooting is a form of competition found on a national scale in the U.S. and is also accepted in the Olympic Games.

The development of the handgun, like the rifle, is found in the annals of military history. And like the rifle, to a lesser extent, the handgun has been converted to use as a sporting weapon. If stricter handgun controls are to be sought, they may well have to be sought with the acknowledged acceptance of the sporting uses of the handgun.

CHAPTER VII - METHODS OF CONTROL
REGISTRATION, LICENSING AND WAITING PERIODS

Various methods have been devised to control handguns and other firearms. One basic form of control is registration of the firearm. In its simplest form, registration involves recording and identifying information about a particular firearm so that it can be traced to the owner. Two types of registration are frequently proposed:⁶

- 1.) Registration by firearms dealers at the time of purchase. Information about the purchase and data identifying the firearm are given to law enforcement agencies.
- 2.) Registration of the firearm as a prerequisite for legal possession.

Another form of control is owner licensing. In its simplest form, licensing is concerned with the identity and qualifications of the person who wants to purchase a firearm.

Licensing requirements may be either "permissive" or "restrictive". Under a permissive registration program, the individual is assumed to have the right to possess a firearm unless disqualified for a specific reason, such as a felony conviction, mental incompetency, etc. Under a restriction registration program the burden is on the individual to show a justifiable need to have a firearm.

Generally, licensing procedures are concerned with three distinct activities:

- 1.) License to purchase a handgun. Application is to a law enforcement agency for certification as a prerequisite for purchase.
- 2.) License to carry a handgun. Concerned primarily with concealed weapons.
- 3.) License to possess. This may be considered the most stringent form of licensing.

Although registration and licensing are separate concepts in most cases, they are combined or are so inter-related as to form a single regulatory concept.

Some arguments for registration/licensing follow:⁸

1. It would enable law enforcement agencies to solve crimes by determining the ownership of firearms through a tracing of serial numbers.
2. It would enable police to arrest persons carrying unregistered weapons.
3. It would make it more difficult for undesirables to obtain firearms.
4. It would reduce the number of firearms owned by individuals and this would result in fewer crimes being committed.
5. It would help prevent suicides.
6. It would help prevent firearms accidents.
7. It would substantially increase the rate of return of stolen firearms to the rightful owner.

Opponents of registration/licensing often cite the following:

1. Criminals do not register firearms.
2. Many firearms used by criminals are stolen and tracing them by serial number would only lead to an innocent person, perhaps causing that person to be falsely accused.
3. If a criminal were to be apprehended while committing a crime, possession of an unregistered firearm would only constitute a minor, additional charge which would be placed against him. Where there is no evidence of a crime being committed, police do not have authority to search persons or homes for unregistered firearms without a search warrant.
4. Virtually all of the states already have laws which either require a permit for carrying a concealed firearm or prohibit it altogether.
5. The presence or absence of registration is not a determining factor in either suicides or accidents.
6. It should be up to the individual to keep a record of the serial numbers of his own firearms in case of theft. There is no need for the government to assume this function for the firearm owner.
7. The high costs of instituting and maintaining a firearms registration program would not be justified in terms of the extremely limited benefits which it would be expected to provide.

8. Registration would be used as a subterfuge to eventually deny firearms ownership to legitimate citizens as is now the case with handguns in New York City.

A control issue in the concept of registration and/or licensing is the cost factor. Either program would involve substantial costs on a statewide or national basis. The question is -- how much?

Research Associates, Incorporated, of Silver Springs, Maryland, conducted a preliminary cost analysis of firearms control programs for the National Commission on the Causes and Prevention of Violence. The researchers contacted various state and federal officials and established approximate costs for the types of activities usually involved in processing license applications. The following chart lists the sample programs (see Table II) and indicates the extent of processing involved. Programs "A" through "D" do not involve State or FBI fingerprint checks nor do they require a certification of mental competency. These procedures are not as costly as those followed in programs "F" and "G". Generally, the more extensive the search the more costly the program since additional agencies are involved.

Although both licensing and registration are intended to reduce the misuse of handguns, licensing could be expected to have the greater impact on crime. For all intents and

Table II

Sample Program Costs

Sample Program	Supervision and Approval	Clerical	Investigator Check	File Check	Overhead @ 50%	State Fingerprint Check	FBI Fingerprint Check	Mental Competency Check	Total Cost per Application
A	1/6 MH \$.96	1/2 MH \$1.57		1/2 MH \$1.93	\$ 2.23				\$ 6.69
B	1/6 MH \$.96	1/2 MH \$1.57	1 MH \$ 3.85		\$ 3.19				\$ 9.57
C	1/6 MH \$.96	1/2 MH \$1.57	1 MH \$ 3.85	1/2 MH \$1.93	\$ 4.16				\$12.47
D	1.6 MH \$.96	1 MH \$3.13	1 MH \$ 3.85	1/2 MH \$1.93	\$ 4.94				\$14.81
E	1/6 MH \$.96	1 MH \$3.13		1/2 MH \$1.93	\$ 3.01	\$2.50	\$2.43		\$13.96
F	1/6 MH \$.96	1 MH \$3.13	3 MH \$11.55	1 MH \$3.85	\$ 9.75	\$2.50	\$2.43	\$.50	\$34.67
G	1/6 MH \$.96	1 MH \$3.13	6 MH \$23.10	1 MH \$3.85	\$15.52	\$2.50	\$2.43	\$.50	\$51.99

purposes, registration (without owner's licensing), may be considered an "after the fact" measure. The primary benefit of registration is the capability of handgun tracing, perhaps to solve the crime. But according to information gathered by Alan Krug, Director of Research for the National Shooting Sports Foundation, Inc., few law enforcement agencies have been able to solve major crimes by tracing a firearm by serial number (see Table III).

