

MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308
PAULINE ANDERSON • DISTRICT 1 • 248-5220
GRETCHEN KAFOURY • DISTRICT 2 • 248-5219
RICK BAUMAN • DISTRICT 3 • 248-5217
SHARRON KELLEY • DISTRICT 4 • 248-5213
JANE McGARVIN • Clerk • 248-3277

AGENDA OF
MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS
FOR THE WEEK OF
December 11 - 15, 1989

Tuesday, December 12, 1989 - 9:30 AM - Planning Items . . . Page 2
Informal Briefings

Tuesday, December 12, 1989 - 1:30 PM - Formal Meeting
Informal Meeting . . . Page 3

Tuesday, December 12, 1989 - 7:00 PM - Joint Meeting with
Troutdale City Council . . . Page 4
104 SE Kibling, Troutdale

Thursday, December 14, 1989 - 9:30 AM - Formal. Page 5

Tuesday, December 12, 1989 - 9:30 AM

Multnomah County Courthouse, Room 602

PLANNING ITEMS

1. **Approved** Auto Wrecker's License Renewal as submitted by Planning and Development with recommendation that same be approved as follows: Reuben Dirk, dba Reuben's Import Auto Wrecking, 9501 N. Columbia Boulevard
2. **Approved** **89-210** Final Order In the matter of adopting Findings in support of Multnomah County Board of Commissioner's decision to affirm the Planning Commission's decision of Case LE 10-89, Denying requested Lot of Exception, for property located at 35800 NE Chamberlain Road, Corbett

INFORMAL BRIEFINGS

1. Briefing on the financing options for the payment of construction of the new Donald E. Long facility - David Boyer, Duane Zussy
2. Briefing of the outcome of Donald E. Long Program Review Committee, which was created to review architect plans for new facility and projected programmatic needs/options - Duane Zussy
3. Policy direction from the Board regarding the proposal developed by Juvenile Justice Division for the Emergency Funds Reserve for Gang Involved Youth - Harold Ogburn, Howard Klink **DEFERRED UNTIL 12/19/89**

PUBLIC TESTIMONY WILL NOT BE TAKEN AT INFORMAL MEETINGS

Tuesday, December 12, 1989 - 1:30 PM

Multnomah County Courthouse, Room 602

FORMAL MEETING

1. Continued Public Hearing on the boundaries of the proposed Rockwood Water Peoples Utility District

Continued TO 12/19/89 9³⁰_{am}

INFORMAL

1. Discussion of Option Memorandum regarding the Governance of the Multnomah County Library
2. Informal Review of Formal Agenda of December 14, 1989

PUBLIC TESTIMONY WILL NOT BE TAKEN AT INFORMAL MEETINGS

Tuesday, December 12, 1989 - 7:00 PM

Joint Board Meeting
Multnomah County Board of Commissioners, Troutdale City Council

Troutdale City Hall
Council Chambers
104 SE Kibling, Troutdale, Oregon

AGENDA

1. Call Meeting to Order
 - A. Introductions
2. East County Roads
3. Edgefield Property
4. Mt. Hood Parkway
5. Columbia Gorge Planning
6. Other
7. Adjournment

Thursday, December 14, 1989, 9:30 AM

0716C

Multnomah County Courthouse, Room 602

Formal Agenda

CONSENT CALENDAR

DEPARTMENT OF JUSTICE SERVICES

- C-1 Liquor License applications & renewals submitted by Sheriff's Office with recommendation that same be approved as follows:

APPROVED

Package Store: New Outlet: Texaco Food Mart #022, 3515 SE 122nd. Renewals: Quick Stop Market, 15400 SE Powell; Pleasant Valley Market, 16880 SE Foster Rd; Cracker Barrel Grocery, 15005 NW Sauvie Island Rd; Larson's Marina, 14444 NW Larson Rd

Retail Malt Beverage: 4 Aces, 15826 SE Division; Maxine's, 16900 NW St. Helens Rd

Restaurant: LaCasita Especialle, 12113 SE Foster

REGULAR AGENDA

BOARD OF COUNTY COMMISSIONERS

- APPROVED R-2 In the Matter of Re-Appointment of Cliff Carlsen, Don Barney, Felicia Trader, and Jolinda Osborne, and Appointment of Bill Failing to the Library Association of Portland Board of Directors, terms expiring September, 1994

- APPROVED R-3 In the matter of appointments to the Board of Equalization: Board #1 - Jane Rhodes, Chair, Joe Labadie; Board #2 - Chet McRobert, Chair, Caroline Miller; Board #3 - Tom Hatfield, Chair, Robert Hughley. Alternates: Ray Steed, John Nichols, Lianne Thompson. All terms expire December, 1990

DEPARTMENT OF ENVIRONMENTAL SERVICES

- APPROVED R-4 In the matter ratification of an intergovernmental agreement with City of Troutdale for drainage master plan, for period ending June 30, 1990

PUBLIC CONTRACT REVIEW BOARD

(Recess as the Board of County Commissioners and reconvene as the Public Contract Review Board)

APPROVED R-5 Order in the Matter of Exempting from Public Bidding of a
89-211 License with Software A.G. for Super Natural Software
through Sole Source Procurement

APPROVED R-6 Order in the Matter of Exempting from Public Bidding to
89-212 Specify the Brand Name Product, Hybritek-Icon II Pregnancy
Testing Kit

(Recess as the Public Contract Review Board and reconvene as the Board of County Commissioners)

DEPARTMENT OF HUMAN SERVICES

APPROVED R-7 Budget Modification DHS #20 making an appropriation
transfer in the amount of \$215,361 from General Fund
Contingency to Aging Services, Federal/State Fund, to
replace previously anticipated revenue from the City of
Portland for the Portland/Multnomah Commission on Aging
(Continued from December 5)

APPROVED R-8 Notice of Intent to apply for a grant in the amount of
\$15,000 from Public/Private Ventures, Inc. to pay for
planning of a possible Columbia Conservation Corps

DEPARTMENT OF JUSTICE SERVICES

APPROVED R-9 Budget Modification DJS #10 making an appropriation
transfer in the amount of \$7,684 within Community
Corrections, from Recog/Intake (\$6,000) and Contract
Services (\$1,684) to Administration, Equipment for the
purchase of a computer printer and office equipment for
division programs

APPROVED R-10 Budget Modification DJS #11 reflecting additional revenues
from the Manufacture & Distribution Drug Probe Grant funded
by the Federal Bureau of Justice Assistance to the District
Attorney's Office. Grant award provides \$197,252 of new
revenue of which \$157,227 will be appropriated in FY
89/90. Adds 1 Deputy DA 3, 1 DA Investigator, and 1 Office
Assistant 3

R-11 In the matter of ratification of an Intergovernmental Agreement between Multnomah County, Multnomah County Sheriff's Office, and Multnomah County District Attorney's Office, for implementation of the 1989 Oregon Legislature statewide criminal forfeiture statute which details the procedures for seizing and forfeiting property used in illicit narcotic transactions

Approved

ORDINANCES - DEPARTMENT OF JUSTICE SERVICES

R-12 First Reading - An ordinance amending MCC 7.85 to conform to the requirements of Oregon Laws Chapter 791 (1989) and which provides for civil forfeiture of real, personal and intangible property and specifically declaring certain conveyances and real property to be nuisances subject to civil forfeiture, and declaring an emergency

Approved
ORD #633

ORDINANCES - NONDEPARTMENTAL

R-13 First Reading - An Ordinance establishing a Campaign Management Council, standards and guidelines for conducting charitable fundraising campaigns on County premises and authorizing the use of the employee payroll deduction system for donations to charities

SUBSTITUTE
ORD
1ST RDC PASSED
2ND RDC 12/28

R-14 First Reading - An Ordinance to amend Ordinance 614, relating to Polystyrene foam, and changing the effective date of certain provisions therein

1ST RDC PASSED
2ND RDC 12/28

UNANIMOUS CONSENT ITEM

ORDER 89-213 AUTHORIZING PETITION TO COURT OF APPEALS TO APPEAR AMICUS CURIAE

Thursday Meetings of the Multnomah County Board of Commissioners are recorded and can be seen at the following times:

Thursday, 10:00 PM, Channel 11 for East and West side subscribers

Friday, 6:00 PM, Channel 27 for Paragon Cable (Multnomah East) subscribers

Saturday 12:00 PM, Channel 21 for East Portland and East County subscribers



GLADYS McCOY, Multnomah County Chair

Room 134, County Courthouse
1021 S.W. Fourth Avenue
Portland, Oregon 97204
(503) 248-3308

MEMORANDUM

TO : Jane McGarvin
Carrie Parkerson

FROM : Delma

DATE : 12/5/89

RE : Board Agenda Submissions
Week of December 11-15, 1989

INFORMAL

1. Submitted by Rhea Kessler. Financing Options for new D. E. Long Facility.
2. Submitted by Rhea Kessler; D. E. Long Program Review Committee.
3. Submitted by Howard Klink. Emergency Fund Reserve for Gang Involved Youth.

FORMAL

4. Submitted by Jim Emerson/Paul Yarborough. Intergovernmental Agreement between City of Troutdale and Multnomah for drainage master plan.
5. Submitted by Lillie Walker/Gary Sawyer. PCRB Exemption -Hybritek- Icon II (serum) pregnancy testing kit.
6. Submitted by Lillie Walker/John Margaronis. PCRB Exemption - Super Natural, product with ADABAS interface capabilities.
7. Submitted by Michael Morrissey. Notice of intent - private ventures grant.
8. Submitted by Harley Leiber. DJS Bud Mod #10 requests transfer of \$7,684 to Community Corrections/Administration to purchase equipment for the Division.
9. Submitted by Kelly Bacon. DJS Bud Mod #11 Grant award of \$157,227 - Manufacture and Distribution Probe Grant to combat illegal drug activity.
10. Submitted by Fred Neal. Appointment of Cliff Carlsen and Bill Failing to the Library Association of Portland Board of Directors.

ANNOTATED AGENDA

Thursday, December 14, 1989, 9:30 a.m.

CONSENT CALENDAR

DEPARTMENT OF JUSTICE SERVICES

- C-1 Liquor License applications and renewals submitted by Sheriff's Office with recommendation that same be approved as follows:
- a) PACKAGE STORE, NEW OUTLET: Texaco Food Mart #022, 3515 SE 122nd
 - b) RENEWALS: Quick Stop Market, 15400 SE Powell; Pleasant Valley Market, 16880 SE Foster Rd; Cracker Barrel Grocery, 15005 NW Sauvie Island Rd; Larson's Marina, 14444 NW Larson Rd
 - c) RETAIL MALT BEVERAGE: 4 Aces, 15826 SE Division; Maxine's, 16900 NW St. Helens Rd
 - d) RESTAURANT: LaCasita Especialle, 12113 SE Foster

APPROVED

REGULAR AGENDA

BOARD OF COUNTY COMMISSIONERS

- R-2 In the Matter of Re-Appointment of Cliff Carlsen, Don Barney, Felicia Trader, and Jolinda Osborne, and Appointment of Bill Failing to the Library Association of Portland Board of Directors, terms expiring September, 1994

APPROVED

- R-3 In the matter of appointments to the Board of Equalization: Board #1 - Jane Rhodes, Chair, Joe Labadie; Board #2 - Chet McRobert, Chair, Caroline Miller; Board #3 - Tom Hatfield, Chair, Robert Hughley. Alternates: Ray Steed, John Nichols, Lianne Thompson. All terms expire December, 1990

APPROVED

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-4 In the matter ratification of an intergovernmental agreement with City of Troutdale for drainage master plan, for period ending June 30, 1990

APPROVED

PUBLIC CONTRACT REVIEW BOARD

- R-5 Order in the Matter of Exempting from Public Bidding of a License with Software A.G. for Super Natural Software through Sole Source Procurement

APPROVED

- R-6 Order in the Matter of Exempting from Public Bidding to Specify the Brand Name Product, Hybritek-Icon II Pregnancy Testing Kit

APPROVED

DEPARTMENT OF HUMAN SERVICES

- R-7 Budget Modification DHS #20 making an appropriation transfer in the amount of \$215,361 from General Fund Contingency to Aging Services, Federal/State Fund, to replace previously anticipated revenue from the City of Portland for the Portland/Multnomah Commission on Aging (Continued from December 5)

APPROVED

- R-8 Notice of Intent to apply for a grant in the amount of \$15,000 from Public/Private Ventures, Inc. to pay for planning of a possible Columbia Conservation Corps

APPROVED

DEPARTMENT OF JUSTICE SERVICES

- R-9 Budget Modification DJS #10 making an appropriation transfer in the amount of \$7,684 within Community Corrections, from Recog/Intake (\$6,000) and Contract Services (\$1,684) to Administration, Equipment for the purchase of a computer printer and office equipment for division programs

APPROVED

- R-10 Budget Modification DJS #11 reflecting additional revenues from the Manufacture & Distribution Drug Probe Grant funded by the Federal Bureau of Justice Assistance to the District Attorney's Office. Grant award provides \$197,252 of new revenue of which \$157,227 will be appropriated in FY 89/90. Adds 1 Deputy DA 3, 1 DA Investigator, and 1 Office Assistant 3

APPROVED

- R-11 In the matter of ratification of an Intragovernmental Agreement between Multnomah County, Multnomah County Sheriff's Office, and Multnomah County District Attorney's Office, for implementation of the 1989 Oregon Legislature statewide criminal forfeiture statute which details the procedures for seizing and forfeiting property used in illicit narcotic transactions

APPROVED

ORDINANCES - DEPARTMENT OF JUSTICE SERVICES

- R-12 First Reading - An ordinance amending MCC 7.85 to conform to the requirements of Oregon Laws Chapter 791 (1989) and which provides for civil forfeiture of real, personal and intangible property and specifically declaring certain conveyances and real property to be nuisances subject to civil forfeiture, and declaring an emergency

APPROVED ORDINANCE NO. 633

ORDINANCES - NONDEPARTMENTAL

- R-13 First Reading - An Ordinance establishing a Campaign Management Council, standards and guidelines for conducting charitable fundraising campaigns on County premises and authorizing the use of the employee payroll deduction system for donations to charities

FIRST READING OF AMENDED ORDINANCE APPROVED,
SECOND READING SCHEDULED FOR THURSDAY, DECEMBER
28, 1989

- R-14 First Reading - An Ordinance to amend Ordinance 614, relating to Polystyrene foam, and changing the effective date of certain provisions therein

FIRST READING APPROVED, SECOND READING SCHEDULED
FOR THURSDAY, DECEMBER 28, 1989

UNANIMOUS CONSENT ITEM

In the Matter of Authorizing Petition to Court of Appeals to
Appear Amicus Curiae

ORDER NO. 89-213 APPROVED

MINUTES
MULTNOMAH COUNTY BOARD OF COMMISSIONERS
DECEMBER 14, 1989 MEETING

Chair Gladys McCoy convened the meeting at 9:40 a.m., with Vice-Chair Pauline Anderson and Commissioner Sharron Kelley present, and Commissioners Gretchen Kafoury and Rick Bauman absent.

Commissioner Anderson requested that the polystyrene foam issue be taken first to accomodate those wishing to testify on the matter.

R-14 First Reading - An Ordinance to Amend Ordinance 614, Relating to Polystyrene Foam, and Changing the Effective Date of Certain Provisions Therein

Copies of the ordinance were available to all persons wishing a copy. The ordinance was read by title only.

Commissioner Anderson moved and Commissioner Kelley seconded, approval of the first reading of R-14.

Karen Belsey from Commissioner Bauman's staff gave an overview of the ordinance, advising that it is a housekeeping piece amending Ordinance 614 and changing the effective date to April 1990. Ms. Belsey advised in order not to ban polystyrene foam, the Board would need to find that a recycling system is in place which is actively supported by the plastics industry. Ms. Belsey reported that the draft resolution accompanying the ordinance delineates the criteria which define an active recycling system; and that following receipt of today's testimony on the status of what those different components are, she expects the Board will be able to come back in early Spring, make its finding, and put the ordinance officially into effect. Ms. Belsey advised that the proposed ordinance contains recycling criteria standards for establishments participating in the recycling effort; such as bins, signage and documentation requirements; and advised that the proposed ordinance contains a definition of polystyrene foam.

In response to a question from Commissioner Kelley as to the measures currently in place, Ms. Belsey advised that there are drop boxes in certain locations throughout the County; some educational efforts within McDonalds' restaurants; and some reprocessing going on, though not at the 90% that is hoped for in future.

Commissioner Anderson stated that the County has passed an ordinance and must recognize the fact that it is not like the City of Portland's ordinance, but covers the unincorporated areas of Multnomah County and can set a precedent and show that polystyrene foam can be recycled.

In response to a question from Chair McCoy, Ms. Belsey advised that originally the County sanitarians were to do inspections and the City enforcement in the event that there is noncompliance, but an intergovernmental agreement has not yet been executed.

Jack Brown of the James River Corporation and the Polystyrene Packaging and Recycling Council, reported that the Council had cooperated with Ms. Belsey on the draft and agrees with the proposed ordinance. He advised that the industry has set up prototype programs, with close to \$700,000 going into the Metro area as represented by 12 combination drop box units in place and public educational materials; and that the industry is conducting a successful school lunch tray recycling program with the City of Portland; training seminars in waste reduction and recycling; and in-school plastic waste recovery programs.

Dennis Denton, President of Denton Plastics, reported that his company has made clear and large polypropylene bags available to various restaurants for collection of polystyrene foam and advised that his company has twice weekly pickups for a nominal fee or the material can be delivered free. Mr. Denton related that his company is presently reclaiming approximately 12,000 pounds a month of polystyrene foam and that they have received a loan from the industry to put in new washing and densification equipment which will have the volumes to far exceed whatever polystyrene foam they can collect in the Portland area and in the State of Oregon. Mr. Denton advised the Board that his company will be furnishing a special trailer designed to be left at specific locations for collection of polystyrene foam and high density polyethylene jugs; and that they have started working with some neighborhood associations in connection with proposed neighborhood mobile drop centers.

Susan Farris, spokesperson for the Polystyrene Packaging Council, advised the Washington, D.C. based industry trade group is working diligently on solving the polystyrene foam educational and recycling dilemmas. Ms. Farris reported that she had been interacting with 53 restaurants in greater Multnomah County and will be communicating with them to inform their staff about the advantages of polystyrene foam should they want to continue to use that product, to let them know about the prototype educational materials which will be provided for their facilities and to help them understand that it is a simple procedure to deposit polystyrene foam in one container and refuse and non-recyclables in another. Ms. Farris shared various McDonald's Point of Purchase materials with the Board.

Art Bloom, Program Manager for the Environmental Health section of the Health Division of the Department of Human Services, advised the Board that his department is in every restaurant at least twice every year, so they are in a position to easily monitor the proposed ordinance. Mr. Bloom added that his department could input information on a computer and generate a report which could go weekly to the City of Portland who would be responsible for enforcement of violations. In response to a question from Commissioner Anderson asking why the City, who has a ban on the material, would be enforcing the County's recycling efforts, Mr. Bloom advised that it is proposed that the County would be inspecting for the ban within the City of Portland in exchange for the City handling enforcement of the County's ordinance.

In response to Commissioner Anderson's question as to what was being done about enforcement in the unincorporated portion of Multnomah County, Mr. Bloom advised that it was his understanding that the City would be responsible for enforcement in those County facilities not complying with the recycling ordinance, in exchange for the County monitoring within the City of Portland and unincorporated areas of the County.

Chair McCoy advised that the County has not yet entered into a formal agreement with the City of Portland and that the Board will have an opportunity to see that the language is acceptable before taking action on it.

Catherine Fitch, Policy Analyst with the City of Portland Bureau of Environmental Services and staff person on the City/County Recycling Taskforce, gave an update on the 11 member Taskforce established pursuant to Ordinance 614. Ms. Fitch reported that the Taskforce had created 3 work groups to deal with a multi-faceted program which they could bring back to the Board. Ms. Fitch advised that the Education and Promotion; Recycling and Recovery; and Reduction groups are investigating methods which can be used to reduce plastic waste in the area and will be proposing a pre-cycling program and will be looking at how existing recycling methods can be enhanced; that they will be looking at legislation which would mandate consumer choice; and that they are investigating municipal packaging ordinances passed in other locations within the country. Ms. Fitch reported that Ordinance 614 calls for a status report to the Board by May 1, 1990 and a final report by December 31, 1990 and advised that the Taskforce is on track to comply at those times. Ms. Fitch reported that Ordinance 614 directed that the Taskforce present the Board with its recommendations as to whether or not the County ordinance should be extended to nonprofit groups and to other nondegradable plastics, by May 31, 1990 but that with the delay of implementation contained in the proposed ordinance, the Taskforce feels coming back with a recommendation so soon would be somewhat premature. Ms. Fitch presented examples of polystyrene products containing 80-95% air, 40-55% air and less than 5% air. Ms. Fitch advised that the City defined polystyrene foam as polystyrene with an air content of 25% or more. In response to a question of Chair McCoy, Ms. Fitch agreed that the products having 55% or more air would deteriorate much sooner.

Portland resident Martha Odem testified that in the polystyrene foam issue, citizens had been given the option of using non-biodegradable polystyrene foam or using paper cups containing dioxins. Ms. Odem advised that she believes we must look beyond what we are doing now and that we must address with clear vision and strong leadership, that radical changes need to be made if the species is to survive and the planet is to remain habitable. Ms. Oden stated that to be discussing the volume of air in something that we should not continue to use is ludicrous and that even the best of polystyrene foam materials stay in the atmosphere 25 to 30 years longer than ozone depleting CFC's. Ms. Odem closed by stating she felt that now is the time for leadership on this issue.

Commissioner Kelley recognized David Knowles from the Metropolitan Service District and commented that she had anticipated a greater level of public debate. Commissioner Kelley reported that recycling efforts for plastic had been increased by about 10% from 1988, which she attributed to education, public discussions and present recycling efforts. Commissioner Kelley advised she endorsed the concept of recycling.

The first reading of R-14 was UNANIMOUSLY APPROVED. Chair McCoy advised that the second reading would be held at 9:30 a.m. on Thursday, December 28, 1989.

Chair McCoy announced that Commissioner Kafoury is absent due to an illness in her family and Commissioner Bauman is out of town attending a conference.

R-13 First Reading of an Ordinance Establishing a Campaign Management Council, Standards and Guidelines for Conducting Charitable Fundraising Campaigns on County Premises and Authorizing the Use of the Employee Payroll Deduction System for Donations to Charities

Copies of the ordinance were available to all persons wishing a copy. The ordinance was read by title only.

Commissioner Anderson moved and Commissioner Kelley seconded, approval of the first reading of R-13.

Bill Farver, Staff Assistant for Commissioner Anderson advised that the County opened up the charitable giving campaign to non-United Way agencies a while ago but has not had a policy to govern same. Mr. Farver related that the proposed goals were to establish a campaign management council to run the campaign for Multnomah County; limit the campaign to funds or federations; set up various criteria which would govern what would be a qualifying fund or federation; and keep presentations to employees. Mr. Farver advised that he and County Counsel Larry Kressel drafted some minor changes which are incorporated in the substituted ordinance before the Board and that copies are available at the back desk. Mr. Farver encouraged the Board to keep in mind the big policy choices; establishing a campaign management council which will have greater employee involvement than in the past with a seven person council, with the charitable organizations represented as non-voting members; limiting it to funds or federations; and the definition of the content of the fund or federation, or who can qualify.

Sally Cross, Chair of the Environmental Federation of Oregon, testified that the Federation represents 15 environmental organizations operating in the State of Oregon. Ms. Cross advised that the Environmental Federation strongly supports the proposed ordinance and thinks it represents an opportunity to make a very positive change in the way the County conducts its workplace campaign that will accomodate the three or four funds and federations that are active in Oregon.

Ms. Cross added that she hoped the ordinance would be adopted now so that the campaign management council will have plenty of time to work out all the details of implementation and not face a real rush for next year's campaign. Ms. Cross advised that her federation supports the establishment of a campaign management council because it does grant employees direct ownership and participation in the campaign and by having a council of a number of employees it provides the County and the federations with both good outside input and an opportunity for some continuity in terms of formulating the campaign every year. In response to a question by Chair McCoy, Ms. Cross advised that her federation includes agencies from the Nature Conservancy, the Oregon Natural Resources Council, 1000 Friends, the Sierra Club Foundation, and Oregon Trout.

Yolanda Russell, Campaign Manager for the Black United Fund of Oregon, Inc. advised that they participated in the charitable giving campaigns that took place in Multnomah County for the last two years and are here today in support of the ordinance. Ms. Russell advised that Black United Fund has some concerns about the Campaign Management Council entity and urged the Board to include that as part of its ordinance. Ms. Russell offered to share the results of studies done by national committees which support establishment of campaign management councils and offered some alternatives in terms of using the computer system already in place. Ms. Russell advised that the Black United Fund of Oregon represents 20 to 25 organizations through technical or financial assistance in the North and Northeast areas.

David Paradine, President of United Way of the Columbia-Willamette, advised that he wanted to oppose the proposed ordinance, but that United Way would go on record as supporting the County's efforts. Mr. Paradine advised he feels that the proposed ordinance would leave itself open to litigation, that it is not well drafted, that it is incomplete, contradictory, vague, inconsistent and imprecise. It was pointed out that Mr. Paradine did not have a copy of the amended ordinance. Mr. Farver provided him with a copy of same.

In response to a comment from Mr. Paradine that United Way had not received information in a timely manner on a few occasions, Commissioner Anderson stated that the County could also say that it had not received United Way's objections and/or materials in a timely fashion in order to incorporate those objections into the proposed ordinance.

Chair McCoy instructed Mr. Paradine to limit his specific comments or objections to three. Mr. Paradine advised that the proposed ordinance states that the Commissioners find the ordinance is necessary to assure that the funds solicited from County employees are given to bona fide charitable organizations, but that it does not define a "bona fide organization". Mr. Paradine suggested that County Counsel ask the Attorney General whether the County can transfer its fiduciary responsibility to participating federations.

Art Alexander, staff for Portland City Commissioner Mike Lindberg, advised that he worked on developing the City's policy and guidelines in respect to charitable contributions and payroll deductions for same, and reported that the City chose to have an employee committee implement the ordinance in order to assure participation and consultation with the charitable organizations. Mr. Alexander advised that the City felt its policies were broad enough that independent nonprofits could create their own funds or federations and participate and narrow enough that it would preclude multiple independent nonprofits from seeking access to the workplace. Mr. Alexander advised he felt there is enough flexibility in the existing ordinance to respond to substantive challenges. In response to a question from Commissioner Anderson, Mr. Alexander advised that he has not heard of any legal challenges to the City's ordinance. In response to another question of Commissioner Anderson, Mr. Alexander stated that he sees no problems in the composition of the County's proposed ordinance, or with the responsibilities given to the Campaign Management Council, adding that an employee committee would have the resources of the County to draw on should any legal questions arise.

The first reading of R-13 was UNANIMOUSLY APPROVED. Chair McCoy advised that the second reading would be held at 9:30 a.m. on December 28, 1989.

At 11:00 a.m., the Board recessed for one minute.

C-1 Liquor License Applications and Renewals Submitted by Sheriff's Office with Recommendation that Same be Approved as Follows: PACKAGE STORE, NEW OUTLET - Texaco Food Mart #022, 3515 SE 122nd; RENEWALS - Quick Stop Market, 15400 SE Powell; Pleasant Valley Market, 16880 SE Foster Rd; Cracker Barrel Grocery, 15005 NW Sauvie Island Rd; Larson's Marina, 14444 NW Larson Rd.; RETAIL MALT BEVERAGE - 4 Aces, 15826 SE Division; Maxine's, 16900 NW St. Helens Rd.; RESTAURANT - LaCasita Especialle, 12113 SE Foster

UPON MOTION of Commissioner Anderson, seconded by Commissioner Kelley, C-1 was UNANIMOUSLY APPROVED.

R-2 In the Matter of Re-Appointments of Cliff Carlsen, Don Barney, Felicia Trader, and Jolinda Osborne, and Appointment of Bill Failing, to the Library Association of Portland Board of Directors, Terms Expiring September, 1994

Chair McCoy advised that there may be concern that the County is continuing a Library Association that may not exist until 1994, but that the County is simply following past procedure at this time.

R-3 In the matter of Appointments to the Board of Equalization: Board #1 - Jane Rhodes, Chair, Joe Labadie; Board #2 - Chet McRobert, Chair, Caroline Miller; Board #3 - Tom Hatfield, Chair, Robert Hughley. Alternates: Ray Steed, John Nichols, Lianne Thompson. All terms expire December, 1990

UPON MOTION of Commissioner Anderson, seconded by Commissioner Kelley, R-2 and R-3 were UNANIMOUSLY APPROVED.

Chair McCoy acknowledged Robert Hughley in the audience and thanked him for his willingness to serve on the Board of Equalization. Chair McCoy also expressed appreciation to those appointees unable to attend today's meeting.

R-4 In the matter ratification of an Intergovernmental Agreement with City of Troutdale for Drainage Master Plan for Period Ending June 30, 1990

UPON MOTION of Commissioner Anderson, seconded by Commissioner Kelley, R-4 was UNANIMOUSLY APPROVED.

(Recess as the Board of County Commissioners and convene as the Public Contract Review Board)

R-5 Order in the Matter of Exempting from Public Bidding of a License with Software A.G. for Super Natural Software through Sole Source Procurement

R-6 Order in the Matter of Exempting from Public Bidding to Specify the Brand Name Product, Hybritek-Icon II Pregnancy Testing Kit

UPON MOTION of Commissioner Anderson, seconded by Commissioner Kelley, Orders 89-211 and 89-212 were UNANIMOUSLY APPROVED.

(Recess as the Public Contract Review Board and reconvene as the Board of County Commissioners)

R-7 Budget Modification DHS #20 Making an Appropriation transfer in the amount of \$215,361 from General Fund Contingency to Aging Services, Federal/State Fund, to Replace Previously Anticipated Revenue from the City of Portland for the Portland/Multnomah Commission on Aging

UPON MOTION of Commissioner Kelley, seconded by Commissioner Anderson, R-7 was UNANIMOUSLY APPROVED.

R-8 Notice of Intent to Apply for a Grant in the Amount of \$15,000 from Public/Private Ventures, Inc. to Pay for Planning of a Possible Columbia Conservation Corps

UPON MOTION of Commissioner Kelley, seconded by Commissioner Anderson, R-8 was UNANIMOUSLY APPROVED.

R-9 Budget Modification DJS #10 Making an Appropriation Transfer in the Amount of \$7,684 within Community Corrections, from Recog/Intake (\$6,000) and Contract Services (\$1,684) to Administration, Equipment for the Purchase of a Computer Printer and Office Equipment for Division Programs

UPON MOTION of Commissioner Anderson, seconded by Commissioner Kelley, R-9 was UNANIMOUSLY APPROVED.

R-10 Budget Modification DJS #11 Reflecting Additional Revenues from the Manufacture & Distribution Drug Probe Grant Funded by the Federal Bureau of Justice Assistance to the District Attorney's Office. Grant Award Provides \$197,252 of New Revenue of which \$157,227 will be Appropriated in FY 89/90. Adds 1 Deputy DA 3, 1 DA Investigator, and 1 Office Assistant 3

UPON MOTION of Commissioner Anderson, seconded by Commissioner Kelley, R-10 was UNANIMOUSLY APPROVED.

R-11 In the matter of ratification of an Intragovernmental Agreement between Multnomah County, Multnomah County Sheriff's Office, and Multnomah County District Attorney's Office, for Implementation of the 1989 Oregon Legislature Statewide Criminal Forfeiture Statute which Details the Procedures for Seizing and Forfeiting Property Used in Illicit Narcotic Transactions

UPON MOTION of Commissioner Anderson, seconded by Commissioner Kelley, R-11 was UNANIMOUSLY APPROVED.

R-12 First Reading of an Ordinance Amending MCC 7.85 to Conform to the Requirements of Oregon Laws Chapter 791 (1989) and which Provides for Civil Forfeiture of Real, Personal and Intangible Property and Specifically Declaring Certain Conveyances and Real Property to be Nuisances Subject to Civil Forfeiture, and Declaring an Emergency

Copies of the ordinance were available to all persons wishing a copy. The ordinance was read by title only.

UPON MOTION of Commissioner Anderson, seconded by Commissioner Kelley, Ordinance 633 was UNANIMOUSLY APPROVED.

UPON MOTION of Commissioner Anderson, seconded by Commissioner Kelley, on a roll call vote, the following matter was considered by Unanimous Consent:

Order in the Matter of Authorizing Petition to Court of Appeals to Appear Amicus Curiae

County Counsel Larry Kressel advised the Board that this would authorize the office of County Counsel to file an amicus brief in the case known as Sensible Transportation Options for People versus Metropolitan Service District, et al.

Chair McCoy stated that the significance of the order is that by appearing as a friend in this issue, it will allow the County to have clarification of how it is impacted in its land use planning.

Mr. Kressel added that the case is important in terms of relating transportation planning to land use planning.

Commissioner Anderson moved and Commissioner Kelley seconded, for approval of the order.

In response to a question of Commissioner Kelley as to what form the County will take to be independent, Mr. Kressel advised that the County would file an amicus independent of other amicus parties.

Commissioner Anderson advised that the first paragraph of the order explains the County's interest in this case and that it really doesn't have anything to do with the Sensible Transportation Options for People problem with the Westside Bypass.

Chair McCoy advised that County Counsel said he would bring the brief before the Board so that it is clear that the County is not participating in the STOP issue.

Order 89-213 UNANIMOUSLY APPROVED.

There being no further business, the meeting was adjourned at 11:15 a.m.

OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON

By DEBORAH L ROGERS

0716C/4-12/dr

DATE SUBMITTED: November 30, 1989

(For Clerk's Use)
Meeting Date 12/14/89
Agenda No. C-1

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: LIQUOR LICENSE

Informal Only* _____
(Date)

Formal Only _____
(Date)

DEPARTMENT Sheriff's Office DIVISION _____

CONTACT Sergeant Ed Hausafus TELEPHONE 255-3600

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Sergeant Ed Hausafus

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Attached is the Package Store (new outlet) liquor license renewal for the Texaco Food Mart #022, 3515 SE 122nd, Portland, Oregon 97236. The applicant(s) John Mathew Long has no significant criminal record and we recommend that the application be approved. Multnomah County Planning and Development advised that this location is zoned Neighborhood Commercial which includes taverns, grocery stores, and the sale of packaged beer and wine therein.

ACTION REQUESTED:

(☐) INFORMATION ONLY (☐) PRELIMINARY APPROVAL (☐) POLICY DIRECTION (☒) APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA Consent Agenda

IMPACT:

PERSONNEL

(☐) FISCAL/BUDGETARY

(☐) GENERAL FUND

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, OR COUNTY COMMISSIONER: Sgt. Ed Hausafus

BUDGET / PERSONNEL _____ / _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, Etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

EH/slr/473-AINT

1989 DEC - 4 PM 7:00
MULTNOMAH COUNTY
OREGON
CLERK OF
COUNTY COMMISSIONER

\$ 12.50

STATE OF OREGON

Return To:

APPLICATION

OREGON LIQUOR CONTROL COMMISSION

GENERAL INFORMATION

This application form costs \$5.00. A non-refundable processing fee is assessed when you submit this completed form to the Commission (except for Druggist and Health Care Facility Licenses). The filing of this application does not commit the Commission to the granting of the license for which you are applying nor does it permit you to operate the business named below.

No. 22261

(THIS SPACE IS FOR OLCC OFFICE USE)

(THIS SPACE IS FOR CITY OR COUNTY USE)

Application is being made for:

- ☐ DISPENSER, CLASS A
☐ DISPENSER, CLASS B
☐ DISPENSER, CLASS C
☒ PACKAGE STORE
☐ RESTAURANT
☐ RETAIL MALT BEVERAGE
☐ SEASONAL DISPENSER
☐ WHOLESALE MALT BEVERAGE & WINE
☐ WINERY
- ☐ Add Partner
☐ Additional Privilege
☐ Change Location
☐ Change Ownership
☐ Change of Privilege
☐ Greater Privilege
☐ Lesser Privilege
☒ New Outlet
☐ Other

OTHER:

NOTICE TO CITIES AND COUNTIES: Do not consider this application unless it has been stamped and signed at the left by an OLCC representative.

THE CITY COUNCIL, COUNTY COMMISSION, OR COUNTY

COURT OF MULTNOMAH
(Name of City or County)

RECOMMENDS THAT THIS LICENSE BE: GRANTED X

DATE 12/14/89 DENIED _____

BY Gladys McLean
(Signature)

TITLE CHAIR, BOARD OF COMMISSIONERS

CAUTION: If your operation of this business depends on your receiving a liquor license, OLCC cautions you not to purchase, remodel, or start construction until your license is granted.

1. Name of Corporation, Partnership, or Individual Applicants:

- 1) Texaco Refining & Marketing Inc. 2) _____
3) _____ 4) _____
5) _____ 6) _____

(EACH PERSON LISTED ABOVE MUST FILE AN INDIVIDUAL HISTORY AND A FINANCIAL STATEMENT)

2. Present Trade Name NONE

3. New Trade Name Texaco Food Mart #022 Year filed _____
with Corporation Commissioner

4. Premises address 3515 SE 122nd Avenue Portland Multnomah Oregon 97236
(Number, Street, Rural Route) (City) (County) (State) (Zip)

5. Business mailing address P. O. Box 10406 Portland Oregon 97210
(P.O. Box, Number, Street, Rural Route) (City) (State) (Zip)

6. Was premises previously licensed by OLCC? Yes _____ No X Year _____

7. If yes, to whom: _____ Type of license: _____

8. Will you have a manager: Yes X No _____ Name UNK this time
(Manager must fill out Individual History)

9. Will anyone else not signing this application share in the ownership or receive a percentage of profits or bonus from the business? Yes _____ No X

10. What is the local governing body where your premises is located? Portland Multnomah County
(Name of City or County)

11. OLCC representative making investigation may contact: J. T. (Ted) Plummer
(Name)

3800 NW St Helens Rd, Portland, Or 97210 : 226-3575 (B) 643-4234 (H)
P.O. Box 10406 (Address) (Tel. No. — home, business, message)

CAUTION: The Administrator of the Oregon Liquor Control Commission must be notified if you are contacted by anybody offering to influence the Commission on your behalf.

Applicant(s) Signature
(In case of corporation, duly
authorized officer thereof)

- X 1) L. A. Amidei
2) Vice President
3) _____
4) _____
5) _____
6) _____

Original —
Local Government

INDIVIDUAL HISTORY

STATE OF OREGON
OREGON LIQUOR CONTROL COMMISSION

9079 SE. McLoughlin Blvd.
P.O. Box 22297
Portland, Oregon 97222

Page 2 — Application

All blanks must be filled in.

If the question does not apply to you, place N/A (Not Applicable) in the space.

OLCC
USE
ONLY

1. Name LONG JOHN MATTHEW
(Last) (First) (Middle)

2. Other names used N/A N/A
(Maiden) (Other)

3. Address 8711 SE. TAYLOR PORTLAND OREGON 97216
(Number and Street) (City) (State) (Zip)

4. SSN 540-76-5998 Date of Birth 11/10/62 Age 27

5. Place of Birth BREMERTON WASHINGTON
(City) (State or Country)

6. Height 5'8" Weight 150 Color Hair BROWN Color Eyes BLUE

7. Sex MALE Name of Spouse NETTIE A. LONG

8. Home Phone (503) 252-4796 Business Phone 503 226-3575
(Area Code) (Area Code)

9. U. S. Citizen: Yes ☒ No ☐ If "No" list Alien Reg. No. _____

CRIMINAL RECORD

NOTE: For your information, a criminal records check is made on all liquor license applicants in the normal processing of a license request. Fingerprints may be required.

- 10A. Have you been convicted (including probation, sentencing, or bail forfeiture) of any crime, violation, or infraction of any law? (Do not include minor traffic violations for which a fine or bail forfeiture of \$50 or less was imposed). Yes ☒ No ☐
- 10B. Are there presently pending against you any criminal charges, violations or infractions of the law? (Do not include minor traffic violations for which a fine or bail forfeiture of \$50 or less was imposed). Yes ☐ No ☒
- 10C. If you have answered "Yes" to 10A or 10B, list below:

Offense	Date	City and State	Result
D.W.S.	APRIL 6/85	PORTLAND, OREG.	FINE
D.W.S.	10/89	PORTLAND, OREG.	FINE

(Attach additional sheet if necessary.)

NOTE: The information listed in 1 through 10 above can protect you from an error in the criminal records check.

EMPLOYMENT AND RESIDENCE HISTORY

11. List current and former employers or occupations during the past ten years: (Attach additional sheet if necessary.)

Dates by Month/Year	Employer or Business	Occupation	City and State
From <u>5/89</u> To <u>11/89</u>	<u>B.P.OIL</u>	<u>MGR</u>	<u>GRESHAM, OREG.</u>
From <u>11/87</u> To <u>11/89</u>	<u>MOBIL OIL</u>	<u>ASSIST. MGR</u>	<u>PORTLAND, OREG.</u>
From <u>01/85</u> To <u>11/87</u>	<u>SHELL OIL</u>	<u>ATTENDANT</u>	<u>PORTLAND, OREG.</u>
From <u>01/83</u> To <u>01/85</u>	<u>TAXI CAB DRIVER/OWNER</u>		<u>PORTLAND, OREGON</u>

12. List other cities and states where you have lived in the past 10 years other than those noted in question 11 above: (Attach additional sheet if necessary.)

Dates by Month/Year	City and State
From <u>7/87</u> To <u>5/89</u>	<u>VANCOUVER, W2.</u>

ACTIVITY IN LIQUOR INDUSTRY (Inside or Outside Oregon)

13. Are you presently or have you been licensed or employed in the liquor business?
Yes ☒ No ☐ Where & When? B.P. OIL PRESENTLY
14. Have you ever received a warning, a notice of violation, suspension, fine, or revocation as a licensee or permittee?
Yes ☐ No ☒ Where & When? _____
15. Have you ever been refused a permit or license to sell, serve, or dispense beer, wine, or distilled spirits?
Yes ☐ No ☒ Where & When? _____
16. Have you held, or do you presently hold, a gambling or gaming license from any governmental body or a Federal Gambling Tax Stamp?
Yes ☐ No ☒ Where & When? _____
17. Have you ever held or do you hold any financial interest in any liquor enterprise: manufacturing, importing, wholesale or retail?
Yes ☐ No ☒ Where & When? _____
18. Do you owe money to any manufacturer or distributor of wine, beer, or distilled spirits on account of cash or credit advanced?
Yes ☐ No ☒ Where & When? _____
19. Is your spouse or any family member(s) working in any area of the liquor industry?
Yes ☐ No ☒ If Yes, give: _____

20. Premises Involved: Trade Name TEXACO FOOD MART (Name) (Name of Business) (City & State)
Address 3515 SE 122ND PTLD, MULT. Job Title MANAGER
(City & County) (Mgr., Corp. Officer, etc.)

CAUTION: FALSIFICATION OR INTENTIONAL OMISSIONS OF INFORMATION ON THIS FORM MAY BE GROUNDS TO DENY OR REVOKE YOUR APPLICATION FOR A LICENSE!

Signature: John Long Date: 11/21/89

W.D.L. Long JM381 QS

DATE SUBMITTED: December 4, 1989

(For Clerk's Use)

Meeting Date _____

Agenda No. C-1

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: LIQUOR LICENSE

Informal Only* _____
(Date)

Formal Only _____
(Date)

DEPARTMENT Sheriff's Office DIVISION _____

CONTACT Sergeant Ed Hausafus TELEPHONE 255-3600

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Sergeant Ed Hausafus

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Attached is the Package Store liquor license renewal for the Quick Stop Market, 15400 SE Powell, Portland, Oregon 97236. The applicant(s) Hong-y Tran have no criminal record and we recommend that the application be approved.

ACTION REQUESTED:

(☐) INFORMATION ONLY (☐) PRELIMINARY APPROVAL (☐) POLICY DIRECTION (☒) APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA Consent Agenda

IMPACT:

PERSONNEL

(☐) FISCAL/BUDGETARY

(☐) GENERAL FUND

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, OR COUNTY COMMISSIONER: Sgt Ed Hausafus

BUDGET / PERSONNEL _____ / _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, Etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

EH/53-AINT

1989 DEC - 6 AM 10:39
CLERK OF
COUNTY COMMISSIONER'S
MULTI-COUNTY
OREGON

LICENSE RENEWAL APPLICATION

OREGON LIQUOR CONTROL COMMISSION P.O. BOX 22297 PORTLAND, OREGON 97222 PHONE 1-800-452-6522 1990

SYMBOL	CLASSIFICATION	LICENSE FEE	DISTRICT	CITY/COUNTY	DPLRN	CODE
PS	PACKAGE STORE	\$50.00	1	2600	R10237A	F

IF YOU DO NOT COMPLETE THIS APPLICATION FULLY, WE WILL RETURN IT TO YOU FOR COMPLETION. WE CANNOT CONSIDER AN INCOMPLETE APPLICATION. YOUR LICENSE EXPIRES DECEMBER 31, 1989.

TRAN HONGY
QUICK STOP MARKET
15400 SE POWELL
PORTLAND OR

97236

TRAN HONGY

QUICK STOP MARKET
15400 SE POWELL
PORTLAND OR 97236

1. Please list a daytime phone number in case we need more information: (503) 760-3175.
2. Were you or anyone else who holds a financial interest in these premises arrested or convicted of any crime, violation or infraction of any law during the past year? (DO NOT INCLUDE MINOR TRAFFIC VIOLATIONS FOR WHICH A FINE OR BAIL FORFEITURE OF \$50.00 OR LESS WAS IMPOSED).
YES _____ NO X IF YES, PLEASE GIVE NAME OF INDIVIDUAL(S): _____

OFFENSE	DATE	CITY/STATE	RESULT
NONE			

3. Will anyone share in the profits who is not a licensee? YES _____ NO ✓
If yes, please give name(s) and explain: _____

RENEWAL FEE

DO NOT MAIL CASH. ENCLOSE A CHECK OR MONEY ORDER FOR \$50.00 MADE PAYABLE TO "OLCC".

LATE RENEWAL ADDITIONAL FEE

The OLCC must receive your complete renewal application no later than 12-11-89, or you must pay an additional fee of \$12.50. IF YOUR APPLICATION IS RECEIVED AFTER 12-31-89, the additional fee increases to \$20.00. You may take your application to the nearest OLCC office, if your mailed application might not reach the Portland Office by the cut-off date.

ENDORSEMENT

The (CITY OR/COUNTY OF) MULTNOMAH recommends that this license be GRANTED X REFUSED _____

DATE OF ENDORSEMENT: 12/14/89

SIGNED: Gladys McInnis

TITLE OF SIGNER: CHAIR, BOARD OF COMMISSIONERS

SIGNATURES

EACH LICENSEE or authorized corporate officer must sign this application. If a licensee is not available, another person may sign ONLY if the signer includes legal authorization for the signature.

TRAN, HONG-Y
PRINT YOUR NAME

PRINT YOUR NAME

PRINT YOUR NAME

Tran, Hong y 11/30/89
SIGNATURE DATE

SIGNATURE

DATE

SIGNATURE

DATE

586-09-6531 5-08-59
SOCIAL SECURITY NUMBER D.O.B.

SOCIAL SECURITY NUMBER D.O.B.

SOCIAL SECURITY NUMBER D.O.B.

DATE SUBMITTED: December 4, 1989

(For Clerk's Use)

Meeting Date

Agenda No. C-1

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: LIQUOR LICENSE

Informal Only* _____
(Date)

Formal Only _____
(Date)

DEPARTMENT Sheriff's Office DIVISION _____

CONTACT Sergeant Ed Hausafus TELEPHONE 255-3600

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Sergeant Ed Hausafus

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Attached is the Package Store liquor license renewal for the Pleasant Valley Market, 16880 SE Foster, Portland, Oregon 97266. The applicant(s) Sherden H. and Susan K. Pritchett have no criminal record and we recommend that the application be approved.

ACTION REQUESTED:

(☐) INFORMATION ONLY (☐) PRELIMINARY APPROVAL (☐) POLICY DIRECTION (☒) APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA Consent Agenda

IMPACT:

PERSONNEL

(☐) FISCAL/BUDGETARY

(☐) GENERAL FUND

Other _____

CLERK OF
COUNTY COMMISSIONER
1989 DEC - 6 AM 10:39
MULTI-JURISDICTIONAL COUNTY
OREGON

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, OR COUNTY COMMISSIONER: Sgt Ed Hausafus

BUDGET / PERSONNEL _____ / _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, Etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

EH/53-AINT

LICENSE RENEWAL APPLICATION

OREGON LIQUOR CONTROL COMMISSION P.O. BOX 22297 PORTLAND, OREGON 97222 PHONE 1-800-452-6522

1990

SYMBOL	CLASSIFICATION	LICENSE FEE	DISTRICT	CITY/COUNTY	DPLRN	CODE
PS	PACKAGE STORE	\$50.00	1	2600	R00356A	F

IF YOU DO NOT COMPLETE THIS APPLICATION FULLY, WE WILL RETURN IT TO YOU FOR COMPLETION. WE CANNOT CONSIDER AN INCOMPLETE APPLICATION. YOUR LICENSE EXPIRES DECEMBER 31, 1989.

PRITCHETT SHERDEN H
PLEASANT VALLEY MARKET
16880 SE FOSTER RD
PORTLAND OR

97266

PRITCHETT SHERDEN H
PRITCHETT SUSAN K

PLEASANT VALLEY MARKET
16880 SE FOSTER RD
PORTLAND OR

97266

1. Please list a daytime phone number in case we need more information: (503) 667-0147
2. Were you or anyone else who holds a financial interest in these premises arrested or convicted of any crime, violation or infraction of any law during the past year? (DO NOT INCLUDE MINOR TRAFFIC VIOLATIONS FOR WHICH A FINE OR BAIL FORFEITURE OF \$50.00 OR LESS WAS IMPOSED).
YES NO X IF YES, PLEASE GIVE NAME OF INDIVIDUAL(S): _____

OFFENSE	DATE	CITY/STATE	RESULT

3. Will anyone share in the profits who is not a licensee? YES NO X
If yes, please give name(s) and explain: _____

RENEWAL FEE

DO NOT MAIL CASH. ENCLOSE A CHECK OR MONEY ORDER FOR \$50.00 MADE PAYABLE TO "OLCC"

LATE RENEWAL ADDITIONAL FEE

The OLCC must receive your complete renewal application no later than 12-11-89, or you must pay an additional fee of \$12.50. IF YOUR APPLICATION IS RECEIVED AFTER 12-31-89, the additional fee increases to \$20.00. You may take your application to the nearest OLCC office, if your mailed application might not reach the Portland Office by the cut-off date.

ENDORSEMENT

The (CITY OR/COUNTY OF) MULTNOMAH recommends that this license be GRANTED X REFUSED _____DATE OF ENDORSEMENT: 12/14/89SIGNED: Gladys McLoeyTITLE OF SIGNER: CHAIR, BOARD OF COMMISSIONERS

SIGNATURES

EACH LICENSEE or authorized corporate officer must sign this application. If a licensee is not available, another person may sign ONLY if the signer includes legal authorization for the signature.

Sherden H. Pritchett
PRINT YOUR NAME

PRINT YOUR NAME

Sherden H. Pritchett
SIGNATURE

DATE

519-38-2672
SOCIAL SECURITY NUMBER

D.O.B.

Susan K. Pritchett
PRINT YOUR NAME

PRINT YOUR NAME

Susan K. Pritchett
SIGNATURE

DATE

299-38-7662
SOCIAL SECURITY NUMBER

D.O.B.

PRINT YOUR NAME

SIGNATURE

DATE

SOCIAL SECURITY NUMBER

D.O.B.

DATE SUBMITTED: December 4, 1989

(For Clerk's Use)

Meeting Date _____

Agenda No. _____

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: LIQUOR LICENSE

Informal Only* _____
(Date)

Formal Only _____
(Date)

DEPARTMENT Sheriff's Office DIVISION _____

CONTACT Sergeant Ed Hausafus TELEPHONE 255-3600

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Sergeant Ed Hausafus

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Attached is the Package Store liquor license renewal for the Cracker Barrel Grocery, 15005 NW Sauvie Island Road, Portland, Oregon 97231. The applicant(s) Chong Su and Kae Mun Yom have no criminal record and we recommend that the application be approved.

ACTION REQUESTED:

(☐) INFORMATION ONLY (☐) PRELIMINARY APPROVAL (☐) POLICY DIRECTION (☒) APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA Consent Agenda

IMPACT:

PERSONNEL

(☐) FISCAL/BUDGETARY

(☐) GENERAL FUND

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, OR COUNTY COMMISSIONER: Sgt Ed Hausafus

BUDGET / PERSONNEL _____ / _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, Etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

EH/53-AINT

1989 DEC - 6 AM 10:30
CLERK OF COUNTY COMMISSIONER
MULTI-COUNTY
OREGON

LICENSE RENEWAL APPLICATION

OREGON LIQUOR CONTROL COMMISSION P.O. BOX 22297 PORTLAND, OREGON 97222 PHONE 1-800-452-6522 1990

SYMBOL	CLASSIFICATION	LICENSE FEE	DISTRICT	CITY/COUNTY	DPLRN	CODE
PS	PACKAGE STORE	\$50.00	1	2600	R00281A	F

IF YOU DO NOT COMPLETE THIS APPLICATION FULLY, WE WILL RETURN IT TO YOU FOR COMPLETION. WE CANNOT CONSIDER AN INCOMPLETE APPLICATION. YOUR LICENSE EXPIRES DECEMBER 31, 1989.

YOM KAE MUN
CRACKER BARREL GROCERY
15005 NW SAUVIE ISLAND RD
PORTLAND OR 97231

YOM KAE MUN
YOM CHONG SU

CRACKER BARREL GROCERY
15005 NW SAUVIE ISLAND RD
PORTLAND OR 97231

1. Please list a daytime phone number in case we need more information: 621-3960
2. Were you or anyone else who holds a financial interest in these premises arrested or convicted of any crime, violation or infraction of any law during the past year? (DO NOT INCLUDE MINOR TRAFFIC VIOLATIONS FOR WHICH A FINE OR BAIL FORFEITURE OF \$50.00 OR LESS WAS IMPOSED).
YES NO IF YES, PLEASE GIVE NAME OF INDIVIDUAL(S):

OFFENSE	DATE	CITY/STATE	RESULT
---------	------	------------	--------

3. Will anyone share in the profits who is not a licensee? YES NO
If yes, please give name(s) and explain:

RENEWAL FEE

DO NOT MAIL CASH. ENCLOSE A CHECK OR MONEY ORDER FOR \$50.00 MADE PAYABLE TO "OLCC"
LATE RENEWAL ADDITIONAL FEE

The OLCC must receive your complete renewal application no later than 12-11-89, or you must pay an additional fee of \$12.50. IF YOUR APPLICATION IS RECEIVED AFTER 12-31-89, the additional fee increases to \$20.00. You may take your application to the nearest OLCC office, if your mailed application might not reach the Portland Office by the cut-off date.

ENDORSEMENT

The (CITY OR/COUNTY OF) MULTNOMAH recommends that this license be GRANTED X REFUSED

DATE OF ENDORSEMENT: 12/14/89

SIGNED: Gladys McInry TITLE OF SIGNER: CHAIR, BOARD OF COMMISSIONERS

SIGNATURES

EACH LICENSEE or authorized corporate officer must sign this application. If a licensee is not available, another person may sign ONLY if the signer includes legal authorization for the signature.

YOM KAE MUN	YOM CHONG SU	
PRINT YOUR NAME	PRINT YOUR NAME	PRINT YOUR NAME
X [Signature] 10/24/89	X [Signature] 1/11/90	
SIGNATURE DATE	SIGNATURE DATE	SIGNATURE DATE
540-06-1925 7-24-41	541-04-2665 1-17-40	
SOCIAL SECURITY NUMBER D.O.B.	SOCIAL SECURITY NUMBER D.O.B.	SOCIAL SECURITY NUMBER D.O.B.

DATE SUBMITTED: December 4, 1989

(For Clerk's Use)

Meeting Date _____

Agenda No. _____

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: LIQUOR LICENSE

Informal Only* _____
(Date)

Formal Only _____
(Date)

DEPARTMENT Sheriff's Office DIVISION _____

CONTACT Sergeant Ed Hausafus TELEPHONE 255-3600

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Sergeant Ed Hausafus

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Attached is the Package Store liquor license renewal for the Larson's Marina, 14444 NW Larson Road, Portland, Oregon 97231. The applicant(s) Martin D. and Edwinna N. Larson have no criminal record and we recommend that the application be approved.

ACTION REQUESTED:

() INFORMATION ONLY () PRELIMINARY APPROVAL () POLICY DIRECTION (xx) APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA Consent Agenda

IMPACT:

PERSONNEL

() FISCAL/BUDGETARY

() GENERAL FUND

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, OR COUNTY COMMISSIONER: Sgt Ed Hausafus

BUDGET / PERSONNEL _____ / _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, Etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

EH/53-AINT

1989 DEC - 0 AM 10:39
CLERK OF
MULTI-COUNTY
OREGON

LICENSE RENEWAL APPLICATION

OREGON LIQUOR CONTROL COMMISSION P.O. BOX 22297 PORTLAND, OREGON 97222 PHONE 1-800-452-6522

1990

SYMBOL	CLASSIFICATION	LICENSE FEE	DISTRICT	CITY/COUNTY	DPLRN	CODE
PS-P	PACKAGE STORE	\$50.00	1	2600	R16865A	F

IF YOU DO NOT COMPLETE THIS APPLICATION FULLY, WE WILL RETURN IT TO YOU FOR COMPLETION. WE CANNOT CONSIDER AN INCOMPLETE APPLICATION. YOUR LICENSE EXPIRES DECEMBER 31, 1989.

LARSON EDWINNA M
LARSON'S MARINA
14444 NW LARSON RD
PORTLAND OR

97231

LARSON EDWINNA M
LARSON MARTIN D

LARSON'S MARINA
14444 NW LARSON RD
PORTLAND OR

97231

1. Please list a daytime phone number in case we need more information: 503-286-1223.
2. Were you or anyone else who holds a financial interest in these premises arrested or convicted of any crime, violation or infraction of any law during the past year? (DO NOT INCLUDE MINOR TRAFFIC VIOLATIONS FOR WHICH A FINE OR BAIL FORFEITURE OF \$50.00 OR LESS WAS IMPOSED).
YES _____ NO X IF YES, PLEASE GIVE NAME OF INDIVIDUAL(S): _____

OFFENSE

DATE

CITY/STATE

RESULT

3. Will anyone share in the profits who is not a licensee? YES _____ NO X
If yes, please give name(s) and explain: _____
4. Package Store Licenses with Gas Pumps: Report actual grocery inventory at cost (DO NOT INCLUDE BEER OR WINE), please report figures to the nearest dollar amount.
\$1,800.00

RENEWAL FEE

DO NOT MAIL CASH. ENCLOSE A CHECK OR MONEY ORDER FOR \$50.00 MADE PAYABLE TO "OLCC".

LATE RENEWAL ADDITIONAL FEE

The OLCC must receive your complete renewal application no later than 12-11-89, or you must pay an additional fee of \$12.50. IF YOUR APPLICATION IS RECEIVED AFTER 12-31-89, the additional fee increases to \$20.00. You may take your application to the nearest OLCC office, if your mailed application might not reach the Portland Office by the cut-off date.

ENDORSEMENT

The (CITY OR/COUNTY OF) MULTNOMAH recommends that this license be GRANTED X REFUSED _____

DATE OF ENDORSEMENT:

12/14/89

SIGNED:

Gladys McLeanTITLE OF SIGNER: CHAIR, BOARD OF COMMISSIONERS

SIGNATURES

EACH LICENSEE or authorized corporate officer must sign this application. If a licensee is not available, another person may sign ONLY if the signer includes legal authorization for the signature.

Martin D Larson

PRINT YOUR NAME

Edwinna M. LARSON

PRINT YOUR NAME

PRINT YOUR NAME

SIGNATURE

SIGNATURE

SIGNATURE

DATE

543-64-2505

SOCIAL SECURITY NUMBER D.O.B.

540-54-8018

SOCIAL SECURITY NUMBER D.O.B.

SOCIAL SECURITY NUMBER

D.O.B.

DATE SUBMITTED: December 4, 1989

(For Clerk's Use)

Meeting Date _____

Agenda No. _____

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: LIQUOR LICENSE

Informal Only* _____
(Date)

Formal Only _____
(Date)

DEPARTMENT Sheriff's Office DIVISION _____

CONTACT Sergeant Ed Hausafus TELEPHONE 255-3600

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Sergeant Ed Hausafus

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Attached is the Retail Malt Beverage liquor license renewal for the 4 Aces, 15826 SE Division, Portland, Oregon 97236. The applicant(s) Robert Studwell have no criminal record and we recommend that the application be approved.

ACTION REQUESTED:

(☐) INFORMATION ONLY (☐) PRELIMINARY APPROVAL (☐) POLICY DIRECTION (☒) APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA Consent Agenda

IMPACT:

PERSONNEL

(☐) FISCAL/BUDGETARY

(☐) GENERAL FUND

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, OR COUNTY COMMISSIONER: [Signature]

BUDGET / PERSONNEL _____ / _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, Etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

EH/53-AINT

CLERK OF
COUNTY COMMISSIONER
1989 DEC - 6 AM 10:30
MULTNOMAH COUNTY
OREGON

LICENSE RENEWAL APPLICATION

OREGON LIQUOR CONTROL COMMISSION P.O. BOX 22297 PORTLAND, OREGON 97222 PHONE 1-800-452-6522 1990

SYMBOL	CLASSIFICATION	FEES	DISTRICT	CITY/COUNTY	DPLRN	CODE
RMB	RETAIL MALT BEVERAGE SERVER EDUCATION STUDENT FEE	\$200.00 2.60	1	2600	R00204A	C

IF YOU DO NOT COMPLETE THIS APPLICATION FULLY, WE WILL RETURN IT TO YOU FOR COMPLETION. WE CANNOT CONSIDER AN INCOMPLETE APPLICATION. YOUR LICENSE EXPIRES DECEMBER 31, 1989.

STUDWELL ROBERT L
4 ACES
15826 SE DIVISION
PORTLAND OR 97236

STUDWELL ROBERT L
4 ACES
15826 SE DIVISION
PORTLAND OR 97236

1. Please list a daytime phone number in case we need more information: 761-9862.
2. Were you or anyone else who holds a financial interest in these premises arrested or convicted of any crime, violation or infraction of any law during the past year? (DO NOT INCLUDE MINOR TRAFFIC VIOLATIONS FOR WHICH A FINE OR BAIL FORFEITURE OF \$50.00 OR LESS WAS IMPOSED).
YES NO ☒ IF YES, PLEASE GIVE NAME OF INDIVIDUAL(S):
OFFENSE DATE CITY/STATE RESULT
3. Will anyone share in the profits who is not a licensee? YES NO ☒
If yes, please give name(s) and explain:
4. Did you make any significant changes in operation during the past year that you have not reported to the OLCC, such as changes in menu, hours of operation, or remodeling?
YES NO ☒ IF YES, EXPLAIN:

RENEWAL FEE / SERVER EDUCATION STUDENT FEE

DO NOT MAIL CASH. ENCLOSE A CHECK OR MONEY ORDER FOR \$202.60 MADE PAYABLE TO "OLCC"
LATE RENEWAL ADDITIONAL FEE

The OLCC must receive your complete renewal application no later than 12-11-89, or you must pay an additional fee of \$50.00. IF YOUR APPLICATION IS RECEIVED AFTER 12-31-89 the additional fee increases to \$80.00. You may take your application to the nearest OLCC office, if your mailed application might not reach the Portland Office by the cut-off date.

ENDORSEMENT

The (CITY OR COUNTY OF) MULTNOMAH recommends that this license be GRANTED X REFUSED
DATE OF ENDORSEMENT: 12/14/89
SIGNED: Shirley McCay TITLE OF SIGNER: Chair - BOARD OF COMMISSIONERS

SIGNATURES

EACH LICENSEE or authorized corporate officer must sign this application. If a licensee is not available, another person may sign ONLY if the signer includes legal authorization for the signature.

<u>Robert STUDWELL</u> PRINT YOUR NAME	<u>Robert Studwell</u> SIGNATURE	<u>11-30-89</u> DATE	<u>543-46-2424</u> SOCIAL SECURITY NUMBER	<u>2-14-42</u> D.O.B.

NOTICE All employees who serve or sell alcoholic beverages MUST have a valid Service Permit.

DATE SUBMITTED: December 4, 1989

(For Clerk's Use)

Meeting Date _____

Agenda No. _____

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: LIQUOR LICENSE

Informal Only* _____
(Date)

Formal Only _____
(Date)

DEPARTMENT Sheriff's Office DIVISION _____

CONTACT Sergeant Ed Hausafus TELEPHONE 255-3600

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Sergeant Ed Hausafus

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Attached is the Retail Malt Beverage liquor license renewal for the Maxine's, 16900 NW St. Helens Road, Portland, Oregon 97231. The applicant(s) Patricia M. Pearson have no criminal record and we recommend that the application be approved.

ACTION REQUESTED:

() INFORMATION ONLY () PRELIMINARY APPROVAL () POLICY DIRECTION (xx) APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA Consent Agenda

IMPACT:

PERSONNEL

() FISCAL/BUDGETARY

() GENERAL FUND

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, OR COUNTY COMMISSIONER: Sgt Ed Hausafus

BUDGET / PERSONNEL _____ / _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, Etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

EH/53-AINT

1989 DEC - 6 AM 10:39
MULTIOMAH COUNTY
OREGON

LICENSE RENEWAL APPLICATION

AD

DUPLICATE

OREGON LIQUOR CONTROL COMMISSION P.O. BOX 22297 PORTLAND, OREGON 97222 PHONE 1-800-452-6522

SYMBOL	CLASSIFICATION	FEES	DISTRICT	CITY/COUNTY	DPLRN	CODE
RMB	Retail Malt Beverage	\$200.00	I	2600	R02213A	C
	SERVER EDUCATION STUDENT FEE	2.60				

~~IF YOU DO NOT COMPLETE THIS APPLICATION FULLY, WE WILL RETURN IT TO YOU FOR COMPLETION. WE CANNOT CONSIDER AN INCOMPLETE APPLICATION. YOUR LICENSE EXPIRES.~~

Pearson, Patricia Maxine
MAXINE'S
16900 NW St. Helens Rd.
Portland, OR 97231

* Is there a designee(s) for Server Education? YES ___ NO XX.

** Server Education designee _____ SS# _____.

- Please list a daytime phone number in case we need more information: 503 (538-6671).
- Were you or anyone else who holds a financial interest in these premises arrested or convicted of any crime, violation or infraction of any law during the past year? (DO NOT INCLUDE MINOR TRAFFIC VIOLATIONS FOR WHICH A FINE OR BAIL FORFEITURE OF \$50.00 OR LESS WAS IMPOSED).
YES ___ NO XXX IF YES, PLEASE GIVE NAME OF INDIVIDUAL(S): _____

OFFENSE	DATE	CITY/STATE	RESULT
- Will anyone share in the profits who is not a licensee? YES ___ NO XXX
If yes, please give name(s) and explain: _____
- Did you make any significant changes in operation during the past year that you have not reported to the OLCC, such as changes in menu, hours of operation, or remodeling?
YES ___ NO XXX IF YES, EXPLAIN: _____

RENEWAL FEE / SERVER EDUCATION STUDENT FEE

DO NOT MAIL CASH. ENCLOSE A CHECK OR MONEY ORDER FOR _____ MADE PAYABLE TO "OLCC".

LATE RENEWAL ADDITIONAL FEE

The OLCC must receive your complete renewal application no later than 12-11-89; you must pay an additional fee of \$50.00 IF YOUR APPLICATION IS RECEIVED AFTER 12-29-89; additional fee increases to \$80.00. You may take your application to the nearest OLCC office, if your mailed application might not reach the Portland Office by the cut-off date.

ENDORSEMENT

The (CITY OR/COUNTY OF) MULTNOMAH recommends that this license be GRANTED X REFUSED ____
DATE OF ENDORSEMENT: 12/14/89

SIGNED: Gladys McInerney TITLE OF SIGNER: Chair BOARD OF COMMISSIONERS

SIGNATURES

EACH LICENSEE or authorized corporate officer must sign this application. If a licensee is not available, another person may sign ONLY if the signer includes legal authorization for the signature.

Patricia Maxine Pearson

PRINT YOUR NAME

PRINT YOUR NAME

PRINT YOUR NAME

SIGNATURE

DATE

SIGNATURE

DATE

SIGNATURE

DATE

517-66-7404

6-30-52

SOCIAL SECURITY NUMBER

D.O.B.

SOCIAL SECURITY NUMBER D.O.B.

SOCIAL SECURITY NUMBER

D.O.B.

NOTICE All employees who serve or sell alcoholic beverages MUST have a valid Service Permit.

DATE SUBMITTED: December 4, 1989

(For Clerk's Use)

Meeting Date _____

Agenda No. _____

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: LIQUOR LICENSE

Informal Only* _____
(Date)

Formal Only _____
(Date)

DEPARTMENT Sheriff's Office DIVISION _____

CONTACT Sergeant Ed Hausafus TELEPHONE 255-3600

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Sergeant Ed Hausafus

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Attached is the Restaurant liquor license renewal for the LaKasita Especialle, 12113 SE Foster, Portland, Oregon 97266. The applicant(s) Deanna Lee and Gabriel T. Gefre have no criminal record and we recommend that the application be approved.

ACTION REQUESTED:

(☐) INFORMATION ONLY (☐) PRELIMINARY APPROVAL (☐) POLICY DIRECTION (☒) APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA Consent Agenda

IMPACT:

PERSONNEL

(☐) FISCAL/BUDGETARY

(☐) GENERAL FUND

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, OR COUNTY COMMISSIONER: Ed Hausafus

BUDGET / PERSONNEL _____ / _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, Etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

EH/53-AINT

BOARD OF
COUNTY COMMISSIONERS
1989 DEC - 6 AM 10:39
MULTNOMAH COUNTY
OREGON

LICENSE RENEWAL APPLICATION

OREGON LIQUOR CONTROL COMMISSION P.O. BOX 22297 PORTLAND, OREGON 97222 PHONE 1-800-452-6522 1990

SYMBOL	CLASSIFICATION	FEES	DISTRICT	CITY/COUNTY	DPLRN	CODE
R	RESTAURANT SERVER EDUCATION STUDENT FEE	\$200.00 2.60	1	2600	R15479A	C

IF YOU DO NOT COMPLETE THIS APPLICATION FULLY, WE WILL RETURN IT TO YOU FOR COMPLETION. WE CANNOT CONSIDER AN INCOMPLETE APPLICATION. YOUR LICENSE EXPIRES DECEMBER 31, 1989.

GEFRE DEANNA L
LA CASITA ESPECIALLE
12113 SE FOSTER
PORTLAND OR

97266

GEFRE DEANNA L
GEFRE GABRIEL T

LA CASITA ESPECIALLE
12113 SE FOSTER
PORTLAND OR

97266

1. Please list a daytime phone number in case we need more information: 761-0455
2. Were you or anyone else who holds a financial interest in these premises arrested or convicted of any crime, violation or infraction of any law during the past year? (DO NOT INCLUDE MINOR TRAFFIC VIOLATIONS FOR WHICH A FINE OR BAIL FORFEITURE OF \$50.00 OR LESS WAS IMPOSED).
YES ☐ NO ☒ IF YES, PLEASE GIVE NAME OF INDIVIDUAL(S): _____
- | OFFENSE | DATE | CITY/STATE | RESULT |
|---------|------|------------|--------|
| | | | |
3. Will anyone share in the profits who is not a licensee? YES ☐ NO ☒
If yes, please give name(s) and explain: _____
4. Did you make any significant changes in operation during the past year that you have not reported to the OLCC, such as changes in menu, hours of operation, or remodeling?
YES ☐ NO ☒ IF YES, EXPLAIN: _____

RENEWAL FEE / SERVER EDUCATION STUDENT FEE

DO NOT MAIL CASH. ENCLOSE A CHECK OR MONEY ORDER FOR \$202.60 MADE PAYABLE TO "OLCC".

LATE RENEWAL ADDITIONAL FEE

The OLCC must receive your complete renewal application no later than 12-11-89, or you must pay an additional fee of \$50.00. IF YOUR APPLICATION IS RECEIVED AFTER 12-31-89 the additional fee increases to \$80.00. You may take your application to the nearest OLCC office, if your mailed application might not reach the Portland Office by the cut-off date.

ENDORSEMENT

The (CITY OR/COUNTY OF) MULTNOMAH recommends that this license be GRANTED ☒ REFUSED ☐
DATE OF ENDORSEMENT: 12/14/89
SIGNED: Gladys McLean TITLE OF SIGNER: Chair - BOARD OF COMMISSIONERS

SIGNATURES

EACH LICENSEE or authorized corporate officer must sign this application. If a licensee is not available, another person may sign ONLY if the signer includes legal authorization for the signature.

Deanna Lee Gefre
PRINT YOUR NAME

Deanna Gefre 11/28/89
SIGNATURE DATE

544-70-9834 11/27/55
SOCIAL SECURITY NUMBER D.O.B.

GABRIEL T. GEFRE JR
PRINT YOUR NAME

Gabriel T. Gefre Jr. 11/28/89
SIGNATURE DATE

540-70-8431 11/2/55
SOCIAL SECURITY NUMBER D.O.B.

SIGNATURE DATE

SOCIAL SECURITY NUMBER D.O.B.

****NOTICE**** All employees who serve or sell alcoholic beverages MUST have a valid Service Permit.

DATE SUBMITTED 11/29/89

(For Clerk's Use)

Meeting Date 12/14/89

Agenda No. R-2

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: Appointments

Informal Only* _____
(Date)

Thursday December 14,
Formal Only Tuesday, Dec 5, 1989
(Date)

DEPARTMENT County Chair DIVISION _____

CONTACT Fred Neal TELEPHONE 248-3308

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD _____

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Appointment of Cliff Carlsen and Bill Failing to the
Library Association of Portland Board of Directors

Reappointment of Don Barney, Felicia Trader, and Jolinda Osborne

All terms expire September, 1994

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☐ POLICY DIRECTION ☒ APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA _____

IMPACT:

☐ PERSONNEL

☐ FISCAL/BUDGETARY

☐ General Fund

☐ Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Gladys McCay

BUDGET / PERSONNEL /

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

CLERK OF
COUNTY COMMISSIONERS
1989 DEC - 5 PM 4:28
MULTIPLA COUNTY
OREGON

DATE SUBMITTED 12/7/89

(For Clerk's Use)
Meeting Date 12/14/89
Agenda No. R-3

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: Appointments to Board of Equalization

Informal Only* _____
(Date)

Formal Only Thurs, Dec 14, 1989
(Date)

DEPARTMENT County Chair DIVISION _____

CONTACT Judy Boyer TELEPHONE 248-3308

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD _____

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

see attached listing

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☐ POLICY DIRECTION ☒ APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA _____

IMPACT:

☐ PERSONNEL
☐ FISCAL/BUDGETARY
☐ General Fund
☐ Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Gladys McOrf

BUDGET / PERSONNEL _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

BOARD OF
COUNTY COMMISSIONERS
1989 DEC - 7 PM 12:20
MULTNOMAH COUNTY
OREGON

APPOINTMENTS TO THE BOARD OF EQUALIZATION:

Board I

Jane Rhodes, Chair
Joe Labadie

Board II

Chet McRobert, Chair
Caroline Miller

Board III

Tom Hatfield, Chair
Robert Hughley

Alternates: Ray Steed, John Nichols, Lianne Thompson

ALL TERMS EXPIRE 12/90

DATE SUBMITTED _____

(For Clerk's Use)

Meeting Date 12/14/89
Agenda No. R-4

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: Troutdale Drainage Plan Agreement

Informal Only* _____
(Date)

Formal Only 12/7/89
(Date)

DEPARTMENT Environmental Services DIVISION Facilities & Property Management

CONTACT Jim Emerson/Paul Yarborough TELEPHONE 3322/5001

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Jim Emerson

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Request approval of intergovernmental agreement between City of Troutdale and Multnomah County for drainage master plan. Funding previously approved by Board of County Commissioners for \$13,335.00.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☐ POLICY DIRECTION ☒ APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 5 minutes

IMPACT:

PERSONNEL

☐ FISCAL/BUDGETARY

☐ General Fund

Other _____

*Sent original back to
421/-380 12/20/89*

1989 DEC - 5 PM 4:21
CLERK OF COUNTY
OREGON

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: [Signature]

BUDGET / PERSONNEL 1

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) [Signature]

OTHER [Signature]
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

NUMBER _____

CITY OF TROUTDALE
INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT made and entered into as of the ____ day of November, 1989, between the CITY OF TROUTDALE, a home rule political subdivision of the State of Oregon, herein after referred to as the "Contractor" and MULTNOMAH COUNTY, hereinafter referred to as the "County."

WITNESSETH

WHEREAS, the City of Troutdale is preparing a Drainage Master Plan that affects and benefits the County under terms and conditions described herein and attached hereto; and

WHEREAS, the Contractor and County are jointly, but not equally participating, in the planning, design, and preparation of a Storm Drain Master Plan; and

WHEREAS, the Contractor is able and prepared to provide such services as would benefit the County under the terms and conditions set forth; now therefore,

IN CONSIDERATION of those mutual promises and the terms and conditions set forth hereinafter, the parties agree as follows:

ARTICLE I

CONTRACTOR SERVICES AND CONDITIONS

- A. The services of the Contractor shall specifically include the preparation of a Storm Drain Master Plan of the North Troutdale Drainage Basin. This master plan includes County property which will benefit from the study.
- B. The Contractor will be allowed to sub-contract this project to an engineer approved by the Troutdale City Council. This contract/agreement is attached and made part of this intergovernmental agreement.
- C. The Contractor will form a technical advisory committee consisting of one representative each from the following jurisdictions: City of Troutdale, Multnomah County, Sandy Drainage District, Port of Portland and the City of Wood Village.

- D. The recommendations of the Storm Drain Master Plan will not obligate the County, until approved by the Troutdale City Council, to any identified capital improvement projects.
- E. Four copies of the Draft Master Plan will be presented to the County for final review and input. In addition, once the project is completed, eight "final" documents will be submitted to Multnomah County for their records.
- F. This project will be completed in total and all documents released as indicated in "E" above no later than June 30, 1990.

ARTICLE II

COUNTY OBLIGATIONS AND TERMS

- A. Total amount of the engineering contract is estimated to be \$58,300. The total amount of ground surveying costs is estimated to be \$5,200.
 - 1. The County agrees to pay the Contractor an amount equal to \$13,335.00 for the services described above, herein and attached hereto and payment shall be made as periodically invoiced by the Contractor during the work progress.
 - 2. No additional compensation will be claimed by the Contractor for in kind services, long distance communications, travel, materials or supplies, etc.

ARTICLE III

WORK IS PROPERTY OF CONTRACTOR

All work performed by the Contractor under this Agreement shall be the property of the Contractor. However, Contractor will provide documents as identified in Article I, Subsection "E" and/or additional documents at the County's request for cost equivalent to reproduction charges associated thereto.

ARTICLE IV

GENERAL PROVISIONS

- A. Access to Records:

The County, through its duly authorized representatives, shall have access during normal business hours to such

books, documents, papers and records of the Contractor as is directly pertinent to this Agreement for the purpose of making audit examination, excerpts and transcripts.

B. Contractor is Independent Contractor:

1. Contractor's services shall be provided under the general supervision of the City of Troutdale Director of Public Works, but Contractor shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under Article II of this Agreement unless both parties so agree in writing.
2. Contractor hereby certifies that it is either a Direct Responsibility Employer as provided in ORS 656.407 (1979) or a Contributing Employer as provided in ORS 656.411 (1979).
3. The Contractor acknowledges responsibility for liability arising out of Contractor's performance under this Agreement and shall hold the County harmless from and indemnify County for any and all liability, settlements, loss, judgments, costs, attorneys' fees, or expenses in connection with any action, suit or claim resulting or allegedly resulting from activities or services provided pursuant to this Agreement.
4. County acknowledges responsibility for liability arising out of the County's performance under this Agreement and shall hold the Contractor harmless from and indemnify the Contractor for any and all liability, settlements, loss, judgments, costs, attorneys' fees, or expenses in connection with any action, suit or claim resulting or allegedly resulting from activities or services provided pursuant to this Agreement.

C. Early Termination:

1. This Agreement may be terminated prior to the expiration of the agreed upon term:
 - a. By mutual consent of the parties; or
 - b. By either party upon 30 days' notice to the other, delivered by certified mail or in person, under any of the following circumstances:
 - (1) In the event funding from federal, state or other sources is not obtained and

continued at levels sufficient for payment as provided herein. If possible and upon agreement of the parties, this agreement may be modified to accommodate reduced available funding, but shall in no case be reduced below the level of existing or obligated costs incurred at the time of termination or reduced scope.

(2) If federal or state regulations or guidelines are modified or changed in a manner which prohibits or renders inappropriate the purchase of such services as are provided hereunder.

(3) If any license or certificate required by law or regulation to be held by the Contractor, or his designee, to provide the services required by this Agreement is for any reason denied, revoked or not renewed.

2. Payment to Contractor shall be prorated to and include the day of termination and shall be in full satisfaction of all claims by Contractor against County under this Agreement.
3. Termination under any provision of Article IV-C shall not affect any right, obligation or liability of Contractor or County which accrued prior to such termination.
4. County, by written notice of default (including breach of agreement) to the Contractor, may terminate the whole or any part of this Agreement:
 - a. If Contractor fails to provide services prescribed herein within the time specified or any extension thereof; or
 - b. If Contractor fails to perform any of the other provisions of the agreement in accordance with its terms, and after receipt of written notice from County, Contractor fails to correct such failures within 10 days or such other period as the County may authorize.

D. Subcontracts and Assignment:

Contractor shall have full right to subcontract with others for any of the work prescribed herein, and may assign any of Contractor's rights acquired hereunder without prior approval from County; County by this

Agreement incurs no liability to third persons for payment of any compensation provided herein to Contractor except as defined Contractor payments specified in this Agreement.

E. Adherence to Law:

1. Contractor shall adhere to all applicable laws governing its relationship with its employees, including but not limited to laws, rules, regulations and policies concerning workers' compensation, and minimum and prevailing wage requirements.

F. Modification:

Any modification of the provisions of this Agreement shall be reduced to writing and signed by the parties.

G. Integration:

This Agreement contains the entire agreement between the parties and supersedes all prior written or oral discussions or agreements.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers the date first written above.

APPROVED TO FORM:

By John L. DeBary
County Counsel
For Multnomah County, Oregon

By _____
James R. Jennings, City Counsel
For Troutdale, Oregon

PW79:2

RATIFIED

Multnomah County Board
of Commissioners

By Gladys McCoy 12/14/89
Gladys McCoy,
County Executive

By _____
Sam K. Cox, Mayor
City of Troutdale

By Paul Yarborough
Paul Yarborough, Director
Environmental Services

DATE SUBMITTED _____

(For Clerk's Use)
Meeting Date 12/14/89
Agenda No. P-5

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: PCRB EXEMPTION

Informal Only * _____
(Date)

Formal Only _____
(Date)

DEPARTMENT DGS

DIVISION DAS Purchasing

CONTACT John Margaronis/Lillie Walker

TELEPHONE 248-3749/248-5111

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD John Margaronis

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Request of the Board of County Commissioners, acting as the PCRB, for approval of a license with Software A.G., the single seller of Super Natural, a product with ADABAS interface capabilities.

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☐ POLICY DIRECTION ☒ APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 15 minutes

IMPACT: notice & application sent to PCRB list; DGS; ISD; Purchasing/QERS 12/8/89
notice and order sent to PCRB list; DGS; ISD; Purchasing/QERS 12/20/89

PERSONNEL

☐ FISCAL/BUDGETARY

☐ GENERAL FUND

OTHER _____

SIGNATURES:

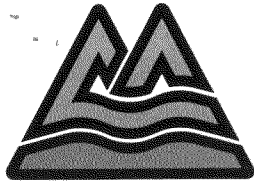
DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: [Signature]

BUDGET / PERSONNEL [Signature]

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) [Signature]

OTHER [Signature]
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308
PAULINE ANDERSON • DISTRICT 1 • 248-5220
GRETCHEN KAFOURY • DISTRICT 2 • 248-5219
RICK BAUMAN • DISTRICT 3 • 248-5217
SHARRON KELLEY • DISTRICT 4 • 248-5213
JANE McGARVIN • Clerk • 248-3277

NOTICE OF APPROVAL

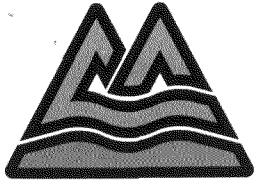
The Multnomah County Board of Commissioners, sitting as the Public Contract Review Board, considered an application on Thursday, December 14, 1989, and approved an Order exempting from Public Bidding a License with Software A. G. for Super Natural Software through Sole Source Procurement.

A copy of the order is attached.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON
PUBLIC CONTRACT REVIEW BOARD

Jane McGarvin
Clerk of the Board

jm



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

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RICK BAUMAN • DISTRICT 3 • 248-5217
SHARRON KELLEY • DISTRICT 4 • 248-5213
JANE McGARVIN • Clerk • 248-3277

NOTICE OF HEARING

The Multnomah County Board of Commissioners, sitting as the Public Contract Review Board, will consider an application on Thursday, December 14, 1989, at 9:30 A.M. in Room 602 of the Multnomah County Courthouse, 1021 SW Fourth, Portland, Oregon, to Exempt from Public Bidding a license with Software A. G. for Super Natural Software through Sole Source Procurement.

A copy of the application is attached.

For additional information, contact Lillie Walker, Purchasing Director at 248-5111, or Jane McGarvin, Clerk of the Board at 248-3277.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON
PUBLIC CONTRACT REVIEW BOARD

Jane McGarvin
Jane McGarvin
Clerk of the Board

jm

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

In the Matter of Exempting)
from Public Bidding of a License)
with Software A.G. for Super)
Natural Product through Sole)
Source Procurement)

A P P L I C A T I O N

Application to the Public Contract Review Board on behalf of a request from DGS, Information Services Division (ISD) is hereby made pursuant to the Board's Administrative Rules AR 10.010, and AR 10.100, adopted under the provisions of ORS 279.015 and 279.017, for an order exempting from the requirements of public bidding, a license with Software A.G., the single seller of Super Natural, a software product that directly interfaces with ADABAS end user data base files currently used by the County. The license fee is \$48,000.

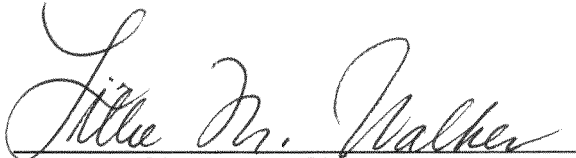
This request is made for the following reasons:

1. Information Services Division (ISD) needs a reporting tool that provides direct access to ADABAS database files that eliminates the need to develop extract programs and create additional files.
2. Vendor inquiries were made to 5 of the most common sources for end user access software. Software A.G. was the only vendor with a product that interfaces with the ADABAS data dictionary and directly reads ADABAS database files. The product is Super Natural, an end user version of the primary application development tool.
3. Super Natural also integrates with Natural Connection, a download product that will be used for personal computer (P/C) interface.

The Information Services Division has appropriated funds for this purchase in FY 1989-90 budget.

The Purchasing Section recommends this action as it represents the most cost effective use of existing equipment and software.

Dated this *29* of *November*, 1989.



Lillie M. Walker, Director
Purchasing Section

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

In the Matter of Exempting From Public)
Bidding of a License with Software A.G. for)
Super Natural Software through Sole Source)
Procurement)

O R D E R

89-211

The above entitled matter is before the Board of County Commissioners, acting in its capacity as the Multnomah County Public Contract Review Board, to consider a request from DGS/Information Services Division for an order exempting from the requirement of public bidding a license with Software A.G. for Super Natural, an end user access product with the capability of direct interface with ADABAS data base files currently in use by Information Services Division.

It appearing to the Board that the recommendation for exemption, as it appears in the application, is based upon the fact that inquiries were made to five commonly known vendors of end user access software. Software A.G. was the only vendor with a product, Super Natural, that interfaces with ADABAS data dictionary and reads database files currently in use by the County. This purchase represents the most cost effective use of equipment already within the department, and is not likely to encourage favoritism.

It appearing to the Board that this request for an exemption is in accord with the requirements of the Multnomah County Public Contract Review Board Administrative Rules AR 10.100, 20.030, and 30.010; it is, therefore

ORDERED that the license with Software A.G. be exempted from the requirement of public bidding.

Dated this 14th day of December, 1989.

REVIEWED:

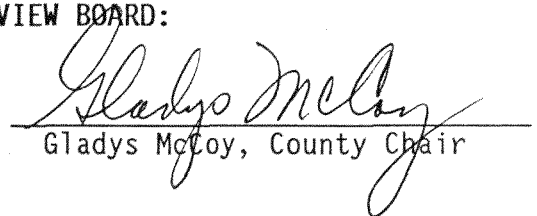
Laurence Kressel, County Counsel
for Multnomah County, Oregon

By


Assistant County Counsel

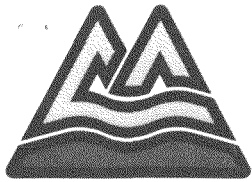
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT
REVIEW BOARD:

By


Gladys McCoy, County Chair

(SEAL)

CS:112889



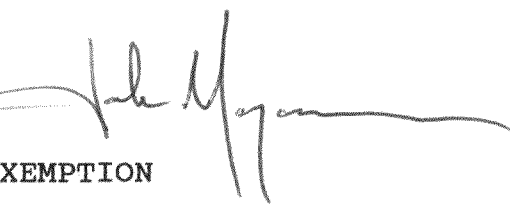
MULTNOMAH COUNTY OREGON

DEPARTMENT OF GENERAL SERVICES
INFORMATION SERVICES DIVISION
4747 EAST BURNSIDE
PORTLAND, OREGON 97215
(503) 248-3749

GLADYS McCOY
COUNTY CHAIR OF THE BOARD

MEMORANDUM

TO: Roger Bruno, Purchasing Agent
DGS - Purchasing Section

FROM: John Margaronis, Manager
ISD - Information Systems 

SUBJECT: REQUEST FOR SOLE SOURCE EXEMPTION

DATE: November 14, 1989

The Data Processing Management Committee has directed ISD to identify and license end user reporting software. We identified and allocated \$48,000 in ISD's budget (301-040-7960-6530) to accomplish this goal.

In order to make sure we were addressing the majority of our client reporting needs I formed a selection committee to identify and evaluate candidate software products. We discovered two facts very quickly;

- 1) We need a reporting tool that provides direct access to ADABAS database files without having to develop extract programs and create additional files.
- 2) There are very few reporting tools that provide direct access to ADABAS database files.

Vendor inquiries were made to the most common sources for end user access software including the SAS Institute, Pansophic Systems, American Management Systems, Management Science America and Software A.G. Only Software A.G. provides a product that interfaces with the ADABAS data dictionary and directly reads ADABAS database files. The product is Super Natural, an end user version of our primary application development tool. This tool integrates with Natural Connection, a download product that we will ask the DPMC to fund in conjunction with our purchase of Super Natural. The licence fee for Super Natural is \$48,000; the license fee for Natural Connection is reported to be \$24,000 plus \$300-500 per installed machine (P/C).

Roger Bruno
Bid Exemption
page 2

In summary, Super Natural is the only product we know of that will meet our defined need to directly access ADABAS files and Natural Connection works in conjunction with Super Natural to provide a P/C interface. I understand our optimum direction would be to request a Sole Source Exemption from the public bidding process to purchase these products.

Doug Fischer advised me that writing a memo to you explaining the situation is the first step to take. Please let me know what else I need to do to get the ball rolling.

cc: Jim Munz

DATE SUBMITTED _____

(For Clerk's Use)
Meeting Date 12/14/89
Agenda No. R-6

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: PCRB EXEMPTION

Informal Only * _____
(Date)

Formal Only _____
(Date)

DEPARTMENT DGS

DIVISION DAS Purchasing

CONTACT Lillie Walker/Gary Sawyer

TELEPHONE 248-5111/248-3555

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Gary Sawyer/Ward Evans

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Request of the Board of County Commissioners, acting as the PCRB, for approval of an exemption to specify the brand name, Hybritek-Icon II (serum), a pregnancy testing kit.

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☐ POLICY DIRECTION ☒ APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 10 minutes

IMPACT: notice and application sent to PCRB list; DGS; ISD; DHS; Purchasing Dec 12/8/89

PERSONNEL notice and order sent to PCRB list; DGS; ISD; DHS; Purchasing Dec 12/20/89

☐ FISCAL/BUDGETARY

☐ GENERAL FUND

OTHER _____

SIGNATURES:

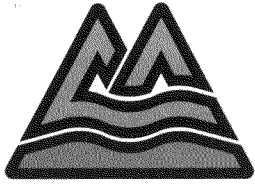
DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Linda D. Alexander

BUDGET / PERSONNEL /

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) John D. Bay

OTHER Lillie M. Walker
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

GLADYS McCOY • CHAIR • 248-3308
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SHARRON KELLEY • DISTRICT 4 • 248-5213
JANE McGARVIN • Clerk • 248-3277

NOTICE OF APPROVAL

The Multnomah County Board of Commissioners, sitting as the Public Contract Review Board, considered an application on Thursday, December 14, 1989, and approved an order exempting from public bidding to specify the brand name product, Hybritek-Icon II Pregnancy Testing Kit.

A copy of the order is attached.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON
PUBLIC CONTRACT REVIEW BOARD

Jane McGarvin
Clerk of the Board

jm



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
ROOM 605, COUNTY COURTHOUSE
1021 S.W. FOURTH AVENUE
PORTLAND, OREGON 97204

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NOTICE OF HEARING

The Multnomah County Board of Commissioners, sitting as the Public Contract Review Board, will consider an application on Thursday, December 14, 1989, at 9:30 A.M. in Room 602 of the Multnomah County Courthouse, 1021 SW Fourth, Portland, Oregon, to Exempt from Public Bidding to Specify the Brand Name Product, Hybritek-Icon II Pregnancy Testing Kit.

A copy of the application is attached.

For additional information, contact Lillie Walker, Purchasing Director at 248-5111, or Jane McGarvin, Clerk of the Board at 248-3277.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON
PUBLIC CONTRACT REVIEW BOARD

Jane McGarvin
Clerk of the Board

jm

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

In the Matter of An Exemption to)
Specify a Brand Name, Hybritek-)
Icon II Pregnancy Testing Kits)

A P P L I C A T I O N

Application to the Public Contract Review Board on behalf of a request from DHS, Health Division is hereby made pursuant to the Board's Administrative Rules AR 10.010, 20.000 and 20.030, adopted under the provisions of ORS 279.015 and 279.017, for an order exempting the use of the brand name product Hybritek-Icon II (serum), a pregnancy testing kit through the single distributor of the product, Curt Mattheson Scientific. The estimated annual purchase is \$18,000.


This request is made for the following reasons:

1. The Health division has purchased and used a number of pregnancy testing kits over a long period of time. The Hybritek-Icon II kit has proven to be the most accurate of the many pregnancy testing kits on the market.
2. This brand name product also has a long shelf life, which allows for volume purchasing and cost savings.

The DHS, Health Division has appropriated funds for this purchase in FY 1989-90 budget.

The Purchasing Section recommends this action as it represents the most cost effective purchase.

Dated this *29* of *November*, 1989.



Lillie M. Walker, Director
Purchasing Section

CS:112889

**MULTNOMAH COUNTY OREGON**

DEPARTMENT OF GENERAL SERVICES
PURCHASING SECTION
2505 S.E. 11TH AVENUE
PORTLAND, OREGON 97202
(503) 248-5111

GLADYS McCOY
COUNTY CHAIR

FACSIMILE TRANSMITTAL

DATE: 12/8/89

TO: Carrie P.

COMPANY: Clerk of Board

FAX NUMBER: 248-3308

FROM: Wilma, Purchasing

FAX NUMBER: (503) 248-3252

TOTAL PAGES (INCLUDING COVER) 2

IF NOT ALL PAGES RECEIVED, CALL:

(503) 248-5111

COMMENTS:

Application for
Pregnancy Testing Kits

JT:CS:091289

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

In the Matter of An Exemption to)
Specify a Brand Name, Hybritek-)
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The Purchasing Section recommends this action as it represents the most cost effective purchase.

Dated this of , 1989.


Lillie M. Walker, Director
Purchasing Section

CS:112889

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

In the Matter of Exempting)
from Public Bidding of a License)
with Software A.G. for Super)
Natural Product through Sole)
Source Procurement)

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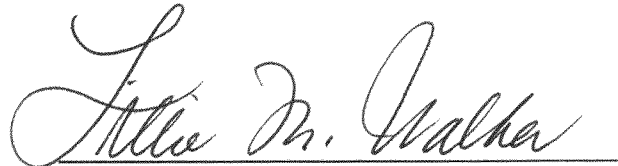
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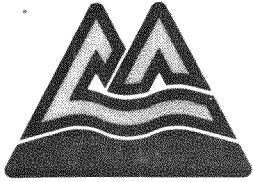
The Information Services Division has appropriated funds for this purchase in FY 1989-90 budget.

The Purchasing Section recommends this action as it represents the most cost effective use of existing equipment and software.

Dated this *29* of *November*, 1989.



Lillie M. Walker, Director
Purchasing Section



MULTNOMAH COUNTY OREGON

DEPARTMENT OF HUMAN SERVICES
HEALTH DIVISION
LABORATORY
426 S.W. STARK STREET, 9TH FLOOR
PORTLAND, OREGON 97204
(503) 248-3555

BOARD OF COUNTY COMMISSIONERS
GLADYS McCOY • CHAIR OF THE BOARD
PAULINE ANDERSON • DISTRICT 1 COMMISSIONER
GRETCHEN KAFOURY • DISTRICT 2 COMMISSIONER
CAROLINE MILLER • DISTRICT 3 COMMISSIONER
POLLY CASTERLINE • DISTRICT 4 COMMISSIONER

MEMORANDUM

TO: Marion Grabarits, Purchasing

FROM: Gary Sawyer, Lab Manager
Ward Evans, Health Supply Manager

DATE: October 30, 1989

SUBJECT: Exemption for Ordering Pregnancy Testing Kits

RECEIVED
HUMAN SERVICES DIVISION
OCT 31 1989
MULTNOMAH COUNTY

Currently the Health Division is purchasing approximately 12 serum pregnancy testing kits every month. These cost about \$125 each. Due to the purchasing rules we are forced to order these every two weeks to remain under the \$1,000 limit. This is time consuming and not cost efficient. We would like to apply for an exemption from the rules on this item. The following justifications should be taken into account when considering this application.