Licensing, on the other hand, is designed to keep firearms out of the hands of certain persons. Some persons would always be able to obtain handguns for illegal activities, but licensing requirements would make it more difficult and less attractive for criminals to obtain handguns.

One additional form of handgun control is the mandatory waiting period between the time of purchase and the delivery of the firearm to the purchaser. Currently, 14 states have mandatory waiting periods of various duration (the State of Illinois applies the waiting period requirement to all firearms). Georgia has no statutory waiting period for handguns or other firearms.

The basic intent of the waiting period is to avoid having someone purchase a handgun in the heat of anger, to use it against someone moments later. The waiting period therefore

Table III
Major Crimes Reported by State Law Enforcement Agencies as Being Solved
Through the Tracing of a Firearm by Serial Number: 1958-1967.
Number of Cases Reported Solved

<u>State</u>	<u>Murder and Non- negligent Manslaughter</u>	<u>Aggravated Assault</u>	<u>Robbery</u>
Alabama ¹	0	0	0
Alaska	0	0	0
Arizona	0	0	0
Arkansas ²	0	0	0
California	0	0	0
Colorado	0	0	0
Connecticut	0	0	0
Delaware	0	0	0
Florida	0	0	0
Georgia	0	0	0
Hawaii	2	0	0
Idaho	0	0	0
Illinois	0	0	0
Indiana	0	0	0
Iowa	0	0	0
Kansas	0	0	0
Kentucky	0	0	0
Louisiana	0	0	0
Maine	1	0	0
Maryland	0	0	0
Massachusetts ¹	0	0	0
Michigan	0	0	0
Minnesota	0	0	0
Mississippi	0	0	0
Missouri	0	0	0
Montana	0	0	0
Nebraska	0	0	0
Nevada	0	0	0
New Hampshire	0	0	0
New Jersey	1	0	0
New Mexico	0	0	0
New York	0	0	0
North Carolina	0	0	0
North Dakota	0	0	0
Ohio	0	0	0
Oklahoma	0	0	0
Oregon	*	*	*
Pennsylvania ¹	0	0	0
Rhode Island ¹	0	0	0
South Carolina	0	0	0
South Dakota	0	0	0
Tennessee ³	0	0	0
Texas	2	0	2
Utah	0	0	0
Vermont	0	0	0
Virginia	0	0	0
Washington	0	0	0
West Virginia	0	0	0
Wisconsin	0	0	0
Wyoming	0	0	0

- 1 Did not respond to survey.
- 2 Responded but declined to take part in the survey.
- 3 Tennessee replied to the survey but was unable to complete the questionnaire because it would require "a large number of man hours reviewing thousands of cases...".
- * The Oregon Department of State Police reported, "We have had a number of cases involving serious crimes wherein tracing of a firearm by serial number resulted in identification of the criminal responsible for the offense. Statistical breakdown is such that in order to arrive at specific numbers manual checking of the files would be required. We do not feel that this end justifies the effort.

Source: National Shooting Sports Foundation.

Editorial Comment:

A close examination of the figures raises some doubt about the accuracy of the responses. There is really no way to be sure that agencies responding with a "zero" simply did not feel that the time involved in record checks would be worth the argument. Therefore, any conclusion drawn from this data should allow for this possibility.

serves as a "cooling off period". The waiting period is also designed to keep handguns out of the hands of those persons not having time to wait, such as fugitives from justice.

The waiting period was probably not intended as an opportunity for an extensive background check of the purchaser, although they may be used for this purpose. Waiting periods, in those states where they are in effect, are generally not of sufficient duration (48 hours to 1 week) to allow for anything other than a check of local records.

Opponents of handgun control efforts generally object to waiting periods as an unnecessary inconvenience upon the law-abiding citizens desiring to purchase a handgun.

CHAPTER VIII - MANDATORY SENTENCES

If handgun misuse is to be controlled, an obvious consideration is to impose specific penalties upon handgun offenders. Such offenses usually range from armed robbery and armed assault to lesser offenses, such as carrying a concealed weapon or carrying a handgun without a license. In order to combat the threat of violent handgun-related behavior, it has been recommended by some that mandatory sentences be imposed upon these individuals.

The term "mandatory sentence" can mean a number of different things to different people. Some clarification, therefore, is necessary. Generally, the term "mandatory sentence" refers to confinement for the convicted offender in a penal institution for a specified period of time. The mandatory sentence may not be suspended or "split" (serving part of the sentence in confinement and the remainder in the community - for example, on probation).

Proponents of mandatory sentences maintain that this form of disposition will serve as an effective deterrent for those considering the criminal use of a handgun. Failing in this regard, the mandatory sentence will at least assure that the offender will be removed from the community. Although

"deterrence theory" has from time to time been challenged by scholars and professionals, the concept is a deeply rooted heritage in Anglo-Saxon penal philosophy. And certainly many citizens would not object to the removal of handgun offenders from society. But the concept and practice of mandatory sentences is not without its drawbacks. A number of national commissions have examined the subject and some of their criticisms are as follows:⁹

1. Mandatory sentences prevent judges from basing sentences on important individual factors.
2. Avoidance of mandatory sentences may be a practical necessity, particularly for the prosecutor, who relies on the possibility of leniency to obtain guilty pleas.
3. Judges and prosecutors often resort to sub rosa methods to get around the rigid requirements set by mandatory sentencing legislation; prosecutors for example, engage in pre-indictment plea bargaining, and judges dispense unauthorized sentences.
4. Where prosecutors have sought the imposition of long mandatory sentences, the courts have often refused to enforce the statutes or have narrowed their application. Under former New York penal law, for example, the courts construed to term "convicted" in the law requiring long mandatory sentences as not including offenders who had previously been found guilty of a felony which had resulted in a suspended sentence.
5. By sharply curtailing judicial discretion in sentencing, the legislature unintentionally transfers discretion to the prosecutor, to the extent that it entrusts the prosecutor with undue advantage in plea negotiations.
6. Legislators should not impose mandatory sentences. They are counter-productive to public safety, and they hinder correctional programming without any corresponding benefit. To the extent that the mandatory provision requires an individual offender to be incarcerated longer than necessary, it is wasteful of public resources. To the extent that it denies correctional programming such as probation or parole to a particular offender, it lessens the chance for successful re-integration into the community. To the extent that mandatory sentences are enforced, they have a detrimental effect on corrections.