- A. The pregnancy testing kit we now use has a long history of use in the division.
- B. The kit is the most accurate of the many similar types that are on the market today.
- C. The kit has a long shelf life and ordering many kits at one time is cost-efficient vs. the ordering of these kits every two weeks as we are now doing.
- D. The laboratory has determined that this kit is the most acceptable in areas of accuracy, storage, ease of testing, and overall usability of the many brands that have been tested thus far. We feel that this manufacturer is the most reliable at this time.
- E. Due to the highly competitive nature of the companies producing pregnancy testing kits, the costs per test are very similar, i.e., within the range of \$2.50-\$3.50/test.
- F. Due to the rapidly changing technologies in pregnancy testing, we feel it to be not within the best interest of the county to "go to bid" for this item. We would like to be able to keep the flexibility to change kit manufacturer as needed.

[6000K-w]

Marion Grabarits
October 30, 1989
Page 2

G. The manufacturer does not sell directly. The kits are purchased through a supply house. The supply house we use has been given sole distributor status.

In summary: We are asking for an exemption for this product--Hybritek-Icon II (serum)--because the product is deemed the best product for our needs and that CMS is the sole supplier of this product.

11/7/89

→ manufacturer
Lillie Lee Co

Exemption Request

→ Distributor
CMS → Mattheson
Curt Scientific Marion

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT REVIEW BOARD

In the Matter of Exempting From Public)
Bidding to Specify the Brand Name Product,)
Hybritek-Icon II Pregnancy Testing Kit)

O R D E R

89-212

The above entitled matter is before the Board of County Commissioners, acting in its capacity as the Multnomah County Public Contract Review Board, to consider a request from DHS, Health Division for an order exempting the use of Hybritek-Icon II, a brand name product, through the single distributor of the product, Curt Mattheson Scientific.

It appearing to the Board that the recommendation for exemption, as it appears in the application, is based upon the fact that the Hybritek-Icon II pregnancy testing kit has proven to be the most acceptable kit, in areas of accuracy, ease of testing and shelf storage.

This brand name represents the most cost effective method of pregnancy testing, and is not likely to encourage favoritism.

It appearing to the Board that this request for an exemption is in accord with the requirements of the Multnomah County Public Contract Review Board Administrative Rules AR 10.100, 20.030, and 30.010; it is, therefore

ORDERED that the single seller of Hybritek-Icon II be exempted from the requirement of public bidding.

Dated this 14th day of December, 1989.

REVIEWED:

Laurence Kressel, County Counsel
for Multnomah County, Oregon

By

[Signature]
Assistant County Counsel

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ACTING AS THE PUBLIC CONTRACT
REVIEW BOARD:

By

[Signature]
Gladys McCoy, County Chair

(SEAL)

CS:112889

BUDGET MODIFICATION NO. DHS #20

(For Clerk's Use) Meeting Date NOV 2 1989
Agenda No. R-12

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR _____

DEPARTMENT Human Services

(Date)

DIVISION Aging Services

CONTACT Marie Eighmey

TELEPHONE 248-3646

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Duane Zussy, Marie Eighmey

SUGGESTED

AGENDA TITLE (to assist in preparing a description for the printed agenda)

DHS Budget Modification # 20, to replace \$215,361 previously anticipated City of Portland revenue with \$215,361 from the General Fund Contingency.

(Estimated Time Needed on the Agenda)

2. DESCRIPTION OF MODIFICATION (Explain the changes this Bud Mod makes. What budget does it increase? What do the changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

[] PERSONNEL CHANGES ARE SHOWN IN DETAIL ON THE ATTACHED SHEET

This budget modification replaces anticipated City of Portland revenue with County General Fund Contingency dollars to fund the following Human Services:

Information and Referral	\$10,422
Legal Services	\$15,017
Counseling/Advocacy	\$18,943
ASD Administration	\$170,979
Total	\$215,361

Sent to Budget
12/20/89 - QED

BOARD OF
COUNTY COMMISSIONERS
CLATSOP COUNTY
1989 OCT 10 PM 4:52
MULTNOMAH COUNTY
OREGON

3. REVENUE IMPACT (Explain revenues being changed and the reason for the change)

+\$215,361 Cash Transfer to Federal/State FUND FROM GEN FUND
(\$215,361) City Of Portland, ORG 1700

4. CONTINGENCY STATUS (to be completed by Finance/Budget)

Contingency before this modification (as of _____) \$ _____
(Specify Fund) (Date)
After this modification \$ _____

Originated By <u>James McConnell by me</u>	Date <u>10/5/89</u>	Department Manager <u>Duane Zussy (m)</u>	Date <u>10/6/89</u>
Budget Analyst <u>Thom D. Sayer</u>	Date <u>10/6/89</u>	Personnel Analyst	Date
Board Approval <u>DEBORAH C. ROYERS</u>		Date <u>12/14/89</u>	

REQUEST FOR GENERAL FUND CONTINGENCY TRANSFER

Revised
10/24

1. Attachment to Bud Mod No. DHS#20 2. Amount requested from General Fund Contingency: \$215,361

3. Summary of request:

Aging Services Division requests \$215,361 from the General Fund Contingency. This funding covers \$215,361 reduction to the City of Portland revenue support to the Division.

4. Has the expenditure for which this transfer is sought been included in any budget request during the past five years? Yes If so, when? Since the transfer of the Division from the City to
If so, what were the circumstances of its denial? the County.

5. Why was this expenditure not included in the annual budget process?

It is included in the FY89-90 Adopted Budget.

6. What efforts have been made to identify funds from another source within the Department, to cover this expenditure? Why are no other Departmental sources of funds available?

No department funds of this magnitude are available to cover the City of Portland revenue reduction.

7. Describe any new revenue that this expenditure will produce, any cost savings that will result, and any anticipated payback to the contingency account.

None anticipated.

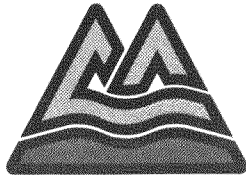
8. This request is for a (Quarterly x, Emergency) review.

9. FOR EMERGENCY REQUESTS ONLY: Describe in detail on an additional sheet the costs or risks that would be incurred by waiting for the next quarterly review, in justification of the emergency nature of this request.

10. Attach any additional information or comments you feel helpful.

Donna Jussy (M)
Signature of Department Head/Elected Official

10/5/89
Date



MULTNOMAH COUNTY OREGON

DEPARTMENT OF HUMAN SERVICES
AGING SERVICES DIVISION
ADMINISTRATIVE OFFICES
426 S.W. STARK, 5TH FLOOR
PORTLAND, OREGON 97204
(503) 248-3646

BOARD OF COUNTY COMMISSIONERS
GLADYS McCOY • CHAIR OF THE BOARD
PAULINE ANDERSON • DISTRICT 1 COMMISSIONER
GRETCHEN KAFOURY • DISTRICT 2 COMMISSIONER
RICK BAUMAN • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Gladys McCoy, Chair
Board of County Commissioners

VIA: Duane Zussy, Director *Duane Zussy (AK)*
Department Of Human Services

FROM: James McConnell, Director *J Mac by me*
Aging Services Division

DATE: October 5, 1989

SUBJECT: APPROVAL OF CONTINGENCY FUND REQUEST & ACCOMPANYING BUDGET
MODIFICATION TO COVER REDUCTION IN CITY OF PORTLAND FUNDING

RECOMMENDATION: The Aging Services Division recommends Board of County Commissioners approval of a request for general fund contingency transfer in the amount of \$215,361 and the budget modification supporting this request.

ANALYSIS: This request replaces \$215,361 anticipated City of Portland funds with \$215,361 general fund contingency dollars. The City of Portland revenue and associated "Human Services" expense (\$10,422 Information/Referral, \$15,017 Legal and \$18,943 Counseling/Advocacy services; \$170,979 administration support) were included in the FY89-90 Adopted Budget.

BACKGROUND: The City of Portland has based its FY89-90 reduction in support to Aging Services Division on Resolution A. That resolution states that Aging Services Division provides "Human Services" in addition to "Urban Services" and such Human Services are a County rather than City responsibility.

[ME:CITYMOD]

DATE SUBMITTED December 4, 1989

(For Clerk's Use)
Meeting Date 12/14/89
Agenda No. 12-8

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: Notice of Intent/Private Ventures Grant

Informal Only* _____
(Date)

Formal Only _____
(Date)

DEPARTMENT DHS DIVISION SSD

CONTACT Michael Morrissey TELEPHONE 248-3565

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Duane Zussy, Michael Morrissey

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

This project represents the second stage of planning leading to the possible creation of a local youth service corps. Funds will be used for planning, program development and other pre-operational activities. Funds will be administered by the Youth Program Office, Department of Human Services. Policy decisions for this project will continue to be made by a Task Force chaired by Commissioner Bauman.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☐ POLICY DIRECTION ☒ APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 5 minutes

IMPACT:

PERSONNEL

☒ FISCAL/BUDGETARY Request for \$15,000 from Public/Private Ventures

☐ General Fund

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Duane Zussy (pd)

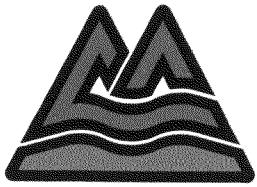
BUDGET / PERSONNEL Thomas D. Soper 12/4/89 1

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____

(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.



MULTNOMAH COUNTY OREGON

BOARD OF COUNTY COMMISSIONERS
GLADYS McCOY
PAULINE ANDERSON
GRETCHEN KAFOURY
RICK BAUMAN
SHARRON KELLEY

DEPARTMENT OF GENERAL SERVICES
PORTLAND BUILDING
1120 SW FIFTH, 14TH FLOOR
PORTLAND, OR 97204-1934

OFFICE OF THE DIRECTOR
EMPLOYEE SERVICES (503) 248-3303
FINANCE (503) 248-5015
LABOR RELATIONS (503) 248-3312
PLANNING & BUDGET (503) 248-5135
(503) 248-3883

AT OTHER LOCATIONS:

ADMINISTRATIVE SERVICES (503) 248-5111
ASSESSMENT & TAXATION (503) 248-3345
ELECTIONS (503) 248-3720
INFORMATION SERVICES (503) 248-3749

INTEROFFICE MEMORANDUM

TO: Gladys McCoy
Chair, Board of County Commissioners

FROM: Tom Simpson *TS*
Analyst, Planning and Budget Division

DATE: December 4, 1989

SUBJECT: Notice of Intent to Apply for a Grant

The attached Notice of Intent to Apply for a Grant is submitted by the Social Services Division. The grant is being awarded by Public/Private Ventures, Inc. to pay for planning of a possible youth service corps.

There are two policy issues that need to be addressed. The first issue concerns indirect costs. DHS is unsure whether the grantor will pay for indirect costs. Though this initial amount is relatively small, \$15,000, the full grant amount is \$100,000 for two years. If such a program does not allow for full indirect cost recovery, the General Fund is, in fact, paying for some of the costs of that program. I encourage the Board of County Commissioners to examine the implications of making such a trade off.

The second issue that arises with this Notice of Intent concerns strategic planning. With the County undertaking strategic planning efforts, I feel it is necessary to examine all such possible grant awards. This particular grant requires the County to commit to a program for two years. This kind of financial and programmatic commitment needs to be reviewed in light of the strategic priorities that the Board has highlighted during its planning efforts. While I have no problems with this particular Notice of Intent, the

greater policy question is what is the County committing to?

I encourage the Board of County Commissioners to grapple with this question.

CC: Jack Horner
Duane Zussy

MULTNOMAH COUNTY NOTICE OF INTENT

DATE: December 4, 1989

TO: BOARD OF COUNTY COMMISSIONERS

DEPARTMENT AND CONTACT PERSON: Susan Clark, Michael Morrissey

GRANTOR AGENCY: Public/Private Ventures, Philadelphia Pa.

BEGINNING DATE OF GRANT: February 2, 1989

PROJECT TITLE: Urban Conservation Corp Planning Grant

PROJECT DESCRIPTION/GOALS: This project represents the second stage of planning leading to the possible creation of a local youth service corps. Funds will be used for planning, program development and other pre-operational activities. Funds will be administered by the Youth Program Office, Department of Human Services. Policy decisions for this project will continue to be made by a Task Force chaired by Commissioner Bauman.

PROJECT ESTIMATED BUDGET:	Foundation	Direct/Indirect		
FEDERAL SHARE	\$ 15,000 /	100	\$	
STATE SHARE	\$ 0 /	0	\$	
LOCAL SHARE	\$ 0 /	0	\$	
TOTAL	\$ 15,000 /		\$	

EXPLANATION OF LOCAL SHARE: (explain indirect costs, hard-match, in-kind, etc.)

SPECIFY REPORTING AND/OR BILLING REQUIREMENTS OF GRANTOR AND WHO REPORTS:
FINANCE _____ DEPARTMENT x IF DEPT. REPORTS, INDICATE REASONS

Full funds are sent upon receipt of a signed contract. SSD is required to report on expenses at the end of the contract period.

GRANT DURATION AND FUTURE RATIO: (INDICATE AMOUNT OF COUNTY MATCH PER YEAR)
If Multnomah County is selected to receive operational funds Public/Private Ventures will provide \$100,000 /year for two years. The local Task Force is considering approaching Multnomah County for a \$50,000 one-time only for fiscal year 90-91.

ADVANCE REQUESTED _____ YES x NO, IF NOT INDICATE REASON.

PERSONNEL DETAIL

(Use appropriate County
classification with yearly
costs.)

FULL TIME

0

FRINGE

0

TOTAL

0

EXPLAIN MATERIALS AND SERVICES AND CAPITAL EXPENDITURES WITH
TOTAL DOLLAR AMOUNTS

- All monies will be in materials and services. \$12,000 will be
used for professional services contracts. \$3,000 for printing,
postage and supplies.

COMMENTS

GRANT MANAGER

Michael Monney Dec 4 1989
Signature Date

BUDGET DIVISION

Thomas S. Syar 12/4/89
Signature Date

FINANCE DIVISION

Jean Hzelac 12/4/89
Signature Date

PERSONNEL DIVISION

Signature Date

DEPARTMENT DIRECTOR

Duane Zussy (pc) 12/4/89
Signature Date

BUDGET MODIFICATION NO. _____ **DJS #10** _____

(For Clerk's Use) Meeting Date 12/14/89
Agenda No. R-9

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR _____

(Date)

DEPARTMENT Justice Services

DIVISION Community Corrections

CONTACT Harley Leiber

TELEPHONE 243-3980

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Harley Leiber

SUGGESTED

AGENDA TITLE (to assist in preparing a description for the printed agenda)

Budget Modification DJS #10 requests to transfer \$7,684 to Community Corrections Administration to purchase equipment for the Division.

(Estimated Time Needed on the Agenda)

2. DESCRIPTION OF MODIFICATION (Explain the changes this Bud Mod makes. What budget does it increase? What do the changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

☐ PERSONNEL CHANGES ARE SHOWN IN DETAIL ON THE ATTACHED SHEET

Budget Modification DJS #10 requests to transfer \$6,000 from Recog/Intake (Org 2328) and \$1,684 from Contract Services (Org 2303) to Community Corrections Administration for the purchase of a computer printer and office equipment for the division programs.

sent to Budget 12/20/89 dlr

1989 DEC 15 PM 4:28
COUNTY CORRECTIONS
MULTI-COUNTY
JULIEN

3. REVENUE IMPACT (Explain revenues being changed and the reason for the change)

None

4. CONTINGENCY STATUS (to be completed by Finance/Budget)

Contingency before this modification (as of _____)

\$ _____

(Specify Fund)

(Date)

After this modification

\$ _____

Originated By

Date

Department Manager

Date

Budget Analyst

Date

Personnel Analyst

Date

Board Approval

Date

BUDGET MODIFICATION NO.

(For Clerk's Use) Meeting Date 12/14/89
Agenda No. R-10

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

(Date)

DEPARTMENT District Attorney

DIVISION

CONTACT Kelly Bacon

TELEPHONE 248-3105

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Kelly Bacon

SUGGESTED

AGENDA TITLE (to assist in preparing a description for the printed agenda)

Manufacture and Distribution Probe Grant to combat illegal drug activity. The total grant award is \$197,252 of which \$157,227 will be appropriated in the current fiscal year in the District Attorney's Office

(Estimated Time Needed on the Agenda)

2. DESCRIPTION OF MODIFICATION (Explain the changes this Bud Mod makes. What budget does it increase? What do the changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

☒ PERSONNEL CHANGES ARE SHOWN IN DETAIL ON THE ATTACHED SHEET

This bud mod appropriates funding for the Manufacture/Distribution Drug Probe Grant which is funded by the federal Bureau of Justice Assistance. It adds 1 deputy district attorney 3, 1 ~~criminal intelligence analyst~~ ^{DA investigator}, and an office assistant 3 to staff this drug enforcement program.

The Grant period is from October 1, 1989 through September 30, 1990. This grant allows for full recovery of indirect costs at the negotiated rate of 8.48%.

Sent to Budget
12/20/89 - *Per*

grant allows

3. REVENUE IMPACT (Explain revenues being changed and the reason for the change)

This grant award provides \$197,252 of new revenue to the District Attorney's office. of which \$157,227 will be appropriated in FY 89-90. Increase Service Reimbursements: Federal State Fund to Insurance Fund \$7,815; Fed/State Fund to Telephone Fund \$3,873 and Fed/State Fund to General Fund \$11,111.

4. CONTINGENCY STATUS (to be completed by Finance/Budget)

Contingency before this modification (as of _____) \$ _____
(Specify Fund) (Date)
After this modification \$ _____

Originated By	Date
Lisa Moore	10/26/89

Department Manager _____ Date _____

Budget Analyst - Kathy Linkle Date 11/29/89

Personnel Analyst	Date
<i>Paul W. Bittle</i>	<i>11-29-89</i>

Board Approval
NEBORAH L ROGERS

Date
12/14/89

DJ3#11

EXPENDITURE
TRANSACTION EB []

GM [] TRANSACTION DATE _____

ACCOUNTING PERIOD _____

BUDGET FY _____

Document Number	Action	Fund	Agency	Organi- zation	Activity	Reporting Category	Object	Current Amount	Revised Amount	Change Increase (Decrease)	Sub- Total	Description
		156	020	2448			5100			76,574		Permanent
		156	020	2448			5500			19,344		Fringe
		156	020	2448			5550			7,815	103,733	Insurance
		156	020	2448			6310			3,920		Ed. & Travel
		156	020	2448			6230			3,000		Supplies
		156	020	2448			7150			3,873		Telephones
		156	020	2448			6650			750		Dues & Subscriptions
		156	020	2448			8400			15,090	15,090	Capital Equipment
		156	020	2448			6330			4,400		Travel
		156	020	2448			6120			3,200		Printing
		156	020	2448			6110			5,000		Professional Services
		156	020	2448			7400			3,150		Build. M-mt
		156	020	2448			7100			11,111	37,980	Indirect

TOTAL EXPENDITURE CHANGE

Continued

TOTAL EXPENDITURE CHANGE

REVENUE

TRANSACTION RB []

GM [] TRANSACTION DATE _____

ACCOUNTING PERIOD _____

BUDGET FY _____

Document Number	Action	Fund	Agency	Organi- zation	Activity	Reporting Category	Revenue Source	Current Amount	Revised Amount	Change Increase (Decrease)	Sub- Total	Description
		156	020	2448			<i>Requested</i>			157,227		MDP Grant
		400	040	7531			6602			7,815		F/S Fund to Ins Fund
		402	040	7990			6602			3,873		F/S Fund to Tele. Fund
		100	045	7410			6602			11,111		F/S To General Fund
		100	030	5650			6602			3,150		F/S to General Fund

TOTAL REVENUE CHANGE

180,176

TOTAL REVENUE CHANGE

EXPENDITURE
TRANSACTION EB []

GM [] TRANSACTION DATE.

ACCOUNTING PERIOD

BUDGET FY_

Document Number	Action	Fund	Agency	Organi- zation	Activity	Reporting Category	Object	Current Amount	Revised Amount	Change Increase (Decrease)	Sub- Total	Description
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[illegible]

PERSONNEL DETAIL FOR BUD MOD NO.

DB #11

5. ANNUALIZED PERSONNEL CHANGES (Compute on a full year basis even though this action affects only a part of the fiscal year.)

FTE Increase (Decrease)	POSITION TITLE	Annualized			
		BASE PAY Increase (Decrease)	Increase (Decrease) Fringe	Ins.	TOTAL Increase (Decrease)
1	Deputy district attorney 3	50,717	12,811	2,736	66,264
1	Criminal intelligence analyst DA Investigator 1b	30,000	7,578	3,633	41,211
1	Office assistant 3	21,381	5,401	3,374	30,156
	TOTAL CHANGE (ANNUALIZED)	102,098	25,790	9,743	137,631

6. CURRENT YEAR PERSONNEL DOLLAR CHANGES (calculate costs or savings that will take place within this fiscal year; these should explain the actual dollar amounts being changed by this Bud Mod.)

Permanent Positions, Temporary, Overtime, or Premium	Explanation of Change	Current FY			
		BASE PAY Increase (Decrease)	Increase (Decrease) Fringe	Ins.	TOTAL Increase (Decrease)
1 (.75 FTE)	DDA 3 for 9 mos.	38,038	9,609	2,052	49,699
1 (.75 FTE)	Crim. Analyst for 9 mos. DA Investigator 1b	22,500	5,684	2,725	30,909
1 (.75 FTE)	OA 3 for 9 mos.	16,036	4,051	3,038	23,125
	TOTAL 89/90 FY CHANGE	76,574	19,344	7,815	103,733

DATE SUBMITTED December 6, 1989

(For Clerk's Use)

Meeting Date 12/14/89

Agenda No. R-11

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: Forfeiture

Informal Only* _____
(Date)

Formal Only December 14, 1989
(Date)

DEPARTMENT District Attorney's Office DIVISION _____

CONTACT Kelly Bacon TELEPHONE x-3105

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Michael D. Schrunk

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

1989 Oregon Legislature passed a statewide criminal forfeiture statute which details the procedures for seizing and forfeiting property used in illicit narcotic transactions. The law requires a written agreement between agencies which authorizes duties and responsibilities regarding appropriate distribution of seized assets.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☐ POLICY DIRECTION ☒ APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 15 minutes

IMPACT:

PERSONNEL

☐ FISCAL/BUDGETARY

☐ General Fund

Other _____

*Original sent to
Kelly 12/20/89
DWB*

BOARD OF
COUNTY COMMISSIONERS
1989 DEC - 6 AM 11:27
MULTNOMAH COUNTY
OREGON

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Robert G. Skippo

BUDGET / PERSONNEL _____ /

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) Sandra Ruffy

OTHER _____

(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

INTRAGOVERNMENTAL AGREEMENT

The undersigned agencies and units of local government enter into this agreement pursuant to the authority granted under Oregon Laws Chapter 791 (1989) for the dispersal of forfeited assets.

Parties to the Agreement

Multnomah County is a Home Rule political subdivision of the State of Oregon, organized and existing under the laws and constitution of the State of Oregon and is hereinafter referred to as "the County".

The Multnomah County District Attorney's Office is a law enforcement agency pursuant to Oregon Laws Chapter 791 (1989), and forfeiture counsel for the parties to this agreement.

The Multnomah County Sheriff's Office is a law enforcement agency pursuant to Oregon Laws Chapter 791 (1989).

Recitals

Whereas, the State of Oregon has enacted and enforced procedures for civil forfeiture of drug instrumentalities, proceeds and profits under Oregon Laws Chapter 791 (1989) and provided procedures for civil forfeiture of instrumentalities, proceeds and profits of other prohibited conduct, and

Whereas, the parties recognize that the civil forfeiture law is state-wide in scope, and

Whereas, the civil forfeiture statute provides for the distribution of forfeited instrumentalities, proceeds and profits of prohibited conduct to the forfeituring agency's general fund, and

Whereas, the parties recognize the need to provide funding for criminal investigation and prosecution of cases, and

Whereas, the parties further recognize the need to enact an agreement providing for distribution under the state statute and local ordinances for civil forfeiture.

Now, therefore the parties agree as follows:

1) This agreement replaces and supersedes any and all prior agreements between the parties concerning civil forfeiture. However, the prior agreement between the parties shall govern forfeiture proceedings filed pursuant to Multnomah County Code 7.85 et seq. before the date of this agreement.

When the County obtains a judgment of civil forfeiture as the forfeiting agency, the proceeds of the judgment awarded to the County as forfeiting agency shall be distributed as follows:

a) The County shall disburse 50% of the total amount of assets forfeited to the Multnomah County Sheriff's Office. The Multnomah County Sheriff's Office relinquishes its right to recover specific expenses and costs from the county although it reserves the right to pursue such costs and expenses in contested cases against claimants.

b) 35% of the total assets forfeited shall be disbursed to the Multnomah County District Attorney's Office. The Multnomah

County District Attorney's Office relinquishes its right to recover specific attorney fees and costs from the County, although it reserves the right to pursue such fees and costs in contested cases against claimants.

c) The remaining 15% of the total assets forfeited shall be deposited in the County General Fund in a separate account to be used for criminal justice services, as defined in Oregon Laws Chapter 791, Section 10 (1989), approved by the County Board of Commissioners.

d) In cases involving methamphetamine laboratories in which costs are incurred, and real property is seized for forfeiture, the parties agree to deed the real property to the Department of Environmental Quality (DEQ) at the conclusion of the civil case.

e) The County Sheriff or his designee may elect to retain any real or personal property obtained by a judgment of forfeiture. In such an event the Sheriff or his designee shall inform the forfeiture counsel in writing of such decision. Any property retained by the County shall be used solely for law enforcement purposes.

f) In the event a court of competent jurisdiction orders that forfeited monies, properties or other assets be returned to the owner or otherwise transferred to a third party, all parties shall remit proportional shares of the forfeited assets.

g) In the event the Multnomah County Sheriff's Office cooperates with one or more other law enforcement agencies in a specific case, the proceeds attributed to the Multnomah County

Sheriff's Office shall be shared with the participating agency in accordance with the level of the agencies' participation, as determined jointly by the participating agencies.

This agreement shall continue indefinitely, but may be terminated by any of the undersigned parties with 60 days' written notification to the other parties.

RATIFIED
Multnomah County Board
of Commissioners
DATED this 14 day of December, 1989.

Gladys McCoy 12/14/89

GLADYS MCCOY
Multnomah County Chair

Robert G. Skipper

ROBERT G. SKIPPER
Multnomah County Sheriff

Michael D. Schrunck by *KPS*

MICHAEL D. SCHRUNK
Multnomah County District Attorney

Reviewed:

LAURENCE KRESSEL
Office of County Counsel

By: *Sandra Duff*

DATE SUBMITTED _____

(For Clerk's Use)

Meeting Date 12/14/89

Agenda No. R-12

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: Forfeiture Ordinance

Informal Only* _____
(Date)

Formal Only December 14, 1989
(Date)

DEPARTMENT District Attorney's Office DIVISION _____

CONTACT Kelly Bacon TELEPHONE x-3105

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Michael D. Schrunk

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

This amends MCC 7.85 to conform with Oregon Laws 791 (1989) relating to the seizure and forfeiture of property used in the commission of certain offenses.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☐ POLICY DIRECTION ☒ APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 20 minutes

IMPACT:

PERSONNEL

☐ FISCAL/BUDGETARY

☐ General Fund

Other _____

*Ordinance mailing
12/29/89*

1989 DEC - 7 AM 10:31
MULTI-COUNTY
OREGON
COUNTY COMMISSIONERS

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Michael D. Schrunk

BUDGET / PERSONNEL / KJB

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) Sandra Duff

OTHER _____
(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

1
2 (Underlined sections are new or replacements; [bracketed] sections
3 are deleted.)

4 BEFORE THE BOARD OF COMMISSIONERS

5 FOR THE COUNTY OF MULTNOMAH

6 ORDINANCE NO. 633

7 An ordinance amending MCC 7.85 to conform to the requirements
8 of Oregon Laws Chapter 791 (1989) and which provides for civil
9 forfeiture of real, personal and intangible property and
10 specifically declaring certain conveyances and real property to be
11 nuisances subject to civil forfeiture, and declaring an emergency.

12 Multnomah County ordains as follows:

13 Section 1. Findings.

14 1. The Board of County Commissioners finds that:

15 (a) The Board of County commissioners enacted
16 Ordinance No. 422 in April 1984 which provided
17 for the forfeiture of profits, proceeds and/or
18 instrumentalities used or intended to be used
19 in the manufacture, distribution or possession
20 with intent to distribute controlled
21 substances, gambling, promoting gambling,
22 promoting prostitution and/or compelling
23 prostitution.

24 (b) Subsequent to the enactment of Ordinance No.
25 422, the 1989 Legislature enacted HB 2282 (Oregon
26 Laws Chapter 791 (1989) which allows for the
enactment and enforcement of local civil forfeiture
ordinances in areas determined by those local
governments to be detrimental to public health,
safety and welfare, provided the procedures used in
effecting and the defenses relating to the
forfeiture are consistent with these set out in the
state statutory scheme.

27 (c) As presently written, Ordinance No. 422
28 does not meet the standards imposed by the
29 terms of the Oregon Laws Chapter 791 (1989),
30 and the County still desires to redress the
31 concerns originally identified there which are
32 not addressed by Oregon Laws Chapter 791 (1989)
33 as well as to address the additional concerns
34 in other areas of public health, safety and

Page

welfare and to specifically address nuisances created by prostitution and gambling activities occurring in conveyances and real property, and in conveyances used by drivers whose driving privileges are revoked or suspended for convictions of driving under the influence of intoxicants.

(d) The use of profits, proceeds and/or instrumentalities in Theft (ORS 164.005 - 164.125); Unauthorized Use of a Vehicle (ORS 164.135); Burglary (ORS 164.205 - 164.225); Gambling Offenses (ORS 167.117 - 167.153); Prostitution and Related Offenses (ORS 167.002 - 167.027) and Visual Recording of Sexual Conduct by Children (ORS 163.665 - 163.695) and driving while driving privileges are suspended or revoked resulting from a conviction for driving under the influence of intoxicants (ORS 811.182(2)(g)) have and are proliferating in Multnomah County, and the presence of such activities is detrimental to the public health, safety, welfare and quality of life in Multnomah County.

(e) In particular, gambling and prostitution activities involving the use of conveyances and real property and conveyances used by drivers whose driving privileges have been suspended or revoked resulting from a conviction for driving under the influence of intoxicants have been and are proliferating in Multnomah County, and the presence of these activities is detrimental to the safety and quality of life in Multnomah County and therefore the specified conveyances and real property are nuisances.

(f) The prohibited conduct defined in this Ordinance is undertaken in the course of profitable activities which result in, and are facilitated by, the acquisition, possession or transfer of property subject to civil forfeiture under this Ordinance;

(g) Transactions involving property subject to forfeiture under this Ordinance escape taxation;

(h) Local government's attempts to respond to prohibited conduct require additional resources to meet its needs;

Page

(i) There is a need to provide for the civil forfeiture of certain property subject to forfeiture under this Ordinance, to provide for the protection of the rights and interests of affected persons, and to provide for uniformity with respect to the laws pertaining to the forfeiture of real and personal property; and

(j) The instrumentalities, profits and proceeds of prohibited conduct are often used to commit the same or another prohibited conduct and the return of the property thus serves to encourage and perpetuate the commission of prohibited conduct in Multnomah County.

2. The Board of County Commissioners therefore declares that to protect the health, safety and welfare of Multnomah County residents, it is in the best interest of Multnomah County to:

(a) Cripple prohibited conduct within this county by civilly forfeiting the instrumentalities, profits and proceeds of prohibited conduct; and

(b) Use the forfeited property to further fund law enforcement and criminal prosecution functions; and

(c) To declare specific conveyances and real property which is used or intended to be used in specific types of prohibited conduct to be nuisances.

3. Therefore, the county adopts the provisions of this Ordinance as consistent with the law of the state pertaining to the forfeiture of real and personal property based upon the prohibited conduct.

4. This Act is applicable throughout this county.

5. This ordinance provides for the forfeiture of property based upon conduct that is prohibited conduct as defined in this Ordinance when:

(a) The property was used or is intended to be used in the prohibited conduct described in this ordinance, or is profits or proceeds of the conduct; and

Page

(b) The forfeiture is subject to procedures and limitations set forth in this Ordinance and 1989 Oregon Laws Chapter 791.

6. Nothing in this section or in this Ordinance shall be construed to limit or impair any right or remedy that any person or entity may have under ORS 166.715 to 166.735. The application of any remedy under this ordinance is remedial and not punitive and shall not preclude or be precluded by the application of any previous or subsequent civil or criminal remedy under any other provision of law. Civil remedies under this ordinance are supplemental and not mutually exclusive.

Section 2. Repeal of MCC 785.020.

MCC 7.85.020, the Policy and Purpose provisions of the Forfeiture Ordinance of Multnomah County, is repealed.

Section 3. Adoption of MCC 7.85.021.

MCC 7.85.021 is adopted to read as follows:

7.85.021. Policy and Purpose.

(A) The Board of County Commissioners finds that:

(a) The Board of County commissioners enacted Ordinance No. 422 in April 1984 which provided for the forfeiture of profits, proceeds and/or instrumentalities used or intended to be used in the manufacture, distribution or possession with intent to distribute controlled substances, gambling, promoting gambling, promoting prostitution and/or compelling prostitution.

(b) Subsequent to the enactment of Ordinance No. 422, the 1989 Legislature enacted HB 2282 (Oregon Laws Chapter 791 (1989) which allows for the enactment and enforcement of local civil forfeiture ordinances in areas determined by those local governments to be detrimental to public health, safety and welfare, provided the procedures used in effecting and the defenses relating to the forfeiture are consistent with these set out in the state statutory scheme.

(c) As presently written, Ordinance No. 422 does not meet the standards imposed by the

terms of the Oregon Laws Chapter 791 (1989), and the County still desires to redress the concerns originally identified there which are not addressed by Oregon Laws Chapter 791 (1989) as well as to address the additional concerns in other areas of public health, safety and welfare and to specifically address nuisances created by prostitution and gambling activities occurring in conveyances and real property, and in conveyances used by drivers whose driving privileges are revoked or suspended for convictions of driving under the influence of intoxicants.

(d) The use of profits, proceeds and/or instrumentalities in Theft (ORS 164.005 - 164.125); Unauthorized Use of a Vehicle (ORS 164.135); Burglary (ORS 164.205 - 164.225); Gambling Offenses (ORS 167.117 - 167.153); Prostitution and Related Offenses (ORS 167.002 - 167.027) and Visual Recording of Sexual Conduct by Children (ORS 163.665 - 163.695) and driving while driving privileges are suspended or revoked resulting from a conviction for driving under the influence of intoxicants (ORS 811.182(2)(g)) have and are proliferating in Multnomah County, and the presence of such activities is detrimental to the public health, safety, welfare and quality of life in Multnomah County.

(e) In particular, gambling and prostitution activities involving the use of conveyances and real property and conveyances used by drivers whose driving privileges have been suspended or revoked resulting from a conviction for driving under the influence of intoxicants have been and are proliferating in Multnomah County, and the presence of these activities is detrimental to the safety and quality of life in Multnomah County and therefore the specified conveyances and real property are nuisances.

(f) The prohibited conduct defined in this Ordinance is undertaken in the course of profitable activities which result in, and are facilitated by, the acquisition, possession or transfer of property subject to civil forfeiture under this Ordinance;

(g) Transactions involving property subject to forfeiture under this Ordinance escape taxation;

(h) Local government's attempts to respond to prohibited conduct require additional resources to meet its needs;

(i) There is a need to provide for the civil forfeiture of certain property subject to forfeiture under this Ordinance, to provide for the protection of the rights and interests of affected persons, and to provide for uniformity with respect to the laws pertaining to the forfeiture of real and personal property; and

(j) The instrumentalities, profits and proceeds of prohibited conduct are often used to commit the same or another prohibited conduct and the return of the property thus serves to encourage and perpetuate the commission of prohibited conduct in Multnomah County.

Section 4. Repeal of MCC 7.85.010.

MCC 7.85.010, the Definitions provisions of the Forfeiture Ordinance of Multnomah County, is repealed.

Section 5. Adoption of MCC 7.85.011.

MCC 7.85.011 is adopted to read as follows:

7.85.011 Definitions.

(A) "Prohibited conduct" includes violation of, solicitation to violate, attempt to violate or conspiracy to violate any provisions of ORS 164.005 - 164.125 (Theft), ORS 164.135 (Unauthorized Use of a Vehicle), ORS 164.205 - 164.225 (Burglary), ORS 167.002 - 167.027 (Prostitution and Related Offenses), ORS 167.117 - 167.153 (Gambling Offenses) and ORS 163.665 - 163.695 (Visual Recording of Sexual Conduct by Children), and ORS 811.182(2)(g) (Driving While Driving Privileges are Suspended or Revoked for a Driving Under the Influence of Intoxicants Conviction).

Page

(B) This ordinance incorporates by reference as though fully set forth herein Section 2(1) through (10), inclusive, and

Section 2(12) through (14), inclusive, of 1989 Oregon Laws Chapter 791.

Section 6. Repeal of MCC 7.85.025.

MCC 7.85.025, the Forfeiture provision of the Forfeiture Ordinance of Multnomah County, is repealed.

Section 7. Adoption of MCC 7.85.026.

MCC 7.85.026 is adopted to read as follows:

7.85.026 Forfeiture.

The following will be subject to civil in rem forfeiture:

(A) All property, products and equipment of any kind which are used, or intended for use, in providing, manufacturing, compounding, processing, delivering, importing or exporting any service or substance in the course of prohibited conduct.

(B) All conveyances, including aircraft, vehicles or vessels, which are used or are intended for use, to transport or in any manner facilitate the transportation, sale, receipt, possession or concealment of property described in subsection (1) of this section, and all conveyances including aircraft, vehicles or vessels, which are used or intended for use in prohibited conduct or to facilitate prohibited conduct in any manner; such conveyances specifically include but are not limited to the following:

(a) a conveyance operated by a person whose operator's license is suspended or revoked as a result of conviction for driving under the influence of intoxicants in violation of the provisions of Chapter 16.12 of Portland City Code or Chapter 813 of the Oregon Revised Statutes; or

(b) A conveyance within which an act of prostitution as prohibited by Portland City Code 14.36.065 or as defined in ORS 167.007 has occurred.

(c) A conveyance used or intended to be used to facilitate activities defined in ORS 167.012 (Promoting Prostitution), ORS 167.017

Page

(Compelling Prostitution), or ORS 167.122 -
167.137 (Gambling Offenses).

No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless the owner or other person in charge of such conveyance was a consenting party or knew of and acquiesced in the prohibited conduct.

(C) No property shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or any state. Such property shall be returned to the owner following a determination by the court that the property was unlawfully in the possession of a person other than the owner, and the owner did not know it, and did not consent to the use of the property for prohibited conduct.

This ordinance incorporates by reference as though fully set forth herein Sections 3(3) through (6), inclusive, of the 1989 Oregon Laws Chapter 791.

Section 8. Repeal of MCC 7.85.030; MCC 7.85.035; MCC 7.85.040; MCC 7.85.045; and, MCC 7.85.050.

The following Multnomah County Code Sections are repealed:

- A. MCC 7.85.030 - Seizure.
- B. MCC 7.85.035 - Institution of legal proceedings.
- C. MCC 7.85.040 - Disposition of property.
- D. MCC 7.85.045 - Non-consensual use of property for illegal activity.
- E. MCC 7.85.050 - Separability.

Section 9. Adoption of MCC 7.85.031.

MCC 7.85.031 is adopted to read as follows:

7.85.031 Forfeiture procedures.

The following procedures are hereby incorporated by reference as though fully set forth herein the following applicable portions of 1989 Oregon Laws Chapter 791: Sections 4, 5, 6, 7, 8, 9, 12, 12a, 13, 14, 19 and 20, inclusive.

Section 10. Adoption of MCC 7.85.036.

MCC 7.85.036 is adopted to read as follows:

7.85.036 Distribution of Proceeds.

After the forfeiture counsel distributes property under the provisions of section 9 of 1989 Oregon Laws Chapter 791 as incorporated in this ordinance, the forfeiture counsel shall disperse of and distribute property as follows:

(A) If the seizing agency has an intergovernmental agreement pursuant to Chapter 791 of Oregon Laws 1989, the terms of the intergovernmental agreement shall control the distribution of the property.

(B) If the seizing agency does not have an intergovernmental agreement pursuant to Chapter 791 of Oregon Laws 1989, the seizing agency shall recover fifty percent (50%) of the property, the Multnomah County District Attorney's office shall recover thirty-five percent (35%) of the property and the remaining fifteen percent (15%) shall be credited to the Multnomah County general fund for criminal justice services.

If more than one law enforcement agency has participated in the investigation leading to forfeiture, the participating agencies shall share the fifty percent (50%) of the proceeds ordinarily remitted to the seizing agency equitably between the participating agencies.

(C) Except as otherwise provided by intergovernmental agreement, the forfeiting agency may:

(1) Sell, lease, lend or transfer the property or proceeds to any federal, state or local law enforcement agency or district attorney.

(2) Sell the forfeited property by public or other commercially reasonable sale and pay from the proceeds the expenses of keeping and selling the property.

(3) Retain the property.

(4) With written authorization from the district attorney for the forfeiting agency's jurisdiction, destroy any firearm or contraband.

(5) The forfeiting agency and any agency which receives forfeited property or proceeds from the sale of forfeited property, shall maintain written documentation of each sale, decision to return, transfer or other disposition.

Section 11. Adoption.

This Ordinance, being necessary for the health, safety and general welfare of the people of Multnomah County, an emergency is declared and the Ordinance shall take effect upon its execution by the County, Chair, pursuant to Section 5.50 of the Charter of Multnomah County.

ADOPTED this 14th day of December, 1989, being the date of its first reading before the Board of County Commissioners of Multnomah County.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

(SEAL)

By

Gladys McCoy
Gladys McCoy
Multnomah County Chair

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By

Sandra Suffy
Laurence Kressel
County Counsel

Page

Date 12-14-89

NAME

Sally Cross

ADDRESS

~~400 SE~~ 522 SW 5th, Suite 1050

Street

Portland

City

97204

Zip

I wish to speak on Agenda Item #

8-13

Subject

CMC - Charterline drive

X

FOR

AGAINST

Date 12-14-89

NAME

YOLANDA A. RUSSELL

ADDRESS

2025 NE BRYANT

Street

PHD

City

97211

Zip

I wish to speak on Agenda Item #

2-13

Subject

☒

FOR

☐ AGAINST

NAME

DAVID PARADISE

Date

ADDRESS

United Way

Street

W. BURNSIDE ST

City

Zip

I wish to speak on Agenda Item #

R-13

Subject

FOR

~~AGAINST~~

Date 12/14

NAME

Art Alexander

ADDRESS

28 NE Fargo #3

Street

Portland OR

City

97212

Zip

I wish to speak on Agenda Item #

R-13

Subject

CHARITABLE CONTRIBUTIONS

✓ FOR

 AGAINST

DATE SUBMITTED 11-29-89

(For Clerk's Use)

Meeting Date 12/14/89

Agenda No. R-13

12/28/89

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: Ordinance Relating to Workplace Solicitations

Informal Only* _____
(Date)

Formal Only December 14, 1989
(Date)

DEPARTMENT Non-Dept.

DIVISION BCC

CONTACT Bill Farver

TELEPHONE x3740

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD Pauline Anderson

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

The County has not had a policy regarding workplace charitable solicitations. This ordinance sets such a policy.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☒ POLICY DIRECTION ☒ APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 15 minutes

IMPACT:

PERSONNEL

☐ FISCAL/BUDGETARY

☐ -General Fund

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: Pauline Anderson

BUDGET / PERSONNEL /

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) Lk

OTHER _____

(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

ORDINANCE FACT SHEET

Procedure # 1201

Page #4 of 4

(Title Ordinance Relating to Workplace Solicitations Effective Date _____)

Brief statement of purpose of ordinance (include the rationale for adoption of ordinance, a description of persons benefited, and other alternatives explored)

The ordinance establishes a Campaign Management Council, sets standards and guidelines for conducting charitable fundraising campaigns on county premises and authorizes the use of the employee payroll system for donations to charities.

What other local jurisdictions in the metropolitan area have enacted similar legislation?

Metro and City of Portland.

What has been the experience in other areas with this type of legislation?

Ordinances have been prompted by successful court challenges to former United Way only campaigns. Legislation is slightly different in each area and still too new to evaluate fairly.

(What authority is there for Multnomah County to adopt this legislation? (State statute, home rule charter). Are there constitutional problems?)

Home Rule Charter.

Fiscal Impact Analysis

(If space is inadequate, please use other side)

SIGNATURES:

(Office of County Counsel LK _____)

Office of County Management _____

Department Head _____

Lizison Commissioner

PAULINE ANDERSON
Multnomah County Commissioner
District 1



605 County Courthouse
Portland, Oregon 97204
(503) 248-5220

November 28, 1989

To: Board of County Commissioners and Clerk of the Board
Department Directors
United Way, Black United Fund, Environmental Federation
International Service Agencies
From: Pauline Anderson
Re: Ordinance relating to Workplace Solicitations

Enclosed please find the ordinance we will submitting for Board consideration during the week of December 11th. The informal meeting will be at 1:30 p.m. on December 12th and the formal at 9:30 a.m. on December 14th. A second reading will follow two weeks later on December 28th.

This ordinance grew out of the Task Force report and our subsequent discussions over the summer. We decided to have a "side by side" campaign this year and delay consideration of an ordinance until after the campaign.

The campaign is over and we should finally resolve this issue in time so that all participants know the ground rules before next year.

County Counsel has reviewed this ordinance several times and is satisfied this is a workable scheme.

Following are several policy issues that may be of interest. I'm sure the charitable organizations will raise other issues.

1. Section 3 . Campaign Management Council established
2. Section 5 (3) Which organizations qualify. Not limited to organizations with a "local presence". Rather, organizations that serve international interests (specifically, the International Service Agencies which is involved in the City campaign and has requested involvement in ours) would qualify.

"Local presence" proved to be difficult to define and there was no compelling reason not to allow employees to choose to contribute to organizations with an international orientation.

3. Section 6 (A) Standards for decertification. Specifics left up the CMC to define.
4. Section 7 (A) Ineligibility Need to received donations from at least 25 employees during second and subsequent years.
5. Section 10 (B) Procedure to recovering costs for possible need to expand payroll system.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

An ordinance establishing a Campaign Management Council,
standards and guidelines for conducting charitable fundraising
campaigns on County premises and authorizing the use of the
employee payroll deduction system for donations to charities.

Multnomah County ordains as follows:

Section 1. Findings and Purpose

A. Multnomah County has no formal policy regarding
employee contributions to charitable organizations through
payroll deductions.

B. The County has allowed and encouraged the United Way
to solicit charitable contributions among County employees.

C. Recent litigation brought by the Black United Fund and
other organizations has successfully challenged a "United Way
only" campaign in other jurisdictions.

D. The Supreme Court has established that governmental
bodies may pass reasonable restrictions on solicitations by

1 charitable organizations to protect the integrity of the
2 workplace and minimize disruption.

3
4 E. The County Commission supports charitable giving by
5 County employees and believes providing employees meaningful
6 choices among charitable groups will increase overall giving
7 and employee satisfaction in the program.

8
9 F. The County Commission finds that this ordinance is
10 necessary (1) to assure that funds solicited from County
11 employees are given to bona fide charitable organizations,
12 (2) minimize workplace disruption and the administrative costs
13 of charitable solicitation in the workplace and (3) to expand
14 the range of choices for County employees who wish to
15 contribute to bona fide charities.

16
17 Section 2. Compliance Required

18
19 A. Charitable solicitations of County employees while on
20 the job during working hours shall be conducted only in
21 compliance with this ordinance. Only organizations certified
22 under this ordinance shall be allowed to solicit and receive
23 contributions through employee payroll deductions.

1 Section 3. Establishment of Campaign Management Council

2
3 A. A Campaign Management Council (hereinafter "Council"
4 or "CMC") shall be established. Members of the Council shall
5 be appointed in accordance with the Home Rule Charter. The
6 Council shall consist of seven voting members:

7
8 1. One representative of the office of the County
9 Chair;

10
11 2. One representative of the Board of County
12 Commissioners;

13
14 3. One representative of each County department (a
15 total of four); and

16
17 4. One union representative.

18
19 B. The Council shall select a Chairperson.

20
21 C. In addition to the voting members, each organization
22 certified under this ordinance shall have a non-voting
23 representative on the Council.

1 Section 4. Responsibilities of Campaign Management Council

2
3 The Council shall have the following responsibilities:
4

5 A. Approve the format and distribution of campaign
6 literature and communications. Each participating organization
7 shall supply its campaign material to the Council as required
8 by Council rules;
9

10 B. Require each certified organization to execute an
11 agreement describing the procedures the organization will use
12 for distribution of funds donated by County employees under
13 this ordinance;
14

15 C. Regulate the annual campaign so as to maximize
16 employee contributions in a non-coercive atmosphere;
17

18 D. Establish written guidelines for the campaign,
19 consistent with the purposes of this ordinance. The Council
20 may waive or adjust its guidelines in particular cases where
21 strict application of the guidelines would be unjust, so long
22 as the purposes of the ordinance are not violated.
23

24 Section 5. Certification Criteria
25

26 A. Each year, the Campaign Management Council shall
Page certify charitable organizations for the purpose of conducting

1 a fund drive among the employees of the County. The Council
2 shall certify only those charitable organizations which meet
3 all the following criteria:

4
5 (1) The organization is qualified as exempt under
6 section 501(c)(3) of the Internal Revenue Code;

7
8 (2) The organization disburses funds to at least ten
9 non-profit organizations;

10
11 (3) The organization either provides services to
12 local residents or works to improve the quality of life using
13 an international, national, regional or local focus. An
14 organization with an international, national, or extra-regional
15 focus must assign a representative to be available as needed to
16 meet the requirements of the ordinance and the CMC's guidelines;

17
18 (4) The organization has a written policy of
19 non-discrimination regarding race, color, religion, national
20 origin, handicap, age, sex, and sexual orientation. This
21 policy shall be applicable to persons served by the
22 organization and the organization's staff and Board of
23 Directors;

24
25 (5) The organization has made the filings required by
26 the Charitable Trust and Corporation Act and the Oregon

1 Charitable Solicitation Act (ORS Chapter 128) and has not been
2 found to be guilty of a violation of either Act by a court of
3 competent jurisdiction during the twelve months preceding its
4 application for certification;

5
6 (6) The organization has an unpaid Board of Directors;

7
8 (7) The organization has been incorporated no less
9 than one year prior to the date of application for
10 certification as a charitable organization;

11
12 (8) The organization demonstrates that it has filed
13 IRS Form 990 or CT 12E return as required by state law and
14 provides copies of the same upon request by the Campaign
15 Management Council;

16
17 (9) The organization provides a "donor option" to
18 County employees. "Donor option" means that the organization
19 permits the donor to designate a specific program, agency or
20 other entity to receive the donation, rather than requiring
21 that the donation be distributed among programs, agencies or
22 other entities according to a schedule or formula determined by
23 the organization;

24
25 (10) If certified by Multnomah County in a prior year,
26 the organization has paid the required share of costs for

published materials as required under Section 9 of this ordinance.