7. In some cases, when a marginal offender has committed an offense, the judge feels the mandatory sentence is inappropriate and dismisses the cases or acquits the offender; similarly, a judge may decide not to convict because it does not believe that the mandatory sentence is warranted.
8. Mandatory prison terms are ineffective and perhaps counterproductive because incarceration is ineffective and counterproductive. Long prison terms may be self-defeating. The threat of punishment has different results depending upon the nature of the offense and the individual offender; for most offenders, incarceration is not an effective answer.

The weight and extent of these statements indicate that further study is necessary before mandatory sentences for all handgun offenders can be considered.

CHAPTER IX - FEDERAL AND GEORGIA LAWS

The National Firearms Act of 1934

This act is generally viewed as an effort to control the widespread "gangster type" acts of the period. The law itself imposed a heavy tax on the commerce (transfer) of many weapons such as machine guns, sawed off shotguns, and silencers. Anyone owning such a weapon including manufacturers, dealers and importers was required to register the firearm.

The Federal Firearms Act of 1938

This law provided for more comprehensive control of firearms. Interstate commerce of many types of firearms and ammunition was regulated and required Federal licenses of all manufacturers, dealers and importers of weapons shipped in interstate commerce. This act also prohibited the interstate mailing of firearms to known felons, fugitives from justice, and persons under indictment. Recordkeeping was also required by licensed dealers.

The Gun Control Act of 1968

The stated purpose of this act was to assist state and local governments in controlling firearms traffic within their jurisdictions without imposing undue Federal restrictions on law abiding citizens. The law contains the following provisions:

- No one except licensed manufacturers, dealers, and importers may "engage in the business" of importing, manufacturing or dealing in firearms or ammunition or "in the course of such business" ship, transport or receive any firearm or ammunition in interstate commerce;
- Standards for obtaining firearms licenses are considerably tightened and fees raised;
- Licensees may not ship firearms or ammunition interstate to non-licensees;
- Licensees may not furnish firearms or ammunition to anyone they know or have reason to believe is a fugitive from justice, a convicted felon or under indictment for a felony, as unlawful drug user or addict, or an adjudicated mental defective or one who has been committed to any mental institution;
- Licensees may not sell rifles or shotguns or ammunition thereof to anyone they know or have reason to believe is under 18 or handguns or ammunition thereof to anyone under 21;

- Licensees may not sell firearms or ammunition to anyone who is prohibited from purchasing or possessing by state or local law applicable at the place of sale or delivery, unless there is reason to believe the purchase or possession is not illegal;
- Licensees may not sell firearms to persons who do not appear personally, unless the purchaser submits a sworn statement that his purchase is legal, a copy of which the licensee must forward to the Chief Law Enforcement Officer in the purchaser's locality 7 days before shipment;
- Licensees must note in their records the names, ages, places of residence of firearms and ammunition purchasers;
- Licensed importers and manufacturers are required to put serial numbers on all firearms;
- Fugitives from justice, convicted felons or persons under indictment for a felony, unlawful users of certain drugs, adjudicated mental defectives, and persons once committed to a mental institution may not receive, ship, or transport any firearm or ammunition in interstate or foreign commerce or receive any firearm or ammunition which has been so shipped or transported;

- No one may provide a firearm to anyone who he knows or has reason to believe is a nonresident of the State;
- No one except licensees may transport into or receive in their State of residence firearms acquired elsewhere;
- No one may deliver a firearm or ammunition to any carrier without written notice;
- Carriers may not transport or deliver firearms or ammunition in interstate commerce with knowledge or reasonable cause to believe the shipment, transportation or receipt would violate the act;
- No one may make a false statement intended to or likely to deceive a licensee with respect to the lawfulness of his acquisition of a firearm or ammunition;
- No one may import a firearm unless he satisfies the Secretary of the Treasury that it is "particularly suitable for or readily adaptable to sporting purposes" and is not a surplus military firearm;

- Non-licensees may not transport, ship or receive in interstate commerce and licensees may not sell or deliver to anyone any "destructive device", machine gun, short barreled rifle, or short barreled shotgun, except as specifically authorized by the Secretary of the Treasury consistent with "public safety and necessity".

GEORGIA FIREARMS STATUTES

Several sections of Georgia laws pertain to firearms.

Section 26-99100 also known as the "Georgia Firearms and Weapons Act" prohibits the possession of certain weapons such as sawed-off shotguns, sawed-off rifles, machine guns, silencers or other dangerous weapons. There are exceptions provided for Federal, State, and local law enforcement personnel, correctional personnel and military persons.

Section 26-2901 prohibits the carrying of a concealed weapon (unless the person has a license as authorized under Section 26-2904).

Section 26-2903 prohibits deadly weapons at public gatherings.

Section 26-2903 prohibits the carrying of a pistol without a license.

Section 26-2905 prohibits the furnishing of weapons to minors.

Section 92A-901 requires the licensing of dealers for the sale of pistols, revolvers or short barreled firearms of less than 15 inches in length. The license is to be obtained from the Department of Public Safety.

Other sections of the Georgia laws regulate the purchase of rifles and shotguns by Georgia residents in contiguous states, prohibit the possession of a firearm during the commission of a crime, and prohibit discharging firearms on or near public highways. There is no state law in Georgia requiring a background check on the purchaser of a handgun or other firearms.

As least thirteen states and the District of Columbia require a waiting period (of various duration) between the time of purchase and the delivery of the handgun to the purchaser. Georgia does not have a similar mandatory waiting period.

There is no state law in Georgia requiring the registering of a handgun once it has been purchased.

And finally, a citizen of Georgia is not required to obtain a license (or permit) to purchase a handgun as is the case in six states.

CHAPTER X - RECOMMENDATIONS AND SUMMARY

In the multi-year criminal justice plan, Criminal Justice in the Atlanta Region - A Plan for Action, the issue of handguns and handgun control was addressed. Due to the importance of the issue, the Atlanta Regional Commission directed its Criminal Justice Planning Division staff to examine the subject more extensively with particular attention on the so-called "Saturday Night Special."

As a result of an extensive examination of various data and the significant pro and con arguments surrounding the handgun control debate, a number of recommendations were formulated. Throughout the development of these recommendations every effort was made to balance the rights of the individual to own, possess, and use firearms with the right of all persons to be free of the threat posed by the misuse of firearms, particularly handguns.

Various proposals have been formulated in an attempt to control handgun misuse. Some of the more controversial proposals include such recommendations as a total ban on the private possession of handguns, registration of all handguns, and mandatory sentences for those persons convicted of handgun related offenses.

Because a total ban on the private possession of handguns would probably be unenforceable, and somewhat questionable from a constitutional viewpoint, such a recommendation was not made here. Similarly, because registration of all handguns is seen as having little value as a before-the-fact form of controlling handgun related street crimes, accidents or suicides and because such a system would be expensive and of dubious benefit when compared with the cost factor, a recommendation for registration of all handguns was not made. Finally, because the possible impact of mandatory sentences on plea bargaining and the entire criminal justice system has not been thoroughly examined, a recommendation advocating mandatory sentences has not been proposed.

It is believed, however, that a number of actions can be taken which will have the desired effect of reducing the misuse of handguns. With this goal in mind a number of recommendations have been established. These recommendations are as follows:

1. Legislation should be enacted requiring a "license to carry" as a prerequisite to the purchase of handguns. Such a system is intended to be "permissive" in that the applicant is presumed to be eligible for the license unless disqualified for a specific reason or reasons.

The license to purchase concept should be incorporated into the current procedure for obtaining a license to carry. This will avoid unnecessary duplication and cost. Adopted ARC policy calling for repeal of sections of current law which permit the carrying of concealed weapons should be emphasized.

Currently, in order to purchase a pistol in Georgia, one goes to a dealer fills out a form 4473, pays for the pistol and leaves. A license to purchase will prevent "criminals" from legitimately or legally obtaining handguns. This could possibly rapidly "dry up" the major source of handguns for criminals. Legitimate purchasers will not be prevented from buying handguns nor will they be unduly hampered from such purchase. Use is made of the existing system, thus preventing establishment of a costly bureaucracy for administering a system to regulate purchases. Also, it avoids requiring two separate permits, one to purchase and one to carry handguns with the same basic background check and application procedure required.

This can be accomplished by amending Ga. Code 26-2904 to read as follows: (additions underlined)

"26-2904. License to carry or purchase pistol...

(a) ...authorizing them to carry or purchase any pistol...

(3) ...for a license to carry or purchase a
pistol or revolver...

(b) ...Each law enforcement agency, upon receiving such applications and obtaining such fingerprints shall promptly conduct a thorough search of their records and records to which they have access to specifically include the Criminal Case History Files of the Georgia Crime Information Center (GCIC) and the National Crime Information Center (NCIC), and shall notify...

...a license to carry or purchase any pistol or

(c) ...or for violations of Code Sections 26-2901, 26-2902, or 26-2903. It shall be unlawful for anyone to falsify information to obtain a license and anyone doing so shall be guilty of a felony and, upon conviction, shall be imprisoned for not less than one nor more than five years. A license to purchase or carry a pistol or revolver may not be used by anyone other than the person

to whom the license was lawfully issued and anyone using anothers license shall be guilty of a misdemeanor. It shall be unlawful for anyone to sell a pistol or revolver to anyone who is not in possession of a valid license, and anyone doing so shall be guilty of a felony, and, upon conviction shall be imprisoned for not less than one nor more than five years...

- (f) Upon issuance of a license the probate judge shall present the licensee a copy of the pertinent code sections dictating handgun regulations.
- (g) This license shall not be interpreted to permit the holder to carry a concealed weapon.
- (h) In order to carry a concealed weapon a person must receive a stamp to be attached to the license. In order to receive this stamp, an individual must demonstrate a need to carry a weapon concealed to the statifactory of the probate judge of the county in which the license was issued. The additional stamp would cost five (5) dollars.

2. Those persons who commit crimes with a firearm should receive swift and certain justice. Programs placing

special attention on these persons by the prosecutors and the courts should be emphasized. These programs should include speedy indictment, arraignment and trial for individuals based on the seriousness of the crime and the criminal history of the individual. The programs should also place restrictions on plea bargaining and provide for longer terms of incarceration for repeat offenders.

3. Public education programs on the proper care and handling of all firearms should be emphasized. The programs should be oriented toward safety considerations including storage of firearms around the home.

These programs could be presented as a public service by the mass media and could be made a part of the regular curricula of the public schools.

4. Legislation should be enacted to ban the manufacture, assembly, possession and/or sale of "Saturday Night Specials." As part of this recommendation, a set of factoring criteria have been established to determine whether or not a particular handgun is, in fact, a "Saturday Night Special." The criteria were established in such a way as to eliminate many poor quality handguns without including many quality handguns currently used for such purposes as target shooting.