Section 6. Decertification

A. The CMC shall decertify any certified organization that:

(1) Fails to substantially comply with the campaign guidelines established by the CMC; or

(2) Includes intentionally false or misleading information on a certification application.

B. A notice of decertification shall be in writing and shall advise the recipient of the right of appeal under this ordinance.

C. An organization that is decertified may not participate in the charitable solicitation program for the two campaign years following decertification. However, employee donations shall continue to be distributed to the decertified organization until the end of the campaign year in which the final order of decertification is issued.

1 Section 7. Ineligibility

2
3 A. Any certified organization which does not receive
4 donations through the payroll deduction system from at least 25
5 County employees in any year following its first year of
6 certification, shall be ineligible for the annual fundraising
7 campaign for the next year. Following the year of
8 ineligibility, the organization may reapply for certification.
9

10 Section 8. Procedure

11
12 A. An annual application for certification shall be
13 submitted as required by CMC guidelines. The application shall
14 be on forms provided by the Council. The Council shall advise
15 each applicant in writing of whether the application is
16 accepted or denied.
17

18 B. In the event an application is denied or an
19 organization is decertified, the CMC shall state the reasons
20 for the action in writing and advise the applicant of the right
21 of appeal to the Board of Commissioners.
22

23 C. An appeal shall be filed with the Clerk of the Board
24 of County Commissioners on or before the tenth day after notice
25 of the action is mailed by the CMC. If a timely appeal is
26 filed, the matter shall be promptly scheduled on the agenda of

1 the Board of County Commissioners. Notice of the hearing shall
2 be mailed to the appealing party no fewer than five days before
3 the hearing. At the hearing on the appeal, a representative of
4 the CMC shall advise the Board of the reasons for the action,
5 and the appellant shall be heard in response. The Board shall
6 render its decision at the conclusion of the hearing or at a
7 continuation of the hearing. The Board's order shall be in
8 writing and shall state the reasons for the action.

9
10 Section 9. Costs Paid by Certified Organizations

11
12 The CMC shall require that the total costs for the design
13 and printing of any combined brochure, payroll deduction form,
14 and related documents shall be paid by certified organizations
15 in proportion to the amount of funds they raise during the
16 campaign.

17
18 Section 10. Payroll Deduction System

19
20 A. The County's payroll deduction system shall be used to
21 distribute charitable contributions only to organizations
22 certified under this ordinance.

23
24 B. In the event the County payroll system must be
25 expanded or modified to accommodate the organizations certified
26 hereunder, the Board may impose a fee payable by certified

1 organizations to defray the costs of the expansion or
2 modification. Any such fee requirement shall be adopted as an
3 amendment to this ordinance.

4
5 Section 11. Codification
6

7 Sections one through ten of this ordinance shall be added
8 to Multnomah County Code, Chapter 3.10.

9
10 Section 12. Adoption
11

12 This Ordinance, being necessary for the health, safety, and
13 general welfare of the people of Multnomah County, shall take
14 effect on the thirtieth (30th) day after its adoption, pursuant
15 to Section 5.50 of the Charter of Multnomah County.

ADOPTED this _____ day of _____, 1989, being the date
of its _____ reading before the Board of County Commissioners
of Multnomah County.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By _____
Gladys McCoy
Multnomah County Chair

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By 
Laurence Kressel
County Counsel

5941R/dp
101889:1

Substitute Ordinance
received
12/15/89

R-13

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. _____

An ordinance establishing a Campaign Management Council,
standards and guidelines for conducting charitable fundraising
campaigns on County premises and authorizing the use of the
employee payroll deduction system for donations to charities.

Multnomah County ordains as follows:

Section 1. Findings and Purpose

A. Multnomah County has no formal policy regarding
employee contributions to fund or federation through payroll
deductions.

B. The County Commission supports charitable giving by
County employees and believes providing employees meaningful
choices among charitable groups will increase overall giving
and employee satisfaction in the program.

C. The County Commission finds that this ordinance is
necessary to (1) assure that funds are solicited from County
employees by qualified funds or federations, (2) minimize
workplace disruption and the administrative costs of charitable
solicitation in the workplace, and (3) expand the range of

1 choices for County employees who wish to contribute to
2 charities.

3
4 Section 2. Definitions

5
6 A. "Fund or federation" means an entity serving as the
7 agent of a group of member charitable organizations to which it
8 disburses funds or an entity that grants funds to charitable
9 organizations.

10
11 B. "Charitable organization" means any entity described
12 in Internal Revenue Code Section 501(c)(3) (26 USC § 501(c)(3))
13 and exempt from federal income tax under Internal Revenue Code
14 Section 501(a) (26 USC § 501(a)).

15
16 Section 3. Compliance Required

17
18 A. Charitable solicitations of County employees while on
19 the job during working hours shall be conducted only in
20 compliance with this ordinance. Only funds or federations
21 certified under this ordinance shall be allowed to solicit
22 contributions by County employees during the annual campaign.

23
24 Section 4. Establishment of Campaign Management Council

25
26 A. A Campaign Management Council (hereinafter "Council")

1 or "CMC") shall be established. Members of the Council shall
2 be appointed in accordance with the Home Rule Charter. The
3 Council shall consist of seven voting members:

4
5 1. One representative of the office of the County
6 Chair;

7
8 2. One representative of the Board of County
9 Commissioners;

10
11 3. One representative of each County department (a
12 total of four); and

13
14 4. One union representative.

15
16 B. The Council shall select a Chairperson.

17
18 C. In addition to the voting members, each fund or
19 federation certified under this ordinance shall have a
20 non-voting representative on the Council.

21
22 Section 5. Responsibilities of Campaign Management Council

23
24 The Council shall have the following responsibilities:

1 A. Approve the format and distribution of campaign
2 literature and communications. Each participating fund or
3 federation shall supply its campaign material to the Council as
4 required by Council rules;

5
6 B. Regulate the annual campaign so as to maximize
7 employee contributions in a non-coercive atmosphere;

8
9 C. Establish written guidelines for the campaign,
10 consistent with the purposes of this ordinance. The Council
11 may waive or adjust its guidelines in particular cases where
12 strict application of the guidelines would be unjust, so long
13 as the purposes of the ordinance are not violated.

14
15 Section 6. Certification Criteria

16
17 A. The Campaign Management Council shall certify funds or
18 federations for the purpose of conducting a fund drive among
19 the employees of the County. The Council shall certify only
20 those funds or federations which meet all the following
21 criteria:

22
23 (1) The fund or federation is qualified as exempt
24 under section 501(c)(3) of the Internal Revenue Code;

1 (2) The fund or federation disburses funds to at
2 least ten charitable organizations;

3
4 (3) The fund or federation either provides services
5 to local residents or works to improve the quality of life
6 using an international, national, regional or local focus. A
7 fund or federation with an international, national, or
8 extra-regional focus must assign a representative to be
9 available as needed to meet the requirements of the ordinance
10 and the CMC's guidelines;

11
12 (4) The fund or federation has a written policy of
13 non-discrimination regarding race, color, religion, national
14 origin, handicap, age, sex, and sexual orientation. This
15 policy shall be applicable to persons served by the fund or
16 federation and the fund or federation's staff and Board of
17 Directors;

18
19 (5) The fund or federation has made the filings
20 required by the Charitable Trust and Corporation Act and the
21 Oregon Charitable Solicitation Act (ORS Chapter 128) and has
22 not been found to be guilty of a violation of either Act by a
23 court of competent jurisdiction during the twelve months
24 preceding its application for certification;

1 (6) The fund or federation has an unpaid Board of
2 Directors;

3
4 (7) The fund or federation has been incorporated no
5 less than one year prior to the date of application for
6 certification as a fund or federation;

7
8 (8) The fund or federation demonstrates that it has
9 filed IRS Form 990 or its most recent audit and CT12E return as
10 required by state law and provides copies of the same upon
11 request by the Campaign Management Council;

12
13 (9) The fund or federation provides a "direct
14 designation" to County employees. "Direct designation" means
15 that the fund or federation permits the donor to designate a
16 specific program, agency or other entity within the fund or
17 federation to receive the donation, rather than requiring that
18 the donation be distributed among programs, agencies or other
19 entities according to a schedule or formula determined by the
20 fund or federation;

21
22 (10) If certified by Multnomah County in a prior year,
23 the fund or federation has paid the required share of costs for
24 published materials as required under Section 9 of this
25 ordinance.

26

Page

1 B. Certification of a fund or federation by the CMC shall
2 be valid for a term of three years. During the term of
3 certification, the fund or federation shall respond to
4 reasonable requests by the CMC for assurance that all
5 requirements for certification have been and are being met.
6 Failure to respond may be grounds for decertification.

7
8 Section 7. Decertification

9
10 A. The CMC shall decertify any certified fund or
11 federation that:

12
13 (1) Fails to substantially comply with the campaign
14 guidelines established by the CMC; or

15
16 (2) Includes intentionally false or misleading
17 information on a certification application.

18
19 B. A notice of decertification shall be in writing and
20 shall advise the recipient of the right of appeal under this
21 ordinance.

22
23 C. An fund or federation that is decertified may not
24 participate in the charitable solicitation program for the two
25 campaign years following decertification. However, employee
26 donations shall continue to be distributed to the decertified

1 fund or federation until the end of the campaign year in which
2 the final order of decertification is issued.

3
4 Section 8. Ineligibility

5
6 A. Any certified fund or federation which does not
7 receive donations through the payroll deduction system from at
8 least 25 County employees in any year following its first year
9 of certification, shall be ineligible for the annual
10 fundraising campaign for the next year. Following the year of
11 ineligibility, the fund or federation may reapply for
12 certification.

13
14 Section 9. Procedure

15
16 A. An application for certification shall be submitted as
17 required by CMC guidelines. The application shall be on forms
18 provided by the Council. The Council shall advise each
19 applicant in writing of whether the application is accepted or
20 denied.

21
22 B. In the event an application is denied or a fund or
23 federation is decertified, the CMC shall state the reasons for
24 the action in writing and advise the applicant of the right of
25 appeal to the Board of Commissioners.

26
Page

1 C. An appeal shall be filed with the Clerk of the Board
2 of County Commissioners on or before the tenth day after notice
3 of the action is mailed by the CMC. If a timely appeal is
4 filed, the matter shall be promptly scheduled on the agenda of
5 the Board of County Commissioners. Notice of the hearing shall
6 be mailed to the appealing party no fewer than five days before
7 the hearing. At the hearing on the appeal, a representative of
8 the CMC shall advise the Board of the reasons for the action,
9 and the appellant shall be heard in response. The Board shall
10 render its decision at the conclusion of the hearing or at a
11 continuation of the hearing. The Board's order shall be in
12 writing and shall state the reasons for the action.

13
14 Section 10. Costs Paid by Certified Organizations

15
16 The CMC shall require that the total costs for the design
17 and printing of any combined brochure, payroll deduction form,
18 and related documents shall be paid by certified funds or
19 federations in proportion to the amount of funds they raise
20 during the campaign.

21
22 Section 11. Payroll Deduction System

23
24 A. The County's payroll deduction system shall be used to
25 distribute charitable contributions only to funds or
26

1 federations certified under this ordinance. Undesignated
2 contributions shall not be accepted.

3
4 B. In the event the County payroll system must be
5 expanded or modified to accommodate the funds or federations
6 certified hereunder, the Board may impose a fee payable by all
7 certified funds or federations to defray the costs of the
8 expansion or modification. Any such fee requirement shall be
9 adopted as an amendment to this ordinance.

10
11 Section 12. Codification

12
13 Sections one through ten of this ordinance shall be added
14 to Multnomah County Code, Chapter 3.10.

15
16 Section 13. Adoption

17
18 This Ordinance, being necessary for the health, safety, and
19 general welfare of the people of Multnomah County, shall take
20 effect on the thirtieth (30th) day after its adoption, pursuant
21 to Section 5.50 of the Charter of Multnomah County.

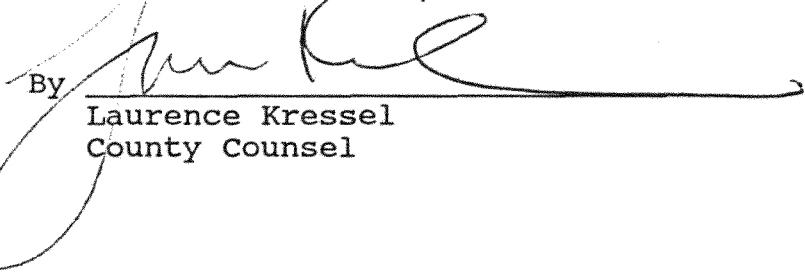
ADOPTED this _____ day of _____, 1989, being
the date of its _____ reading before the Board of County
Commissioners of Multnomah County.

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

By _____
Gladys McCoy
Multnomah County Chair

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By 
Laurence Kressel
County Counsel

5941R/dc

Page



Vera Katz

SPEAKER

OREGON HOUSE OF REPRESENTATIVES

Handout #1

7 December 1989

Board of Commissioners
Multnomah County
1021 SW Fourth Avenue
Portland, OR 97204

Re: Testimony for House Speaker Vera Katz

Chair McCoy and Commissioners:

Speaker Katz does not wish to take a position either in support or opposition to the Safe Streets Ordinance before you for consideration today.

During the 1989 legislative session, Speaker Katz devoted months of study and work to the gun control issue. Speaker Katz believes the carefully balanced public safety provisions included in HB 3470 -- a bill sponsored in conjunction with law enforcement agencies, gun lobbyists, and gun control advocates -- enhance public safety without violating the constitutional rights of gun owners.

Quite frankly, HB 3470 was an acknowledgement that Oregon's gun control laws were not keeping guns out of the hands of dangerous individuals: criminals and mentally unbalanced persons. The bill made significant changes to Oregon's firearm laws, including:

- * Increasing the waiting period on handgun purchases from five to fifteen days to give law enforcement officials sufficient time to conduct detailed background checks on purchasers.
- * Imposing new identification requirements on firearm purchasers, including fingerprinting handgun purchasers, to more accurately identify prohibited individuals.
- * Expanding the list of prohibited persons to include individuals convicted of six specified misdemeanor crimes involving violence and individuals with histories of mental illness.

- * Establishing uniform state-wide requirements and procedures for obtaining concealed handgun licenses.
- * Allowing concealed handgun license holders -- those who have undergone a 45 day waiting period, passed a thorough background check, and submitted to photographing and fingerprinting -- to by-pass waiting periods on subsequent handgun purchases.
- * Imposing criminal penalties for unlawful sales and purchases of firearms, and increasing penalties for crimes committed with firearms.

HB 3470 and the proposed Safe Streets Ordinance approach gun control from markedly different directions. Therefore, it is important to understand the assumptions used when preparing HB 3470.

First, the working group preparing HB 3470 saw accurate identification of prohibited persons as the largest obstacle to ensuring that firearms remain in the hands of law abiding and mentally stable persons. The waiting period and enhanced background check allow law enforcement to keep guns away from dangerous individuals, without violating rights of lawful gun owners.

Second, HB 3470 focused on handguns, because statistics indicated that handguns are responsible for a disproportionate share of firearm related crimes. Speaker Katz initially supported extending the waiting period to "assault weapon" purchases, but chose to tighten up handgun regulations when she learned that, between 1986 and 1988, handguns were involved in 66% of the murders and 75% of the robberies in Oregon committed with firearms.

Third, HB 3470 sought to provide a uniform system of firearm laws and procedures throughout the state. Speaker Katz philosophically is opposed to the state "preempting" the ability of cities, counties and other subdivisions from enacting laws they deem necessary. As a state official, she often is angered when Congress limits the state's ability to adopt laws, and does not like to do this to local governments. Nevertheless, some uniformity was needed to rectify the Byzantine system of gun control laws that occurred under local control.

The preemption clause, Section 38 of HB 3470, attempted to provide uniform laws throughout the state, but still allow cities and counties the ability to adopt public carry and public discharge ordinances as circumstances dictated. After reviewing



John Hosford
Executive Director
(206) 454-4911

**Citizens Committee for the
Right to Keep and Bear Arms**

National Headquarters:
Liberty Park
12500 N.E. Tenth Place
Bellevue, Washington 98005

U.S. Capital Office
600 Pennsylvania Ave. S.E.
Suite 205
Washington, D.C. 20003

the Safe Streets Ordinance, we question whether some of the provisions of the ordinance are allowed under the preemption clause of HB 3470 and the Oregon Constitution. We have requested guidance from the Attorney General to clarify these issues.

Speaker Katz and the other sponsors of HB 3470 saw the bill as the first step in revising Oregon's firearm laws. The Legislature made significant changes during the last session, but felt uncomfortable undertaking further reforms without additional information. The one-year study of all firearm transactions by licensed gun dealers was designed to present us with needed information upon which to base any subsequent modifications to the law.

I hope this information proves of assistance to you when considering the Safe Streets Ordinance. Please do not hesitate to contact me at 378-8977 should you have any questions.

Sincerely,

A handwritten signature in cursive script, reading "Lloyd Athearn". The signature is written in dark ink and is positioned above the typed name.

Lloyd Athearn
Legislative Assistant to Vera Katz
Speaker of the House

Attachments

OREGON FIREARMS ACT

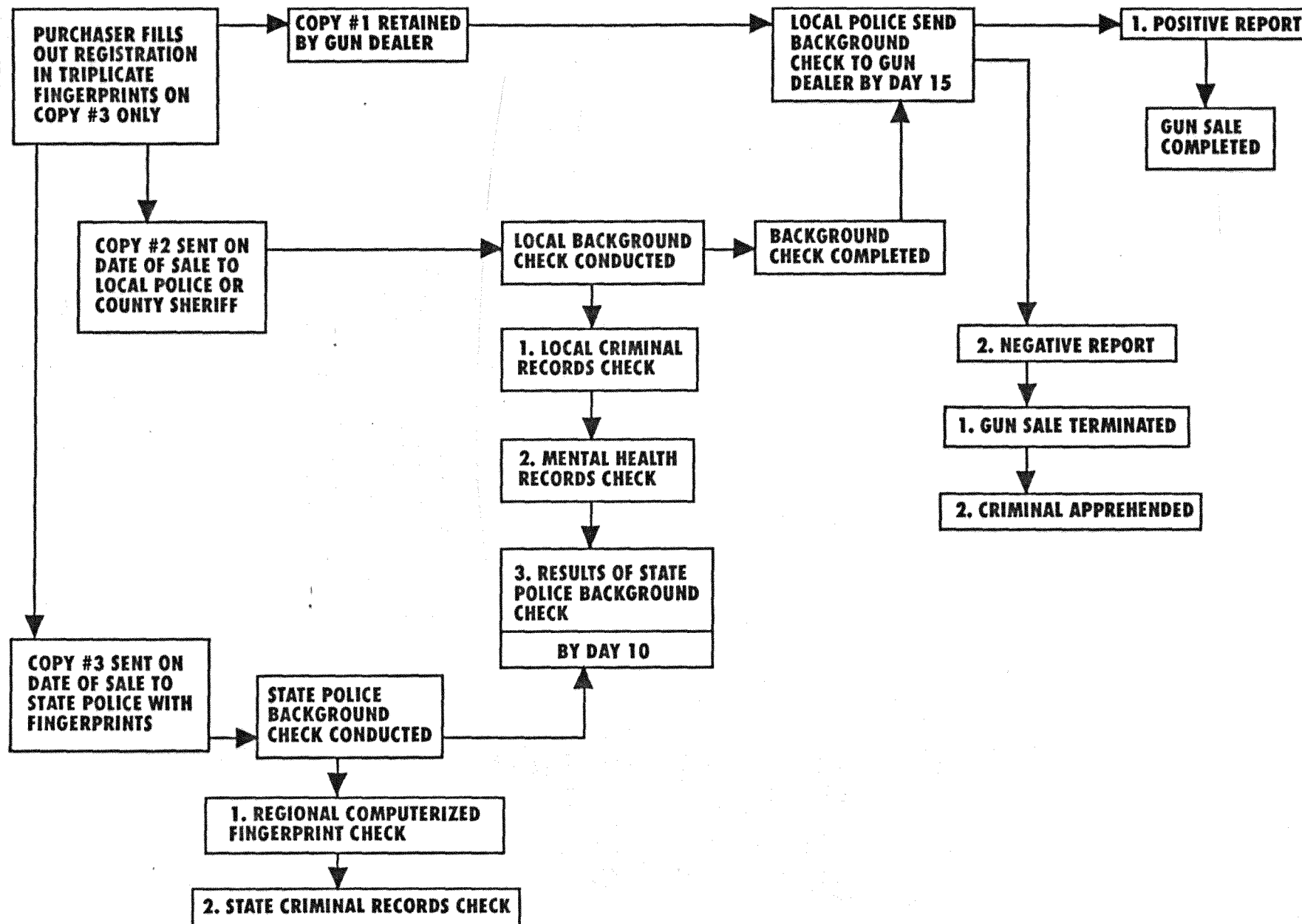
HB 3470

Handgun Sales

DAY #1

DAY #10

DAY #15



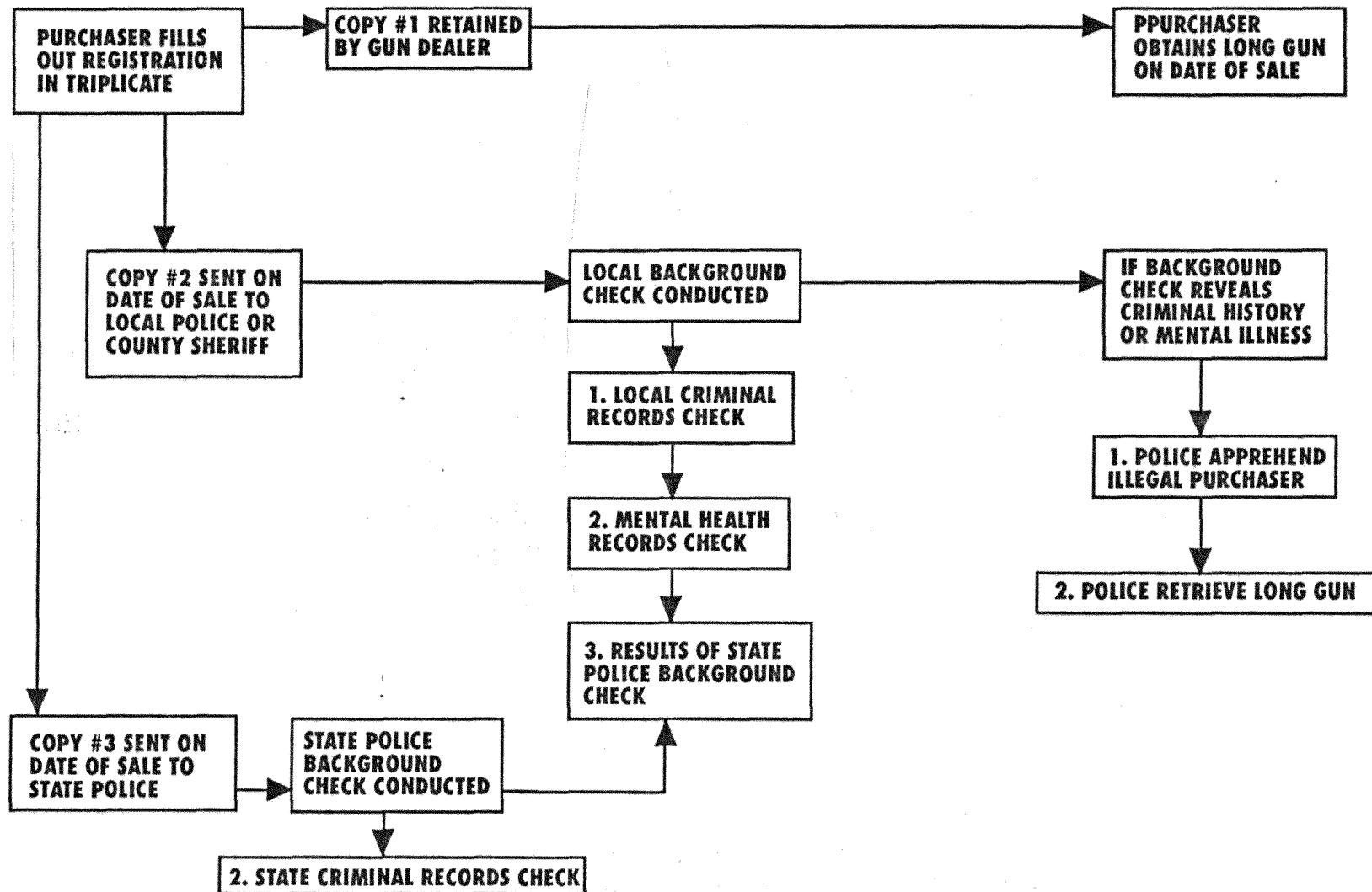
OREGON FIREARMS ACT

HB 3470

Long Gun Sales - STUDY ONLY

DAY #1

DAY #1



7 December 1989

Madam Chairman:

I am a long-time resident of Oregon and I have been personally involved with gun control legislation for 48 years. Of all the legislation I have opposed over the years, none has had any purpose or power other than to stop the Honest Person from pursuing his or her rights under our Constitution. We do not need any more laws that cut our rights short.

We do need more criminal control, but we can't do that with gun control ordinances. It's common knowledge the criminal will never have trouble getting a gun, legally or otherwise. There should be tighter laws to cover the use of a gun in the commission of a crime and possession of a gun by a convicted felon. There should be minimum prison terms of five to ten years, not one year. We also need to have more control of Parole Board decisions, that they don't grant early releases to these felons.

I think if you review the reformed State Bill 3470, you will see it can do as much or more than you can by imposing a new County Ordinance. Our Police Force is already overburdened by the responsibility of trying to enforce the huge number of laws on the books now. They don't need more laws, they need the resources to enforce the laws that exist. If you pass another gun control ordinance they will be so busy hassling us Honest Folks, they won't have time to spend fighting the real felons.

In closing, I would like you to bear in mind that the honest people from outside the county are not going to feel good about being harassed when they come here to shop or to conduct personal business. Do you really want to start crowding the court system and depleting already strained resources with the lawsuits this proposed ordinance is bound to generate?

Thank you.

H.M. Tex Shively

Submitted
By →

PATRICK Conley, 1st dist

Please Stop these Anti Rights Ordinance's

Today our constitutional rights are under direct attack by the politicians of this county. The right of our citizens to protect themselves, their family, the community, and our country must never be infringed. Yet there is an antigun campaign going on all over the country and Portland Politicians want to join the fray to make a name for themselves. Like Joe McCarthy in the 1950's looking for communists these Politicians would like us to believe every gun owner is an agent of the devil.

We as citizens must protect one another's rights whether you like pornography or not you must protect the right to free speech, likewise whether or not you like Assault Weapons you must protect our fellow citizens who desire to possess them. The Politicians are eating away at our rights and if we don't fight back this great country will loose all our forefathers have fought for in the last two hundred years.

Listen to what the fathers of our country said about the second amendment and the right to bear arms:

"The strongest reason for the people to retain the right to keep and bear arms is, as a last resort, to protect themselves against tyranny in government", Thomas Jefferson

"Arms in the hands of citizens [may] be used at individual discretion .. in private self defense ...", John Adams

"Firearms stand next in importance to the Constitution itself. They are the American People's liberty, teeth and keystone under independence, from the hour the Pilgrims landed to the present day. Events, occurrences and tendencies prove that to insure peace, security and happiness, the rifle and pistol are equally indispensable and they preserve a place of HONOR with all that is good", George Washington, the Father of our great country

"The supreme power in America cannot enforce unjust laws by the sword, because the whole body of people are armed and constitute a force superior to any band of regular troops that can be, on any pretense, raised in the United States", Noah Webster

"The advantage of being armed, which the Americans possess over the people of other countries, not withstanding the Military establishments in several Kingdoms of Europe, which are carried as far as the public resources will bear, the Governments are afraid to trust the people with arms", James Madison, Author of the Bill of Rights

(OVER)

"The Constitution shall never be construed to prevent the people of the United States, who are peaceable citizens, from keeping their own arms", Samuel Adams

"Everyone who is able may own a gun, the great object is that every man be armed", Patrick Henry

All of today's guns involve technology that is over a hundred years old, yet the media has us thinking there is something new, this is simply misinformation. Guns have not changed considerably since the signing of the constitution and yet today some people think their use has been outdated. The truth is that guns have not changed at all in last two hundred years and people are just as power hungry now as they were then.

Today we live in a world of poverty and crime caused by the selfish programs of our elite. Honest young people are not provided an adequate education to deal with the real world. As a result our prisons are full of poor people with no hope. Virtually everyone in this country is a drug addict whether it be alcohol, cigarettes, prescription drugs, marijuana, or whatever. The reason is lack of hope, boredom, and misery. Yet today our prisons are growing faster than the crime rate the solution is to lock away the poor and take away their guns, and rights and act like they simply don't exist

3
If America stay on the path of taking away the rights of citizens in the name of the drug war and incarcerating the poor then America will become the most evil empire on the face of this planet. God loving people must not let this happen. We as people need to protect each others rights. We need to demand all elected officials to spend our tax money on food not bombs. Schools not prisons.

Americas power elite say gun's are bad because they kill people, yet the automobile followed by cigarettes and alcohol are the number one killers in this country. However, the automobile lobbies protect there interests in spite of deaths attributed to the automobile.

At no time in our history have our Bill of Rights been under direct attack as the last twenty years, Since the Nixon administration prison construction has expedited. Congressional review teams have been assigned to simplify the constitution especially the first and second amendments. Because of what college students did during the Vietnam war to protest our involvement the politicians of the time. i.e. Reagan, Nixon, Bush, have made sure they control campus funding and thinking. Our engineering capacity is a shame. It is virtually impossible to hire native Americans trained to think and work. Most of our engineering and mental talent today comes from immigrants abroad ready, educated and willing to work. Our country is only generating prison candidates. Today the biggest growth industries in Oregon are Prisons and Garbage, all the bureaucrats are moving to these "growth" industries and protecting there interests. In fact the defense industries are moving their assets into prison corporation because in the future of America this is where the action will be.

JOAN ELIZABETH STOVALL

8750 S.W. Dolph Street
Portland, Oregon 97223
Phone: (503) 244-9869

December 6, 1989

Multnomah County Commissioners
Multnomah County Courthouse
1021 S. W. Fourth Avenue
Portland, Oregon, 97204

Dear Sirs:

I wish to express my strongest opposition to the Pauline Anderson/Rick Bauman "Gun Control" ordinances. They are not only in violation of the Oregon State Constitution and in violation of the preemption clause of the new Oregon State firearms law, but are also a stupid and dishonest attempt to violate the civil rights of lawful owners of firearms.

The so-called "assault weapon" ordinance flies in the face of facts. FBI (Federal Bureau of Investigation) reports reveal that less than 1/2 % of all firearms used in crime are of the self-loading military variety. Furthermore, none of the firearms Commissioners Anderson and Bauman call "assault rifles" are in reality what can truly be called an "assault rifle". The United States Defense Information Agency has defined the "assault rifle" a selective fire rifle, in simplest terms a machine gun. None of the listed firearms are capable of fully automatic fire, and neither are they readily convertible to being selective fire.

Commissioners Anderson and Bauman have conveniently ignored the fact that the firearms they don't like are entirely suitable for hunting as well as target shooting. Case in point: The AR-15 A2 heavy barreled rifle is both an excellent target rifle and also an excellent rifle for small to medium game hunting. In addition to having a detachable box magazine, the safest of all magazine designs, the rifle also benefits from an advanced stock design making for more accurate shooting. The AR-15 A2 heavy barreled rifle will shoot as well as a good bolt-action rifle, and it is also a good center-fire rifle for people who do not like heavy recoil.

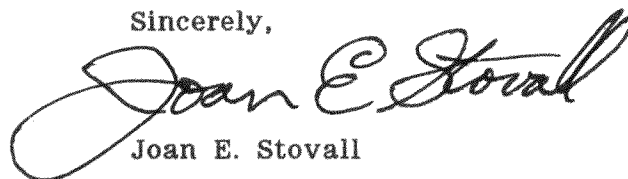
The Anderson/Bauman feestructure is nothing but an attempt to disarm the poor. It is a flagrant violation of the civil rights of the poor to deprive them of the means of defending their homes and their families. This ordinance hearkens to the days of the NAZI's and other totalitarian regimes.

I support firearms safety training, but not the program advocated by Commissioners Anderson and Bauman. Our police resources are limited and strained to the breaking point, so why take them off the streets when the safety training can be done by the local gun clubs and the large number of NRA (National Rifle Association) Certified Firearm Instructors at no cost to the taxpayer.

I am opposed to the permit system proposed by Commissioners Anderson and Bauman. There is a grave danger that the permit system will degenerate into a means of allowing only those, who have actively supported the political aspirations of the above mentioned commissioners, to possess firearms. Furthermore, eliminating private sales of firearms will also discriminate against the poor. Forcing them to go through a dealer will add considerably to the cost, and will quite possibly deprive them of the right to self-defense.

The Anderson/Bauman "gun control" ordinances are nothing but an attempt to trample the civil rights of many honest people. It must be emphasized that they will do nothing to control crime, only putting criminals in jail, and keeping them there, will control crime. The ordinances are both asinine and mendacious, and to be rather blunt, I believe they say a great deal about the character of the people who wrote them.

Sincerely,

A handwritten signature in cursive script, reading "Joan E. Stovall". The signature is fluid and elegant, with a large initial "J" and a long, sweeping underline.

Joan E. Stovall

THIS IS WRITTEN IN DIRECT REBUTTAL OF THE PROPOSAL CONCERNING NEW GUN LAWS. AFTER READING THE PROPOSAL BY BAUMAN AND ANDERSON I FIND ALL THE ORDINANCES LISTED IN DIRECT VIOLATION OF THE OREGON CONSTITUTION. I AM A LAW ABIDING CITIZEN AND FEEL THAT THE VALUES OF OUR CONSTITUTION ARE BEING IGNORED. I REPUTE THE FACT THAT WE, WHO OWN HAND GUNS OR ASSAULT TYPE RIFLES, MUST NOW BE PENALIZED FOR OUR PRIVATE OWNERSHIP. I AGREE THOROUGHLY WITH THE FACT THAT GUN OWNERS SHOULD HAVE FIREARMS TRAINING TO INSURE THAT ALL SAFETY MEASURES ARE MADE APPARENT.

I; HOWEVER, WILL NOT BE MADE RESPONSIBLE FOR THE DELINQUENTS WHO DECIDE TO USE HIS OR HER FIRE ARMS IN ORDER TO DO HARM. I DON'T EVEN BELIEVE IN THE KILLING OF ANIMALS AS IN THE SCOPE OF LEGALIZED HUNTING, BUT, I FEEL TO NEGATE THE HUNTERS RIGHTS WOULD ALSO BE AGAINST THEIR CONSTITUTIONAL RIGHTS.

THE MULTNOMAH COUNTY REQUIRES THESE FINES TO BE MANDATORY BECAUSE OF INCREASING COSTS. IF I HAVE TO PAY OTHER TAXES THAT DON'T PERTAIN TO ME, PERSONALLY, I FEEL THIS MOVE IS A HIGHLY PERSONAL PREJUDICED MOVE AGAINST GUN OWNERS.

THE NATIONAL RIFLE ASSOCIATION ESTABLISHES FIREARM SAFETY AND COMPETENCY TRAINING. "CURRENTLY MANY SAFETY PROGRAMS ARE AVAILABLE TO THE PUBLIC THROUGH GUN CLUBS AND PRIVATE INDIVIDUALS AT NO COST TO TAXPAYERS AND WITHOUT GOVERNMENT INVOLVEMENT." AS STATED IN THE N.R.A. NEWSLETTER DATED, DECEMBER 1, 1989.

1989 DEC - 1 PM 11:55
CLERK OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON

IN ORDINANCE #4 OF THE ALLEGED PROPOSAL, IT IT DISCUSSES
PROHIBITING OUR INDIVIDUAL RIGHTS TO PRIVATELY SELL FIREARMS AND
IMPOSE FINES UP TO \$1000.00 AND INCLUDE CONFISCATION OF ALL FIREARMS
FOR VIOLATION OF THE ORDINANCE.

WHAT IS HAPPENING TO OUR FREEDOM? THIS IS CONTROL AND SHOULD
NOT BE SO SEVERE. I FEEL THERE IS A MORE JUSTIFIABLE WAY TO DO THIS
WITHOUT CONDEMNING GUN OWNERS. I FEEL, AS AN AMERICAN CITIZEN THAT
THIS WILL BE STRIPPING OUR FREEDOM AS "A FREE CITIZEN" IN THIS
DEMOCRATIC SOCIETY. THIS MUST BE CHANGED OR A GROSS INJUSTICE WILL BE
MADE.

SINCERELY,

JAMES A. VANEK

7246 N. MOHAWK

PORTLAND, OR 97203

(503) 286-5462

HOUSE BILL 3470

AS WRITTEN BY JOHN NICHOLS OF OSR&PA, BRIAN JUDY OF NRA,
JOHN HOSFORD OF CITIZENS COMMITTEE FOR RIGHT TO KEEP & BEAR ARMS
STATE POLICE, SHERIFF ASSOCIATION, AND OTHERS.

WHAT THE BILL DID AS INTRODUCED VERSUS WHAT THE BILL DOES NOW
AFTER ADOPTION OF AMENDMENTS PROPOSED AND SUPPORTED BY

OREGON PRO GUN CIVIL RIGHTS LOBBY INC.

The Oregon Pro Gun Civil Rights Lobby Inc. was incorporated in April of this year to fight HB 3470. We were successful in having the bill amended. A comparison between the bill as introduced and the 22nd edition that was passed; C Engrossed HB 3470 is shown. This information is made available so that you the gun owner can know the true facts as to what the bill did as originally drafted and supported by the Pro firearm organizations.

Remember, Vera Katz did not write the bill: She introduced it at the request of the Pro firearm organizations. They wrote it, supported it, and testified that the bill should not be amended because amendments would destroy the carefull work and agreements worked out by all parties concerned.

All we ask is that you read this material and then draw your own conclusions as to whether the original bill was a PRO GUN BILL OR - ANTI GUN BILL.

Oregon Pro Gun Civil Rights Lobby Inc.
Rt. 1, Box 1237
LaGrande, Oregon
97850

Ph. (503) 963-3686

July 1989

Note: The Oregon Pro Gun Civil Rights Lobby Inc. proposed most of the amendments that were adopted. We supported those that would make the legislation more pro gun and opposed those that would make it antigun. For instance, one proposed amendment would have included the California law just passed banning the ownership of semi automatic firearms. Basically our amendments were used as the "road map" for amending the bill. We supplied copies to John Gardner of NRA and he used that material for instruction to John Nichols of OSR&PA to try and clean up the bill. Copies of our amendments are available. We do require a contribution to the corporation to defray cost of printing and other expenses. The before and after bill comparison is not claimed to be all inclusive. We have only touched the highlights and most important areas of concern to the law abiding gunowner.

For
MRS. McCoy

From
Tex Shivek

Many people asked: Who wrote HB3470: Why was it introduced? Why did the Oregon Pro Gun Civil Rights Lobby Inc. fight the bill?

BILL INTRODUCTION: Quote from "Gun News" publication of Washington Arms Collectors Inc. (Article quoting John Hosford of CCRKBA)---Through the concerted efforts of the Oregon R&P, the CCRKBA and the NRA, HB 3470 is now on Governor Goldschmidt's desk awaiting his signature. ---HB 3470 came about as a result of extensive negotiation between law enforcement and the pro-gun groups under the direction of House Speaker Vera Katz.---"Actually, the major provisions of this bill were drafted long before Katz ever became involved," said John Hosford, Executive Director of the Citizens Committee and W.A.C. Board Member. "I'd been involved in discussions with John Nickles, (misspelling in original article) legislative chairman for the OREPA, for at least four months prior to the meeting with Katz.---The efforts of the pro-gun groups were hindered slightly by a tremendous amount of mis-information being distributed by uninformed individuals as well as a small group of gun owners who had their own personal agendas." (From Volume 5, Issue 8)

WHY WAS THE BILL INTRODUCED? Quote John Hosford in news release "This a landmark day for Oregon Gun Owners," said John Hosford, Executive Director of the Citizens Committee for the Right to Keep and Bear Arms. "This proves that when people can agree to disagree, and then direct their efforts to those workable issues where there is room for compromise, that great things can be accomplished."----"there was give and take from both sides during these negotiations. At times, the process became very frustrating. If it had not been for Speaker Katz's leadership, I am sure this would have fallen apart. She really wanted a great piece of legislation, fair to all involved, I submit that she did just that and I salute her for it. She's an outstanding woman and a class act."¹

Quote from a letter to Representatives in Salem, letter by John Hosford: "The foremost reason to support this bill is that it addresses criminal misuse of firearms while recognizing the rights of law-abiding Oregonians to own, possess and carry firearms." **Note: this letter was dated June 12, 1989 long before the bill had been amended so as to take out most of the anti-gun owner provisions.**

Quote from letter dated May 20, 1989 signed by John Nichols of Oregon State Rifle and Pistol Association.---When asked by speaker Katz to join in the negotiations, the firearms groups were faced with a clear choice: we could have either refused to talk and faced a costly political battle which even now I'm not sure we could have won; or we could enter into the discussion and attempt to refocus the debate away from controlling guns to controlling criminals and others----."

NRA news release dated April 6, 1989. "In an effort to create reasonable and effective gun legislation, Oregon gun and State law enforcement officials have announced - their combined support for H.B. 3470-----. The carefully balanced bill ---. "We offer our qualified support of the bill in the belief that gun owners and law enforcement have created a balanced bill that is beneficial to all the people in this state."----"We hope people take notice that this is another case of the National Rifle Association and law-abiding gun owners working with law enforcement and state officials to create good gun laws," said Judy. (Mr. Judy was the NRA representative for Oregon)

Comment: The reader can for themselves draw their own conclusions as to whether the bill as introduced was a pro or anti gun bill. Remember the bill had 22 amendments because we were the "small group of gun owners who had their own personal agendas." That statement is correct. Our agenda was to make sure that the Oregon gun owners were not sold down the river on their gun rights by those who wrote and had the bill introduced.

Why did the Oregon Pro Gun Civil Rights Lobby Inc. fight the bill, as introduced?

We fought the bill because it was the most restrictive violation of gun owners "civil rights" that we had ever seen introduced into the Oregon legislative process. Attached are copies of the original testimony we made on the bill. That material speaks for itself. In fact, we were told that because of our testimony the bill almost died because the legislators did not know whether the bill could be amended and cleaned up to the point it would meet constitutional requirements. Remember, Hand Gun Control Inc. testified that "HB 3470 was a good bill, it only did not go far enough".² In addition American Civil Liberties Union (ACLU) also opposed the bill because of the constitutional issues raised in the bill. You know that when Hand Gun Control Inc. and ACLU take these stands, on a legislative issue, something is bad wrong with the legislation as far as gun owners are concerned. So---we fought the bill and hopefully were successful in amending it so that now it is mostly a pro-gun piece of legislation. We had no success in amending Section 38. Please see letter to NRA and letter reply.

Stephen Donnell--President, Oregon Gun Owners Pro Gun Civil Rights Lobby Inc.
July 1989

1. Undated news release to newspapers and media. 2. Oral testimony at hearing

A PROPOSAL TO ~

AMEND

HOUSE BILL 3470

Testimony of:

STEPHEN DONNELL

Rt. 1, Box 1237
LaGrande, Oregon
97850

Dated: APRIL 21, 1989

Ph. (503) 963-3686

TESTIMONY: HB 3470

Stephen Donnell

April 21, 1989

Mr. Chairman, my name is Stephen Donnell. I have spent many hours studying HB 3470.

I understand Speaker Katz' frustration in the matter of sound, legal and effective firearm legislation to deal with Oregon criminals' misuse of firearms. Speaker Katz should be commended for bringing together those who are considered to be the Oregon pro gun experts on this issue.

However, careful analysis and scrutiny of HB 3470 shows that the bill is fatally flawed and, if passed without amendments, would constitute a gross attack on, and deprivation of Oregon citizens' civil rights.

At the present time there are two philosophical approaches to the so-called firearm problem.

Premise No. 1: Firearms are evil and anyone who sells, uses or possesses firearms has by that association been tainted and is therefore suspect as being up to no good and a potential violator of society's laws.

Premise No. 2: Firearms are not the problem. Anyone who has firearms for any legal purpose is exercising his civil rights under the U.S. Bill of Rights, second amendment and Oregon Constitution, Article 1, Section 27.

Today's firearm problem is the criminal's use of firearms against society, thus causing death, mayhem, injury and loss of goods and property.

HB 3470 adopts Premise No. 1 as the philosophical base to draft its legal impositions on the Oregon population. In doing so, bill language wipes out many civil rights granted under the Oregon Constitution.

For instance:

*Section 4: Allows most any person who is licensed in Oregon to engage in the practice of psychology, psychiatry or medicine to, by one fell swoop of the pen, turn Oregon citizens into persons prohibited from owning or possessing any firearm. This provision violates the Oregon Constitution, Article 1, Section 12 on "self incrimination" and "rights of accused in criminal prosecution," Article 1, Section 11.

The way the bill is written, anyone visiting a mental health person or doctor can be put on the prohibited list and not even know about it. The bill does not require notice to the patient that the doctor has written the mental health notice and sent the notice to the Health Division. This provision violates Article 1, Section 10 of the Oregon Constitution concerning secret courts.

HB 3470, Section 2, 13 and 23 provides for criminal prosecution for anyone in the prohibited class, as that class is defined in the bill. Among those prohibited from owning firearms

are those who have a letter of record concerning them on file with the Mental Health Division.

HB 3470 has, therefore, trampled all over our present system of allowing an accused person to be represented by counsel, hear and be heard in criminal prosecution and challenge his accuser before a court of law and have a court of law determine his guilt or innocence, especially by jury trial.

HB 3470, Section 12 and 16 specifically define "being in the business as being defined in 18 U.S.C. 921."

By these sections the legislature has abrogated its power in the Oregon Constitution, Article IV, Section 17, to the federal government.

Therefore, whenever Federal Code changes, so does Oregon law. This aspect of HB 3470 violates the Oregon Constitution, Article IV, Sections 18, 20, 21 and 22.

The violation is that this legislation has no control over federal code and law, but has made the people of Oregon subject to that Federal Code of law specified in the bill, all in violation of the Oregon Constitution, Article IV, Section 28, which states when statutes take effect.

HB 3470, Section 13 creates an interesting legal situation. Under this section, if a person becomes a prohibited person as defined in this section, he immediately cannot possess firearms.

It is well accepted that before one loses his civil rights he must be found guilty of a felony or have had the lost civil

right taken away by a due process of a court of law.

Thus Section 13, and to a certain extent, Section 1, negate this principle of constitutional and criminal law: before one loses his civil rights he has the right as provided under the Oregon Constitution, Article 1, Section 10 to have an open, full hearing in a court of law, or hearing before a board established by statute. In addition, the court of board's determination can be appealed to high courts.

HB 3470 allows for no appeal and even worse, does not require notice to the affected person that the action that negates his right to bear arms under the Oregon Constitution, Article 1, Section 27, has been taken away from him.

Bill Ambiguities:

Section 13 and Section 2: These two sections are in conflict with each other as to the rights of a minor to possess handguns.

Section 13: Prohibited classes cannot carry concealed firearms; it is not clear if they can carry them openly.

Section 13: Persons are exempt from provisions of Sections 7 and 8 if they fall under ORS 166.260. It is not clear as to what happens if they are just traveling and not under ORS 260.

No provisions have been made to carry firearms, other than a handgun, with a permit, out of sight in a vehicle.

Last but not least, under Section 3 a person could be arrested for having a boat load of marijuana, be convicted of a

felony, come to Oregon and have and carry all the firearms they want.

This is an outline of just some of the problems with HB 3470 as presently written.

As part of my testimony, I have supplied proposed amendments to the Bill so as to rectify these problems. These amendments are on the colored paper. I would be pleased to work with the committee in any way to make HB 3470 a strong, effective criminal control piece of legislation.

I would be pleased to answer any questions.

Thank you.

Mr. Richard Gardner
NRA/ILA
1600 Rhode Island Ave. NW
Washington, D.C.
20036

July 6, 1989
Rt. 1, Box 1237
LaGrande, Oregon
97850
Ph. 503-963-3686

Dear Mr. Gardner:

Mr. Ron Harder, a member of the committee that drafted the first edition of HB 3470 (the gun bill written by NRA, OSR&PA, CCRK&BA and others) contacted me in the capitol building on the morning of July 1, 1989. He advised that he had talked to you by phone, when you were at your home, and told you that I had changed position on outright opposing HB BEng. 3470 (as amended by Senate Judiciary cmtg. C Eng. HB 3470) to one of support of the bill.

This letter is being written to clarify the record on this matter. As of the time Mr. Harder talked to me in the capitol, I was neither supporting the proposed legislation, or opposing the proposed legislation. As President of the Oregon Pro Gun Civil Rights Lobby Inc., our position consisted of advising the legislators that we neither opposed or supported the bill. We were satisfied that most of the provisions we knew had to be in the proposed legislation (from onset of the bill into the political process) so as to protect Oregon gun owner's civil rights, had been incorporated into the bill. We still did not like the bill, because of section 38, the preemption section (which senate judiciary committee legal counsel advised is an enabling section for political subdivision to enact ordinances for controlling the possession of firearms and ammunition in public places) and other bill provisions.

Mr. Harder indicated that he and Mr. Nichols of OSR&PA had talked to you about this matter because the Senate Judiciary committee would not release HB 3470 to the floor until the committee had received a letter (fax) from NRA approving the bill. That letter (fax) was received in Speaker Vera Katz's office at 12:12 hrs. on July 1, 1989. Therefore, HB 3470 C Eng version was passed by the senate and sent to the house for concurrence. It passed the house on a 49 yes vote.

I want it thoroughly understood that those of us in the Oregon Pro Gun Civil Rights Lobby Inc. do not approve of the bill as passed by both houses because of section 38, and other bill problems. However, C Eng HB 3470 is now of such a nature that OPGCVR Inc. can live with bill requirements because some parts of the legislation are a step forward for gun owners rights here in Oregon.

It is my considered opinion and that of the attorney working with us, that NRA has made a very large blunder in allowing section 38 to remain in the bill as now written. I have told Mr. Harder and our supporters that since NRA created the forthcoming problem(s), NRA must be looked to for assistance in fighting any problems that engender from section 38. This letter is being written to you so you will be informed of that position and warn your office of what will most probably result from having section 38, as presently composed, enacted into law.

Respectfully yours,

Stephen Donnell
President,
Oregon Pro Gun Civil Rights Lobby Inc.



NATIONAL RIFLE ASSOCIATION OF AMERICA
INSTITUTE FOR LEGISLATIVE ACTION
1600 RHODE ISLAND AVENUE, N.W.
WASHINGTON, D.C. 20036

July 13, 1989

Mr. Stephen Donnell
President
Oregon Pro Gun Civil Rights Lobby, Inc.
Route 1, Box 1237
LaGrande, Oregon 97850

Dear Mr. Donnell,

Thank you for your letter of July 1, 1989 concerning Oregon H.B. 3470.

For the record, it was my understanding from Mr. Harder that the Oregon Pro Gun Civil Rights Lobby, Inc. "neither opposed or supported the bill." It was not my understanding that the Oregon Pro Gun Civil Rights Lobby, Inc. supported the bill.

With regard to potential problems with Section 38 of the bill, please be assured that the NRA will "assist[] in fighting any problems that engender from (sic) section 38."

In closing, let me say that I appreciate your continued vigilance on behalf of Oregon gun owners and your efforts to bring to our attention the problems you saw with H. 3470. I hope that we can continue to work together in the future.

Sincerely yours,

Richard E. Gardiner

Richard E. Gardiner
Director, State & Local Affairs

REG/rcs

Corrected

C-Engrossed House Bill 3470

Ordered by the Senate July 1
Including House Amendments dated June 8 and June 26 and Senate
Amendments dated July 1

Sponsored by Representatives KATZ, BURTON, Senator L. HILL, Representatives BAUMAN, BRIAN, CARTER, CEASE, FORD, HANLON, HOSTICKA, HUGO, KEISLING, KOTULSKI, MANNIX, MASON, MINNIS, PETERSON, STEIN, Senators CEASE, COHEN, GOLD, HAMBY, KENNEMER, KITZHABER, SHOEEMAKER, TROW (at the request of Oregon State Police, National Rifle Association, Oregon State Rifle and Pistol Association, Oregon State Sheriffs' Association, Oregon Association Chiefs' of Police, Citizens' Committee For The Right To Keep And Bear Arms, Oregon Catholic Conference, Oregon Department of Justice)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Expands information to be included on record of sale of handgun. Requires 15-day waiting period. Expands grounds for prohibiting purchase of handgun. Provides that felons cannot own or possess any firearms. Revises procedure for obtaining concealed handgun license. Allows person who holds valid concealed handgun license to purchase handgun without waiting period. Provides for appeal of denial or revocation of license. Provides for judicial relief for persons barred from purchasing or possessing firearms. Requires Department of State Police to study purchases of handguns, rifles, shotguns and other long guns and issuance of concealed handgun licenses. Defines terms.]

[Creates crime of making false statements on concealed handgun license application. Punishes by maximum one year imprisonment, \$2,500 fine, or both.]

[Creates crime of unlawfully attempting to purchase firearm. Punishes by maximum five years imprisonment, \$100,000 fine, or both.]

[Creates crime of failure to register used firearms transactions. Punishes by maximum one year imprisonment, \$2,500 fine, or both.]

[Creates crime of shipping, receiving, selling or furnishing firearm in furtherance of felony. Punishes by maximum 10 years imprisonment, \$100,000 fine, or both.]

[Establishes mandatory sentences for certain crimes when firearm used in commission of crime.]

[Creates crime of unlawful possession of machine gun, short-barreled rifle or shotgun or firearm silencer. Punishes by maximum 10 years imprisonment, \$100,000 fine, or both.]

[Appropriates moneys from General Fund to Department of State Police for purposes of Act.]

Regulates sale of handguns. Requires fingerprinting for all handgun sales and enacts 15-day waiting period for purpose of conducting criminal and mental history records check. Provides Attorney General shall notify Legislative Assembly when identification system using biological factors to identify convicted felons and certain mentally ill persons is developed. Sunsets fingerprinting and waiting period requirements when such technology is developed.

Regulates sale or transfer of firearms to recipients under 18 years of age, convicted of misdemeanors involving violence within previous four years, having outstanding felony warrants or on pretrial release for felony or having specified conditions relating to mental illness.

Revises crime of exconvict in possession of firearm.

Provides scheme for issuance of concealed weapons permit.

Creates crime of unlawful possession of machine gun, short-barreled rifle or shotgun or firearms silencer. Imposes maximum \$100,000 fine, 10 years imprisonment, or both.

Requires register of firearms transfer be kept and mailed to local law enforcement officers by persons selling firearms.

Increases penalties for use of firearms during commission of crimes.

Directs interim study and report to Sixty-sixth Legislative Assembly concerning unified state identification card.

A BILL FOR AN ACT

- 1
- 2 Relating to firearms: creating new provisions; amending ORS 46.060, 51.080, 161.610, 166.210, 166.240,
- 3 166.250, 166.270, 166.370, 166.410, 166.420, 166.450, 166.460, 166.470, 166.480, 166.715, 181.150 and

NOTE: Matter in bold face in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.

Bill as introduced:

Section one is now section 2.

Section 1.

1. Requires any one licensed by the Federal Government to send copies of the sale registration slips to local and state police. The record was supposed to be only used to determine if the buyer was a prohibited person who could not buy a handgun. After the ID use the records were to be destroyed. No provision was made for a criminal penalty if the police did not destroy the records.
2. Requires thumb print at time of purchase from a licensed dealer.
3. Waiting period if a person does not have a concealed weapons permit.
4. Violation of any part of the law (section) resulted in a possible Class C felony. It did not make any difference if the violation was intentional or not.

Bill as passed:

SECTION 1. As originally introduced the bill did not contain any definition for antiques or replicas of antiques.

In the passed version replica's are the same as antiques as long as they have not been altered to use rimfire or conventional ammunition. This means that a person can buy a replica without going thru the waiting period or having a concealed weapons permit. At the present time handgun antiques or replicas are treated the same as modern handguns. ie. waiting period for purchase etc.

SECTION 2.

1. Now provides for a Class A Misdemeanor if the records are not destroyed. The crime applies to any one who has responsibility for record destruction.
2. No change.
3. No change.
4. As passed the violation must be an intentional one. In other words, non intentional mistakes can be pleaded in court to assist in defeating any criminal charge.

Please note that these amendments materially changed the thrust of the bill. They brought antiques and replicas out from under the concealed weapons (handgun) provisions for purchase and also allowed a court defense if a dealer made a mistake was not intentional in nature. Also a change was made for definition of a "firearm" so that it applies to weapons that only use smokeless powder. The phrase "black powder or" was deleted.

Bill as introduced:

The bill as introduced did not have a SECTION 2a, or 2b.

Section 2. Is now Section 3.

1. Defines people who can't receive firearms by purchase or by transfer. Now includes persons convicted of misdemeanor involving violence (the problem was violence was not defined) within the previous 4 years prior to the application, or has outstanding warrants for arrest, chronic abuser of alcohol, adjudged mentally ill, or has been diagnosed as dangerous to self or others, etc.
2. Makes violation a "Class C felony." (was a misdemeanor).
3. As written could be interpreted as not allowing a parent (or any one else) to supply a handgun to a minor for instruction, hunting, or any other purpose.

The bill as now passed resolved most of the problems in the original bill (for these sections). Language is now clear and easily understood. For the most part the changes reverse the original proposed legislation.

Bill as passed:

SECTION 2a. This section allows and provides for a stop to the waiting period when the Federal ID system is in place.

SECTION 2b. Implements the use of the Federal ID system, so that the waiting period no longer is required.

The problem with this section is that the Oregon law requires identification of persons who will not be identified by the Federal ID system. This means that for all intents and purposes, the 15 day waiting period will always be with us.

People who will not be identified by the Federal system are: persons convicted of misdemeanors ie. ORS 163.160, 163.190, 163.195, 163.208, 166.155 (1)(b) and people listed in the mental health register maintained by the Mental Health Division.

SECTION 3.

1. Provides relief if a person is a prohibited person by record expunction of this state or other state with equivalent law. Outstanding warrant must be a felony warrant requires commitment by Mental Health Division (not as in the original bill, by an opinion decision of a medical practitioner allows an order under 426.130 that a person can not have firearms. (426.130) has many checks and balances as to who and how a person gets on the list.

2. Returns the penalty to a Class A misdemeanor.

3. Allows temporary transfer of any firearm to a minor for hunting, target practice or any other lawful purpose.

Bill as introduced:

Section 4. (This section does not exist in the passed version of the bill. It was superseded by Senate Bill 412. Senate Bill 412 was not passed out of committee (it passed both houses, but the senate and house versions were not the same. The bill went to conference committee and did not come out of committee.)
[The full bill language is shown so you the reader can know what was introduced.]

SECTION 4.

Note: This proposed section allows any person who is licensed in Oregon to engage in the practice of psychology, psychiatry or medicine to, by one fell swoop of the pen, turn Oregon citizens into persons prohibited from owning or possessing any firearm. This provision violates the Oregon Constitution, Article 1, Section 12 on "self incrimination" and "rights of accused in criminal prosecution, Article 1, Section 11.

The way the bill is written, anyone visiting a mental health person or doctor can be put on the prohibited list and not even know about it. The bill does not require notice to the patient that the doctor has written the mental health notice and sent the notice to the Health Division. This provision violates Article 1, Section 10 of the Oregon Constitution concerning secret courts.

(1) A superintendent or director of the following shall report to the Health Division every client and patient who in the opinion of the superintendent or director, should not purchase or possess firearms because of the client's or patient's mental condition:

(a) A hospital for the mentally ill or training center for the mentally retarded;

(b) A private mental health care facility; or

(c) A community mental health program.

(2) All persons licensed by the State of Oregon to engage in the practice of psychology, psychiatry or medicine shall report immediately to the Health Division every client or patient diagnosed as being dangerous to self or others.

(3) Reports required under this section shall be upon forms prescribed or provided by the Health Division. Each report shall include the person's name, address, date of birth, sex and diagnosis.

(4) Upon request by a local law enforcement agency conducting a background information check under ORS 166.420 or sections 7 and 8 of this Act regarding a particular person, the Health Division shall provide the agency with information concerning that person, if any, that has been reported as required by subsections (1) and (2) of this section. The reports are confidential and shall be used by the agency only to determine the qualifications of a person to purchase a firearm under ORS 166.420 and 166.470 or to obtain a concealed handgun license under section 7 and 8 of this Act.

(5) The reports required by this section shall be made notwithstanding any confidentiality or privilege statute.

(6) Any one participating in good faith in the making of a report pursuant to this section, and who has reasonable grounds for the making thereof, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report.

Section 5.

Allows for reporting misdemeanor involving violence.

Section 7.

Sets up procedure for issuance of a concealed handgun license. Requires demonstration of competence with a handgun by proof of prior handgun instruction.

Allows for denial if adjudged mentally ill; chronic abuser of alcohol. Has not been found to be or diagnosed as dangerous to self or others; (This section puts into effect section 4, where the doctor makes the decision.)

Requires two Character references. (The bill does not provide protection for the character references from any type of court action if the person vouched for does something while having the license. The bill expressly protects the police or public official, but not the private citizen!)

Provides for sheriff to have judgment as to whether a person will be issued a license. Does provide an appeal process. (Note: more will be said about the so called appeal process later under appropriate section.)

Note: These sections were some of the most hotly debated sections of the bill. It is impossible to discuss the total issues raised in committee and on the House and Senate floor(s). Suffice to say, that as now written the gun owner is protected as much as possible, within the framework that the legislature would permit. The issues were complex, involved with prior court decisions, and provisions of the Oregon constitution and laws. Only time will tell if the changes made will be sufficient to protect the law abiding gun owner so that all will have equal rights in applying and having a license issued to them.

SECTION 4.

Defines **felon** in possession of a firearm.

Allows relief from disability by using appeal process as allowed in SECTION 11.

SECTION 5.

Requires reporting of persons identified as per Senate Bill 412 (the mental health section) that are prohibited from purchase or possession of firearms. [Note: Senate Bill 412 did not pass. See previous discussion.]

SECTION 8.

Sets up procedure for issuance of a concealed handgun licens Basically the same criteria is used as before. But the only denial items are now; no outstanding warrants for arrest, and is not free on any form of pretrial release, the long list of other items is gone from the bill.

Competence is still required; the list is the same as before

Outright non issuance for a misdemeanor of violence is now changed to "within the previous 4 years", commitment to Mental Health Division now must have been within 4 years prior to the effective date of the Act.

Added is the provision that if a court orders that a person is not to have firearms, a concealed license is not allowed.

Allows for relief from the disability by using the relief process allowed for in section 11 of the Act.

Character references still required. (Still no protection for a person signing as a character reference.)

Bill as introduced:

section 8.

Requires issuance of a concealed handgun license by the sheriff within 45 days after application.

Paragraph (2) Failure of a person who carries a concealed handgun also to carry a concealed handgun license is prima facie evidence that the person does not have such a license. [This means you must have the license on your body when carrying a concealed handgun.]

Section 9.

Provides for renewal of concealed license.

An extensive discussion arose about a police officer being able to revoke the license by serving a notice of revocation. This meant that any police officer could revoke the license whenever they wanted to. [This was changed in the final bill]

Section 10.

Sets up a relief process for persons barred from having firearms or denied a concealed license under provisions of the act.

Burden of proof is upon the person appealing the denial. The mental health history is still a significant part of reasons not to allow ownership or issuance of a license.

The changes in these section were complex, involved, and revolved around present court interpretation of language and phrases. For full meaning as to what was accomplished by the changes a person must study the as introduced bill and the edition that passed.

Bill as passed:

SECTION 9.

Requires issuance of a concealed handgun license by the sheriff within 45 days after application.

Paragraph (2) is the same as in the original bill. We tried to get this provision changed so that a person could present in court the license as defense against the charge of not having a license if the person was not carrying the license at time of arrest. We were not successful in this effort. (It must be pointed out that this same provision was put into prior bills as introduced by OSR&PA in previous sessions. Somehow they will not learn from previous mistakes.)

Allows for use of prior issued license, this means that a license holder will not have to automatically renew their license if time still remains on the presently held license. (The way the bill was introduced everyone would have to reapply on January 1, 1990)

SECTION 9a.

Sets up method that sheriff must use if a license is to be denied. Allows for an appeal procedure.

SECTION 10.

Sets up procedure for issuance of a renewal for concealed license.

The change here is that only the sheriff can revoke the concealed license. In addition the reason for revoking the license must be given. In addition the revocation can be appealed as allowed for in the bill.

Section 11.

This section states: "A person denied a concealed handgun license under sections 7 and 8 of this Act, or whose license is revoked or not renewed under section 9 of this Act, may petition the circuit court to review the denial or revocation.

First off, the only denial that can be appealed is the denial of a concealed license. Denial of purchase of a handgun is not included. Also review of a decision that a person can not have firearms is not appealable.

The most important issue is: the appeal process means **nothing**. The NRA just lost a case in the court of appeals that simply said that the sheriff does not have to issue a license under present law. Since the appeals process only requires the court to be petitioned, there is nothing to say that the court must review the petition. (This is in essence, the same as the sheriff must consider the concealed weapons application under current law, but he does not have to act on it.)

Nothing in this section tells the court what they are to do if they do review the denial. Sum and substance of this section is that it looks good but does not do anything for the denied firearms owner.

Section 12.

Defines "Firearm". Includes the use of black powder in the definition.

Defines "Firearms silencer" & "Handgun". The way this definition is written does define antiques as defined under present federal law. Defines federal law prohibited firearms.

Again the amendments were technical and involved. In the case of the appeals process, what was a noneffective process that would not protect the lawful firearm owner, was amended to give full protection to the firearm owner in any appeal to the court, including appeal to higher courts. To fully understand the legal ramifications of the appeals process, it is suggested that an attorney be contacted for further information.

SECTION 11.

Sets up a procedure for full appeal of any denial in the area of firearms. In addition if either side loses, they can appeal to the next higher court.

An attorney is not required, but a person can have one if they want one.

The court is given instruction as to what they are to do in the case--grant relief, or deny relief.

If a governmental entity files an appeal, and does not prevail, it shall be ordered to pay the attorneys fees for the prevailing party. This means that if you win on appeal you can get your attorney costs paid.

SECTION 12.

"Where appropriate, a person may enforce the legal duties imposed by sections 2 and 31 of this Act by the provisions of ORS 30.260 to 30.300 and chapter 183.

This means that the court can order performance of any government agency to comply with the provisions of the Act.

Section 13:

This section defines unlawful possession of a firearm.

A person under 18 can not possess long gun(s).[supposedly the same as Federal law].

The section still has the mental health provisions. (see previous discussion)

The way the section is written an exemption is made for minors to have long guns for hunting, target practice and other lawful purposes. The way the exemption section is written, a minor can not have or possess a handgun. Senator Peg Jolin held a news conference and pointed out the "no handgun" for minors problem.

Section 16:

This section changes the present law for dealer purchase of firearms from private parties.

Whenever a dealer purchases a firearm, they must make out a two part form and mail one copy to the local police on the day of purchase for police use to see if the firearm was stolen or any other check they might want to make.

Section 18:

This section mandates a specified prison term if a person uses or attempts to use a firearm in a crime of violence or drug trafficking crime.

The problem with this section as written is that the firearm charge could be "plea bargained away". There is no requirement that a person arrested be charged with the firearm part of the crime.

In addition first offenses were charged and sentenced the same; the judge could not find mitigating circumstances and levy a lesser penalty.

SECTION 13:

This section defines unlawful possession of a firearm.

The 18 year old provision is still the same. However, the exemption section was extensively rewritten. It now specifically allows minors to possess firearms if the firearm was transferred to them by a parent, guardian, or another person with the consent of the minor's parent or guardian. Handgun by minors is allowed but the transfer can not be a permanent one.

The mental health problem (provision) was changed so that a court under ORS426.130 had to make the decision, not a doctor as before. (See previous discussion)

SECTION 16:

No change. [We tried to amend this portion of the bill but were not successful.]

(It should be noted that under this section 16, that the police will now have a permanent record of all sales by citizens to dealers. Nowhere in the bill is there a requirement that such records must be destroyed and not kept.)

SECTION 18:

This section mandates a specified term if a person uses a firearm in commission of a crime.

The firearm charge can not be "plea bargained away", instead the firearm portion of the crime becomes the main charge. This means that any one using a firearm in the commission of a crime must be tried, and if convicted go to jail for not less than 5 years.

A provision was added that if the punishment was a first time punishment, the judge could "suspend the execution of the sentence" when the judge finds mitigating circumstances.

Section 21

Stops concealed carry of "switch blade knives", dirk, dagger, etc.

This change in the law puts into effect a recent State of Oregon Supreme Court opinion.

Section 23:

This section deals with the sale or transfer of firearms brought into the state. Unless the firearm is sold-transferred as per HB 3470 and other ORS's, any person selling or transferring the firearm can be charged with a class B felony.

Section 24:

This section deals with the changing or altering of serial number of a firearm. (bill used term "identification number")

Section 25:

This section exempts antique handguns from specified sections of the bill.

Section 29:

This is the "study section". Requires that state police make a study, and all dealers send copies of all sales to the state police.

The problem with this section as introduced in the bill, was that the study period did not have a starting or ending date. That meant that the study could go on as long as the police wanted to make the study.

SECTION 21:

No change.

SECTION 23:

This section deals with the sale or transfer of firearms brought into the state. Technical changes were made in wording to be sure the language was clear and easily understood. The class B felony was not changed.

SECTION 24:

This section deals with the changing (alter) the identification number of a firearm.

The bill was amended to require that the alteration or change was "intentional--and for an unlawful purpose".

SECTION 25:

This section exempts all antiques from specified sections of the bill and present unchanged law.

SECTION 29:

This is the "study section". The section was not really changed except the study now starts one year before January 1, 1991. In addition all records from the study (except that material used in the published report must be destroyed.

House Bill as introduced stopped at section 32. As amended it contains 41 sections. The following is a summary of what each section does.

Section 36. This section amends ORS 426.130 so that the court can order that the person (before the court) be prohibited from purchasing or possessing a firearm. The court is to make their decision based on past behavior and/or specific acts done by the person before the court. It should be noted that ORS 426.-series; has many safeguards for persons that are to appear before the court in this type case.

Section 37. This section directs that a study be made for an Oregon unified state identification card. The idea is that with such a card the waiting period could be done away with for any firearm purchase. <The Oregon Pro Gun Civil Rights Lobby Inc.> proposed such a system during the hearings. The committees did not want to go into all the details such a system would entail, hence; the study.

Section 38. This section is shown as adopted. **Except as otherwise provided by law, cities counties and other political subdivisions of this state may regulate only the possession of firearms and ammunition in a public place, as defined in ORS 161.015.**

There is much confusion about this section. It is supposed to be a "preemption section". However, we obtained a legislative council (the lawyer who wrote HB 3470 and all the amendments) opinion. The opinion says that this section is an "enabling section" that allows for passage of ordinances by cities--counties--others, to regulate the possession of firearms and ammunition in public places. It should be noted, that a "public place is just about anywhere outside private property."

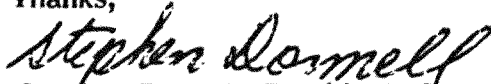
Section 41. "This Act takes effect on January 1, 1990"

This summary is just part of the changes made in HB 3470 from the time of introduction till passage by both houses. The bill has now been signed into law by the governor and will take effect on January 1, 1990. Only time will tell as to what effect other than a positive effect the legislation will have for the law-abiding Oregon gun owner. The amendments made to the bill were the result of intense lobbying and work on the part of "Oregon Pro Gun Civil Rights Lobby Inc.". The lobbying effort was made possible by the donations and financial contributions of gun owners across the state. Without that help, the lobbying effort and bill changes would not have occurred. The people who wrote the bill in the first place, testified that no changes were needed, because the bill was carefully written and any changes would destroy the effectiveness of the bill. How right they were! Without the changes the Oregon firearm (gun) owner would have had to live with one of the most oppressive gun bills ever adopted. **It is strongly urged that you read the bill as introduced, and then read the final version. Compare the two, remember the bill went through 22 revisions before it passed both the senate and house of representatives.**

The battle over gun owners rights is not over. The effort to amend HB 3470 was costly, time consuming and required the expenditure of more funds than the amount contributed by those who knew that HB 3470 had to be amended. We need your help. Contribution can be sent to the corporation address: Rt. 1, Box 1237, LaGrande, Oregon, 97850. Checks should be made out to the corporation name. We are a non-profit corporation chartered under the laws of Oregon.

If you would like to have this writer speak before your club or association, I would be pleased to do so. Call me at (503) 963-3686. If schedule permits I can come to the meeting. A donation will be requested to pay expenses and further the cause of law-abiding firearms owners civil rights.

Thanks,



Stephen Donnell, President, Oregon Pro Gun Civil Rights Lobby Inc.

OREGON PRO GUN CIVIL RIGHTS LOBBY, INC.

Handout #4

62455 Oswley Canyon Rd.

Lagrande, Oregon

97850

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TESTIMONY BEFORE THE MULTNOMAH COUNTY COMMISSION Re:

SAFE STREETS ORDINANCE

December 7, 1989

Madam Chairman, members of the Commission, my name is Stephen Donnell. I am President of the Oregon Pro Gun Civil Rights Lobby, Inc.. We are a state wide not-for-profit corporation dedicated to opposing gun legislation that is ill conceived, not founded in enabling statute and denys the Oregon citizen his constitutional rights.

"Oregon appellate courts have consistently recognized that the policy behind the regulation of the possession of weapons has been to preserve, **to the greatest extent possible, the constitutional right to bear arms.**"* (emphasis added)

The ordinance before you is drafted to accomplish **exactly the opposite of what the Oregon Constitution intends.**

The ordinance restricts the ability of the law abiding citizen to own, possess, use and transport specific named firearms in Multnomah County without a sheriff issued permit. The Sheriff is the sole arbiter as to whether the person will be issued the permit. This is similar to state or county laws that allow a county official to decide who can vote, own firearms, use local public facilities, etc. These laws have been found to be violations of the peoples civil rights, and declared unconstitutional.

Even though the state concealed handgun carry law is clear, the ordinance adds additional conditions and restrictions on the person who has a Concealed Handgun license. As pointed out in Dollarhide, 300 Or at 501-02, "[I]n order that the defining elements of a city's crime not conflict with state law, they must virtually 'duplicate' the state law elements."

The ordinance is attempted to be justified under the guise of making the streets more safe to the citizens of the county. Since the ordinances will only really affect the "law abiding citizen" it is difficult to understand this rationale.

It is interesting to note that the "Findings. items, (A), (B), and (C) are statements that are not founded in true facts, nor substantiated by government studies or statistics. Section (C) Permit Process. - (c)&(d); (4); (4)(b); & (5), enact concepts that were rejected by the State Legislature when adopting HB 3470, which is being cited as the basis for authority to enact this proposed ordinance. It is questionable if the county can effectuate a social policy, by ordinance, when the enabling statute rejects the same policy.

The ordinance does have one good provision. The concept of the sheriff conducting training classes has merit.

*State v. Delgado, 298 Or. 395, 692 P2d 610 (1984); State v. Blocker, 291 Or 255, 630 P2d 824 (1981); State v. Kessler, 289 Or 359, 614 P2d 94 (1980) and other cases such as State v. Harris & Pruett & Tucker.

The most recently enacted state gun law provides the authority to prosecute those who have any firearm in a public place contrary to law. In addition, if a person commits a felony with a firearm and they are convicted of such, they **must** serve 5 years in prison with time off only for good behaviour. Multnomah County should put the state law to use and utilize it's provisions to the fullest, before ordinances are passed that do nothing to punish or dissuade the criminal in his activities.

In summary: the ordinance should be voted down and not adopted. It makes no sense to have Multnomah County adopt an ordinance that is so basically flawed that a court challenge would ensue. The people of Multnomah County deserve to have their tax dollars spent on the solution of social problems that are crying out for resolution, instead of an expensive, time consuming and involved appellate court case, that has resulted from a badly flawed ordinance.

Testimony: Oregon Pro Gun Civil Rights Lobby, Inc.
Multnomah County Commissioners
December 7, 1989
page 2 of 2

December 7, 1989

Dexter W. Zinke
P.O. Box 20532
Portland, Oregon
97220-0532

Multnomah County Commissioners
County County Courthouse
1021 S.W. Fourth Avenue
Portland, Oregon 97204

Dear Commissioners:

I am here today to protest this sham hearing on your proposed ordinances to regulate assault weapons.

I call this a sham hearing because three of you have histories as gun grabbers and clearly are using these proposed ordinances to get media attention for yourselves. You know you lost your anti gun argument in the State Legislature last summer. Now you are trying to pass anti gun ordinances through the back door.

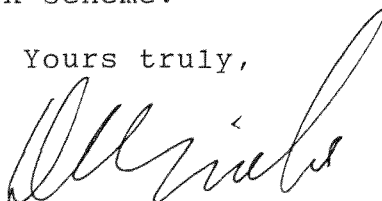
Violators of your ordinances will be impossible to detect until AFTER they have used your outlawed weapon. The ordinances you propose are clearly unenforceable without some method of weapons detection. There is no clear way of detecting violators without violation of a citizens Constitutional rights regarding search and seizer. Do you propose to stop vehicles indiscriminately or are you just going stop and search members of Minority groups?

In the future, do you see this as an opportunity to squander public moneys in the courts attempting to defend your ordinances so as to keep getting media attention for yourselves?

Quit wasting citizens money and time by proposing ordinances designed to get yourselves on television and in the newspaper.

You know full well that criminals will not obey these proposed ordinances. Only law abiding citizens will be effected by your firearm tax scheme.

Yours truly,



D. W. Zinke

Handout #6

Dec. 7, 1989

Board of county Commissioners,
Multnomah County, Or.

I just read your "gun control ordinance" proposal
and will sum it up in one word- DISGUSTING -.

The people who use a gun to commit a crime will
not bother to get a permit so why make it tough for
the honest people to own any gun of their choice and
at the same time burden your sheriff with the task of
"permitting" all gun owners instead of going after the
crimenal?

I see this gun control ordinance as a smoke screen
to cover up your inability to enforce existing laws.

Makeing new laws will not stop crime, enforceing
the law will.

Gene Schmutzler

Gene Schmutzler

8830 S.W. Hamlet

Tigard, Or. 97224

12-7-89

Persons paying ad valorem taxes
or property taxes should not pay

The type of fees indicated in your
ordinance for firearms ownership

as Article II of the U.S. Bill of Rights

and ~~Article~~ ^{Section} XXVII of the Oregon Constitution
Bill of Rights
protect firearms ownership.

Emotional decisions lead
to distort your judgement in this

matter is faulty - ~~Article~~ Section 16 of

the Bill of Rights of Oregon Constitution

prohibits excessive fees.

JH Bergeron 282-6090

BOARD OF
COUNTY COMMISSIONERS
HELMINAH COUNTY
OREGON
1989 DEC -7 AM 11:55

I thought this was America and we voted on what we wanted. I noticed that everything about this law is kept quiet. Only NRA members and special people are informed. What happened to the general public. I can see the rich are going to get richer on this one. I believe in selling guns to responsible people, but this is going to hurt the gun dealers and regular Joes. Since the president banned the assault weapon prices have doubled or tripled and are almost impossible to purchase.

Background checks for safe sales are fine; however, it should only be a one time thing and not charged every time you buy a gun.

That's ridiculous! If more people knew what you are trying to do you, would never get away with it.

The assault weapon's permit is absurd and just another money maker. It serves no purpose but revenue. It says in the letter about carrying an assault weapon in public places like school yards, parks, etc.; if I ever saw anyone of this nature, I would be very suspicious in that they are probably going to do something illegal anyway. How many people do you see walking around with a gun in public places except in a vehicle (truck) window going hunting.

I bought my "so called" assault rifles for hunting which I have gotten deer with both; and I didn't carry more than 5 rounds which is the legal limit. Now I'm supposed to pay to use my own guns, or I have to buy a non-assault rifle which will cost me extra on top of what I have paid so far. -
I just won't do it! -

Why should you descriminate against assault weapons only - Why not all guns!
But that appears to be the next step in your campaign. You get your foot in the door and eventually you want all guns.

Disarm America!!

Don't you think all weapons are seriously dangerous, in the wrong hands. For example, a large knife or machette, at rose festival carnival or any crowded place, an individual could run through the crowd and mame ^{or kill} several people without being noticed until out of sight. This weapon does not run out of bullets as does a gun. A knife also makes no disturbance and is easily concealable moreso than an assault rifle.

Does this mean we will be needing a permit for this also!

I have a lot of friends that didn't want to come today to this meeting because

they live out of the county. I know better— you are going to try to pass these regulations in this county and then every county hereafter. This is only the beginning.

There is competition and sport with everything man makes from horse shoes to national competition matches with a 50 caliber rifle. Everything is a sport including going up to the woods with cans and milk jugs and practicing with a couple hundred dollars of bullets with my wife, family and friends, once or twice a year, is my own damned business and I should not have to pay extra for it. Background checks are a good thing for people who want to purchase guns but only one time. Why not issue a stamp on your Driver's license and maybe \$5.00 extra upon renewal instead of repeated background check and overcharging of fees. It would ^{cost} ~~be~~ less ~~and~~ accomplish the same task. The next thing you'll want to know is what kinds of guns we have so you can take them away. What happened to the right to bear arms — not what kind we can bear, when we can bear them but that we can have the freedom to own any arm. That's why we have never been invaded.

7028 N Mohawk
Portland Ore
97203

Gene C.P. Vanek
Jean S. Vanek

June 22, 1989

Representative Nancy Peterson, Sub-Comtee Chr.
Human Resources of Ways & Means Committee
Oregon State Capitol, H--178
Salem, Oregon 97310

Dear Chairman Peterson, and Members of the Sub-Committee,

HB 3470 must not finger print or penalize honest citizens owning fire arms!

"When guns
are outlawed
only outlaws
will have
guns!"

Teen struggles with fateful choice

□ The decision to stay home and study is the catalyst for a fatal confrontation

By DENISE McVEA
of The Oregonian staff

On Thursday, 18-year-old Kurt F. Jensen chose to stay home from school in the afternoon and study English so he could graduate with his high school class.

That same afternoon, 32-year-old Alex L. Rahm chose to break into Jensen's home in a quiet Northeast Portland neighborhood.

The consequences of those choices cost Rahm his life and left Jensen struggling with the knowledge that he was the one who took it.

The Parkrose High School student was home alone, studying upstairs in his room about 2 p.m. when he heard the doorbell ring. He went to an upstairs window that overlooks the front yard but saw no cars.

He saw a 10-speed bicycle but did not recognize it.

When he answered the door, no one was there. Jensen went back upstairs.

Within minutes, he heard glass breaking as someone began to kick in a downstairs door.

He quickly went to his parents' bedroom where he got his father's handgun. "My first thought was that I had to stop this person before I got pinned down in the house," Jensen said.

An Eagle Scout who has won a scholarship to attend the Oregon Police Academy in Monmouth, he had fired his father's revolver several times before for target practice. That he would use it to stop an intruder from breaking into his home rarely had crossed his mind.

Crouching upstairs, he listened as more glass fell to the floor. The gun was in his right hand. He put his left hand on the floor to keep his trembling body from falling.

"I went downstairs and when I was halfway down the stairs is when I first yelled, 'Stop, I have a gun!' There was no response, just glass breaking. I thought he might be deaf so I moved down. He still couldn't see me, and I said 'stop' again," Jensen said.

He saw Rahm on his hands and knees, breaking door panes and trying to get into the house through the opening he had created. Stepping into Rahm's view, Jensen aimed the gun at Rahm's head and told him to stop again.

"He didn't stop, he just looked at me and kept coming."

Jensen said he considered firing a

The attached article shows the need for citizens to protect themselves!

Please help make it a responsible bill, protecting our Constitutional rights to keep and bear arms... "shall not be infringed!"

Please turn to
JENSEN, Page A12

Louise Weidlich
Louise Weidlich
Director

Jensen: Man not deterred

■ Continued from Page One

warning shot, but fearful that Rahm had a gun, he did not want to lose ammunition. He opted for a wounding shot, and then he fired. A bullet hit Rahm's shoulder.

Jensen expected Rahm to retreat and try to get away. In his mind, he was trying to devise a plan to detain Rahm for the police — hold him or shoot him in the knee.

But Rahm only grunted, looked up at Jensen and grinned. Jensen described the grin as maniacal and rightening as Rahm continued to come through the door.

Jensen shot Rahm in the head, then emptied the handgun. Jensen said that he remembers only firing two shots. Another bullet hit Rahm, he rest went wild. "I had a pretty good feeling that I had killed him or he was hurting pretty bad."

Jensen, trembling in panic, ran to the phone to call the police. Then, afraid that Rahm might have an accomplice nearby, he dropped the phone and ran to a neighbor's home. It was there that the teen-ager called police.

When the police arrived, Jensen broke down. Crying, he told them, "I killed him. I didn't want to."

In an interview with The Oregonian on Saturday, Jensen said he shot Rahm because he feared for his life and wanted to protect his home. "I think of my home as a sanctuary, the only place where somebody can go and be safe. When people come into that house, they're invited. And

when people are invited into the house, they're safe. And when someone tries to intrude, forcibly, you've got to use whatever means possible to stop that person."

The police later identified Rahm as an habitual criminal and ex-convict who, at the time of the shooting, was wanted on three outstanding felony warrants and parole violation.

Rahm died later that afternoon in a Portland hospital of three gunshot wounds to the head and chest, according to Dr. Karen Gunson, deputy state medical examiner.

An articulate, thoughtful teenager, Jensen's voice choked with emotion as he talked.

"I mainly feel remorse to the family. No matter how bad somebody is... I don't agree with what he did, I don't condone what he did, but he's somebody's son. I hope they understand the circumstances, that I didn't want to kill him."

The shooting haunts him, and he has not been able to sleep.

"What really gets to me is that I had to take a human life. I believe that everyone should have the chance to change. And now he doesn't have that chance. But like the police said, that guy made his own choices. He made his decision, and all I could do was react to his decision."

Jensen has tried to go on with his life. On Saturday, he graduated with his class in ceremonies in Civic Auditorium. He attended his class's all-night party after graduation.

At the graduation ceremony, his classmates and the rest of the audience gave him a standing ovation. His neighbors speak highly of him, and many think of him as a hero.

He said he just wanted to be a good person and live a full life. And make the right choices.

THE OREGONIAN, WEDNESDAY, JUNE 21, 1989

Would infringe liberty

To the Editor: Our Legislature is considering a gun-control bill that affects our right to possess both handguns and long guns.

This bill, if it becomes law, will allow local law enforcement agencies to keep a registry not only of guns, but of their owners as well. House Bill 3470 will allow the Oregon State Police to create a gun ban by simply refusing to acknowledge that a potential gun owner's thumbprints are legible.

This law promises to protect us from those who are mentally incompetent or who chronically abuse alcohol, yet the state will provide mental-health information to a local law enforcement agency conducting a background check only upon request.

This bill does not even bother to define alcohol abuse. Provided you can pony up the \$700 to \$1,200 for fees and an attorney to appeal an adverse ruling, the bill indemnifies those who would deny you your civil rights through civil penalties.

The cost of appeal is such that this bill is discriminatory to the economically disadvantaged, the very people who need their guns the most to protect themselves from the anarchy of crime.

Supporters of this bill are trying to sell it, with its many flaws, through tougher penalties on those who break the law. Our state cannot keep its violent offenders behind bars for a third of their sentences.

Criminals, by definition, are not going to obey any gun-control law. We all stand to lose much from this dangerous bill, which offers very little in return for its infringement upon our rights to keep and bear arms.

DAVID A. PALMER
Gaston

"Remember Pearl Harbor!"

PEARL HARBOR SPEECH

949

THE PRESIDENT'S PEARL HARBOR SPEECH TO CONGRESS

After Japan joined Germany and Italy in a defensive alliance in 1940 it was expected that sooner or later she would take an active part against the Allies. In December of 1941 Japanese envoys were discussing relations in the Pacific at Washington when planes wearing the red sun insignia blasted Pearl Harbor. On the next day, December 8, 1941, President Roosevelt addressed this message to a joint session of Congress. The War Declaration of Congress follows on the next page.

Submitted
BY
LOUISE
WEIDLICH

MR. Vice-President, Mr. Speaker, members of the Senate and House of Representatives:

Yesterday, December 7, 1941—a date which will live in infamy—the United States of America was suddenly and deliberately attacked by naval and air forces of the Empire of Japan.

The United States was at peace with that nation and, at the solicitation of Japan, was still in conversation with its government and its Emperor looking toward the maintenance of peace in the Pacific.

Indeed, one hour after Japanese air squadrons had commenced bombing in the American island of Oahu, the Japanese Ambassador to the United States and his colleague delivered to our Secretary of State a formal reply to the recent American message. While this reply stated that it seemed useless to continue the existing diplomatic negotiations, it contained no threat or hint of war or armed attack.

It will be recorded that the distance of Hawaii from Japan makes it obvious that the attack was deliberately planned many days or even weeks ago. During the intervening time the Japanese government has deliberately sought to deceive the United States by false statements and expressions of hope for continued peace.

The attack yesterday on the Hawaiian Islands has caused severe damage to American naval and military forces. I regret to tell you that many American lives have been lost. In addition, American ships have been reported torpedoed on the high seas between San Francisco and Honolulu.

Yesterday the Japanese government also launched an attack against Malaya.

Last night Japanese forces attacked Hongkong.

Last night Japanese forces attacked Guam.

Last night Japanese forces attacked the Philippine Islands.

Last night the Japanese attacked Wake Island.

And this morning the Japanese attacked Midway Island.

Japan has, therefore, undertaken a surprise offensive extending throughout the Pacific area. The facts of yesterday and today speak for themselves. The people of the United States have already formed their opinions and well understand the implications to the very life and safety of our nation.

As Commander-in-Chief of the Army and Navy I have directed that all measures be taken for our defense.

Always will our whole nation remember the character of the onslaught against us.


No matter how long it may take us to overcome this premeditated invasion, the American people in their righteous might will win through to absolute victory.

I believe I interpret the will of the Congress and of the people when I assert that we will not only defend ourselves to the uttermost but will make it very certain that this form of treachery shall never again endanger us.

Hostilities exist. There is no blinking at the fact that our people, our territory and our interests are in grave danger.

With confidence in our armed forces—with the unbounding determination of our people—we will gain the inevitable triumph—so help us God.

I ask that the Congress declare that since the unprovoked and dastardly attack by Japan on Sunday, December 7, 1941, a state of war has existed between the United States and the Japanese Empire.



....an individual right

**A REPORT BY THE
UNITED STATES SENATE
SUBCOMMITTEE ON THE
CONSTITUTION**

**REPRINTED COURTESY OF
THE CITIZENS COMMITTEE FOR
THE RIGHT TO KEEP AND BEAR ARMS**

Due to the emotionalism and politicization of the "gun control" issue, the meaning of the Second Amendment has been under great dispute. One side claims the Amendment only refers to the collective right of the state to have a national guard, the other side argues the Second Amendment guarantees each individual the right to keep and bear arms.

The United States Senate sought to cut through the emotion, and determine the true meaning of our constitution. This publication is a reprint of the original report, issued by the Subcommittee on the Constitution in February, 1982.

To reach their conclusion, the Subcommittee did an impressive amount of independent research, looking to the original writings of our Founding Fathers and the debates surrounding the adoption of the Second Amendment. The subcommittee also reviewed materials presented by both pro and anti-gun groups.

After viewing all the available evidence over a substantial time period, the Subcommittee reached one inescapable conclusion. Presented here is that conclusion, which, in the original report, was backed up by over 175 pages of documentation. When reading the document, I ask the reader to keep in mind the following quote from Thomas Jefferson:

On every question of the construction (of the Constitution) let us carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.

We can not compromise the integrity of our Constitution. If we do, who's liberties are safe?

John A. Hosford
Executive Director
Citizens Committee for the
Right to Keep and Bear Arms

Additional copies of this publication are available for \$3.00 from the Citizens Committee for the Right to Keep and Bear Arms, Liberty Park, 12500 N.E. 10th Place, Bellevue, WA 98005.

97th Congress
2nd Session

COMMITTEE PRINT

THE RIGHT TO KEEP AND BEAR ARMS

REPORT
OF THE
SUBCOMMITTEE ON THE CONSTITUTION
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETY-SEVENTH CONGRESS
SECOND SESSION



FEBRUARY 1982

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PREFACE

"To preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them." (Richard Henry Lee, Virginia delegate to the Continental Congress, initiator of the Declaration of Independence, and member of the first Senate, which passed the Bill of Rights.)

"The great object is that every man be armed... Everyone who is able may have a gun." (Patrick Henry, in the Virginia Convention on the ratification of the Constitution.)

"The advantage of being armed... the Americans possess over the people of all other nations... Notwithstanding the military establishments in the several Kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms." (James Madison, author of the Bill of Rights, in his Federalist Paper No. 26.)

"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." (Second Amendment to the Constitution.)

In my studies as an attorney and as a United States Senator, I have constantly been amazed by the indifference or even hostility shown the Second Amendment by courts, legislatures, and commentators. James Madison would be startled to hear that his recognition of a right to keep and bear arms, which passed the House by a voice vote without objection and hardly a debate, has since been construed in but a single, and most ambiguous, Supreme Court decision,

whereas his proposals for freedom of religion, which he made reluctantly out of fear that they would be rejected or narrowed beyond use, and those for freedom of assembly, which passed only after a lengthy and bitter debate, are the subject of scores of detailed and favorable decisions. Thomas Jefferson, who kept a veritable armory of pistols, rifles and shotguns at Monticello, and advised his nephew to forsake other sports in favor of hunting, would be astounded to hear supposed civil libertarians claim firearm ownership should be restricted. Samuel Adams, a handgun owner who pressed for an amendment stating that the "Constitution shall never be construed ... to prevent the people of the United States who are peaceable citizens from keeping their own arms," would be shocked to hear that his native state today imposes a year's sentence, without probation or parole, for carrying a firearm without a police permit.

This is not to imply that courts have totally ignored the impact of the Second Amendment in the Bill of Rights. No fewer than twenty-one decisions by the courts of our states have recognized an individual right to keep and bear arms, and a majority of these have not only recognized the right but invalidated laws or regulations which abridged it. Yet in all too many instances, courts or commentators have sought, for reasons only tangentially related to constitutional history, to construe this right out of existence. They argue that the Second Amendment's words "right of the people" mean "a right of the state" —apparently overlooking the impact of those same words when used in the First and Fourth Amendments. The "right of the people" to assemble or to be free from unreasonable searches and seizures is not contested as an individual guarantee. Still they ignore consistency and claim that the right to "bear arms" relates only to military uses. This not only violates a consistent constitutional reading of "right of the people" but also ignores that the second amendment protects a right to "keep" arms. These commentators contend instead that the amendment's preamble regarding the necessity of a "well regulated militia ... to a free state" means that the right to keep and bear arms applies only to a National Guard. Such a reading fails to note that the Framers used the term "militia" to relate

to every citizen capable of bearing arms, and that Congress has established the present National Guard under its power to raise armies, expressly stating that it was not doing so under its power to organize and arm the militia.

When the first Congress convened for the purpose of drafting a Bill of Rights, it delegated the task to James Madison. Madison did not write upon a blank tablet. Instead, he obtained a pamphlet listing the State proposals for a bill of rights and sought to produce a briefer version incorporating all the vital proposals of these. His purpose was to incorporate, not distinguish by technical changes, proposals such as that of the Pennsylvania minority, Sam Adams, or the New Hampshire delegates. Madison proposed among other rights that "That 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." In the House, this was initially modified so that the militia clause came before the proposal recognizing the right. The proposals for the Bill of Rights were then trimmed in the interests of brevity. The conscientious objector clause was removed following objections by Elbridge Gerry, who complained that future Congresses might abuse the exemption to excuse everyone from military service.

The proposal finally passed the House in its present form: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed." In this form it was submitted into the Senate, which passed it the following day. The Senate in the process indicated its intent that the right be an individual one, for private purposes, by rejecting an amendment which would have limited the keeping and bearing of arms to bearing "For the common defense".

The earliest American constitutional commentators concurred in giving this broad reading to the amendment. When St. George Tucker, later Chief Justice of the Virginia Supreme Court, in 1803 published an edition of Blackstone annotated to American law, he followed Blackstone's citation of the right of the subject "of having

arms suitable to their condition and degree, and such as are allowed by law" with a citation to the Second Amendment, "And this without any qualification as to their condition or degree, as is the case in the British government." William Rawle's "View of the Constitution" published in Philadelphia in 1825 noted that under the Second Amendment: "The prohibition is general. No clause in the Constitution could by a rule of construction be conceived to give to Congress a power to disarm the people. Such a flagitious attempt could only be made under some general pretense by a state legislature. But if in blind pursuit of inordinate power, either should attempt it, this amendment may be appealed to as a restraint on both." The Jefferson papers in the Library of Congress show that both Tucker and Rawle were friends of, and corresponded with, Thomas Jefferson. Their views are those of contemporaries of Jefferson, Madison and others, and are entitled to special weight. A few years later, Joseph Story in his "Commentaries on the Constitution" considered the right to keep and bear arms as "the palladium of the liberties of the republic", which deterred tyranny and enabled the citizenry at large to overthrow it should it come to pass.

Subsequent legislation in the second Congress likewise supports the interpretation of the Second Amendment that creates an individual right. In the Militia Act of 1792, the second Congress defined "militia of the United States" to include almost every free adult male in the United States. These persons were obligated by law to possess a firearm and a minimum supply of ammunition and military equipment. This statute, incidentally, remained in effect into the early years of the present century as a legal requirement of gun ownership for most of the population of the United States. There can be little doubt from this that when the Congress and the people spoke of a "militia", they had reference to the traditional concept of the entire populace capable of bearing arms, and not to any formal group such as what is today called the National Guard. The purpose was to create an armed citizenry, which the political theorists at the time considered essential to ward off tyranny. From this militia, appropriate measures might create a "well regulated militia" of individuals

trained in their duties and responsibilities as citizens and owners of firearms.