None of these recommendations shall apply to curios or relics which are defined as follows:

CURIOS OR RELICS. Firearms or ammunition which are of special interest to collectors by reason of some quality other than is ordinarily associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms and ammunition must fall within one of the following categories:

- (a) Firearms and ammunition which were manufactured at least 50 years prior to the current date, but not including replicas thereof;
- (b) Firearms and ammunition which are certified by the curator of a municipal, State, or Federal museum which exhibits firearms to be curios or relics of museum interest; and
- (c) Any other firearms or ammunition which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period or event. Proof of qualification of a particular firearm or item of ammunition under this category may be established by evidence of

present value and evidence that like firearms or ammunition are not available except as collector's items, or that the value of like firearms or ammunition available in ordinary commercial channels is substantially less.

FOOTNOTES

- ¹Hearings before the House Judiciary Subcommittee on Crime, March 20, 1975, Part I, p. 264
- ²National Council to Control Handguns, The Case to Control Handguns, Washington, D. C., December 1976, p. 3
- ³National Shooting Sports Foundation, Inc., Firearms Registration, Riverside, Connecticut, p. 2
- ⁴Atlanta Criminal Justice Coordinating Council, 1976 local Criminal Justice Master Plan, p. 404
- ⁵Handgun Control Project of the United States Conference of Mayors, "Handgun Control...issues and alternatives." (c) 1975, p. 13
- ⁶Ibid, p. 32
- ⁷Ibid, p. 31
- ⁸Krug, Alan S., Firearms Registration: Costs vs. Benefits, National Shooting Sports Foundation, 1970, Riverside, Connecticut, p. 1
- ⁹Yeager, Matthew G., Do Mandatory Sentences for Handgun Offenders Curb Violent Crime? Technical Report: One, 1976, p. 25

APPENDIX A

APPENDIX A

Saturday Night Special - A Definition

Any legal weapon would be required to meet the following criteria:

Pistol

- I. Positive manually operated safety, or safety device equal to or superior to the manually operated safety device; and

Revolver

- I. Safety device which either by automatic operation in the case of a double action firing mechanism or by manual or automatic operation in the case of a single action firing mechanism, causes the hammer or transfer bar to retract to a point where the firing pin does not rest upon the primer or cartridge and which once activated is capable of withstanding the impact of a weight, equal to the weight of the revolver, dropped a total of five times from a height of thirty-six inches above the rear of the hammer spur with the revolver in a position such that the line of the barrel is perpendicular to the place of the horizon; or has a safety device equal or superior to those listed above.

II. Attains a total of at least 50 points under the following criteria:

A. Overall length:
(measured from the muzzle, parallel to the line of the bore, to the back of the part of the weapon that is furthest to the rear of the weapon)

(1) A point for each inch up to 6 inches.

(2) 1 point for each $\frac{1}{4}$ inch over 6 inches.

B. Overall height: (measured from the top of the weapon excluding sights, at a perpendicular measurement to the line of the bore, to the bottom of the frame, excluding magazine extensions, or releases)

II. Attains a total of at least 45 points under the following criteria:

A. Overall length:
(measured from the muzzle, parallel to the line of the bore, to the back of the part of the weapon that is furthest to the rear of the of the weapon)

(1) A point for each inch inch up to 6 inches.

(2) 1 point for each $\frac{1}{4}$ inch over 6 inches.

B. Overall height: (measured from the top of the weapon, excluding sights, at a perpendicular measurement to the line of the bore, to the bottom of the frame)

(1) $\frac{1}{4}$ point for each inch
up to 4 inches

(2) 1 point for each $\frac{1}{4}$ inch
over 4 inches

C. Frame construction:

(1) die cast zinc alloy
or other material with
a melting temperature of
less than 800 degrees
Fahrenheit - 0 points

(2) Steel - 5 points

(3) High tensile strength
alloy - 10 points

D. Weight - 1 point for each
ounce, with the pistol un-
loaded and the magazine
in place

E. Caliber:

(1) Accepts only .22 caliber
short or .25 ACP caliber
ammunition - 1 point

(1) $\frac{1}{4}$ point for each
inch up to 4 inches

(2) 1 point for each $\frac{1}{4}$
inch over 4 inches

C. Frame construction:

(1) die cast zinc alloy
or other material with
a melting temperature
of less than 800 degrees
Fahrenheit - 0 points

(2) Steel - 5 points

(3) High tensile strength
alloy - 10 points

D. Weight: 1 point for each
ounce with the revolver
unloaded

E. Caliber:

(1) Accepts only .22 caliber
short or .25 ACP caliber
ammunition - 1 point

(2) Accepts either .22 caliber long rifle ammunition or any ammunition within the range delimited by 7.65 millimeter and .380 caliber automatic - 3 points

(2) Accepts either .22 caliber long rifle ammunition or any ammunition with the range delimited by .30 caliber and .38 caliber - 3 points

(3) Accepts nine millimeter parabellum ammunition or ammunition of an equivalent or greater projective size and power - 5 points

(3) Accepts .357 magnum or ammunition of an equivalent or greater projectile size and power - 5 points

F. Safety features:

1. Locked breech mechanism
- 3 points
2. loaded chamber indicator
- 3 points
3. cocked position indicator
- 3 points
4. grip safety - 3 points
5. magazine safety - 3 points

F. Safety features:

1. three points if the revolver has a grip safety

6. firing pin block or
lock - 5 points
7. slide hold-open device
- 3 points
8. external hammer - 3 points

G. Additional features:

1. double action firing
mechanism - 5 points
2. drift adjustable sights
- 5 points
3. screw adjustable windage
and elevation sights -
5 points
4. target grips - 3 points

G. Additional features:

1. front supported or
shrouded ejector rod
- 2 points
2. retracting firing pin
- 2 points
3. steel recoil plate -
2 points
4. crane mounted cylinder
or rear latch top break
for double action re-
volver - 5 points

5. target trigger - 3 points
5. spring-loaded ejector assembly and loading gate for single action revolver - 5 points
6. drift adjustable sight - 5 points
7. screw adjustable windage and elevation - 5 points
8. target grips - 3 points
9. target trigger - 3 points

Definitions:

Revolver as used herein refers to a handgun having a revolving chambered cylinder for holding cartridges.