If gun laws in fact worked, the sponsors of this type of legislation should have no difficulty drawing upon long lists of examples of crime rates reduced by such legislation. That they cannot do so after a century and a half of trying—that they must sweep under the rug the southern attempts at gun control in the 1870-1910 period, the northeastern attempts in the 1920-1939 period, the attempts at both Federal and State levels in 1965-1976—establishes the repeated, complete and inevitable failure of gun laws to control serious crime.

Immediately upon assuming chairmanship of the Subcommittee on the Constitution, I sponsored the report which follows as an effort to study, rather than ignore, the history of the controversy over the right to keep and bear arms. Utilizing the research capabilities of the Subcommittee on the Constitution, the resources of the Library of Congress, and the assistance of constitutional scholars such as Mary Kaaren Jolly, Steven Halbrook, and David T. Hardy, the subcommittee has managed to uncover information on the right to keep and bear arms which documents quite clearly its status as a major individual right of American citizens. We did not guess at the purpose of the British 1689 Declaration of Rights; we located the Journals of the House of Commons and private notes of the Declaration's sponsors, now dead for two centuries. We did not make suppositions as to colonial interpretations of that Declaration's right to keep arms; we examined colonial newspapers which discussed it. We did not speculate as to the intent of the framers of the second amendment; we examined James Madison's drafts for it, his handwritten outlines of speeches upon the Bill of Rights, and discussions of the second amendment by early scholars who were personal friends of Madison, Jefferson, and Washington and wrote while these still lived. What the Subcommittee on the Constitution uncovered was clear—and long-lost—proof that the second amendment to our Constitution was intended as an individual right of the American citizen to keep and carry arms in a peaceful manner, for protection of himself, his family, and his freedoms. The summary of our research and findings forms

the first portion of this report.

In the interest of fairness and the presentation of a complete picture, we also invited groups which were likely to oppose this recognition of freedoms to submit their views. The statements of two associations who replied are reproduced here following the report of the Subcommittee. The Subcommittee also invited statements by Messrs. Halbrook and Hardy, and by the National Rifle Association, whose statements likewise follow our report.

When I became chairman of the Subcommittee on the Constitution, I hoped that I would be able to assist in the protection of the constitutional rights of American citizens, rights which have too often been eroded in the belief that government could be relied upon for quick solutions to difficult problems.

Both as an American citizen and as a United States Senator I repudiate this view. I likewise repudiate the approach of those who believe to solve American problems you simply become something other than American. To my mind, the uniqueness of our free institutions, the fact that an American citizen can boast freedoms unknown in any other land, is all the more reason to resist any erosion of our individual rights. When our ancestors forged a land "conceived in liberty", they did so with musket and rifle. When they reacted to attempts to dissolve their free institutions, and established their identity as a free nation, they did so as a nation of armed freemen. When they sought to record forever a guarantee of their rights, they devoted one full amendment out of ten to nothing but the protection of their right to keep and bear arms against government interference. Under my chairmanship the Subcommittee on the Constitution will concern itself with a proper recognition of, and respect for, this right most valued by free men.

ORRIN G. HATCH,
Chairman,
Subcommittee on the Constitution.

JANUARY 20, 1982.

The right to bear arms is a tradition with deep roots in American society. Thomas Jefferson proposed that "no free man shall ever be debarred the use of arms," and Samuel Adams called for an amendment banning any law "to prevent the people of the United States who are peaceable citizens from keeping their own arms." The Constitution of the State of Arizona, for example, recognizes the "right of an individual citizen to bear arms in defense of himself or the State."

Even though the tradition has deep roots, its application to modern America is the subject of intense controversy. Indeed, it is a controversy into which the Congress is beginning, once again, to immerse itself. I have personally been disappointed that so important an issue should have generally been so thinly researched and so minimally debated both in Congress and the courts. Our Supreme Court has but once touched on its meaning at the Federal level and that decision, now nearly a half-century old, is so ambiguous that any school of thought can find some support in it. All Supreme Court decisions on the second amendment's application to the States came in the last century, when constitutional law was far different than it is today. As ranking minority member of the Subcommittee on the Constitution, I, therefore, welcome the effort which led to this report—a report based not only upon the independent research of the subcommittee staff, but also upon full and fair presentation of the cases by all interested groups and individual scholars.

I personally believe that it is necessary for the Congress to amend the Gun Control Act of 1968. I welcome the opportunity to introduce this discussion of how best these amendments might be made.

The Constitution subcommittee staff has prepared this monograph bringing together proponents of both sides of the debate over the 1968 Act. I believe that the statements contained herein present the arguments fairly and thoroughly. I commend Senator Hatch, chairman of the subcommittee, for having this excellent reference work prepared. I am sure that it will be of great assistance to the Congress as it debates the second amendment and considers legisla-

tion to amend the Gun Control Act.

DENNIS DeCONCINI,
Ranking Minority Member,
Subcommittee on the Constitution

JANUARY 20, 1982.

HISTORY: SECOND AMENDMENT RIGHT TO KEEP AND BEAR ARMS

The right to keep and bear arms as a part of English and American law antedates not only the Constitution, but also the discovery of firearms. Under the laws of Alfred the Great, whose reign began in 872 A.D., all English citizens from the nobility to the peasants were obliged to privately purchase weapons and be available for military duty.[1] This was in sharp contrast to the feudal system as it evolved in Europe, under which armament and military duties were concentrated in the nobility. The body of armed citizens were known as the "fyrd."

While a great many of the Saxon rights were abridged following the Norman conquest, the right and duty of arms possession was retained. Under the Assize of Arms of 1181, "the whole community of freemen" between the ages of 15 and 40 were required by law to possess certain arms, which were arranged in proportion to their possessions.[2] They were required twice a year to demonstrate to Royal officials that they were appropriately armed. In 1253, another Assize of Arms expanded the duty of armament to include not only freemen, but also villeins, who were the English equivalent of serfs. Now all "citizens, burgesses, free tenants, villeins and others from 15 to 60 years of age" were obliged to be armed.[3] While on the Continent the villeins were regarded as little more than animals hungering for rebellion, the English legal system not only permitted, but affirmatively required them, to be armed.

The thirteenth century saw further definitions of this right as the long bow, a formidable armor-piercing weapon, became increasingly the mainstay of British national policy. In 1285, Edward I commanded that all persons comply with the earlier Assizes and added that "anyone else who can afford them shall keep bows and

arrows."[4] The right of armament was subject only to narrow limitations. In 1279, it was ordered that those appearing in Parliament or other public assemblies "shall come without all force and armor, well and peaceably."[5] In 1328, the statute of Northampton ordered that no one use their arms in "affray of the peace, nor to go nor ride armed by day or by night in fairs, markets, nor in the presence of the justices or other ministers."[6] English courts construed this ban consistently with the general right of private armament as applying only to wearing of arms "accompanied with such circumstances as are apt to terrify the people."[7] In 1369, the King ordered that the sheriffs of London require all citizens "at leisure time on holidays" to "use in their recreation bowes and arrows" and to stop all other games which might distract them from this practice.[8]

The Tudor kings experimented with limits upon specialized weapons—mainly crossbows and the then-new firearms. These measures were not intended to disarm the citizenry, but on the contrary, to prevent their being diverted from longbow practice by sport with other weapons which were considered less effective. Even these narrow measures were shortlived. In 1503, Henry VII limited shooting (but not possession) of crossbows to those with land worth 200 marks annual rental, but provided an exception for those who "shote owt of a howse for the lawefull defens of the same."[9] In 1511, Henry VIII increased the property requirement to 300 marks. He also expanded the requirement of longbow ownership, requiring all citizens to "use and exercyse shootyng in longbowes, and also have a bowe and arrowes contynually" in the house.[10] Fathers were required by law to purchase bows and arrows for their sons between the age of 7 and 14 and to train them in longbow use.

In 1514 the ban on crossbows was extended to include firearms.[11] But in 1533, Henry reduced the property qualification to 100 pounds per year; in 1541 he limited it to possession of small firearms ("of the length of one hole yard" for some firearms and "thre quarters of a yarde" for others)[12] and eventually he repealed the entire statute by proclamation.[13] The later Tudor monarchs continued the system and Elizabeth added to it by creating what came to be

known as "train bands", selected portions of the citizenry chosen for special training. These trained bands were distinguished from the "militia", which term was first used during the Spanish Armada crisis to designate the entire of the armed citizenry.[14]

The militia continued to be a pivotal force in the English political system. The British historian Charles Oman considers the existence of the armed citizenry to be a major reason for the moderation of monarchical rule in Great Britain; "More than once he [Henry VIII] had to restrain himself, when he discovered that the general feeling of his subjects was against him.... His 'gentlemen pensioners' and his yeomen of the guard were but a handful, and bills or bows were in every farm and cottage." [15]

When civil war broke out in 1642, the critical issue was whether the King or Parliament had the right to control the militia.[16] The aftermath of the civil war saw England in temporary control of a military government, which repeatedly dissolved Parliament and authorized its officers to "search for, and seize all arms" owned by Catholics, opponents of the government, "or any other person whom the commissioners had judged dangerous to the peace of this Commonwealth." [17]

The military government ended with the restoration of Charles II. Charles in turn opened his reign with a variety of repressive legislation, expanding the definition of treason, establishing press censorship and ordering his supporters to form their own troops, "the officers to be numerous, disaffected persons watched and not allowed to assemble, and their arms seized." [18] In 1662, a Militia Act was enacted empowering officials "to search for and seize all arms in the custody or possession of any person or persons whom the said lieutenants or any two or more of their deputies shall judge dangerous to the peace of the kingdom." [19] Gunsmiths were ordered to deliver to the government lists of all purchasers.[20] These confiscations were continued under James II, who directed them particularly against the Irish population: "Although the country was infested by predatory bands, a Protestant gentleman could scarcely obtain permission to keep a brace of pistols." [21]

In 1668, the government of James was overturned in a peaceful uprising which came to be known as "The Glorious Revolution." Parliament resolved that James had abdicated and promulgated a Declaration of Rights, later enacted as the Bill of Rights. Before coronation, his successor William of Orange, was required to swear to respect these rights. The debates in the House of Commons over this Declaration of Rights focused largely upon the disarmament under the 1662 Militia Act. One member complained that "an act of Parliament was made to disarm all Englishmen, who the lieutenant should suspect, by day or night, by force or otherwise—this was done in Ireland for the sake of putting arms into Irish hands." The speech of another is summarized as "militia bill—power to disarm all England—now done in Ireland." A third complained "Arbitrary power exercised by the ministry.... Militia—imprisoning without reason; disarming—himself disarmed." Yet another summarized his complaints "Militia Act—an abominable thing to disarm the nation....." [22]

The Bill of Rights, as drafted in the House of Commons, simply provided that "the acts concerning the militia are grievous to the subject" and that "it is necessary for the public Safety that the Subjects, which are Protestants, should provide and keep arms for the common defense; And that the Arms which have been seized, and taken from them, be restored." [23] The House of Lords changed this to make it a more positive declaration of an individual right under English law: "That the subjects which are Protestant may have arms for their defense suitable to their conditions and as allowed by law." [24] The only limitation was on ownership by Catholics, who at that time composed only a few percent of the British population and were subject to a wide variety of punitive legislation. The Parliament subsequently made clear what it meant by "suitable to their conditions and as allowed by law." The poorer citizens had been restricted from owning firearms, as well as traps and other commodities useful for hunting, by the 1671 Game Act. Following the Bill of Rights, Parliament reenacted that statute, leaving its operative parts unchanged with one exception—which removed the word "guns" from

the list of items forbidden to the poorer citizens.[25] The right to keep and bear arms would henceforth belong to all English subjects, rich and poor alike.

In the colonies, availability of hunting and need for defense led to armament statutes comparable to those of the early Saxon times. In 1623, Virginia forbade its colonists to travel unless they were "well armed"; in 1631 it required colonists to engage in target practice on Sunday and to "bring their peeces to church." [26] In 1658 it required every householder to have a functioning firearm within his house and in 1673 its laws provided that a citizen who claimed he was too poor to purchase a firearm would have one purchased for him by the government, which would then require him to pay a reasonable price when able to do so.[27] In Massachusetts, the first session of the legislature ordered that not only freemen, but also indentured servants own firearms and in 1644 it imposed a stern 6 shilling fine upon any citizen who was not armed.[28]

When the British government began to increase its military presence in the colonies in the mid-eighteenth century, Massachusetts responded by calling upon its citizens to arm themselves in defense. One colonial newspaper argued that it was impossible to complain that his act was illegal since they were "British subjects, to whom the privilege of possessing arms is expressly recognized by the Bill of Rights" while another argued that this "is a natural right which the people have reserved to themselves, confirmed by the Bill of Rights, to keep arms for their own defense." [29] The newspaper cited Blackstone's commentaries on the laws of England, which had listed the "having and using arms for self preservation and defense" among the "absolute rights of individuals." The colonists felt they had an absolute right at common law to own firearms.

Together with freedom of the press, the right to keep and bear arms became one of the individual rights most prized by the colonists. When British troops seized a militia arsenal in September, 1774, and incorrect rumors that colonists had been killed spread through Massachusetts, 60,000 citizens took up arms.[30] A few months later, when Patrick Henry delivered his famed "Give me liberty or give me

death" speech, he spoke in support of a proposition "that a well regulated militia, composed of gentlemen and freemen, is the natural strength and only security of a free government. . . ." Throughout the following revolution, formal and informal units of armed citizens obstructed British communication, cut off foraging parties, and harassed the thinly stretched regular forces. When seven states adopted state "bills of rights" following the Declaration of Independence, each of those bills of rights provided either for protection of the concept of a militia or for an express right to keep and bear arms.[31]

Following the revolution but previous to the adoption of the Constitution, debates over militia proposals occupied a large part of the political scene. A variety of plans were put forth by figures ranging from George Washington to Baron von Steuben.[32] All of the proposals called for a general duty of all citizens to be armed, although some proposals (most notably von Steuben's) also emphasized a "select militia" which would be paid for its services and given special training. In this respect, this "select militia" was the successor of the "trained bands" and the predecessor of what is today the "national guard." In the debates over the Constitution, von Steuben's proposals were criticized as undemocratic. In Connecticut one writer complained of a proposal that "this looks too much like Baron von Steuben's militia, by which a standing army was meant and intended." [33] In Pennsylvania, a delegate argued "Congress may give us a select militia which will, in fact, be a standing army—or Congress, afraid of a general militia, may say there will be no militia at all. When a select militia is formed, the people in general may be disarmed." [34] Richard Henry Lee, in his widely read pamphlet "Letters from the Federal Farmer to the Republican" worried that the people might be disarmed "by modeling the militia. Should one fifth or one eighth part of the people capable of bearing arms be made into a select militia, as has been proposed, and those the young and ardent parts of the community, possessed of little or no property, the former will answer all the purposes of an army, while the latter will be defenseless." He proposed that "the Constitution ought to secure a genuine, and guard against a select militia," adding that "to preserve

liberty, it is essential that the whole body of the people always possess arms and be taught alike, especially when young, how to use them." [35]

The suspicion of select militia units expressed in these passages is a clear indication that the framers of the Constitution did not seek to guarantee a State right to maintain formed groups similar to the National Guard, but rather to protect the right of individual citizens to keep and bear arms. Lee, in particular, sat in the Senate which approved the Bill of Rights. He would hardly have meant the second amendment to apply only to the select militias he so feared and disliked.

Other figures of the period were of like mind. In the Virginia convention, George Mason, drafter of the Virginia Bill of Rights, accused the British of having plotted "to disarm the people—that was the best and most effective way to enslave them", while Patrick Henry observed that "The great object is that every man be armed" and "everyone who is able may have a gun." [36]

Nor were the antifederalist, to whom we owe credit for a Bill of Rights, alone on this account. Federalist arguments also provide a source of support for an individual rights view. Their arguments in favor of the proposed Constitution also relied heavily upon universal armament. The proposed Constitution had been heavily criticized for its failure to ban or even limit standing armies. Unable to deny this omission, the Constitution's supporters frequently argued to the people that the universal armament of Americans made such limitations unnecessary. A pamphlet written by Noah Webster, aimed at swaying Pennsylvania toward ratification, observed:

"Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword, because the whole body of the people are armed, and constitute a force superior to any band of regular troops that can be, on any pretense, raised in the United States." [37]

In the Massachusetts convention, Sedgwick echoed the same thought, rhetorically asking if an oppressive army could be formed or "if raised, whether they could subdue a Nation of freemen, who know how to prize liberty, and who have arms in their hands?" [38] In Federalist Paper 46, Madison, later author of the Second Amendment, mentioned "The advantage of being armed, which the Americans possess over the people of all other countries" and that "notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms."

A third and even more compelling case for an individual rights perspective on the Second Amendment comes from the State demands for a bill of rights. Numerous state ratifications called for adoption of a Bill of Rights as a part of the Constitution. The first such call came from a group of Pennsylvania delegates. Their proposals, which were not adopted but had a critical effect on future debates, proposed among other rights that "the people have a right to bear arms for the defense of themselves and their own state, or the United States, or for the purpose of killing game; and no law shall be passed for disarming the people or any of them, unless for crimes committed, or a real danger of public injury from individuals." [39] In Massachusetts, Sam Adams unsuccessfully pushed for a ratification conditioned on adoption of a Bill of Rights, beginning with a guarantee "That the said Constitution shall never be construed to authorize Congress to infringe the just liberty of the press or the rights of conscience; or to prevent the people of the United States who are peaceable citizens from keeping their own arms... ." [40] When New Hampshire gave the Constitution the ninth vote needed for its passing into effect, it called for adoption of a Bill of Rights which included the provision that "Congress shall never disarm any citizen unless such as are or have been in actual rebellion." [41] Virginia and North Carolina thereafter called for a provision "that the people have the right to keep and bear arms; that a well regulated militia composed of the body of the people trained to arms is the proper, natural and safe defense of a free state." [42]

When the first Congress convened for the purpose of drafting a Bill of Rights, it delegated the task to James Madison. Madison did not write upon a blank tablet. Instead, he obtained a pamphlet listing the State proposals for a Bill of Rights and sought to produce a briefer version incorporating all the vital proposals of these. His purpose was to incorporate, not distinguish by technical changes, proposals such as that of the Pennsylvania minority, Sam Adams, and the New Hampshire delegates. Madison proposed among other rights that:

"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." [43]

In the House, this was initially modified so that the militia clause came before the proposal recognizing the right. The proposals for the Bill of Rights were then trimmed in the interests of brevity. The conscientious objector clause was removed following objections by Elbridge Gerry, who complained that future Congresses might abuse the exemption for the scrupulous to excuse everyone from militia service.

The proposal finally passed the House in its present form: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed." In this form it was submitted into the Senate, which passed it the following day. The Senate in the process indicated its intent that the right be an individual one, for private purposes, by rejecting an amendment which would have limited the keeping and bearing of arms to bearing "for the common defense."

The earliest American constitutional commentators concurred in giving this broad reading to the amendment. When St. George Tucker, later Chief Justice of the Virginia Supreme Court, in 1803 published an edition of Blackstone annotated to American law, he followed Blackstone's citation of the right of the subject "of having

arms suitable to their condition and degree, and such as are allowed by law" with a citation to the Second Amendment, "And this without any qualification as to their condition or degree, as is the case in the British government." [44] William Rawle's "View of the Constitution" published in Philadelphia in 1825 noted that under the Second Amendment:

"The prohibition is general. No clause in the Constitution could by a rule of construction be conceived to give to Congress a power to disarm the people. Such a flagitious attempt could only be made under some general pretense by a state legislature. But if in blind pursuit of inordinate power, either should attempt it, this amendment may be appealed to as a restraint on both." [45]

The Jefferson papers in the Library of Congress show that both Tucker and Rawle were friends of, and corresponded with Thomas Jefferson. This suggests that their assessment, as contemporaries of the Constitution's drafters, should be afforded special consideration.

Later commentators agreed with Tucker and Rawle. For instance, Joseph Story in his "Commentaries on the Constitution" considered the right to keep and bear arms as "the palladium of the liberties of the republic", which deterred tyranny and enabled the citizenry at large to overthrow it should it come to pass.[46]

Subsequent legislation in the Second Congress likewise supports the interpretation of the second amendment that creates an individual right. In the Militia Act of 1792, the Second Congress defined "militia of the United States" to include almost every free adult male in the United States. These persons were obligated by law to possess a firearm and a minimum supply of ammunition and military equipment.[47] This statute, incidentally, remained in effect into the early years of the present century as a legal requirement of gun ownership for most of the population of the United States. There can be little doubt from this that when the Congress and the people

spoke of a "militia", they had reference to the traditional concept of the entire populace capable of bearing arms, and not to any formal group such as what is today called the National Guard. The purpose was to create an armed citizenry, such as the political theorists at the time considered essential to ward off tyranny. From this militia, appropriate measures might create a "well regulated militia" of individuals trained in their duties and responsibilities as citizens and owners of firearms.

The Second Amendment as such was rarely litigated prior to the passage of the Fourteenth Amendment. Prior to that time, most courts accepted that the commands of the federal Bill of Rights did not apply to the states. Since there was no federal firearms legislation at this time, there was no legislation which was directly subject to the Second Amendment, if the accepted interpretations were followed. However, a broad variety of state legislation was struck down under state guarantees of the right to keep and bear arms and even in a few cases, under the Second Amendment, when it came before courts which considered the federal protections applicable to the states. Kentucky in 1813 enacted the first carrying concealed weapon statute in the United States; in 1822, the Kentucky Court of Appeals struck down the law as a violation of the state constitutional protection of the right to keep and bear arms: "And can there be entertained a reasonable doubt but the provisions of that act import a restraint on the right of the citizen to bear arms? The court apprehends it not. The right existed at the adoption of the Constitution; it then had no limit short of the moral power of the citizens to exercise it, and in fact consisted of nothing else but the liberty of the citizen to bear arms." [48] On the other hand, a similar measure was sustained in Indiana, not upon the grounds that a right to keep and bear arms did not apply, but rather upon the notion that a statute banning only concealed carrying still permitted the carrying of arms and merely regulated one possible way of carrying them.[49] A few years later, the Supreme Court of Alabama upheld a similar statute but added "We do not desire to be understood as maintaining, that in regulating the manner of wearing arms, the legislature has no other limit than its own discretion. A

statute which, under the pretense of regulation, amounts to a destruction of that right, or which requires arms to be so borne as to render them wholly useless for the purpose of defense, would be clearly unconstitutional." [50] When the Arkansas Supreme Court in 1842 upheld a carrying concealed weapons statute, the chief justice explained that the statute would not "detract anything from the power of the people to defend their free state and the established institutions of the country. It prohibits only the wearing of certain arms concealed. This is simply a regulation as to the manner of bearing such arms as are specified", while the dissenting justice proclaimed "I deny that any just or free government upon earth has the power to disarm its citizens." [51]

Sometimes courts went farther. When in 1837, Georgia totally banned the sale of pistols (excepting the larger pistols "known and used as horsemen's pistols") and other weapons, the Georgia Supreme Court in *Nunn v. State* held the statute unconstitutional under the Second Amendment to the federal Constitution. The court held that the Bill of Rights protected natural rights which were fully as capable of infringement by states as by the federal government and that the Second Amendment provided "the right of the whole people, old and young, men, women and boys, and not militia only, to keep and bear arms of every description, and not merely such as are used by the militia, shall not be infringed, curtailed, or broken in on, in the slightest degree; and all this for the important end to be attained: the rearing up and qualifying of a well regulated militia, so vitally necessary to the security of a free state." [52] Prior to the Civil War, the Supreme Court of the United States likewise indicated that the privileges of citizenship included the individual right to own and carry firearms. In the notorious *Dred Scott* case, the court held that black Americans were not citizens and could not be made such by any state. This decision, which by striking down the Missouri Compromise did so much to bring on the Civil War, listed what the Supreme Court considered the rights of American citizens by way of illustrating what rights would have to be given to black Americans if the Court were to recognize them as full fledged citizens:

It would give to persons of the negro race, who are recognized as citizens in any one state of the Union, the right to enter every other state, whenever they pleased.... and it would give them full liberty of speech in public and in private upon all subjects upon which its own citizens might meet; to hold public meetings upon political affairs, and to keep and carry arms wherever they went.[53]

Following the Civil War, the legislative efforts which gave us three amendments to the Constitution and our earliest civil rights acts likewise recognized the right to keep and bear arms as an existing constitutional right of the individual citizen and as a right specifically singled out as one protected by the civil rights acts and by the Fourteenth Amendment to the Constitution, against infringement by state authorities. Much of the reconstruction effort in the South had been hinged upon the creation of "black militias" composed of the armed and newly freed blacks, officered largely by black veterans of the Union Army. In the months after the Civil War, the existing southern governments struck at these units with the enactment of "black codes" which either outlawed gun ownership by blacks entirely, or imposed permit systems for them, and permitted the confiscation of firearms owned by blacks. When the Civil Rights Act of 1866 was debated members both of the Senate and the House referred to the disarmament of blacks as a major consideration.[54] Senator Trumbull cited provisions outlawing ownership of arms by blacks as among those which the Civil Rights Act would prevent; [55] Senator Sulsbury complained on the other hand that if the act were to be passed it would prevent his own state from enforcing a law banning gun ownership by individual free blacks.[56] Similar arguments were advanced during the debates over the "anti-KKK act"; its sponsor at one point explained that a section making it a federal crime to deprive a person of "arms or weapons he may have in his house or possession for the defense of his person, family or property" was "intended to enforce the well-known constitutional provisions guaranteeing the right in the citizen to 'keep and bear arms'." [57] Likewise, the

debates over the Fourteenth Amendment Congress frequently referred to the Second Amendment as one of the rights which it intended to guarantee against state action.[58]

Following adoption of the Fourteenth Amendment, however, the Supreme Court held that that Amendment's prohibition against states depriving any persons of their federal "privileges and immunities" was to be given a narrow construction. In particular, the "privileges and immunities" under the Constitution would refer only to those rights which were not felt to exist as a process of natural right, but which were created solely by the Constitution. These might refer to rights such as voting in federal elections and of interstate travel, which would clearly not exist except by virtue of the existence of a federal government and which could not be said to be "natural rights." [59] This paradoxically meant that the rights which most persons would accept as the most important—those flowing from concepts of natural justice—were devalued at the expense of more technical rights. Thus when individuals were charged with having deprived black citizens of their right to freedom of assembly and to keep and bear arms, by violently breaking up a peaceable assembly of black citizens, the Supreme Court in *United States v. Cruikshank* [60] held that no indictment could be properly brought since the right "of bearing arms for a lawful purpose" is "not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence." Nor, in the view of the Court, was the right to peaceably assemble a right protected by the Fourteenth Amendment: "The right of the people peaceably to assemble for lawful purposes existed long before the adoption of the Constitution of the United States. In fact, it is and has always been one of the attributes of citizenship under a free government.... It was not, therefore, a right granted to the people by the Constitution." Thus the very importance of the rights protected by the First and Second Amendment was used as the basis for the argument that they did not apply to the states under the Fourteenth Amendment. In later opinions, chiefly *Presser v. Illinois* [61] and *Miller v. Texas*, [62] the Supreme Court adhered to the view. *Cruikshank* has clearly been superseded by twentieth

century opinions which hold that portions of the Bill of Rights—and in particular the right to assembly with which *Cruikshank* dealt in addition to the Second Amendment—are binding upon the state governments. Given the legislative history of the Civil Rights Acts and the Fourteenth Amendment, and the more expanded views of incorporation which have become accepted in our own century, it is clear that the right to keep and bear arms was meant to be and should be protected under the civil rights statutes and the Fourteenth Amendment against infringement by officials acting under color of state law.

Within our own century, the only occasion upon which the Second Amendment has reached the Supreme Court came in *United States v. Miller*.^[63] There, a prosecution for carrying a sawed off shotgun was dismissed before trial on Second Amendment grounds. In doing so, the court took no evidence as to the nature of the firearm or indeed any other factual matter. The Supreme Court reversed on procedural grounds, holding that the trial court could not take judicial notice of the relationship between a firearm and the Second Amendment, but must receive some manner of evidence. It did not formulate a test nor state precisely what relationship might be required. The court's statement that the amendment was adopted "to assure the continuation and render possible the effectiveness of such [militia] forces" and "must be interpreted and applied with that end in view", when combined with the court's statement that all constitutional sources "show plainly enough that the militia comprised all males physically capable of acting in concert for the common defense. . . . these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time," ^[64] suggests that at the very least private ownership by a person capable of self defense and using an ordinary privately owned firearm must be protected by the Second Amendment. What the Court did not do in *Miller* is even more striking: It did not suggest that the lower court take evidence on whether Miller belonged to the National Guard or a similar group. The hearing was to be on the nature of the firearm, not on the nature of its use; nor is there a single suggestion that National Guard status is relevant to the case.

The Second Amendment right to keep and bear arms therefore, is a right of the individual citizen to privately possess and carry in a peaceful manner firearms and similar arms. Such an "individual rights" interpretation is in full accord with the history of the right to keep and bear arms, as previously discussed. It is moreover in accord with contemporaneous statements and formulations of the right by such founders of this nation as Thomas Jefferson and Samuel Adams, and accurately reflects the majority of the proposals which led up to the Bill of Rights itself. A number of state constitutions, adopted prior to or contemporaneously with the federal Constitution and Bill of Rights, similarly provided for a right of the people to keep and bear arms. If in fact this language creates a right protecting the states only, there might be a reason for it to be inserted in the federal Constitution but no reason for it to be inserted in state constitutions. State bills of rights necessarily protect only against action by the state, and by definition a state cannot infringe its own rights; to attempt to protect a right belonging to the state by inserting it in a limitation of the states own powers would create an absurdity. The fact that the contemporaries of the framers did insert these words into several state constitutions would indicate clearly that they viewed the right as belonging to the individual citizen, thereby making it a right which could be infringed either by state or federal government and which must be protected against infringement by both.

Finally, the individual rights interpretation gives full meaning to the words chosen by the first Congress to reflect the right to keep and bear arms. The framers of the Bill of Rights consistently used the words "right of the people" to reflect individual rights—as when these words were used to recognize the "right of the people" to peaceably assemble, and the "right of the people" against unreasonable searches and seizures. They distinguished between the rights of the people and of the state in the Tenth Amendment. As discussed earlier, the "militia" itself referred to a concept of a universally armed people, not to any specifically organized unit. When the framers referred to the equivalent of our National Guard, they uniformly used the term "select militia" and distinguished this from "militia". Indeed, the

debates over the Constitution constantly referred to organized militia units as a threat to freedom comparable to that of a standing army, and stressed that such organized units did not constitute, and indeed were philosophically opposed to, the concept of a militia.

That the National Guard is not the "Militia" referred to in the second amendment is even clearer today. Congress has organized the National Guard under its power to "raise and support armies", and not its power to "Provide for organizing, arming and disciplining the Militia." [65] This Congress chose to do in the interests of organizing reserve military units which were not limited in deployment by the strictures of our power over the constitutional militia, which can be called forth only "to execute the laws of the Union, suppress insurrections and repel invasions." The modern National Guard was specifically intended to avoid status as the constitutional militia, a distinction recognized by 10 U.S.C. :311(a).

The conclusion is thus inescapable that the history, concept, and wording of the second amendment to the Constitution of the United States, as well as its interpretation by every major commentator and court in the first half-century after its ratification, indicates that what is protected is an individual right of a private citizen to own and carry firearms in a peaceful manner.

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Crime Control Through the Private Use of Armed Force*

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Legal defensive violence by private citizens armed with firearms is a significant form of social control in the United States. Evidence indicates that private gun use against violent criminals and burglars is common and about as frequent as legal actions like arrests, is a more prompt negative consequence of crime than legal punishment and is often far more severe. In 1980 about 1,500-2,800 felons were legally killed by gun-wielding civilians, about 8,700-16,000 were nonfatally wounded and guns were used defensively about one million times. Victim resistance with guns is associated with lower rates of both victim injury and crime completion for robberies and assaults than any other victim action, including nonresistance. Survey and quasi-experimental evidence is consistent with the hypothesis that the private ownership and use of firearms deters criminal behavior.

In his 1972 Presidential Address to the American Sociological Association, William Goode argued that because sociologists share a humanistic tradition that denies the importance of physical coercion, they have failed to accurately assess the degree to which social systems rest on force. While affirming his personal dislike for the use of force, Goode urged social analysts to put aside their "kindly bias" against the effectiveness of threats and punishment and recognize the degree to which force is a crucial element in the social structure, in democracies as well as tyrannies, in peacetime as well as in war. He stated that "in any civil society . . . everyone is subject to force. All are engaged in it daily, not alone as victims but as perpetrators as well . . . We are all potentially dangerous to one another" (Goode, 1972:510). This paper addresses the social control effects of private citizens' uses of guns in response to predatory criminal behavior, particularly violent crime and residential burglary.

The prevalence and defensive use of guns in America are important topics for many research questions, yet they have been almost entirely ignored. For example, the "routine activities" approach to crime sees criminal incidents as the result of the convergence of "likely offenders and suitable targets in the absence of capable guardians" (Cohen and Felson, 1979:590). While this view has broadened criminologists' interests beyond the supply of "likely offenders," it ignores the extent to which being armed with a deadly weapon would seem to be an important element of capable guardianship. Given that about half of U.S. households and a quarter of retail businesses keep firearms (Crocker, 1982; U.S. Small Business Administration, 1969), gun ownership must surely be considered a very routine aspect of American life and of obvious relevance to the activities of criminals.

Victimology is concerned with, among other things, the response of victims to their victimization. Yet, despite evidence that people buy guns to defend against becoming victims of crimes (Kleck, 1984), victimology scholars have largely ignored victim gun ownership and use. Similarly, the recent wave of interest in private crime control has been largely limited to either the "privatization" of police and corrections services and the use of commercial security services by businesses and other large institutions (e.g., Cunningham and Taylor, 1985) or to nonforceful private crime control efforts like neighborhood watch activities (Greenberg et al., 1984). Finally, nearly all of the considerable literature on deterrence of criminal behavior focuses on the effect of public criminal justice agencies. Conventional definitions of deterrence are often limited to the crime preventive effects of legal punishment, arrest and prosecu-

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tion (e.g., Gibbs, 1975). This precludes considering private ownership and use of firearms as a deterrent to crime. That victim gun use may be one of the most serious risks a criminal faces is only beginning to be recognized (Wright and Rossi, 1986).

Without denying the possible criminogenic effects of gun ownership, I want to establish as plausible and worthy of research the hypothesis that when citizens own and use guns to defend themselves, the amount of violent crime is reduced to a degree that could rival the effect of the criminal justice system. Toward that end I consider three kinds of evidence: the frequency and nature of private citizens' defensive uses of firearms against criminals, the effectiveness and risks of such actions and the potential deterrent impact on crime of defensive gun ownership and use. Finally, I discuss the implications of this evidence for crime control policy (see also, Kleck, 1987).

The Frequency and Types of Defensive Gun Use

Overall Use, Including Display and Firing

At least six national and state-wide surveys have asked probability samples of the adult population about defensive gun use. The most informative of the surveys is the 1981 Hart poll of 1,228 registered voters (see Table 1). It is the only survey to cover a national population, ask about defensive uses in a specific, limited time period, ask the question of all respondents, distinguish civilian use from police and military uses and distinguish uses against humans from uses against animals. Note, however, that the five other national and state surveys, while not as satisfactory as the Hart poll, yield results that are compatible with the results of that survey. These results as reported here have never been published; they were obtained privately from Peter D. Hart Research Associates, Inc. (Garin, 1986).¹ In this survey, 6 percent of the adults interviewed replied "yes" to the question: "Within the past five years, have you yourself or another member of your household used a handgun, even if it was not fired, for self-protection or for the protection of property at home, work, or elsewhere, excluding military service or police work?" Those who replied "yes" were then asked "Was this to protect against an animal or a person?" Of the total sample, 2 percent replied "animal," 3 percent "person" and 1 percent "both." Therefore, 4 percent of the sample reported gun use against a person by someone in their household.

Like crime victimization prevalence figures, the defensive gun use percentages are small. They represent, however, large numbers of actual uses. In 1980 there were 80,622,000 U.S. households (U.S. Bureau of the Census, 1982). Extrapolating from the 4 percent Hart figure yields an estimate of 3,224,880 households with at least one person who used a handgun defensively during the period 1976-1981. Conservatively assuming only one use per household and dividing by five (the number of years covered), I estimate there were about 645,000 defensive uses of handguns against persons per year, excluding police or military uses.²

The Hart sample was of registered voters, who are older and wealthier than the general public. This implies a population less frequently victimized by crime, especially by violent crime, and thus less likely to have used a gun defensively. Since gun ownership increases with income (Wright et al., 1983:107-8), however, there should be more gun owners in a sample of registered voters. It is unclear what the net effects of these sample biases might be on the estimate of defensive uses.

1. This poll was sponsored by the now defunct National Alliance Against Violence. The Hart firm has conducted polls for many well-known political figures, including former Vice President Walter Mondale and Senators Edward Kennedy, Frank Church and the late Hubert Humphrey. The data cannot be analyzed further because the original data set has been lost and only a record of the marginals remains.

2. The 95 percent confidence interval estimate of the proportion of household handguns used defensively against persons over the five year period is .0290-.0510, implying from 468,000 to 822,000 uses per year.

Table 1 • Defensive Gun Use, Information from Six Surveys

Survey	Field Poll	Cambridge Reports	DMI ^a	DMI ^a	Hart Poll	State of Ohio
Area Covered	California	U.S.	U.S.	U.S.	U.S.	Ohio
Year of Interviews	1976	1978	1978	1978	1981	1982
Population covered	noninstitutionalized adults	noninstitutionalized adults	registered voters	registered voters	registered voters	"residents"
Gun Type Covered	handguns	handguns	all guns	all guns	handguns	handguns
Time Span of Use	ever/1.2 years	ever	ever	ever	5 years	ever
Distinguished Uses	No	No	No	Yes	Yes	No
Against Persons						
Excluded Military, Police Uses	Yes	No	Yes	Yes	Yes	No
"Self-defense" or "protection"?	Protection	Protection or self-defense	Protection	Protection	Protection	Self-defense
Defensive question asked of:	All Rs	Protection handgun owners	All Rs	All Rs	All Rs	Handgun owners
Defensive question refers to:	Respondent	Respondent	Household	Household	Household	Respondent
Percent Who Used Gun	8.6 ^b	3	15	12/7 ^c	4	6.5
Percent Who Fired Gun	2.9	2	6	n.a. ^d	d.k. ^e	2.6

Notes:

- a. DMI = Decision/Making/Information
- b. 8.6 percent ever, 3 percent in past two years, 1.4 percent in past year.
- c. Defensive uses against persons or animals, 12 percent. Use against persons only, 7 percent
- d. n.a. = not available
- e. d.k. = don't know

Sources:

Field Institute (1976); Cambridge Reports (1978); DMI (1978); Garin (1986); Ohio (1982).

The Hart survey asked only about handgun use, ignoring defensive uses of the far more numerous longguns (rifles and shotguns). And the DMI (Decision-Making-Incorporated) surveys, which did ask about all gun types, did not ask about a specific time period. The best all-guns estimate is based on an extrapolation of the Hart survey handgun results. According to the December, 1978 DM1b survey (Table 1), 45 percent of respondents in handgun-owning households reported handguns were owned primarily for "self-defense and protection at home," while the corresponding figure for all gun types combined was 21 percent. It was estimated that at the end of 1978, the total private stock of handguns in the United States was about 47 million and the stock of all guns was about 156 million (Kleck, 1984:112). Combining these figures, there were about 21 million handguns and 33 million guns of all types, including handguns, owned primarily for protection or defense in December, 1978. If among guns owned primarily for defense, we assume both types of guns are equally likely to be so used, we can multiply the handguns defensive uses figure of 645,000 by the ratio $^{33/21}$ to very roughly estimate that guns of all types are used for defensive purposes about one million times a year.

The magnitude of these figures can be judged by comparison with an estimate of the total number of crimes in which guns were somehow used in 1980, based on the Uniform Crime Reports (UCR) count of homicides and National Crime Survey (NCS) victimization survey estimates of assaults, robberies and rapes. Including minor assaults in which the gun was not fired and including both crimes reported to the police and unreported crimes, the total for handguns was about 580,000, while the corresponding figure for all gun types was about 810,000 (Kleck, 1986b:307). Thus the best available evidence suggests that handguns may be used about as often for defensive purposes as for criminal purposes, and guns of all types are used substantially more often defensively than criminally.

Firing

Most of the surveys listed in Table 1 did not delve into the exact circumstances in which guns were used defensively or the manner in which they were used. However, most did ask whether the gun was fired. Results generally indicate the gun was fired in somewhat less than half of the defensive uses; the rest of the times the gun presumably was merely displayed or referred to in order to threaten or frighten away a criminal.

Killings and Woundings

Although shootings of criminals represent a small fraction of defensive uses of guns, Americans shoot criminals with a frequency that must be regarded as remarkable by any standard. While the FBI does not publish national statistics on all types of self-defense killings, its unpublished counts of civilian justifiable homicides (CJH) gathered through the Supplementary Homicides Reports (SHR) program provide a starting point for producing a national estimate. For a variety of reasons the FBI SHR totals for CJHs represent only a minority of all civilian legal defensive homicides (CLDHs). First, some cases which even police label as CJHs are not reported as such to the FBI. Wilbanks (1984:3) helps explain this by noting that some police in Dade County (Miami) were unwilling to spend much time recording homicides where prosecution of the killer was not to be pursued. Second, many homicides ultimately ruled noncriminal by prosecutors or judges are reported to the FBI as criminal homicides because that is how the initial police investigation labelled them. Third, and most significantly, in jurisdictions which follow legal distinctions between justifiable and excusable homicides fairly closely, most CLDHs will be recorded as excusable rather than justifiable, and thus will not be counted by the FBI (Kleck, 1987). Cases in which the killer legally defends only against an assault, i.e., purely self-defense killings, are defined by the FBI as "excusable"

homicides; but those in which the killer is the victim of some other felony *in addition to* assault, e.g., cases in which a robbery, burglary or rape victim kills a criminal committing the related felony, are defined as "justifiable" homicides.

Because no national data exist distinguishing the different types of CLDHs, we must rely on data from single legal jurisdictions such as cities and counties. Table 2 summarizes information on the legal classifications of homicides in six unusually detailed local homicide studies. Although the true distribution of homicides may differ somewhat from city to city, the results suggest that there also are sharp differences from place to place in the way authorities classify homicides as noncriminal. For example, row 12 of the table indicates that the fraction of intentional civilian homicides labelled as CLDHs varies from 1.6 percent to 19.5 percent over the six studies. Because the Detroit and Dade County results are more "middling," are from two regionally distinct parts of the country and are also the most recent, they seem more likely to be representative of the contemporary United States. I use these results, in combination with the national SHR counts of civilian justifiable homicides, to roughly estimate national CLDH totals. The reader should note that because Detroit and Dade County are high crime areas, it is possible that a higher fraction of their homicides are declared justifiable, but we have no data sufficient to test this.

One way to estimate these totals is to assume that self-defense homicides grow out of criminal threats to life, as indexed by murders and nonnegligent manslaughters reported to the FBI, and that the ratio of the former to the latter will be roughly the same for the United States as it is for Detroit and Dade County. In the 1980 Uniform Crime Reports a combined total of 1,062 killings in these two local areas were counted by the FBI as murders and non-negligent manslaughters (U.S. FBI, 1981:74,107). Row 11 of Table 2 shows that 145 killings were CLDHs, giving a ratio of the latter to the former of 0.1365. Multiplying this number times the national total of 23,044 murders and nonnegligent manslaughters (U.S. FBI, 1981:41) yields an estimate of 3,146 CLDHs for the United States in 1980. Another estimation method is to use the national counts of civilian justifiable homicide reported to the FBI as a starting point and adjust for its incomplete coverage of CLDHs. In 1980 there were 145 CLDHs in our two sample jurisdictions, of which only 36 were reported to the FBI as CJHs (tabulations from 1980 SHR dataset, ICPSR, 1984), a ratio of 4.167 CLDHs to every CJH counted in the SHR program. Multiplying this times the 1980 national SHR total of 423 CJHs yields an estimate of 1,704 CLDHs. Of the 423 CJHs, 379 or 89.6 percent involved guns, so our best estimate is that from 1,527 ($.896 \times 1,704$) to 2,819 ($.896 \times 3,146$) felons were legally killed by gun-wielding civilians in self-defense or some other legally justified cause in 1980.

These estimates are rough, but they support the claim that civilians use guns to legally kill a large number of felons each year. The various estimates are summarized in Table 3, along with data on justifiable homicides by police officers, included for comparative purposes. The police homicide estimates are simple totals as compiled by the vital statistics system (Estimation Method I, U.S. NCHS, 1983:Table 1:35-36), which were then doubled (Estimation Method II) because only about half of the killings by police are reported as such to the national vital statistics system (Sherman and Langworthy, 1979:552). FBI/SHR counts of police justifiable homicides are also reported here. Regardless of which counts of homicides by police one uses, the results indicate that civilians legally kill far more felons than police officers do.

Nonfatal woundings by guns are far more frequent than fatal shootings. Cook (1985) reviewed data which indicate that about 15 percent of gunshot wounds are fatal, implying a ratio of about 5.67 (85/15) nonfatal gun woundings to each fatal one. If the same applies to legal civilian defensive shootings, there were about 8,700-16,600 nonfatal, legally permissible woundings of criminals by gun-armed civilians in 1980. Therefore, the rest of the one million estimated defensive gun uses, over 98 percent, involved neither killings nor woundings but rather warning shots fired or guns pointed or referred to.

Table 2 • Number Civilian Legal Defensive Homicides by Category in Six Local Studies

Row	Homicide Category ^a	Study, Location, Period Covered					
		Bensing and Schroeder (1960); Cuyahoga County (Cleveland). 1947-1953	Wolfgang (1958); Philadelphia. 1948-1952	Rushforth et al. (1977); Cuyahoga County (Cleveland). 1958-1974	Lundsgaarde (1977); Houston. 1969	Dietz (1983); Detroit. 1980	Wilbanks (1984); Dade County (Miami). 1980
(1)	Total sample homicides	662	625	3371	c. 312	583	569
(2)	Criminal homicides	505	588	n.a. ^e	282	493	478
(3)	Murders, nonnegligent manslaughters	505	c. 502 ^b	n.a.	281	487	478
(4)	Estimated unintentional excusable homicides	d.k. ^f	23	n.a.	< 12	c. 4	5
(5)	Involuntary/negligent manslaughters	d.k.	c. 86 ^b	d.k.	1	6	0
(6)	Justifiable police homicides	35	14	c. 110	10	13	14
(7)	Estimated intentional civilian homicides ^c	627	502	c. 3261	c. 289	560	550
(8)	Justifiable civilian homicides (CJH)	122	8	c. 329	19	16	72
(9)	CJH reported on SHRs ^d	n.a.	n.a.	n.a.	n.a.	12	24
(10)	Other civilian legal defensive homicides	0	n.a.	d.k.	< 1	57	0
(11)	Total civilian legal defensive homicides (CLDH) ^e	122	8	c. 329	< 20	73	72
(12)	Ratio, (11)/(7)	.195	.016	.101	< .069	.130	.131
(13)	Ratio, (11)/(1)	.184	.013	.098	< .064	.125	.127
(14)	Ratio, (11)/(3)	.242	.024	n.a.	< .071	.150	.151

Notes:

a. Homicides were classified according to their final legal classifications as reported in the study, whether police, coroner, or court-determined.

b. 14.7% of criminal homicide offenders prosecuted were charged with involuntary manslaughter. $.147 \times 588 = 86$. $588 - 86 = 502$.

c. Row (7) = (1) - (4) - (5) - (6); Row (11) = (8) + (10).

d. SHRs = Supplementary Homicide Reports of the FBI.

e. n.a. = not available, usually because authors did not report any frequencies for such categories.

f. d.k. = don't know

Sources:

Bensing and Schroeder (1960: 5,59,80); Wolfgang. (1958: 24,228,301,303); Rushforth et al. (1977: 531-33); Lundsgaarde (1977: 68-69,162,219,236,237); Dietz (1983: 203); Wilbanks (1984: 29-30,57,70-72,154).

Table 3 • Number Reported and Estimated Police and Civilian Legal Defensive Homicides, by Homicide Type, U.S., 1980

<i>Homicide type</i>	<i>Justifiable Homicides, Reported to FBI/SHR^a</i>	<i>Estimated Legal Defensive Homicides</i>	
		<i>Method 1^b</i>	<i>Method 11^b</i>
Police, gun	368	303	606
Police, nongun	14	8	16
Police, total	382	311	622
Civilian, gun	379	2819	1527
Civilian, nongun	44	327	177
Civilian, total	423	3146	1704

Notes:

a. SHR = Supplementary Homicide Reports.

b. Estimation methods — see text.

Sources:

Analysis of 1980 U.S. Supplementary Homicide Reports computer tape; U.S. NCHS (1983:35-36).

Effectiveness and Risks of Armed Resistance to Criminals

It has been argued that resistance by crime victims, especially forceful resistance, is generally useless and even dangerous to the victim (Block, 1977; Yeager et al., 1976). Evidence is moderately consistent with this position as it applies to some forms of resistance. However, the evidence does not support the claim as it pertains to resistance with a gun.

Preventing Completion of the Crime

The figures in Table 4 are from analysis of the 1979-1985 incident-level files of the National Crime Survey (NCS) public use computer tapes (ICPSR, 1987b). They contain information on over 180,000 sample crime incidents reported by nationally representative samples of noninstitutionalized persons aged 12 and over. The surveys asked respondents if they had been victims of crimes. Those who reported crimes involving personal contact with the offender were asked if they used any form of self-protection, if they were attacked, if they suffered injury and if the crimes were completed. For assaults, "completion" means injury was inflicted; thus completion data convey nothing beyond what injury data convey. For robberies, "completion" refers to whether the robber took property from the victim. The figures in column 1 of Table 4 show that victims who resisted robbers with guns or with weapons other than guns or knives were less likely to lose their property than victims who used any other means of resistance or who did nothing.

Avoiding Injury

Attack and injury rates for each self-protection method are reported in columns two and three for robbery and columns five and six for assault. For both robbery and assault, victims who used guns for protection were less likely either to be attacked or injured than victims who responded any other way, including those who did not resist at all. Only 12 percent of gun resisters in assault and 17 percent in robberies suffered any kind of injury.

After gun resistance, the course of action least likely to be associated with injury is doing nothing at all, i.e., not resisting. However, passivity is not a completely safe course either

Table 4 • Attack, Injury and Crime Completion Rates in Robbery and Assault Incidents, by Self-Protection Method, U.S., 1979-1985^a

<i>Method of Self-Protection</i>	Robbery				Assault		
	(1) <i>Percent Completed</i>	(2) <i>Percent Attacked</i>	(3) <i>Percent Injured</i>	(4) ^b <i>Number Times Used</i>	(5) <i>Percent Attacked</i>	(6) <i>Percent Injured</i>	(7) ^b <i>Estimated Number Times Used</i>
Used gun	30.9%	25.2%	17.4%	89,009	23.2%	12.1%	386,083
Used knife	35.2	55.6	40.3	59,813	46.4	29.5	123,062
Used other weapon	28.9	41.5	22.0	104,700	41.4	25.1	454,570
Used physical force	50.1	75.6	50.8	1,653,880	82.8	52.1	6,638,823
Tried to get help or frighten offender	63.9	73.5	48.9	1,516,141	55.2	40.1	4,383,117
Threatened or reasoned with offender	53.7	48.1	30.7	955,398	40.0	24.7	5,743,008
Nonviolent resistance, including evasion	50.8	54.7	34.9	1,539,895	40.0	25.5	8,935,738
Other measures	48.5	47.3	26.5	284,423	36.1	20.7	1,451,103
Any self-protection	52.1	60.8	38.2	4,603,671	49.5	30.7	21,801,957
No self-protection	88.5	41.5	24.7	2,686,960	39.9	27.3	6,154,763
Total	65.4	53.7	33.2	7,290,631	47.3	29.9	27,956,719

Notes:

a. See U.S. Bureau of Justice Statistics (1982) for exact question wordings, definitions, and other details of the surveys.

b. Separate frequencies in columns (4) and (7) do add to totals in "Any self-protection" row since a single crime incident can involve more than one self-protection method.

Sources:

Analysis of incident files of 1979-1985 National Crime Survey public use computer tapes (ICPSR, 1987b).

since 25 percent of robbery victims and 27 percent of assault victims who did not resist were injured anyway.

Finally, columns four and seven show that using guns for protection in robberies and assaults is considerably less common than milder, less forceful methods not requiring weapons. This presumably is at least partly due to the fact that so many crimes occur in circumstances where victims do not have effective access to their guns.

Some analysts of robbery data have assumed that where crimes involve victims who resisted and were also injured, resistance somehow caused the injury by provoking the offender into an attack (e.g., Yeager et al., 1976). Although the NCS does not yet routinely ask questions about the sequence of attack and self-protection acts by the victim, such questions were included in a special Victim Risk Supplement questionnaire administered to 14,258 households as part of the regular NCS in February of 1984. In only 9.8 percent of assaults involving both forceful self-protective actions and attack did the actions occur before the attack. For assaults involving nonforceful self-protective actions, only 5.7 percent of the actions preceded the attack. For cases involving both robbery and attack, forceful self-protective actions never preceded attack, while in only 22 percent of similar incidents involving nonforceful self-protective actions did the actions precede the attack. Thus, even among the minority of cases where forceful self-protective acts were accompanied by attacks on the victim, few incidents support the contention that the victim's defensive action provoked the attack.

Crime Control Effects of Civilian Gun Ownership and Use

When victims use guns to resist crimes, the crimes usually are disrupted and the victims are not injured. This does not necessarily imply that such resistance has any general deterrent effect on crimes. Whether criminals are deterred by the prospect of armed resistance is an issue separate from how effective defensive gun use is for victims who resist. In this section, I consider the kinds of crimes most likely to involve victim defensive gun use and the kinds of crimes most likely to be deterred by such use. I also consider evidence on the deterrent effect of civilian gun ownership and on the effects of possible confrontation by a gun-wielding citizen on burglars and burglaries in occupied homes.

Crimes Involving Defensive Gun Use

What crimes are defensive gun users defending against? Evidence from NCP surveys suggests that about 64,000 rapes, robberies and assaults involved a victim using a gun for self-protection in 1983 (U.S. Bureau of Justice Statistics, 1985c:12,69,70). However, this figure is unreliable since it is well established that victim surveys seriously underestimate violent crime among nonstrangers (Gove et al., 1985:464-65). Because such crimes are especially likely to occur in the home, where guns are available to their owners, the victim surveys must also underestimate victim defensive uses of guns. Further, commercial robberies are no longer covered in these surveys, and the doubts victims may have about the legality of their gun uses may further contribute to an underreporting of defensive uses. Finally, since crimes involving victim gun use usually involve neither property loss nor victim injury, victims are especially likely to forget or otherwise fail to report them to interviewers, just as they fail to report them to police.

There are no published data on the number of defensive gun uses in burglary. The best that can be done is to estimate the number of opportunities for victim gun use. NCS data indicate that about 12.7 percent of residential burglaries occur while a household member is present (U.S. Bureau of Justice Statistics, 1985a:4) and that there were an estimated 6,817,000

household burglaries in 1980 (U.S. Bureau of Justice Statistics, 1982:22). Averaging the results of two national surveys in 1980, I estimate that about 46 percent of U.S. households have at least one gun (Crocker 1982:255). If it is assumed that gun ownership is at least as high in burglarized homes as in homes in general, about 400,000 residential burglaries occurred in gun-owning households while a household member was present ($6,817 \times 0.127 \times 0.46 = 398,249$).

If all of the opportunities for victims to use guns during burglaries were actually taken, they would constitute about 40 percent of the estimated one million annual defensive gun uses. However, two very different sources of information suggest that burglary-related uses are less numerous than that and that assaults at home are the most common crimes involving victim gun use. Table 5 displays the results of the 1976 Field poll of California (Field Institute, 1976) and data from medical examiner records concerning civilian justifiable homicides committed in Dade County in 1980 (compiled from Wilbanks, 1984:190-374). The Field poll addresses only handgun use and indicates locations of gun uses, while the medical data cover all gun types but do not usually indicate the location of homicides. Nevertheless, the results are consistent concerning the crimes with which defensive gun uses are associated.

Table 5 • Crimes Associated with Defensive Uses of Guns, Frequency and Percent

1976 Survey of California Adults ^a			1980 Dade County (Miami) ^b		
<i>Crime</i>	<i>Frequency</i>	<i>Percent</i>	<i>Crime</i>	<i>Frequency</i>	<i>Percent</i>
Assault or rape at home	40	41	Assault	46	64
Assault elsewhere	20	21	Rape	1	1
Theft at home	19	20	Burglary	6	8
Theft elsewhere	11	11	Robbery	19	26
All other reasons for use	7	7			
Total	97	100%	Total	72	100%

Notes:

a. Handgun use only

b. Civilian justifiable homicides

Sources:

California survey, Field Institute (1976); Dade County justifiable homicides compiled from short narrative descriptions in Wilbanks (1984: 190-374).

The California survey data indicate that 62 percent of uses are connected to assault or rape. The medical examiner data indicate a figure of 65 percent for these offenses, while also showing that nearly all of these uses are connected to assault rather than rape. "Theft at home" in the California survey includes burglary, and the justifiable homicide data suggest that burglary accounts for most of the cases in this category. "Theft elsewhere" in the California survey includes retail store robberies, and the robbery category among justifiable homicides may consist largely of uses linked to such crimes. This interpretation is supported by information on the locations of civilian justifiable homicides in California in 1982, 86 percent of which involved guns. Police records showed that 32 percent occurred in the killer's residence, 23 percent in a business location (especially in robbery-prone businesses like liquor stores and bars), 14 percent on the street or sidewalk and 30 percent elsewhere (California 1983:67). This set of California homicides excludes pure self-defense homicides (i.e., killings not involving any other felonies besides an assault on the defender) and thus is not strictly comparable with the Dade County defensive homicides, most of which are pure self-defense killings. This at least partially accounts for the smaller share of California homicides occurring in the home, since it means that cases like those involving women defending themselves against abusive husbands or boyfriends would ordinarily be excluded. Therefore the Califor-

nia data do not undercut the conclusion that most defensive gun uses occur in the home and involve defense against assaults. Home defenses against burglars and retail store defenses against robbers each account for substantial minorities of the uses.

Gun Deterrable Crimes

If there is a deterrent effect of defensive gun use, it would depend on a criminal being able to realistically anticipate a potential victim using a gun to disrupt the crime. The types of crimes most likely to be influenced by this possibility are crimes occurring in homes—where victims might have access to a gun—and in the kinds of business establishments where proprietors keep guns, i.e., crimes such as residential burglary, assault in the home and retail store robbery. About one in eight residential burglaries occurs while a household member is present (U.S. Bureau of Justice Statistics, 1985a:4), and, by definition, all robberies, rapes, assaults and homicides involve direct contact between a victim and an offender. In many of these incidents the offender has the initiative, often taking the victim by surprise. Further, the situations often develop too quickly for victims to get to their guns. The most common single location for violent crimes, especially homicides and assaults between intimates, is in or near the home of the victim or the home of both victim and offender (U.S. Bureau of Justice Statistics, 1980:22; Curtis, 1974:176).

Strategic attributes of some crime types make them better than average candidates for disruption by armed victims. For example, violent acts between intimates are typically part of a persistent, ongoing pattern of violence (Wilt et al., 1977). While prospective victims of such violence may not ordinarily be able to predict the exact time of the next violent episode, they often are able to recognize the usual precursors of repetitive violence. Wives and girlfriends of violent men, for example, may understand well the significance of their husband/boyfriend getting drunk and verbally abusive. This implies a distinct tactical difference between violence among intimates and other crimes. Victims of intimate violence can take advantage of behavioral cues which serve as advance warning signs and ready themselves accordingly. In the most threatening situations, advance preparations could include securing a weapon.

Deterrence Effects

Demonstrating deterrent effects of criminal justice system punishment has proven difficult (e.g., Blumstein et al., 1978) and the same must certainly be true for the private use of force, which is even less well measured than the risk-generating activities of the criminal justice system. Therefore, the following evidence should be regarded only as suggestive. Nevertheless, while more limited in quantity, this evidence is quite diverse, consistent and in some ways as compelling as evidence cited in favor of the deterrence thesis for criminal justice system activity.

Results from deterrence research have been highly mixed and often negative. Why should we expect deterrence from the armed citizenry when the criminal justice system appears to have so little impact? The deterrence doctrine states that punishment deters as its certainty, severity and celerity (promptness) increase (Gibbs, 1975). One obvious difference between the risk from criminal justice activity and that from civilian gun use for the criminal is that the maximum potential severity of citizen self-help is far greater than legal system responses to crime. The maximum legal penalty a burglar, robber or even a murderer is likely to face is a few years in prison; only 20 persons were legally executed, all for murders, between mid-1967 and mid-1984 (U.S. Bureau of Justice Statistics, 1984). Since thousands of criminals are killed by gun-wielding private citizens every year, criminals following a "minimax" strategy (i.e., acting to minimize their chances of experiencing the maximum po-

tential negative consequence of their actions) should be influenced more by the risks of civilian gun use than by risks from the legal system. How many criminals are guided by such a strategy is unknown.

The frequency of defensive gun uses roughly equals the total number of U.S. arrests for violent crime and burglary, which numbered about 988,000 in 1980 (U.S. FBI, 1981:190). Being threatened or shot at by a gun-wielding victim is about as probable as arrest and substantially more probable than conviction or incarceration. This is not surprising since there are only about 600,000 police officers in the United States, fewer than a quarter of whom are on duty at any one time (U.S., Bureau of the Census, 1982:184). There are, on the other hand, tens of millions of civilians with immediate access to firearms, obviously well motivated to deter or disrupt crimes directed at themselves, their families or their property.

Finally, victims almost always use guns defensively within minutes of the attempted crime. In contrast, when an arrest occurs, it can follow the crime by days or even weeks. At the very quickest, it comes after the minutes it takes a patrol car to respond to a citizen's call. In any case, the average celerity of even arrest is much lower than for citizen gun use, while the celerity of conviction and punishment is lower still.

Evidence from Surveys of Criminals. There is direct, albeit not conclusive, evidence on the deterrent effects of victim gun use from surveys of apprehended criminals. Wright and Rossi (1986) interviewed 1,874 felons in prisons in ten states and asked about their encounters with armed victims and their attitudes towards the risks of such encounters. Among felons who reported ever committing a violent crime or a burglary, 42 percent said they had run into a victim who was armed with a gun, 38 percent reported they had been scared off, shot at, wounded or captured by an armed victim (these were combined in the original survey question) and 43 percent said they had at some time in their lives decided not to do a crime because they knew or believed the victim was carrying a gun (my tabulations from ICPSR, 1986).

Concerning the felons' attitudes towards armed victims, 56 percent agreed with the statement that "most criminals are more worried about meeting an armed victim than they are about running into the police," 58 percent agreed that "a store owner who is known to keep a gun on the premises is not going to get robbed very often," and 52 percent agreed that "a criminal is not going to mess around with a victim he knows is armed with a gun." Only 27 percent agreed that "committing a crime against an armed victim is an exciting challenge" (my tabulations from ICPSR, 1986). Further, 45 percent of those who had encountered an armed victim reported that they thought regularly or often about the possibility of getting shot by their victims. Even among those without such an encounter the figure was 28 percent (Wright and Rossi, 1986:149). These results agree with earlier findings from less sophisticated surveys of prisoners (Firman, 1975; Link, 1982).

Many objections to prison survey research on deterrence concern flaws the correction of which would tend to strengthen conclusions that there are deterrent effects. For example, Zimring and Hawkins (1973:31-32) discuss the "Warden's Survey fallacy" whereby wardens concluded that the death penalty could not deter murder since all the killers on death row to whom they spoke said the penalty had not deterred them. Clearly, prisoners are biased samples of criminals and prospective criminals since their presence in prison itself indicates that deterrence was not completely effective with them. However, prison survey results supporting a deterrence hypothesis are all the more impressive in light of this bias. Such doubts about the validity of prisoners' responses to surveys are discussed throughout the Wright and Rossi book (1986, but especially 32-38). Given that being "scared off" by a victim is not the sort of thing a violent criminal is likely to want to admit, incidents of this nature may well have been underreported, if misreported at all. Even more significantly, the most deterrable prospective criminals and those deterred from crime altogether will not be included in prison

samples. These results, therefore, may reflect a minimal baseline picture of the deterrent potential of victim gun use.

Quasi-Experimental Evidence. Increases in actual gun ownership are ordinarily fairly gradual, making interrupted time series analyses of such increases impractical. However, highly publicized programs to train citizens in gun use amount to "gun awareness" programs that could conceivably produce sharp changes in prospective criminals' awareness of gun ownership among potential victims. The impact of these programs can be assessed because they have specific times of onset and specific spans of operation which make it easier to say when they might be most likely to affect crime.

From October, 1966 to March, 1967 the Orlando Police Department trained more than 2,500 women to use guns (Krug, 1968). Organized in response to demands from citizens worried about a recent sharp increase in rape, this was an unusually large and highly publicized program. It received several front page stories in the local daily newspaper, the *Orlando Sentinel*, a co-sponsor of the program. An interrupted time series analysis of Orlando crime trends showed that the rape rate decreased by 88 percent in 1967, compared to 1966, a decrease far larger than in any previous one-year period. The rape rate remained constant in the rest of Florida and in the United States. Interestingly, the only other crime to show a substantial drop was burglary. Thus, the crime targeted, rape, decreased, and the offense most likely to occur where victims have access to guns, burglary, also decreased (Kleck and Bordua, 1983:282-88).

Green (1987:75) has interpreted the results of the Orlando study as indicating a partial "spillover" or displacement of rape from the city to nearby areas, i.e., a mixture of absolute deterrence of some rapes and a shifting in location of others. Unfortunately, this possibility of displacement can never be eliminated when considering any location-specific crime control effort, be it a local job training program, an increase in police manpower or patrol frequency or a gun training program.

Green also suggests that the apparent rape decrease might have been due to allegedly irregular crime recording practices of the Orlando city police department, without, however, presenting any evidence of police reporting changes over time beyond the sharp changes in the rape rates themselves. Although largely speculative, Green's comments point to potential problems that could affect interpretation of this sort of quasi-experimental evidence.

A much smaller training program was conducted with only 138 persons from September through November, 1967 by the Kansas City Metropolitan Police in response to retail businessmen's concerns about store robberies (U.S. Small Business Administration, 1969:253-56). Table 6 displays crime trends in Kansas City and its metropolitan area, as well as robbery trends in the rest of Missouri, the West North Central (WNC) region of which Kansas City is a part, and in the United States. While the frequency of robbery increased from 1967 to 1968 by 35 percent in the rest of Missouri, by 20 percent in the WNC region and by 30 percent in the United States, it essentially levelled off in Kansas City and declined by 13 percent in surrounding areas. Robberies had been increasing in the five years prior to the training program and continued to increase again in 1968. Thus, the upward trend was distinctly interrupted in the year immediately following the gun training program. This cannot be attributed to some general improvement in the social conditions generating robbery rates in the nation, region or state, given the upward trends in robbery elsewhere. Nor can the effect be attributed to improvements in conditions producing violent crime in general in Kansas City, since robbery was the only violent crime to level off. Something occurred in the Kansas City area in the 1967-1968 period which caused an upward trend in reported robberies to level off, something not generally occurring elsewhere and something not related to other violent crime categories. Interestingly, Kansas City also experienced a levelling off in its sharply upward trend in

Table 6 • Crimes Known to the Police, Kansas City and Comparison Areas, 1961-1974

Kansas City, Missouri ^a							Kansas City SMSA ^c , excluding Kansas City						Missouri excl. K. C. SMSA	Robbery West Central	U.S.
Year	Robbery	MNNM ^b	Aggravated Assault	Rape	Burglary	Auto Theft	Robbery	MNNM	Assault	Rape	Burglary	Auto Theft			
1961	1169	49	1194	222	6020	1995	202	14	135	42	2430	622	2266	5702	106670
1962	1069	49	946	147	5337	2336	239	21	184	38	2680	840	2166	5597	110860
1963	1164	60	935	197	5600	2911	347	20	234	47	2937	958	2277	6241	116470
1964	1180	48	1126	205	6484	2701	270	26	745	83	3416	1109	2505	6594	130390
1965	1212	71	1180	209	7219	3054	261	25	770	100	4234	1148	2722	6938	138690
1966	1574	59	1315	205	7495	3689	432	27	674	124	4917	1414	2763	8022	157990
1967	2120	62	1711	231	9455	4835	644	41	760	93	6612	1925	3241	10624	202910
1968	2171	92	1995	307	10020	4929	563	33	874	170	6219	2319	4374	12724	262840
1969	2679	105	1921	375	12269	6926	559	33	879	174	6733	2810	5245	14272	298850
1970	2982	120	1805	401	11265	5570	712	38	1102	183	7554	2815	5699	16279	349860
1971	2473	103	1961	371	11550	5408	641	48	1389	173	8104	2666	5419	14582	387700
1972	2092	71	1960	344	9472	3921	742	35	1295	200	8391	2607	5513	14928	376290
1973	2333	81	2433	302	10394	3884	715	64	1288	185	10073	2554	6153	16571	384220
1974	3002	109	2575	363	13406	3719	1087	57	1856	201	12585	2761	6364	19894	442400
Percent change, 1967-68															
	2	48	25	33	6	2	-13	-20	15	83	-6	20	35	20	30

Notes:

a. Figures before 1961 for Kansas City are not comparable with later years (U.S. FBI, 1962: 131). The Kansas City Metropolitan Police Department firearms training program sessions were held in September through November 1967.

b. MNNM = murders and nonnegligent manslaughters.

c. SMSA = standard metropolitan statistical area.

Sources:

Annual issues, *Uniform Crime Reports* (U.S. FBI 1962-1975).

burglary, suggesting a possible "by-product" deterrent effect much like the one indicated by the Orlando data.

The results of these natural quasi-experiments are not cited for the narrow purpose of demonstrating the short-term deterrent effects of gun training programs. Indeed, there is no evidence as to whether citizens used the training in any significant number of real-life defensive situations and no solid evidence that gun ownership increased in the program areas. These results, however, do support the argument that routine gun ownership and defensive use by civilians has an ongoing impact on crime, with or without such programs, an impact which is intensified at times when prospective criminals' awareness of potential victims' gun possession is dramatically increased. Gun training programs are just one source of increased awareness; publicity surrounding citizen gun use against criminals would be another, as would general stories in the news media about gun ownership and increases in gun sales. The two examples cited resemble instances of crime drops following gun training programs elsewhere, including decreases in grocery robberies in Detroit after a grocer's organization began gun clinics and decreases in retail store robberies in Highland Park, Michigan attributed to "gun-toting merchants" (Krug, 1968:H571).

After "subway vigilante" Bernhard Goetz used a handgun to wound four robbers on a New York City subway train on December 22, 1984, subway robberies decreased by 43 percent in the next week, compared to the two weeks prior to the incident, and decreased in the following two months by 19 percent, compared to the same period in the previous year, even though nonrobbery subway crime increased and subway robberies had been increasing prior to the shootings (Tallahassee Democrat, 1985; New York Times, 1985a, 1985b). However, because New York City transit police also greatly increased manpower on the subway trains immediately after the shootings, any impact uniquely attributable to the Goetz gun use was confounded with potential effects of the manpower increase. (There were no correspondingly large increases in police manpower in Orlando in 1966-1967 or in Kansas City in 1967-1968. See U.S. FBI, 1967-1969).

Finally, the deterrent effect of civilian gun ownership is supported by the experience of Kennesaw, Georgia, a suburb of Atlanta with a 1980 population of 5,095 (U.S. Bureau of the Census, 1983:832). To demonstrate their disapproval of a ban on handgun ownership passed in Morton Grove, Illinois, the Kennesaw City council passed a city ordinance requiring heads of households to keep at least one firearm in their homes. In the seven months following passage of the ordinance (March 15, 1982 to October 31, 1982), there were only five reported residential burglaries, compared to 45 in the same period in the previous year, an 89 percent decrease (Benenson 1982). This drop was far in excess of the modest 10.4 percent decrease in the burglary rate experienced by Georgia as a whole from 1981 to 1982, the 6.8 percent decrease for South Atlantic states, the 9.6 percent decrease for the United States, and the 7.1 percent decrease for cities under 10,000 population (U.S. FBI, 1983:45-47, 143).

Guns and the Displacement of Burglars from Occupied Homes

Residential burglars devote considerable thought, time and effort to locating homes that are unoccupied. In interviews with burglars in a Pennsylvania prison, Rengert and Wasilchick (1985) found that nearly all the two hours spent on the average suburban burglary was devoted to locating an appropriate target, casing the house and making sure no one was home. There are at least two reasons why burglars make this considerable investment of time and effort: to avoid arrest and to avoid getting shot. Several burglars in this study reported that they avoided late night burglaries because it was too difficult to tell if anyone was home, explaining, "That's the way to get shot" (Rengert and Wasilchick, 1985:30). Burglars also stated they avoided neighborhoods occupied largely by persons of a different race because "You'll get shot if you're caught there" (Rengert and Wasilchick, 1985:62). Giving weight to

these opinions, one of the 31 burglars admitted to having been shot on the job (Rengert and Wasilchick, 1985:98). In the Wright-Rossi survey, 73 percent of felons who had committed a burglary or violent crime agreed that "one reason burglars avoid houses when people are at home is that they fear being shot" (unpublished tabulations from ICPSR, 1986).

The nonconfrontational nature of most burglaries at least partly accounts for the infrequency of associated deaths and injuries. Don Kates (1983:269) has argued that because victim gun ownership is partly responsible for the nonconfrontational nature of burglary, it is therefore to be credited with reducing deaths and injuries by its deterrent effects. The benefit is enjoyed by all potential burglary victims, not just those who own guns, since burglars are rarely in a position to know exactly which households have guns and thus must attempt to avoid confrontations in all their burglaries.

Under hypothetical no-guns circumstances, the worst a burglar would ordinarily have to fear is having to break off a burglary attempt if confronted by a householder who managed to call the police. A typical strong, young burglar would have little reason to fear attack or apprehension by unarmed victims, especially if the victim confronted was a woman, a smaller male or an elderly person. Further, there would be positive advantages to burglary of occupied premises since this would give the burglar a much better chance to get the cash in victims' purses or wallets.

Even under no-guns conditions, many burglars would continue to seek out unoccupied residences simply because contact with a victim would increase their chances of capture by the police. Others may have chosen to do burglaries rather than robberies because they were emotionally unable or unwilling to confront their victims and thus would avoid occupied premises for this reason. However, this certainly does not seem to be true of all burglars. Prison surveys indicate that few criminals specialize in one crime type, and most imprisoned burglars report having also committed robberies. In the Wright and Rossi survey, of those who reported ever committing a burglary, 62 percent also reported committing robberies (my secondary analysis of their dataset, ICPSR 1986). Thus, most of these burglars are temperamentally capable of confronting victims, even though they clearly prefer to avoid them when committing a burglary.

Results from victimization surveys in at least three nations indicate that in countries with lower rates of gun ownership than the United States, residential burglars are much more likely to enter occupied homes, where confrontation with a victim is possible. In the 1982 British Crime Survey, 59 percent of attempted burglaries and 26 percent of completed burglaries were committed with someone at home (Mayhew, 1987). A 1977 survey in the Netherlands found an occupancy rate of 48 percent for all burglaries, compared to 9 percent in the United States the previous year (Block, 1984:26). And Waller and Okihiro (1978:31) reported that 44 percent of burglarized Toronto residences were occupied during the burglaries, with 21 percent of the burglaries resulting in confrontations between victim and offender. The differences between the United States and Great Britain and Canada cannot be explained by differences in legal threats since the probability of arrest and imprisonment and the severity of sentences served for common crimes are at least as high in the latter nations as in the United States (Wilson, 1976:1819; U.S. Bureau of Justice Statistics, 1987).

Implications for Crime Control Policy

I have argued that gun use by private citizens against violent criminals and burglars is common and about as frequent as arrests, is a more prompt negative consequence of crime than legal punishment, and is more severe, at its most serious, than legal system punishments. Victim gun use in crime incidents is associated with lower rates of crime completion and of victim injury than any other defensive response, including doing nothing to resist. Serious

predatory criminals say they perceive a risk from victim gun use which is roughly comparable to that of criminal justice system actions, and this perception appears to influence their criminal behavior in socially desirable ways.

The evidence presented here is, of course, subject to multiple, differing interpretations. I believe, however, that the simplest and most plausible interpretation is that the civilian ownership and defensive use of guns has a deterrent and social control effect on violent crime and burglary. None of the foregoing can establish exactly how many crimes are deterred by the civilian possession and use of firearms. We cannot precisely calculate the social control impact of gun use and ownership any more than we can do so for the operations of the legal system. However, available evidence is compatible with the hypothesis that gun ownership among potential crime victims may exert as much effect on violent crime and burglary as do criminal justice system activities.

The paucity of scholarly attention to civilian use of guns for defense may be partially due to the very limited visibility of such acts. No criminology text reports estimates of the frequency of defensive uses of guns. Published police-based crime statistics like those found in the Uniform Crime Reports do not cover the subject, and such incidents are rarely reported in the national news media, the Bernhard Goetz case notwithstanding. It is also possible that scholars feel shooting or threatening to shoot another person, even in self-defense, is so morally wrong that it is preferable not to address the subject at all (Goode, 1972; see also Tonso, 1984 on scholars' attitudes towards firearms). It could even be argued that to study the matter seriously might imply some endorsement and encourage the indiscriminant spread of the behavior.

Nevertheless, much social order in America may precariously depend on the fact that millions of people are armed and dangerous to each other. The availability of deadly weapons to the violence-prone probably contributes to violence by increasing the probability of a fatal outcome of combat (but see Wright et al., 1983:189-212). However, it may also be that this very fact raises the stakes in disputes to the point where only the most incensed or intoxicated disputants resort to physical conflict, the risks of armed retaliation deterring attack and coercing minimal courtesy among otherwise hostile parties. Likewise, rates of commercial robbery and residential burglary might be far higher than their already high levels were it not for the dangerousness of the prospective victims. Gun ownership among prospective victims may even have as large a crime-inhibiting effect as the crime-generating effects of gun possession among prospective criminals. This would account for the failure of researchers to find a significant net relationship between rates of crime like homicide and robbery and those measures of gun ownership which do not distinguish between gun availability among criminals and availability in the largely noncriminal general public (e.g., Cook, 1979; Kleck, 1984). The two effects may roughly cancel each other out (see also Bordua, 1986).

Guns are potentially lethal weapons whether wielded by criminals or crime victims. They are frightening and intimidating to those they are pointed at, whether these be predators or the preyed-upon. Guns thereby empower both those who would use them to victimize and those who would use them to prevent their victimization. Consequently, they are a source of both social order and disorder, depending on who uses them, just as is true of the use of force in general. The failure to fully recognize this can lead to grave errors in devising public policy to minimize violence through gun control.

Some gun laws are intended to reduce gun possession only among relatively limited "high-risk" groups such as convicted felons, e.g., laws licensing gun owners or requiring permits to purchase guns. However, other laws are aimed at reducing gun possession in all segments of the civilian population, both criminal and noncriminal. Examples would be the aforementioned Morton Grove handgun possession ban, near approximations of such bans (as in New York City), prohibitions of handgun sales (such as those in Chicago and Washington, DC) and most laws restricting the carrying of concealed weapons. By definition, laws are most

likely to be obeyed by the law-abiding, and gun laws are no different. Therefore, measures applying equally to criminals and noncriminals are almost certain to reduce gun possession more among the latter than the former. Because very little serious violent crime is committed by persons without previous records of serious violence (Kleck and Bordua, 1983), there would be little direct crime control benefit to be gained by reductions in gun possession among noncriminals, although even marginal reductions in gun possession among criminals could have crime-reducing effects. Consequently, one has to take seriously the possibility that "across-the-board" gun control measures could decrease the crime-control effects of noncriminal gun ownership more than they decreased the crime-causing effects of criminal gun ownership. For this reason, more narrowly targeted gun control measures like gun owner licensing and purchase-to-permit systems seem advisable (see Kleck, 1986a for an extended discussion).

Having an armed victim population is obviously not without risks. Some victims are also offenders, and their possession of guns may embolden them to commit assaults and other crimes they otherwise would not have attempted. And the use of guns in assaults instead of likely substitutes such as knives or fists probably increases the fraction of assaults which result in death. However, evidence gathered to date on these questions has been very mixed and is no more conclusive than the evidence presented here concerning defensive effects of guns (see Wright et al., 1983, esp. 129-38, 189-212; Kleck, 1986a). Similarly ambiguous conclusions apply to evidence concerning gun involvement in suicides and accidental deaths. The number of gun suicides which would not have occurred in the absence of guns appears to be fairly small (Kleck, 1986c). And gun accidents appear to be less a by-product of routine gun ownership and use by ordinary citizens than the result of unusually hazardous activities with guns by a small, extremely reckless minority of gun owners. For example, insurance company studies indicate that many gun accidents occur when the shooter handles a gun while intoxicated, "plays" Russian roulette with a revolver or points a loaded gun at another person "in fun." And examination of police and traffic records indicates that accidental shooters have histories of arrests for violent acts, alcohol-related arrests, traffic citations and highway crashes far in excess of those of matched controls (Kleck, 1986d).

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NOTES

IF YOU WERE ATTACKED BY A DRUG CRAZED VIOLENT CRIMINAL...



WHICH OF THE FOLLOWING WOULD YOU CHOOSE FOR SELF DEFENSE?

- a) A Washington Post anti-gun editorial
- b) A Handgun Control, Inc. membership card.
- c) A National Coalition to Ban Handguns sticker.
- d) Wait for a 911 response.
- or e) A gun.

If you chose a, b, c, or d you probably wouldn't be here to read this.

But then again does the anti-gun Washington Post, the Coalition to Ban Handguns or Handgun Control, Inc. really care?

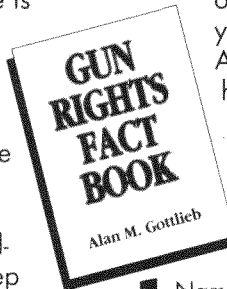
We don't think so!

That's why we ran this ad in the first place. Because the bottom line is the anti-gun, anti-self defense schemes they push aren't in your interest.

We think we've made our point, but to keep making it we need your help.

Even the militant National Coalition to Ban Handguns admits that gun control won't keep guns out of the hands of violent criminals.

That's why we want to send you a free copy of the "Gun Rights Fact Book." This free 176 page book will help you better understand what is at stake here. And help make you more effective in defending your rights and ultimately your life.



To get your free Gun Rights Fact Book, just send in the coupon and \$1 for postage and handling.

The Second Amendment Foundation, as a public service, wants to arm one million people, just like you, with this book. As the nation's largest non-profit, tax-exempt organization dedicated solely to protecting your Constitutional gun rights, the Second Amendment Foundation was founded to help educate the public.

This is one way we do it.

To get your **FREE** book, please send this coupon and \$1 to SAF.

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#MA2 The Truth About Self Protection , by Massad Ayoob.....	\$6.95
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This critique was made possible by the generosity of many citizens who want to preserve the Second Amendment of the U.S. Constitution.

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All contributions to the Foundation are tax-deductible.

In the SAF Monograph **The Good Side Of Guns**, Criminologist Gary Kleck explodes the anti-gun myth that "a gun kept for protection is more likely to be used against a family member than a criminal." Using national polls, police department statistics, and National Crime Survey data, Kleck concludes guns are used in self-defense an incredible one million times a year and handguns are used in self-defense over 645,000 times each year.

Professor Kleck's research also reveals that a handgun is by far the most effective means of self-protection, disproving the anti-gunners' theory that the best way to escape injury at the hands of a criminal is to "submit, lie back, and enjoy it."

Kleck's report should fascinate anyone interested in self-defense. The report confirms what many of us already knew: a firearm is a reliable and effective means of self-protection, used by the law abiding to terminate any threat posed by an unprovoked criminal attack. To take those firearms away would make criminals safer at the expense of law abiding citizens, who would pay with their guns, their property, and their lives.

Talcott J. Franklin
Research Director
Second Amendment Foundation

may respond to entirely different criminal justice initiatives.

A typology of armed criminals

To facilitate analysis of the survey, the research developed a general typology of criminals based on their weapon use in crime. The largest group (39 percent) within the 7-category typology is the *unarmed criminal*, men who had never committed any crime while armed with a weapon and who function as a comparison group in most of our analysis.

Also defined are two groups of “armed—not-with-a-gun-criminals” (11 percent)—men who had committed armed crimes but never with a firearm. Based on the weapon used most frequently, this group is further divided into *knife criminals* and *improvisors*, the latter typically armed with a variety of ready-to-hand weapons.

The other half of the sample are *gun criminals*, who have been divided into four groups based on their frequency of gun use in crime: one-time firearm users (men who had committed one, but only one, gun crime); sporadics (men who had committed “a few” gun crimes); and two types of predators (men who had committed many gun crimes): handgun and shotgun predators, depending on what kind of gun they said they had used most frequently. Table 1 shows the distribution of the total sample across these seven categories.

Table 1 also shows the average “total criminality” score in each of the seven categories. (This score reflects the sum of all the crimes a felon reported ever having committed, weighted by the seriousness of each offense.) The results confirm that the felons identified as gun predators are overwhelmingly the most active criminals in the sample; the two predator groups (handgun and shotgun), who make up about 20 percent of the sample, account for approximately half the sample’s total criminality.

Points of view or opinions expressed in this publication are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Table 1
Total criminality of offenders by typology of weapons used in crime

Criminal type	Number of offenders	Percent of total sample	Average “total criminality” score*
Total sample	1,874	100	139
Unarmed criminals	725	39	61
Armed not-with-a-gun criminals			
Improvisors	79	4	101
Knife criminals	134	7	109
Gun criminals			
One-time gun users	257	14	84
Sporadic gun users	257	14	151
Handgun predators	321	17	332
Shotgun predators	101	5	265

*“Total criminality” is an index measure or score reflecting the sum of all the crimes the felon had ever committed (as reported in the study questionnaire) weighted by the seriousness of each offense. The index numbers have no intrinsic meaning except that lower numbers mean fewer or less serious crimes and higher numbers mean more or more serious ones. The table shows the average score on this index for each group.

The nature of the criminal firearms market

Three-quarters of the sample said they had owned one or more firearms at some time in their lives. Seventy-nine percent of these—more than 1,000—said they had owned at least one handgun. The handgun owners responded to a number of detailed questions about the methods and sources they used to acquire their most recent handguns. Their answers provide previously unavailable details describing the nature of the criminal gun market. The principal results:

(1) Legitimate firearms retailers play only a minor role as direct sources of handguns for adult felony offenders.

Only about one-sixth of the gun-owning felons obtained their most recent handguns through a customary retail transaction involving a licensed firearms dealer. The remainder—five out of six—obtained them via informal, off-the-record transactions involving friends and associates,

family members, and various black market outlets. The means of acquisition from these informal sources included cash purchase, swaps and trades, borrowing and renting, and often theft. The criminal handgun market is overwhelmingly dominated by informal transactions and theft as mechanisms of supply.

The off-the-record nature of the market is further illustrated in the responses to a series of questions concerning the ease with which these men felt they could arm themselves upon release from prison. (As convicted felons, of course, all these men are legally prohibited from acquiring guns upon release, under provisions of the Gun Control Act of 1968 and the Omnibus Crime Control and Safe Streets Act of 1968.) Most of the sample (gun owners and nonowners alike) thought it would be “no trouble at all” to acquire a gun upon release; about 80 percent felt they could obtain a suitable handgun in a few days or less. When asked where they would go for guns, their sources were friends, the street, and various black market sources.

These results suggest certain policy implications. Policies attempting to regulate handgun acquisition at the

point of retail sale may be effective in preventing some types of criminals from acquiring firearms (e.g., juveniles or nonfelony offenders), but they are likely to have little effect on the most serious handgun-owning felons represented in this sample. Hardcore felons of the sort studied in this research rarely use customary retail channels to obtain handguns.

(2) Gun theft plays a critical role in connecting the adult felony offender to his firearms supply.

Half the men in the total sample had stolen at least one gun at some time in their lives (as shown in Figure 1). Many had stolen more than one. A few, particularly the more predatory felons, had stolen guns in extremely large numbers. At least 40 percent and perhaps as many as 70 percent of the most recent handguns owned by this sample were stolen weapons. These percentages include not only the guns that the felons stole themselves (32 percent), but also guns that the felons knew or believed to have been stolen prior to their acquisition of them.

Like other theft, gun theft appears to be an “opportunity” crime: most gun thieves (76 percent) stole guns when they came across them, not because they were looking specifically for a gun to steal. The purpose of most gun thefts (70 percent) was to sell or trade the gun to someone else, rather than to obtain one for personal use. Still, most of those who had ever stolen guns kept at least one of them for personal use, usually because the stolen gun was a better quality weapon than the gun they were carrying at that time.

Most gun thefts (84 percent) occurred in private residences, but thefts from “high-volume” sources (retailers, wholesalers, shippers, and manufacturers) were also widely reported. These high-volume thefts may in fact account for a larger share of the total volume of stolen guns, due to the potentially greater number of guns stolen per theft.

The ideal gun control policy would be one that directly affects the illicit user but leaves the legitimate user pretty much alone. Formulating such a policy, however, presupposes a sharp distinction between the licit and illicit markets, a distinction seriously eroded by the heavy volume of gun theft from legitimate owners. The survey data suggest that a successful policy for controlling criminal access to firearms must necessarily address the problem of gun theft, perhaps including measures for informing legitimate owners about the extent and seriousness of gun theft and about procedures for adequately securing their firearms.

Criminal firearms preferences

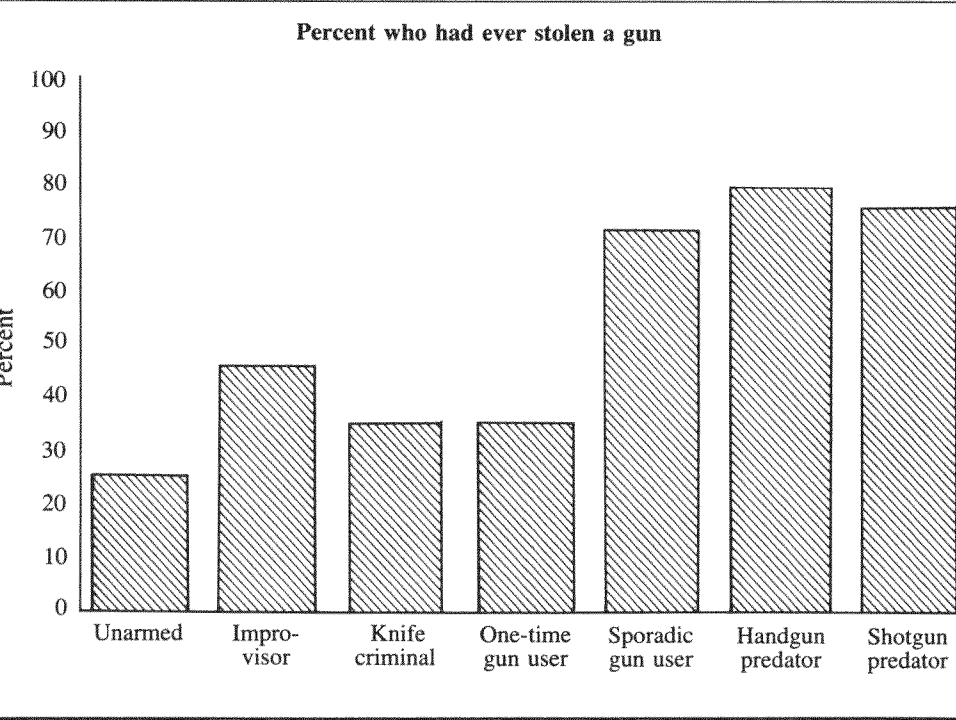
Many gun control policy proposals are targeted to particular classes of firearms: to handguns in general or, somewhat more commonly, to certain restricted classes of handguns, particularly the small, cheap, low-quality ones. The rationale for such proposals is two-fold: (1) legitimate gun owners have little or no need for or interest in

such firearms and (2) illegitimate gun owners do.

To assess the nature of the criminal demand for firearms, the survey asked for information on both the qualities the sample preferred in a handgun and the characteristics of the most recent handgun they had actually owned. Contrary to popular belief, neither line of questioning revealed much interest in small, cheap handguns among the adult felons in this sample. Such interest as was observed was concentrated among felons who had never used firearms to commit crimes.

The hardened firearms criminals in the sample both preferred to carry and actually carried relatively large, well-made weapons. The most common among the recent handguns owned was a Smith and Wesson .38 equipped with a 4-inch barrel. No more than a third of the most recent handguns owned by criminals would qualify as “snubbies” (barrel length of 3 inches or less), and only about 15 percent would qualify as “Saturday Night Specials.”

Figure 1
Gun theft by criminal type



While the average price felons paid for their most recent handguns was not especially high—falling in the \$100 to \$200 range—the average quality of these guns was relatively high. Presumably, gun prices are heavily discounted in the markets exploited by these men.

Analysis of the relationship between types of firearms carried and extent of criminal activity revealed that the more a felon used his guns in crime, the higher the quality of the weapon he carried. Among the truly predatory criminals in the sample, the small, cheap handgun was definitely not the weapon of choice.

Much the same results were obtained in questions about *preferred* handgun characteristics. In general, far more interest was shown in features such as accuracy, firepower, traceability, and quality of construction, than price or size.

The study concluded from these findings that the strategy of purging the market of small, cheap handguns may be largely irrelevant to the felons most likely to commit gun crimes. It is, of course, possible that such handguns are much more important to first offenders, juveniles, or other classes of criminals. Gun criminals in this sample, however, did not have much interest in small, cheap handguns.

The motivation to own and carry guns

One reason criminals acquire and carry handguns is because many crimes are easier to commit if armed than if not. Beyond these obvious criminal motivations, however, the survey also shows that gun criminals own and carry guns because they were raised around guns and have owned and used them all their lives.

Most of them associated with other men who owned and carried guns as well. Furthermore, the majority tended to keep their guns loaded at all times and to fire them regularly, often at other people. Half the men in the sample claimed to have fired a gun at someone at some time; half also claimed to have been fired upon

(excluding military service in both cases).

In fact, many respondents stated that a man who is armed with a gun is “prepared for anything that might happen”—an opportunity to commit a crime or the need to defend oneself against the assaults or predations of others. Therefore, while handgun carrying among felons is in part a rational response to the nature of their criminal activities, it is, in equal measure, an element of the lifestyle arising from early socialization and from fear.

Given these results, it is not surprising that the major motive acknowledged for acquiring and carrying guns was self-protection. Concerning their most recently owned handgun, 58 percent of those who had ever owned a handgun cited “self-protection” as a very important reason for the acquisition; “to use in my crimes” was very important to only 28 percent. (“Self-protection,” in this context at least, must be interpreted with some caution. Part of it no doubt implies protection against being preyed upon or continually harassed by other criminals who are better armed. Another part implies protection against armed victims, against the police, and against the prospects of apprehension during a crime.)

In this connection, about two-fifths of the sample had at some time in their careers encountered an armed victim; an equivalent percentage had at some time decided *not* to commit a crime because they had reason to suspect that the intended victim was armed. (These findings, too, must be interpreted with caution. Although the survey did not ask who these “intended victims” were, it is likely that many would be the felons’ own “colleagues,” since men of the sort studied in this research are clearly not above preying upon one another.)

A third of the sample (of gun criminals only) made it a practice to carry a gun more or less all the time, as shown in

Figure 2
Patterns of handgun carrying by gun criminals

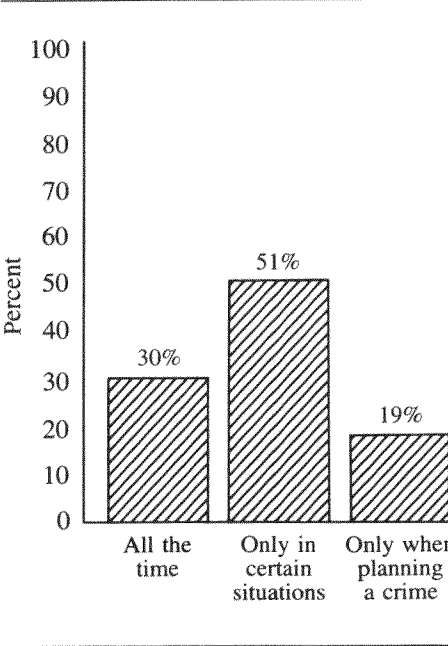


Figure 2. This ranged from about 10 percent for the one-time gun users to more than 50 percent for the handgun predators. Another half carried a gun whenever the circumstances seemed potentially dangerous—when doing a drug deal, when going out at night, when they were with other men carrying guns or, more generally, whenever their ability to defend themselves might be at issue. Only one in five of the gun criminals claimed that they carried a gun *only* when they intended to commit a specific crime. Consequently, the actual *use* of guns in crimes appears to be more a by-product of strongly ingrained gun-carrying habits, rather than the result of intentional planning for armed offenders.

The response of felons to gun policy measures

Proposals for new gun legislation surface with some regularity. The survey asked felons how they thought they would respond to some of these proposed measures. The results are obviously conjectural, but nonetheless of considerable interest as indicators of how felons themselves expect such measures would affect them.

First, the felons were asked what they thought they would do if “the cheapest handgun you could find cost more than you could possibly afford to pay.” Among gun criminals, most said they would either borrow or steal the handgun they wanted; others said they would respond by carrying sawed-off shoulder weapons.

Next, they were asked what they would do in the face of a ban on small, cheap handguns. They overwhelmingly responded that they would carry bigger and more expensive handguns instead.

Finally, they were questioned about their possible response to a complete handgun ban. In answer to this question, a majority of the gun criminals—and more than three-quarters of the predators (the truly high-rate felons in the survey)—said that they would respond by carrying sawed-off shoulder weapons.

The general pattern is thus one of lateral or upward substitution: the weapons that gun criminals said they would carry under various hypothetical firearms bans were either just as lethal as, or more lethal than, the weapons they would have otherwise carried. The message these men seem to be sending is that their felonious activities would not suffer for lack of appropriate armament. Their intent, it seems, would be to find substitutes that might be somewhat less convenient, but would be at least as effective as their current weaponry. Given that their response predictions are accurate, the implication of these findings is that many commonly proposed gun control measures could

well prove to have unanticipated and counter-productive consequences—at least among the serious adult felons studied here.

Implications for gun policies

Findings from the survey suggest the following:

- Controls imposed at the point of retail sale would not be effective in preventing the acquisition of guns by serious adult felons because these felons rarely obtain their guns through customary retail outlets.
- Since theft of guns is a predominant means by which felons procure firearms, the 35 to 50 million handguns currently possessed by legitimate private owners represent a potentially rich source for criminal handgun acquisition. An effective criminal gun control policy must therefore, of necessity, confront the issue of firearms theft. At a minimum, there should be programs to educate the gun-owning public about the importance of adequately securing their guns.
- Among the most predatory felons, gun ownership and carrying is seen as essential because they fear what the prospects of an unarmed life on the streets would mean for their physical safety and security. For this group of most serious offenders, enhanced

sanctioning policies would be unlikely to pose much threat; for them, the cost of being caught unarmed in a dangerous situation would be many times greater than the cost of a few years in prison.