Pistol as used herein refers to a semiautomatic weapon which is loaded with clip or magazine or any single shot handguns.

APPENDIX B

OPINION POLLS

Over the years a number of opinion polls have been taken on the issue of firearms control. The results of some of these polls are as follows:

SUPPORT FOR GUN CONTROL, SELECTED YEARS (1938-1972)

FAVOR GUN CONTROL

<u>YEAR</u>	<u>U.S. PUBLIC</u>	<u>GUNOWNERS</u>
1938	79%	
1940	74	
1959	75	65%
1964	78	
1965	73	
1966	69	
1967	73	
1968	71*	
1969	84	
1970	71	
1971	66	
1972	71	61%

*From the Harris Survey, all other figures from the Gallup Poll.

PUBLIC RESPONSE TO POLICE PERMIT REQUIREMENT SELECTED YEARS (1959-1972)

Question: "Would you favor or oppose a law which would require a person to obtain a police permit before he or she could buy a gun?"

<u>YEAR</u>	<u>FAVOR</u>	<u>OPPOSE</u>	<u>NO OPINION</u>
1959	75%	21%	4%
1964	78	17	5
1965	73	23	4
1966	68	29	3
1967	73	24	3
1971	71	25	4
1972	71	25	4

REGISTRATION OF FIREARMS, GALLUP SURVEY (1975)

	<u>Favor Registration</u>	<u>Oppose Registration</u>	<u>No Opinion</u>
Nationwide	67%	27%	6%
Men	61	33	6
Women	72	22	6
College background	73	22	5
High school	68	27	5
Grade school	57	33	10
East	74	20	6
Midwest	64	31	5
South	66	28	6
West	63	33	4

BANNING THE POSSESSION OF HANDGUNS, GALLUP SURVEY (1975)

	<u>Should Be Law Forbidding Possession</u>	<u>Should Not Be</u>	<u>No Opinion</u>
Nationwide	41%	55%	4%
East	58	37	5
Midwest	44	53	3
South	27	69	4
West	29	65	6
City size:			
1 million & over	66%	29%	5%
500,000-999,999	44	53	3
50,000-499,999	40	55	5
2,500-49,999	36	58	6
Under 2,500	28	69	3
Men	35	62	3
Women	46	49	5
College background	49	47	4
High school	39	57	4
Grade school	36	59	5
Gunowners	24	74	2
Non-gunowners	54	40	6

An examination of these polls would seem to indicate that those surveyed generally favored various forms of firearms control. But according to a report prepared by the NRA Institute for Legislative Action a survey recently conducted by Decision Making Information challenges the conclusions formulated as a result of the Harris and Gallup Polls. The Institute maintains that "an overwhelming majority of the American people fully understand and believe in the right of the individual citizen to keep and bear arms; and that a majority of Americans believe that the answer to rising crime is not found in gun control schemes, but in dealing with criminals." A summary of the major findings follows:

82 percent of the American people believe that they, as citizens, have a right to own firearms.

By a margin of 76 percent against 24 percent, Americans decisively reject a ban on private ownership of handguns.

Fully half the public thinks a national gun registration program would lead eventually to confiscation of guns by the government.

78 percent believe that the U.S. Constitution gives them "the right to keep and bear arms," and 73 percent reject the notion that this right pertains only to the national guard.

Americans overwhelmingly reject (71 percent) any law which would give police authority to decide who may or may not own a gun.

Of those surveyed, 46 percent had at least one firearm in the home. In 62 percent of the firearms-owning households, the firearm was owned by the person actually interviewed; thus, the overall percentage of firearms owners in the adult population was about 29 percent.

78 percent of the public feel that neither of the two recent attempts to assassinate President Ford could have been prevented by a national handgun registration law, and 71 percent reject the idea that assassination attempts on public officials could be avoided by banning altogether the private ownership of handguns.

55 percent of those in firearms-owning households cited self-defense as one of the reasons they owned a gun.

73 percent of the public does not believe that a federal law requiring all guns to be turned in would be effective in reducing crime.

When asked to indicate what it felt was the most important national problem, and the most important community problem, the public gave gun control practically no attention--less than 1/2 percent mentioned it.

When asked to suggest ways to reduce crime, only 11 percent volunteered gun control as a solution. In contrast, by far the most popular suggestion was more severe punishment of criminals (33 percent). Only 1 percent mentioned registration of firearms, and less than 1 percent suggested a ban on so-called "Saturday Night Specials."

The public foresees immense difficulties in enforcing on a national scale either a gun registration or a confiscation law, if such were to be passed. Only 23 percent of the public believes most gun owners would register their guns; only 9 percent of the public believe that more than half of the gun owners would turn in their guns.

Public knowledge of existing federal firearms laws is exceedingly poor. Asked five basic questions about buying guns (by mail-order, in another state, etc.), 71 percent could not answer more than three questions correctly. More than one-fourth (28 percent) could answer none, or only one, question correctly.

50 percent of firearms-owning households contain at least one handgun. Among blacks, the percentage rises to 26 percent.

84 percent believe that gun registration will not prevent criminals from acquiring or using handguns for illegal purposes.

If a gun registration law were to be passed, only 30 percent believe it should be administered by the federal government. 63 percent would prefer it closer to home, run by state or local authorities.

Only 36 percent agree that firearms registration would help solve crimes through tracing; the remaining 64 percent think crimes will not be solved by registration because criminals would not register their guns.

Only 30 percent agree that a ban on private handgun ownership would reduce crime; 70 percent accept the view that if criminals couldn't get handguns, they'd simply use rifles and shotguns instead.

Only 30 percent believe that firearms registration would make it more difficult for the potential criminal to get a gun; fully 70 percent think that potential criminals determined to get guns would get them anyway.

In the November, 1976 elections a referendum was placed on the ballot in the State of Massachusetts to ban the private possession of handguns. Massachusetts already had one of the most stringent gun control statutes in the country (known as the Bartley-Fox law).

The election results indicated that the referendum to ban the private possession of handguns was defeated by an overwhelming 2 to 1 margin. Efforts are now underway by some interested groups to isolate those factors that may have led to the lopsided vote.

APPENDIX C

RECOMMENDATIONS OF NATIONAL COMMISSIONS

The firearms issue has been examined by at least five (5) national commissions since 1965. The recommendations made by these various commissions range from a strengthening of registration requirements to an enactment of state legislation prohibiting the private possession of firearms. A listings of these commissions and a summary of their recommendations follow.¹

COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE.

President Johnson established the Commission on Law Enforcement and the Administration of Justice through Executive Order 11236 on July 23, 1965.

RECOMMENDATIONS:

1. Federal and State governments should enact legislation outlawing transportation and private possession of military-type firearms, such as, bazookas, machine guns, motars and anti-tank guns.

States should enact laws prohibiting certain categories of persons, such as, habitual drunkards, drug addicts, mental incompetents, persons with a history of mental disturbance and persons convicted of certain offenses from buying, owning or possessing firearms.

Each State should require the registration of all handguns, rifles, and shotguns. If, after five years, some states still have not enacted such laws, Congress should pass a Federal Firearms Registration Act applicable to those states.

Each state should require a person to obtain a permit before he can either possess or carry a handgun. Through licensing provisions, Federal law should prohibit mail order and other interstate sales of handguns and should regulate such sale of rifles and shotguns.

Federal legislation should prohibit the interstate shipment of handguns except between Federally licensed importers, manufacturers and dealers. A Federal licensee should also be prohibited from selling handguns to an individual not living in the state of the seller. The interstate shipment of shotguns and rifles should be delayed a sufficient time for law enforcement authorities in the buyers home town to examine his sworn statement and the consent of these authorities should be required before the weapon may be shipped.

The Crime Commission also recommended a continuing effort to find non-lethal weapons to replace the handgun so that victims of guns are merely incapacitated and not killed.

NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS.

Executive Order 11365 issued by President Lyndon Johnson on July 29, 1967, created the National Advisory Commission on Civic Disorders.

RECOMMENDATIONS:

1. All State and local governments should enact gun control legislation of the type recommended by the Commission on Law Enforcement and the Administration of Justice.

Federal legislation is essential in order to make State and local laws fully effective and to regulate areas beyond the reach of State government.

Both State and local governments should consider enactment of laws and ordinances controlling the storage of firearms and ammunition in order to diminish the possibilities of theft. Such laws could require, for example, that all firearms and ammunition be stored in heavily protected vaults or areas or that essential parts of the firearms be so stored.

The Federal government should undertake an immediate program to test and evaluate available non-lethal weapons and related control equipment for use by police and control forces.

NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE

Executive Order 11412 issued by President Lyndon Johnson on June 10, 1968, established the National Commission on the Causes and Prevention of Violence.

RECOMMENDATIONS:

The staff report on "Firearms and Violence in American Life" concluded that the only way to reduce gun violence is to reduce sharply the number of handguns in civilian hands in this country. It called for the establishment of minimum standards for state firearms control systems, a national standard for handgun licensing, a safety test for handgun owners, strict regulation of firearms dealers, establishment of identification systems to record stolen or lost handguns, and a system of periodic auditing of licensed handgun owners.

The report also recommended a Federally financed program to purchase handguns from private citizens and to grant amnesty to persons handling in illegally owned handguns.

NATIONAL COMMISSION ON THE REFORM OF FEDERAL CRIMINAL LAWS

Public Law 89-801 created a National Commission on the Reform of Federal Criminal Laws charging such commission to make a full and complete review of the statutes and case law of the federal system of criminal justice.

RECOMMENDATIONS:

The majority of Commissioners recommend that Congress ban the production and possession of and trafficking in handguns with exceptions only for military, police and similar official activities; and

Require registration of all firearms.

NOTE: A substantial body were of the opinion the Commission opposes and federal involvement in firearms control beyond that embodied in existing legislation.

THE NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS

The National Advisory Commission on Criminal Justice Standards and Goals was appointed by the Administrator of the Law Enforcement Assistance Administration on October 20, 1971.

RECOMMENDATIONS:

The Commission recommends that existing federal, state and local laws relating to handguns be strenuously enforced. It further recommends that states undertake publicity campaigns to educate the public fully about laws regulating the private possession of handguns.

The Commission urges the enactment of state legislation providing for an extended prison term with a maximum term of 25 years for committing a felony while in possession of a handgun.

The Commission urges the enactment of state legislation providing for police discretion in stop and frisk searches of persons and searches of automobiles for illegal handguns.

The Commission urges the enactment of state legislation prohibiting the manufacture of handguns, their parts and ammunition.

The Commission urges the enactment of state legislation prohibiting the sale of handguns, their parts and ammunition to other than law enforcement agencies or federal or state governments for military purposes.

The Commission urges the enactment of state legislation establishing and funding the state agency authorized to purchase all voluntarily surrendered handguns and further authorized to register and modify handguns to be retained by private citizens as curios, museum pieces or collectors items.

The Commission further urges the enactment of state legislation not later than January 1, 1973 prohibiting the private possession of handguns after that date.

Material excerpted from Handgun Control - Issues and Alternatives
Handgun Control Project, U.S. Conference of Mayors, copyright,
1975

CRIMINAL JUSTICE STANDARDS AND GOALS FOR GEORGIA

HANDGUN REGISTRATION AND LICENSING PHASE I

RECOMMENDED STANDARDS

All handgun owners should be required to meet minimum qualifications, possess a handgun owners license and register all handguns. The purchase of a handgun should be preceded by designated waiting period. Finally, the importation, manufacture, assembly, sale, possession and use of all substandard handguns and component parts should be prohibited.

The Georgia Bureau of Investigation, the Department of Public Safety and the State Crime Commission should be jointly responsible for defining minimum standards relating to the physical and mechanical characteristics of handguns. The expertise of persons in the munitions and weapons industries should be relied upon for all necessary technical information. Once the standards are defined, they should be legislatively enacted. All handguns not meeting those standards should be declared illegal. Using the Illinois and New York model, legislation should be introduced into the General Assembly to effectuate a meaningful handgun registration and licensing law.

APPENDIX D

GEORGIA COURT DECISIONS ON HANDGUNS

1. Nunn vs. State, 1 Keely (Ga.) 243 (1846)

Lumpkin, Judge, ". . . so far as the act of 1837 . . . a prohibition against bearing arms openly, is in conflict with the Constitution (of the United States)."

2. Stockdale vs. State, 32 Ga. 225 (1861)

Trial court had charged that to conceal any part of a pistol was a violation of the law. S.Ct. reversed. "The legislature (intended) . . . to compel persons who carried those weapons to so wear them about their persons, that others, who might come in contact with them might see that they were armed and dangerous persons who were to be avoided . . . " at 227.

3. Hill vs. State, 53 Ga. 472 (1874)

McCay, J., "I have always been at a loss that extends the guarantee (to bear arms) to the right to carry pistols, dirks, Bowie knives, and other weapons of like character, which as all admit, are the greatest nuisances of our day. It is . .

. a perversion of the meaning of the word 'arms' .
. . to treat it as including weapons of this
character." at 474.

" . . . it is obvious that the right to bear arms
about the person at all times and under all circum-
stances, is not necessary for the declared object
. . . that it does not even secure the great
purpose sought . . . that the people shall be
familiar with the use of arms and capable . . .
of becoming efficient militiamen." at 476.

"The preservation of the public peace, and the
protection of the people against violence, are
constitutional duties of the legislature, and the
guarantee of the right to keep and bear arms is to
be understood and construed in connection and
harmony with these constitution duties." at 477.

"When the constitution grants to the general
assembly the right to prescribe the manner in
which arms may be borne, it grants the power to
regulate the whole subject of using arms . . ." at
480.

4. Strickland vs. State, 137 Ga. 1, 72 S.E. 260 (1911); S.C.
S.C. 9 Ga. App. 855 (1911)

Lumpkin, Joseph Henry, Jr.,

"Many persons are required to obtain a license before engaging in certain business or performing certain acts;"

". . . it has been declared that at common law riding or going about armed with dangerous or unusual weapons to the terror of the people, was always indictable. Brit, State Cr. (3d Ed) 783, 784: See also 4 Blackstone's Commentaries 149."

". . . the pistol carried . . . was not an arm for war purposes, and therefore . . . it was a weapon, the carrying of which the legislature could constitutionally prohibit." Cited from Page vs. State, 3 Hersk, (59 Tenn) 198, (1872).

(the Tennessee Courts) also stated "that the legislature should have the power, by law, to regulate the wearing of arms, with a view to prevent crime."

See State vs. Wilburn, 7 Baxt. (54 Tenn) 57 (1872) esp. at 58-59.

5. Nero vs. State, 10 Ga. App. 23 (1911)
upheld 1910 law.

6. Glenn vs. State, 10 Ga. App. 128 (1911)
Hill, Jr., "Unquestionably the possession of a

pistol or revolver by a minor constitutes a menace to the peace of the public, and to the safety of the individuals constituting the public." 131

"So far as the writer of this opinion is concerned he is decidedly of the opinion that the possession of a pistol or revolver about the person, either by a minor or an adult, concealed or open, is a menace to individual safety and law and order, and he concurs strongly in the view of those able jurists who construe the constitutional provisions . . . as not applicable to the modern pistol or revolver. The framers of the Federal Constitution and the State Constitution did not have this weapon in contemplation when the provision as to the right to 'bear arms' was adopted." 131

"The ordinary pistol or revolver, usually carried in the hip pocket is . . . the most offensive weapon ever devised by the ingenuity of man for the destruction of life and of the peace of society . . . the individual member of society cannot claim it as one of the inalienable constitutional privileges of personal liberty." 132

"Salus populi suprema lex (the welfare of the people is the supreme law; Black's Law Dict.) is a rule of unlimited application, and qualifies every personal right of the citizen."

7. Casper vs. State, 13 Ga. App. 301 (1913)

Russell, J., ". . . the sale of pistols is not unlawful. There was a time when it was illegal to sell pistols in Georgia, but that law was repealed. It must be assumed that the legislature was cognizant of the history of prior legislation on this subject at the time the act of 1910 was passed."

" . . . it is apparent that the right to carry arms, guaranteed by the constitution (the exercise of which may be regulated but cannot be prohibited) is one of habitude."

8. Smith vs. State, 14 Ga. App. 823 (1914)

Wade, J., court held "home" to include the yard defendant regularly lived at brother's house where he was seen with pistol

" . . . it was not the purpose of this statute (GA. L. 1910, 134) to interfere with the right of any man to keep arms at this home in order to protect person, property or habitation . . . "

9. Armond vs. State, 18 Ga. App. 140 (1916)

Russell, C. J., "it is well settled that the manner of bearing arms of offense and defense may be regulated by the several States without infringing the constitutional right of citizens to have and bear arms . . ."

APPENDIX E

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