- For less predatory felons, however, sentence enhancement policies do seem to have an important deterrent effect, since a sizeable majority of the felons who do not use guns in crime cite “stiffer penalties” as a very important reason for their decision not to carry firearms.
- Finally, the survey findings suggest that, at least for the serious adult felons included in this sample, certain commonly proposed gun-banning measures could have strongly undesirable consequences, resulting in the substitution of more powerful and more lethal firearms. Gun-banning policies may be responded to differently by other types of offenders, however, and could represent a more effective deterrent to firearms use by juveniles, nonfelony offenders, and other types of criminals.

James D. Wright of the University of Massachusetts was the principal investigator on a study of firearms use in crime, sponsored by the National Institute of Justice and published by the Institute in July 1985. A more complete version has recently been published as *Armed and Considered Dangerous: A Survey of Felons and Their Firearms* by James D. Wright and Peter H. Rossi (Hawthorne, New York: Aldine Publishing Co., 1986).

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Research in Brief

November 1986

The Armed Criminal in America

James D. Wright

Violent crime that threatens or abuses the physical safety of its victims lies at the heart of the crime problem in America today. In turn, the use of firearms to commit these crimes increases the seriousness of the violence problem. Each year, some 30,000 Americans die through the suicidal, homicidal, or accidental abuse of guns; several hundreds of thousands are injured; many hundreds of thousands more are victimized by gun crime. And the contribution of armed crime to the public's fear of crime is incalculable.

To shed light on armed crime, the National Institute of Justice recently sponsored a study that surveyed more than 1,800 convicted adult felons (all men) incarcerated in 10 States throughout the country. The survey asked these felons how and why they obtain, carry, and use firearms, especially in the commission of criminal acts.

This *Research in Brief* summarizes the results and policy implications of the study as they pertain to the nature of the criminal firearms market, criminal

firearms preferences, the motivation to own and carry guns, and how members of the survey sample thought they would respond to various types of gun regulation.

These results and implications apply only to the particular criminal population studied: serious adult male felons. Other groups, such as juvenile offenders, first offenders, female offenders, and less serious (nonfelony) adult male offenders may have very different patterns of firearms acquisition, ownership, and use. Therefore, they

From the Director

The armed predators who use guns in the course of their crimes are the source of much of the violence and fear that plague many urban neighborhoods. The debate over how to keep guns away from criminals has been intense and longstanding. Until recently, legislators and policymakers have had little empirical data to inform the debate.

If we are to achieve the goal of separating predators from guns, then we need to know how and where they obtain their weapons and how they use them in their criminal activities. This *Research in Brief* summarizes the findings of a National Institute-sponsored study that provided valuable new information about these questions. The knowledge produced by this study was cited by those involved in the policy debate over new gun control legislation passed by the Congress in 1986.

Based on interviews with more than 1,800 incarcerated felons, the study found that few of the gun-owning felons had bought their guns from a retail source. Rather, the majority usually obtained them from family members or friends or on the street. Often they stole them.

This research can help in the effort to develop more effective strategies to keep the predator from weapons of terror. The findings suggest that, for career criminals at least, vigorous enforcement and tougher penalties for those who commit crimes with firearms may be more effective than regulation. Our emphasis ought to be on “use a gun, go to jail.”

New technology may also aid in the search for solutions. If we could do a better job of detecting concealed weapons, our emphasis would shift from efforts to control weapons at the point of purchase to identifying those

who are carrying and using guns for crime so they can be arrested and prosecuted.

NIJ is pursuing research toward a weapons-detection system that could reliably indicate concealed firearms. While much additional testing will be required before a system becomes operational, initial indications are promising.

All sides of the debate over gun control acknowledge that the use of weapons in crime is a major threat to the public and a pressing issue for policymakers. The National Institute is pleased that this research has contributed to informed discussion of the key issues. Advances in the technology of weapons detection may help shape new and more effective policies to help curb violent crime.

James K. Stewart
Director
National Institute of Justice

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SEMI-AUTOMATIC RIFLES

Q? What is the difference between an "Assault Rifle" and a semi-automatic sporting rifle?

A: According to the Department of Defense, assault rifles are short, compact, selective-fire weapons that, at the operator's discretion, can fire automatically or semi-automatically. A full-automatic firearm (machine gun) will fire a continuous burst of ammunition as long as the trigger is being depressed. Semi-automatic firearms fire one round of ammunition for each pull of the trigger and do not have full-automatic fire capability.

Q? Are semi-automatic sporting rifles easily convertible to full-automatic?

A: No. In testimony before the California State Assembly, Los Angeles Police Detective Jimmy Trahin, who is the firearms expert for the L.A.P.D., stated: "These military style assault weapons of today are not easily and readily convertible without extensive knowledge and modifications to the weapon and or substitution of available parts."

Q? Are semi-automatic rifles being converted by criminals to full-automatic (machine gun)?

A: No. In the last 12 years the L.A.P.D. firearms squad has taken into custody over 50,000 firearms and has never had any semi-automatic AK-47s, semi-automatic H&K 91s, semi-automatic H&K 93s or semi-automatic AR-180s ever converted to full automatic fire. They have encountered one semi-automatic Ruger Mini 14 converted and a few unsuccessful attempts to convert semi-automatic AR-15s to full-automatic by substituting M-16 parts. Each year they handle over 4000 firearms of which an average of 12 (.003 percent) have had conversions. Of those converted firearms, less than half were operational.

Q? Are these semi-automatic military style rifles more deadly than semi-automatic hunting rifles?

A: No. In fact the opposite is true. According to Dr. Martin L. Fackler, Director of the Wound Ballistics Laboratory at the Letterman Army Institute of Research at the Presidio of San Francisco: "The full-metal-jacketed military bullets designed for use in 'assault rifles' are specifically made so as to limit tissue disruption, i.e., to wound rather than to kill....By the same token, military bullets are prohibited for hunting because they lack tissue disruption capacity—they are more likely to wound than kill."

(over, please)

Q? Why are semi-automatic versions of military style "assault rifles" under such attack?

A: Most proponents of handgun control have accepted as fact the inability of the handgun restriction movement to organize itself into an effective electoral threat. They have found marginal success by attacking such firearms issues as armor piercing ammunition, plastic guns, and machine guns. These were new topics! So is the "assault rifle" issue. They suspect that by coupling the menacing looks of an assault rifle with the public's confusion over semi-automatic and full-automatic firearms they can increase the chances for restrictions of these types of firearms. In other words, if it's black and looks bad, it must be evil. A win for the pro-control advocates on this issue will surely pave the way for additional bans on other, if not all, firearms.

Q? Are semi-automatic sporting arms a crime problem in the United States?

A: No, according to Stephen E. Higgins, Director of the Bureau of Alcohol, Tobacco and Firearms in statements made on March 15, 1989, 10% of the firearms used in violent crime are semi-automatic pistols and rifles. Less than 1% are semi-automatic military type firearms.

Q? Are semi-automatic sporting rifles the weapon of choice of today's drug dealers as portrayed by the anti-gunners and the media?

A: No.

Fact: George Wilson, head of the Firearms Examination Division of the Washington D.C., Police force, stated, "In 1988 the department had 'not recovered any' of the rifles covered by last month's importation ban." (March 14, 1989 importation moratorium imposed by Drug Czar William Bennett pending a BATF study)

Fact: City of Seattle police have not had a homicide involving a semi-automatic sporting rifle, of the type referred to by the media as an "assault rifle", in the past 5 years.(April 1989)

Fact: Of 14,988 guns seized by the Chicago police in 1988, 11,263 were revolvers and pistols and 469 were semi-automatic rifles. Of the semi-automatic rifles seized, no distinction was made between military style and those of sporting design.

Fact: New York City Police Lt. James Moran told the New York Times (Feb. 5, 1989) that hardly any of the 16,370 weapons seized in 1988 were assault rifles, which he described as "cumbersome" and unpopular with drug dealers, who prefer concealable handguns.

Q? Does the nation's law enforcement community favor a ban on semi-automatic sporting rifles as portrayed by the media and the anti-gun groups?

A: No. Contrary to comments by a few elitist police chief's, the majority of the nation's top police officers are opposed to such bans. The "1989 Law Enforcement Officers Poll" of 16,000 police chief's and sheriff's, conducted by the National Association of Chiefs of Police, show that 71% support the right of law abiding citizens to purchase ANY type of firearm while 88% do not believe that a ban of "military type" long rifles will reduce criminal acquisition of them.

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WAITING PERIODS: Myth Exposed

Q? What is "waiting period" legislation?

A: "Waiting period" refers to the length of time between the purchase of a firearm and the delivery of the firearm to the purchaser. Waiting period advocates assert it deters violent crime in two ways. First, as a "cooling off" period to stop the use of guns in crimes of passion. Secondly, as a delay allowing, but in most cases not mandating, that the local police check the background of the purchaser.

Q? Does a "cooling off" period deter the "crime of passion" where a person flies into a rage and kills a friend or family member?

A: No.

Fact: Most "crimes of passion" occur between the hours of 10p.m. and 3a.m. when few, if any, gun shops are open. This suggests the immediate availability of handguns over the counter is not a factor in such crimes.¹

Fact: Less than one gun owner in 3,000 ever commits murder. Of those who do, over two-thirds have prior arrest records for major felonies. In 87% of domestic homicides, the police had been to the home at least once before to stop violent beatings. In 50% of these cases, the police had been there at least five times.²

Q? Is it true, as advocates of waiting periods suggest, that a "cooling off" period reduces the amount of suicides committed with handguns?

A: There is no evidence to suggest that the availability of firearms has an effect on suicide rates. For example, Japan, Sweden and Denmark, all have extremely strict gun control. Yet they are the nations with the highest suicide rates.³

Q? If the idea of a "cooling off period" is faulty, wouldn't a background check of purchasers stop criminals from acquiring firearms?

A: No.

(over, please)

Fact: A study by Professor James D. Wright, sponsored by the U.S. Department of Justice's National Institute of Justice, found that "Legitimate firearms retailers play only a minor role as direct sources of handguns for adult felony offenders. Policies attempting to regulate handgun acquisition at the point of retail sale...are likely to have little effect."⁴

Fact: Patrick Purdy, infamous for the Stockton school yard massacre in January, 1989, was approved for the purchase of five handguns in spite of California's 15 day waiting period and background check, because all of his felony prosecutions had been plea bargained to misdemeanors, thereby avoiding a felony record.

Q? Wouldn't a waiting period coupled with a background check be a minor inconvenience to ask gun owners to submit to if it could stop one criminal from obtaining a handgun?

A: No. The system of justice in America's free society is that a person is innocent until proven guilty. A waiting period is a clear statement that a firearms purchaser is guilty until proven innocent. Waiting periods are unwarranted, expensive drains on the resources and man-power of our nation's police. To conduct background checks on firearms purchasers means law enforcement personnel are not "on the street" attacking the real crime problems in our communities. In a republic governed by democracy, free people don't have to ask the police for permission to exercise their rights.

Fact: Most proposals require a background check for "each" purchase. Meaning a gun purchaser must be approved for every purchase he or she makes, regardless of prior approvals. Inconveniencing the purchaser and the agency that carries out the check on each purchase.

Fact: Since 1966, Maryland State Police's disapproval rate on handgun purchases averaged less than 1.5% on an average of over 25,000 sales a year. But, in testimony before congress the Maryland State Police spokesman admitted that in 1986 alone, approximately 40% of those disapproved went through the time and expense to challenge the State Police in court. Of that number, 85% were granted purchase authority by the court.⁵

Q? Does the nation's law enforcement community favor waiting period legislation as portrayed by the media and the anti-gun groups?

A: No. Contrary to comments by a few elitist police chiefs, the majority of the nation's top police officers are opposed to waiting periods. The "1989 Law Enforcement Officers Poll" of 16,259 police chiefs and sheriff's, conducted by the National Association of Chiefs of Police, show that 71% do not believe that a waiting period to purchase a handgun or any type of firearm will have an effect on criminals getting firearms.

1. Wolfgang, Marvin. ed, *Studies in Homicide*, Harper & Row, New York, Evanston, and London. 1967
2. Police Foundation, *Domestic Violence and the Police: Studies in Detroit and Kansas City*, Washington, D.C., 1977.
3. *Centers for Disease Control: Suicide Surveillance, 1970-1980, issued April 1985.*
4. Wright, James D., *Research in Brief: The Armed Criminal in America*, U.S. Department of Justice, National Institute of Justice, November 1986.
5. Tartaro, Joseph P., ed., *The New Gun Week*, Buffalo, New York, November 27, 1987.

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The Police View of Gun Control

The following statistics were supplied by the National Association of Chiefs of Police, based on the American Law Enforcement Officers Poll for 1989 sent to 16,259 Chiefs of Police, Sheriffs and command personnel nationwide. The purpose of the survey was to enlighten the Congress, the media, and other organizations regarding the opinions of our nation's top law enforcement officers. It is believed that the National Association of Chiefs of Police is the only law enforcement association to actually conduct these surveys. Questions, responses and emphasis are printed here as polled.

Q? Do you believe that the **banning** of firearms (handguns, shotguns or rifles) will **reduce** the ability of criminals to obtain such weapons?

90.18% responded NO.

Q? A "military type" of long gun (rifle, shotgun, etc.) is now being described as one being able to hold **more than five** rounds of ammunition. It must be fired by pulling the **trigger each time**. The legal description would cover many semi-automatic weapons. Do you believe that **banning** such weapons would reduce the likelihood of criminals obtaining them?

86.73% responded NO.

Q? Do you believe that **law-abiding citizens** should have the right to purchase any type of firearm for sport or self-defense under state laws that **now** exist?

68.71% responded YES

Q? Do you believe that the **banning** of private ownership of firearms will result in fewer crimes from firearms?

87.62% responded NO.

(over, please)

Q? Would you agree that most criminals obtain their weapons from illegal sources?

89.94% responded YES.

Q? Some states have longer waiting periods than others. Would you agree that it should be a state mandated law rather than a federal regulation as to firearms purchase requirements?

62.64% responded STATE.

Q? Do you believe that a **waiting period** to purchase a handgun or any type of firearm will have any effect on criminals getting firearms?

70.91% responded NO.

Q? Many of the most terrible crimes with firearms have been carried out by persons with long histories of mental instability. Would you agree that all physicians treating any person for mental illness that could be a threat to themselves or the public, should be **required** to report to the US Public Health Services so the information could be made available for records checks on **all firearms applications**?

95.03% responded YES.

Q? Historically, the militia is "*all men between the ages of 16 to 45*". Under the present armed forces defense of the United States, the National Guard must be able to mobilize in three days to back up our regular armed forces world-wide. Therefore, the **only** defense would be the "*state militia*" in time of war. Would you agree, that for the sake of the **defense of the United States**, citizens should be allowed to have their own rifles, shotguns and handguns for emergencies, natural or man made?

85.89% responded YES.

Q? Do you feel that the system of criminal justice has **broken down** to the point where it is the **inability** to deal with criminals caught by the police (prosecution and imprisonment) that is the **major** cause of crime in America?

86.46% responded YES.

Q? Do you think the courts are too soft on criminals in general?

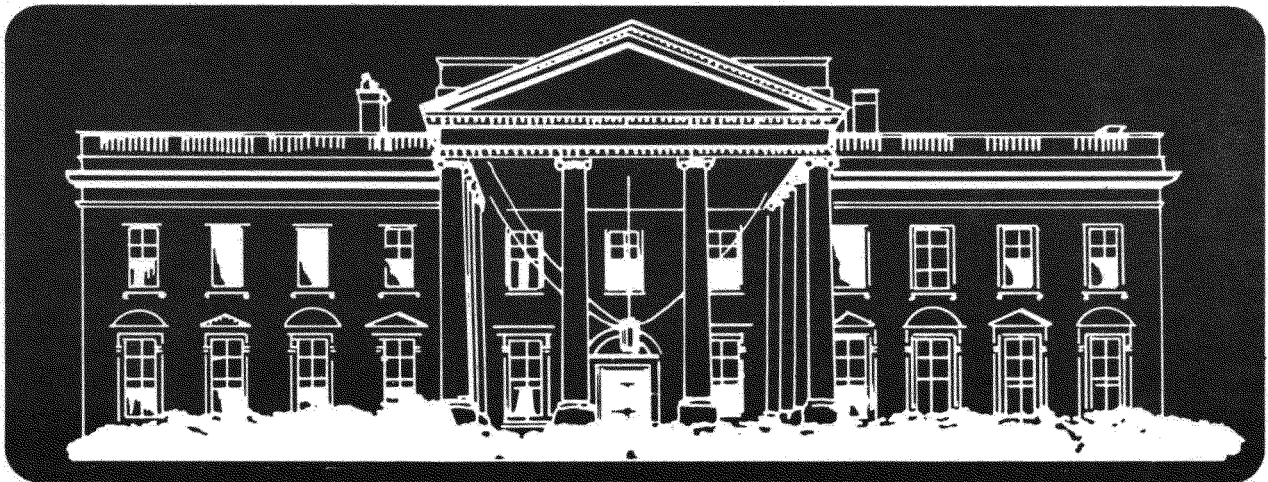
95.60% responded YES.

Q? Do you think the media that depicts violence, especially on TV, while at the same time encouraging the banning of firearms ownership by law-abiding citizens for sport or self-defense, is hypocritical?

89.95% responded YES.

THE FAILURE OF GUN CONTROL

A Task Force Report to the President of the United States, the U.S. Congress and the American People



EXECUTIVE SUMMARY

Approved by

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The Task Force Steering Committee owes our thanks and a special debt to Talcott J. Franklin, Research Director of the Second Amendment Foundation, who served as the editor of this Executive Summary of our findings.

To obtain additional copies of the Task Force Report, send \$3.00 for each copy to:
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WA, 98005.

INTRODUCTION

Gun control advocates have always promised a great deal in return for restricting the rights guaranteed by the Constitution. The most important effect of gun control, they say, will be on the crime rate. Since this promise has been made, there have been many attempts to look at gun control's effects, using both on empirical and quasi-experimental data. The vast majority of this data has been captured here, in the executive summary of this report. The weight of the evidence suggests gun control cannot reduce crime, will not reduce crime, and can only increase the crime rate.

THE ODDS OF SUCCESS

The best place to start is to look at the odds of gun control ever working. Economist Morgan O. Reynolds did such an analysis:

The odds are impossibly against [gun control] to begin with. No more than 0.02 percent of handguns are involved in homicides annually. Even if we add in the 25 percent of aggravated assaults and 40 percent of robberies that involve guns, only 0.7 percent of handguns were used in crimes last year. These guns would be the last 0.7 percent to be registered or turned in because criminals are hardly known for their reverence for the law. Few laws can claim 99.3 percent compliance. Even if it were achieved, criminals would have no difficulty in acquiring new guns.¹

Certainly, criminals will not obey a gun law any more than they obey robbery, murder, or rape laws. Indeed, the majority of criminals already purchase their guns through illegal channels. A study by the National Institute of Justice found five out of six criminals obtain their guns through informal transactions and theft. The report concluded "Controls imposed at the point of retail sale would not be effective..."² In fact, the report lead James K. Stewart, the Director of the National Institute of Justice, to state:

The findings suggest that, for career criminals at least, vigorous enforcement and tougher penal-

1. Morgan O Reynolds; **Crime by Choice**; Fisher Institute; Dallas, TX; 1985; p165

2. James D. Wright; **The Armed Criminal In America**; National Institute of Justice; **Research in Brief**; November, 1986; p2

ties for those who commit crimes with firearms may be more effective than regulation. Our emphasis ought to be on "use a gun, go to jail."³

Is the real objective of gun control to control crime or banish guns?

To overcome the problems of enforcement, many propose restrictive new gun laws which would sacrifice the Fourth Amendment to the Constitution along with the Second. Said Aryeh Neier, Executive Director of the American Civil Liberties Union:

I want the state to take away people's guns. But I don't want the state to use methods against gun owners that I deplore when used against naughty children, sexual minorities, drug users, and unsightly drinkers. Since such reprehensible police practices are probably needed to make anti-gun laws effective, my proposal to ban all guns should probably be marked a failure before it is even tried.⁴

In fact, gun control laws have historically gone hand-in-hand with other Constitutional violations. In St. Louis, police have conducted 25,000 illegal searches in the past few years under the theory that any black man driving a late model car possesses a handgun.⁵ In Michigan, court records show nearly 70 percent of all firearms charges presented are thrown out of court because the evidence was obtained in violation of the Fourth Amendment.⁶

STUDIES ON NATIONAL GUN CONTROL

No study of America has ever proven gun control works. However, there have been many national studies documenting the failure of gun control. A federally funded 1975 study at the University of Wisconsin using the latest sophisticated computerized techniques conducted a comprehensive analysis of every form of state handgun control, including a complete ban, and concluded "gun control laws have no individual or collective effect in reducing the rate of violent crime."⁷

In 1967, Professor Alan S. Krug, an economist at Pennsylvania State University, replicated a 1960 Wisconsin

3. IBID, p1

4. In **Restricting Handguns**; Don B. Kates, ed.; North River Press; April, 1979; p194

5. Don B. Kates, Jr.; "Against Civil Disarmament"; **Harpers**; September, 1978; p33

6. IBID

7. IBID, p30

study. Krug's conclusion echoed that of the 1960 study, and found no statistical correlation between crime rates and the extent of firearms licensing.⁸

According to Don B. Kates, noted Civil Rights Attorney, and Mark K. Benenson, the Former Chairman of Amnesty International:

Six different criminological studies have compared the per capita homicide and other violent crime rates of these jurisdictions in various years to those of states that allow handguns. The conclusion of each study is that, taken together, the handgun-prohibiting states have consistently as high or higher homicide and other violent crime rates as the handgun-allowing states.⁹

Eminent sociologists James Wright and Peter Rossi of the University of Massachusetts conducted the study "Weapons, Crime, and Violence in America" from 1978 to 1981. Their findings, published later in the book **Under the Gun**,¹⁰ document the failure of gun control. In an interview conducted by the National Rifle Association's **Reports From Washington**, Wright stated:

If you go back and examine some of my 1975 publications, you'll see they reflect...a definite pro-gun control type mentality. ...the more we learned and the more material we looked at seriously, the less credible the case for gun control became.¹¹

The report itself concludes:

...hasty and ill-considered attempts to control guns are likely to foster widespread evasions and noncompliance by citizens, by the police, and by other criminal justice agencies. Laws that cannot be enforced, or that violate what citizens perceive to be their rights, or that invite widespread non-compliance, cannot help but undermine the foundations of a society attempting, sometimes fitfully, to exist under the rule of law.¹²

8. Mark K. Benenson; **Restricting Handguns**; p74

9. **Restricting Handguns**; p92-3

10. James D. Wright, Peter H. Rossi, and Kathleen Daly; **Under the Gun**; Aldine Publishing Company; Hawthorne, New York; 1983

11. **Reports From Washington**; Vol. 10, No. 9; May 15, 1983; p5

12. **Under the Gun**; p323

Studies aside, just the basic facts about homicide in this country deny the hypothesis that more guns result in more crime. According to economist Reynolds:

The Wild West of 100 years ago is a good example of the deterrent effect of a population that was willing to protect itself. Guns were totally unregulated...yet the homicide rate was only 10 percent of what it is today.¹³

This country's only national attempt at gun control has been a complete failure. Machine guns and other automatic weapons have been under strict government control since 1934,¹⁴ yet they are still used regularly in crime. Consider this report by the **St. Louis Post Dispatch** of a 1975 Canadian Armored-car robbery. Left at the scene was a .50-caliber Browning machine gun on a tripod. According to the **Post Dispatch**, "it was a World War II weapon that could be easily bought in the United States (emphasis added)."¹⁵ In 1986, police seized nearly 3,000 fully automatic weapons.¹⁶ During a one-month amnesty where citizens were allowed to turn in or register their machine guns, police received 60,000 of them.¹⁷

For an example of the failure of this legislation at keeping weapons out of the hands of criminals, consider the following account from **US News and World Report**:

The sheer firepower is awesome. Chicago's "gun-buster" unit recently raided a West Side gang's arm cache and found 23 live hand grenades, eight machine guns, 7 sawed-off shotguns, a semi-automatic rifle, 20 handguns, a cluster bomb, and several thousands of rounds of ammunition. "I don't even know what a cluster bomb is," says Lt. Wayne Wiberg, chief gunbuster, "and I don't want to find out." Cluster bombs are anti-personnel weapons, normally dropped from airplanes, designed to kill and maim anybody within a wide area.¹⁸

The effectiveness of the National Firearms Act was illustrated by Law Professor Don B. Kates, Jr.:

...machine-gun type weapons are much more common instruments of crime than they ever were in the 1920's. There are more of them available on the black market than were legally sold back then, and

13. **Crime by Choice**; p84

14. The National Firearms Act, 1934

15. **Restricting Handguns**; p99

16. **Gun Week**; October 27, 1989; p4

17. **American Rifleman**; February, 1969; p22

18. **US News and World Report**; April 10, 1989; p22

they are available at lower prices, so that even impecunious fringe groups like the Symbionese Liberation Army easily accumulate them.¹⁹

Perhaps the situation is best described by Professor Kates:

The futility of prohibition laws is illustrated by a recent study of homicide in 13th Century England. Although no guns existed, homicide rates were several times higher than ours. Just as today, the murderers were largely restless, disturbed, alcoholic people; their victims were primarily their families and acquaintances; the weapons were primarily knives and agricultural instruments and, secondarily, large rocks.²⁰

STATE AND LOCAL STUDIES OF GUN CONTROL

Various studies have also been conducted on gun control at state and local levels. In a study of Philadelphia homicides, University of Pennsylvania Professor Marvin Wolfgang concluded:

Several students of homicide have tried to show that the high number of, or easy access to, firearms in this country is causally related to our relatively high homicide rate. Such a conclusion cannot be drawn from the Philadelphia data. ...It is the contention of this observer that few homicides due to shootings could be avoided merely if a firearm were not immediately present, [because] the offender would seek some other weapon to achieve the same destructive goal.²¹

The California Department of Justice reached the same conclusion:

[T]he mere availability of weapons lethal enough to produce a human mortality bears no major relationship to the frequency with which this act is completed. In the home, at work, at play, in almost any environmental setting a multitude of objects exist providing means of inflicting illegal death...."²²

19. Don B. Kates, Jr.; "Gun Control: The Real Facts"; **Field and Stream**; July, 1979; p98

20. IBID.

21. M. Wolfgang; **Patterns In Criminal Homicide** (Science Edition); 1966; p81-83

22. R. Narloch; **Criminal Homicide In California**; prepared by the California Department of Justice, Bureau of Criminal Statistics; 1958; p55

Mark K. Benenson looked at homicide rates in two Pennsylvania cities after the passage of a gun control law in one (Philadelphia). He found in the 24 months after the Philadelphia law was passed, there was a 17% increase in homicide over the 24 months prior to the law. Pittsburgh, which did not enact this "tough, new law," noted a 1% decrease in homicide.²³

A comparison between New York, which had strict gun control, and California, which did not, revealed New York to have a higher absolute rate of violent crime than California, even though California has more population and more overall crime.²⁴

EVIDENCE FOR GUN CONTROL

The state of the evidence "proving" gun control as an effective means of controlling crime is described by Morgan O. Reynolds:

The evidence of failure of actual gun control measures in America is overwhelming. ...There is a long history of gun control laws in this country and they have always promised a great deal but do not seem to deliver the goods. ...No one has found evidence that gun controls decreased crime in the United States, despite the high payoff for such evidence and numerous attempts to find it. Instead, if the laws have any effect at all, they seem to increase crime.²⁵

Mark K. Benenson echoed this view:

...at this writing no contradictory statistical analysis has ever been published...which has indicated, using proper statistical methods, that there is in fact a correlation between gun controls or gun availability and homicide rates. The reason for this failure...can be guessed at -- perhaps there is just no such correlation.²⁶

The Federal Bureau of Investigation's **Uniform Crime Reports** contains a page labeled "Crime Factors." On that page are "Some factors affecting the volume and type of crime occurring from place to place..."²⁷ Neither gun availability or gun control laws are listed as a factor.²⁸

23. **Restricting Handguns**; p79

24. **Restricting Handguns**; p94

25. **Crime By Choice**; p165

26. **Restricting Handguns**; p75

27. US Department of Justice Federal Bureau of Investigation; **Uniform Crime Reports 1988: Crime in the**

The reason for this is quite clear. Professor Gary Kleck of Florida State University elaborates:

There appear to be no strong causal connections between private gun ownership and the crime rate... There is no compelling evidence that private weaponry is an important cause of...violent criminality.²⁹

Even those who have attempted to make the case for gun control admit there is no evidence proving its effectiveness. Dr. Philip Cook of Duke University, who has prepared information for Handgun Control, Incorporated³⁰ confesses "that the case for stringent gun control regulation has not been made in any scientific fashion."³¹

The fact is, gun control has never worked anywhere in America. Even Pete Shields, who calls himself "America's Preeminent spokesman for Handgun Control,"³² admitted:

...the local laws, regardless of how tough they are, or how modest, have a very low probability of working, if you define "working" as reducing gun violence in our society.³³

Never the less, advocates for gun control attempt to prove its effectiveness by manipulating the statistics. A prime example can be found in Pete Shields' book **Guns Don't Die -- People Do**. According to Shields:

A study of the Bartley-Fox law in Massachusetts... concluded that there was a significant decrease in the use of handguns in murders, assaults, and robberies as a result of the law.³⁴

Note that Shields refers only to gun-related incidents, not the crime rate as a whole. The law had other effects as well. Alan Gottlieb provides documentation of Bartley-Fox's effectiveness:

United States; U.S. Government Printing Office; Washington, DC; 6 August, 1989; pv

28. IBID

29. As cited in **Why Handgun Bans Can't Work**; Second Amendment Foundation Issues and Answers Series; Don B. Kates, ed; 1982; p21

30. Pete Shields; Chairman, Handgun Control, Inc.; **Guns Don't Die -- People Do**; Arbor House Publishing; New York, NY; 1981; p80

31. Philip Cook; "A Policy Perspective on Handgun Control", p14; in **Why Handgun Bans Can't Work**; p3

32. **Guns Don't Die -- People Do**; Back Cover

33. As quoted in the **Chicago Tribune**; 23 January, 1982

34. **Guns Don't Die -- People Do**; p84

Between January and September of 1979 the homicide rate in the six largest Massachusetts cities increased by 21 percent over the national average. ...Over the period 1975-78, its aggravated assault cases rose thirty-seven percent in number, making it the fifth fastest-growing assault state, about twice the national average.³⁵

Michael Donovan, spokesman for the Boston Police Department, gave this report of the Bartley-Fox law:

The criminal element still has guns available. We have young white gangs in our Charlestown area who are using guns to hold up banks. It has no effect on them at all.³⁶

Another example of "research" which has been used to prove the case for gun control is the recent study of Vancouver, Canada, and Seattle, Washington. These two cities are supposedly exactly the same with one difference: Vancouver has gun control, Seattle does not. The study's authors claimed to find lower homicide rates in Vancouver than Seattle, and various anti-gun groups claimed this proved the case for gun control.

What is simply amazing about the study is that it ignores ethnic distributions, comparing Asians with African-Americans, despite the fact that the homicide rate is much higher for African-Americans than for Asians. According to the FBI's **Uniform Crime Reports**, 61.6% of those arrested for urban homicide are African-American compared to .9% for Asians.³⁷

If similar ethnic groups are compared, for example, whites only, the statistics tell a different story. For whites, the homicide rate is 6.2 per 100,000 in Seattle, and 6.4 per 100,000 in Vancouver -- higher. In fact, so far this year, Seattle has about half the murder rate of Vancouver (for all races).³⁸

The evidence of gun control actually reducing crime is non-existent, and even those who want to enact strict gun control are aware of these facts. Given the evidence, the Wisconsin study posed the following query:

Are we willing to make sociological and economic investments of such a tremendous nature in a social

35. Alan Gottlieb; **The Rights of Gun Owners**; Caroline House Publishers; Aurora, Illinois; 1981; p25

36. IBID

37. **Uniform Crime Reports 1988**; p195

38. **Gun Week**; 7 July, 1989, p2

experiment for which there is no empirical support?³⁹

GUN CONTROL INCREASING CRIME

Although there is no evidence that gun control reduces crime, a growing number of studies are proving the reverse: that gun control increases crime. A study done at Duke University found that "cities located in states which have the most stringent regulation on gun purchases have significantly higher robbery rates (emphasis in original)."⁴⁰

Robbery is not the only crime shown to increase due to gun control. Gun control may also result in increased burglaries. Noting that recent research has shown burglars avoid residences which they believe have a firearm present, Florida State University Professor Gary Kleck stated: "...gun control measures could conceivably have the perverse effect of actually increasing burglary (emphasis in original)."⁴¹

The homicide rate might also rise under certain gun control proposals. The National Institute of Justice, on finding gun control would only result in "the substitution of more powerful and more lethal firearms,"⁴² issued the dire warning "that many commonly proposed gun control measures could well prove to have unanticipated counter-productive consequences..."⁴³

The fact is, gun control has always been accompanied by increases in the crime rate. Since 1968 New York City has strictly enforced the Sullivan Law. Despite this, even handgun-related homicide, which has risen 40% nation-wide, has jumped 400% in New York City.⁴⁴

In 1975, California increased the waiting period for handgun purchases from 5 days to 15 days. According to information provided by the California Bureau of Criminal Statistics, the homicide rate rose from 9.3 per 100,000 in 1974 to 14.3 per 100,000 in 1980. The homicide rate has not dropped below 1974 levels ever since.⁴⁵

The highly touted handgun ban enacted by Morton Grove, Illinois for largely symbolic reasons has produced some even

39. **Harpers**; p32

40. **Field and Stream**; p35

41. **Why Handgun Bans Can't Work**; p63

42. **The Armed Criminal In America**; Supra; note 2; p5

43. **IBID**

44. **New Dimensions**; "Should Assault Weapons Be Banned?" Special Issue, 1989; p8

45. All information provided by the California Bureau of Criminal Statistics; Sacramento, California

more symbolic results: Morton Grove has had more homicides in the years following the ban than the years preceding it and the crime rate rose 15.7% in 1988.⁴⁶ By comparison, the crime rate rose a mere 3% in 1988 for all of suburban Cook County.⁴⁷

Of the 34 largest cities, seven of the ten with the highest murder rates in the country have gun control.⁴⁸ The leader, of course, is Washington, DC, the city with the toughest gun law in America.⁴⁹

Gun control has always been accompanied by increasing crime rates. According to Kates and Benenson:

It is noteworthy that homicide and other violent crime rates in the handgun-prohibiting states appear to have risen at the same (or even higher) pace than in handgun-allowing states during the nearly fifty years in which the FBI has published national crime statistics.⁵⁰

The reasons gun control increases the crime rate are discussed by Morgan O. Reynolds:

...the arguments and the weight of the evidence suggest that gun control is not only ineffective, but even increases crime by shifting the balance of power toward criminals and distracting law enforcement into costly and unproductive control efforts.⁵¹

ARMED CITIZENS AS A FORCE FOR CRIME REDUCTION

That armed citizens are effective in crime reduction has been proven by firearms training programs across the nation. The basis of this phenomenon was best summed up by Robert Heinlein when he quipped "An armed society is a polite society." Examples of guns in the hands of private citizens deterring crime abound: all one has to do is look in "The Armed Citizen" section of the **American Rifleman** each month. However, when guns in the hands of private citizens are both common and publicized, the crime rate tends to drop.

46. **Gun Week**; 25 August, 1989. See also, **Morton Grove Champion**; 3 August, 1989

47. **IBID**

48. Crime statistics from **Gun Week**; 1 September, 1989; p1. Gun control assessment from Second Amendment Foundation study, released to the press 31 August, 1989

49. **IBID**

50. **Restricting Handguns**; p96

51. **Crime by Choice**; p177

In Orlando, Florida, police instituted a firearms training course in which 6,000 women were trained. In the following year, rape dropped 90 percent there, despite its rise across the country. Aggravated assault and burglary also declined, making Orlando the only city with a population over 100,000 to have a decrease in violent crime.⁵²

In Detroit, a highly publicized firearms training program was carried on by the Grocers' Association. The result was a 90 percent decline in grocery robberies.⁵³ A similar program, adopted by New Orleans pharmacists, was credited by police and federal narcotics agents for decreasing pharmacy robberies from three per week to three in six months.⁵⁴ Highland Park, Michigan had a police-supervised firearms training program for retail merchants which dropped the rate of armed robberies from 80 in the four months preceding the training to zero in the four months after the training.⁵⁵

In Albuquerque, New Mexico, a police strike forced armed citizens to patrol the streets and neighborhoods with pistols and shotguns -- crime dropped to levels Albuquerque had not seen in years.⁵⁶ Kennesaw, Georgia, after enacting a law requiring the head of every household to possess a firearm, saw violent crimes decrease from 17 in 1981 to 1 in 1982 (the year following the ordinance). Burglaries fell from 55 in 1981 to 19 in 1982, and 9 in 1983.⁵⁷

It is a fact that most criminals are looking for an easy mark -- not someone who will make trouble for them. 57 percent of convicts agree that "most criminals are more worried about meeting an armed victim than they are about running into the police."⁵⁸ 43 percent said they had, at some time in their lives, decided not to do a crime because they knew or believed the victim was carrying a gun.⁵⁹ 58 percent agreed "a store-owner who is known to keep a gun on the premises is not going to get robbed very often."⁶⁰

Public opinion polls suggest a very large number of people have used a gun either in self-defense or to deter

52. **Field and Stream**; p93

53. IBID

54. IBID

55. Alan Gottlieb; **The Gun Rights Fact Book**; Merril Press; Bellevue, Washington; 1988; p114

56. **Field and Stream**; p93

57. **The Gun Rights Fact Book**; p101

58. IBID; p133

59. Gary Kleck; "Crime Control Through the Private Use of Armed Force"; **Social Problems**; vol. 35, No. 1; February, 1988; p12

60. IBID

crime. A poll conducted in 1978 concluded 5.2 million registered voters or their families have actually had to fire a gun for self-defense.⁶¹ According to research done by Gary Kleck of Florida State University:

I estimate there were about 645,000 defensive uses of handguns against persons per year, excluding police or military uses. ...[I] very roughly estimate that guns of all types are used for defensive purposes about one million times a year.⁶²

In line with Kleck's analysis, James Wright of the University of Massachusetts concluded "the proportion of U.S. adults that have actually fired a weapon in self-defense is somewhere in the range of 2-6 percent."⁶³ This argument is further strengthened by a publication of the National Police Officer's Association:

For every criminal that uses a gun to rob and kill, we have ten times that number of armed citizens who are able to assist the police in capturing these potential killers because they are armed...⁶⁴

Although many have heard the statistic "for every burglar stopped by a gun, four to six homeowners or family members are killed accidentally by a gun."⁶⁵ Professor James Wright responds:

That's the ultimate in making up a number. As far as I can tell, that ratio has no empirical basis whatsoever... It's really a very inappropriate ratio.⁶⁶

Professor Don Kates describes the "methodology" used in the study which generated the six to one ratio:

...the rabidly anti-gun authors of this study manufactured their statistic by an unannounced transfer of gun suicides into the tiny category of gun accident deaths. ...the effect of this sleight-of-hand is to exaggerate the number of accidents by upwards of 4,400 percent, rendering

61. Wright, et al; **Under the Gun**; p147

62. Gary Kleck; **Social Problems**; p2-4

63. James Wright; as quoted in **Why Handgun Bans Can't Work**; p73

64. James E. Edwards; **Myths About Guns**; Peninsula Press; Coral Springs, Florida; 1978; p72

65. The National Coalition to Ban Handguns; **Twenty Questions and Answers**; Washington, DC; pamphlet

66. **Reports From Washington**; Vol. 10, No. 9; May 15, 1983; p5

the accident-to-self-defense comparison totally worthless.⁶⁷

Professor Gary Kleck extends the analysis of this study:

Contrary to their interpretation, the weight of their relatively hard evidence contradicts the claim that guns are ineffective for self-defense.⁶⁸

Indeed, those who keep a gun in the home are safer than those who do not. Argues Professor Wright:

So far as the victimization evidence is concerned, people who keep a gun for protection probably are a little bit safer from crime than those who do not, because it appears that a firearm is an effective defense against at least some crimes in at least some circumstances.⁶⁹

WAITING PERIODS AND PERMITS

The data on waiting periods and Firearms Ownership Identification Documents (FOIDs), although limited, make it impossible to conclude such proposals have any effect on crime. This report has previously mentioned that most criminals do not obtain firearms through legal means, so one must wonder who is the target of these "reasonable" forms of gun control.

Professors Joseph Magaddino and Marshall Medoff looked at these gun control proposals and homicide rate across the country. They found the correlation coefficients between these schemes and the homicide rate to be "small and statistically not significant."⁷⁰ They argued:

This suggests that there does not appear to be any relationship...between the various legislative schemes and the homicide rate."⁷¹

However, they did find one interesting correlation:

In the FOID states, the correlation coefficient is positively related indicating the possibility of a perverse relationship between this type of legislation and the robbery rate.⁷²

67. Kates; **Field and Stream**; p93-4

68. Kleck; **Why Handgun Bans Can't Work**; p64

69. Wright; **Why Handgun Bans Can't Work**; p69

70. Joseph P. Magaddino and Marshall H. Medoff; "Homicides, Robberies and State Cooling Off Schemes"; **Why Handgun Bans Can't Work**; p102

71. IBID

72. IBID

In other words, state-wide FOID programs do not decrease homicide but are associated with higher robbery rates.

Since only one study has been done on the effects of waiting periods and FOIDs on homicide, the Second Amendment Foundation compared the homicide rate of states with FOIDs or waiting periods to those with no gun control. The results are presented on page 16 of this report.

As is clear from the table, states without gun control do not have higher homicide rates than those with FOIDs or waiting periods. Indeed, the homicide rate for states without gun control has dropped much more rapidly than in the states with gun control. In those states which had waiting periods and/or FOIDs for handgun purchases, the homicide rate per 100,000 since 1979, on average, dropped from 7.2 to 6.4, or 0.8 per state. In those states without gun control, the homicide rate per 100,000 since 1979 dropped from 8.5 to 6.5 on average, or 2.0 per state, more than twice as much.⁷³

Obviously, many factors caused this drop in the homicide rate, but gun control certainly wasn't one of them. Otherwise, there would have been a greater drop in the homicide rate of the states with waiting periods or FOIDs. If anything, the facts show waiting periods and FOIDs aggravate the homicide rate, since the homicide rate in those states with gun control did not drop.⁷⁴

Most interesting is the fact that the states with the strictest gun control (New York [11.3], Hawaii [4.8], Michigan [12.2], Missouri [8.3], New Jersey [4.6], and North Carolina [8.1]) have a much higher average homicide rate than the states without gun control [6.5] (homicide rate in brackets).

Professor Don Kates improves the validity of the study by pointing out the following:

Taken together, the handgun-prohibitting states [listed above] are widely scattered geographically and are demographically indistinguishable from the national average -- except that they exhibit somewhat less of the cultural and demographic characteristics that are commonly associated with crime and violence.⁷⁵

73. Second Amendment Foundation News Release; 31 August, 1989

74. IBID

75. Restricting Handguns; p93

In short, the correlation is much more impressive given that the states which restrict handguns most severely should have lower crime rates as a result of their demographic circumstances.

CONCLUSIONS

It should be quite clear from reading this report that gun control has a very low probability of working. Given the evidence presented here, it can be said that gun control could not possibly be enforced without treading on civil liberties enshrined in the Bill of Rights. Gun control has been a failure everywhere it has been tried, and testimony from those in the academic world as well as confessions of gun control advocates point this out. Empirical "support" for gun control is gained through manipulated evidence and dubious comparisons. Indeed, there is a great deal of evidence which proves gun control actually increases crime and an armed citizenry is a deterrent for crime. In fact, not one gun control proposal, not even the "reasonable" alternatives, such as waiting periods and FOIDS, has ever reduced crime. We conclude with the words of Professor John Salter, Jr., a noted civil rights advocate, in a letter to a gun control organization:

The causes of crime are complex and involved: racism and ethnocentrism, poverty, urban congestion, and inter-personal and value alienation. They can't be constructively touched by gimmicky legislation, but gimmicky legislation can hurt good people and seriously damage the libertarian traditions of this country.⁷⁶

76. Restricting Handguns; p193

GUN CONTROL STATES					NON-GUN CONTROL STATES			
STATE	YEAR	FOID	BOTH	WAIT	STATE	YEAR	RATE	
Alabama	'79			13.2	Alaska	'79	13.3	
	'87			9.3		'87	10.1	
California	'79			13.0	Arizona	'79	8.9	
	'87			10.6		'87	7.5	
Connecticut	'79			4.2	Arkansas	'79	9.1	
	'87			4.9		'87	7.6	
Hawaii	'79	7.2			Colorado	'79	5.8	
	'87		4.8			'87	5.8	
Illinois	'79		10.7		Delaware	'79	5.7	
	'87		8.3			'87	5.1	
Indiana	'79			8.3	Florida	'79	12.2	
	'87			5.6		'87	11.4	
Iowa	'79	2.2			Georgia	'79	17.1	
	'87	2.1				'87	11.8	
Kansas*	'79		5.5		Idaho	'79	5.4	
	'87		4.4			'87	3.1	
Maryland	'79			9.8	Kentucky	'79	9.5	
	'87			9.6		'87	7.5	
Massachusetts	'79	3.7			Louisiana	'79	16.9	
	'87	3.0				'87	11.1	
Michigan	'79	9.1			Maine	'79	2.8	
	'87	12.2				'87	2.5	
Minnesota	'79			2.3	Mississippi	'79	12.6	
	'87		2.6			'87	10.2	
Missouri	'79	11.2			Montana	'79	4.2	
	'87	8.3				'87	4.1	
New Jersey	'79		6.6		Nebraska	'79	4.1	
	'87		4.6			'87	3.5	
New York	'79	11.9			Nevada*	'79	17.5	
	'87	11.3				'87	8.4	
North Carolina	'79	10.7			New Hampshire	'79	2.4	
	'87	8.1				'87	3.0	
Ohio*	'79		8.1		New Mexico	'79	12.4	
	'87		5.8			'87	10.1	
Oregon	'79			4.2	North Dakota	'79	1.5	
	'87			5.6		'87	1.5	
Pennsylvania	'79			6.2	Oklahoma	'79	9.7	
	'87			5.4		'87	7.5	
Rhode Island	'79			3.2	South Carolina	'79	12.6	
	'87			3.5		'87	9.3	
South Dakota	'79			2.0	Texas	'79	16.7	
	'87			1.8		'87	11.7	
Tennessee	'79			9.8	Utah	'79	4.8	
	'87			9.1		'87	3.3	
Virginia*	'79		8.6		Vermont	'79	1.4	
	'87		7.4			'87	2.7	
Washington	'79			4.8	West Virginia	'79	6.8	
	'87			5.6		'87	4.8	
Wisconsin	'79			3.4	Wyoming	'79	9.1	
	'87			3.5		'87	2.0	
ALL GUN CONTROL STATES AVERAGES					NON-GUN CONTROL STATES AVERAGES			
AVE RATE/STATE		'79	7.2		AVE RATE/STATE		'79	8.5
		'87	6.4				'87	6.5

FOID refers to Firearms Ownership Identification Document. WAIT refers to a waiting period of at least 2 days on the purchase of a handgun. BOTH refers to a combination of both systems. RATE is the homicide rate per 100,000 population. All figures from FBI Uniform Crime Report.

* Ohio, Virginia, and Nevada do not have state-wide restrictions, but restrictions do exist in some localities. Kansas instituted a FOID requirement and waiting period during the time frame of the study. These states were not included in the calculations.

\$3.00

This Task Force Report to the President of the United States, the United States Congress and the American People will fascinate anyone interested in the topic of Gun Control.

The report confirms what many of us who work daily on this issue already knew: Gun Control does not work, and will never solve the problem of violent crime in America.

These findings prove beyond a shadow of a doubt that the last thing that we need is to pass more gun control laws.

Alan M. Gottlieb
CCRKBA, Chairman
SAF, Founder

DATE SUBMITTED 12-7-89

(For Clerk's Use)

Meeting Date 12/14/89

Agenda No. R-14

REQUEST FOR PLACEMENT ON THE AGENDA 12/28/89

Subject: POLYSTYRENE FOAM

Informal Only* 12-12-89
(Date)

Formal Only 12-14-89
(Date)

DEPARTMENT NON DEPARTMENTAL

DIVISION BCC

CONTACT KAREN BELSEY

TELEPHONE 248-5237

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD _____

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Amends Ordinance 614 pertaining to polystyrene foam. Delineates recycling standards, defines polystyrene foam, removes hardship exemption, and changes effective date.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☐ POLICY DIRECTION ☒ APPROVAL

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 45 MINUTES

IMPACT: NONE

PERSONNEL

☐ FISCAL/BUDGETARY

☐ -General Fund

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: [Signature]

BUDGET / PERSONNEL /

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) [Signature]

OTHER _____

(Purchasing, Facilities Management, etc.)

NOTE: If requesting unanimous consent, state situation requiring emergency action on back.

ORDINANCE FACT SHEET

Procedure # 1201

Page #4 of 4

Title ORDINANCE To AMEND ORDINANCE 614

Effective Date _____

Brief statement of purpose of ordinance (include the rationale for adoption of ordinance, a description of persons benefited, and other alternatives explored).

AMENDS ORDINANCE 614 PERTAINING TO POLYSTYRENE FOAM. DELINEATES RECYCLING STANDARDS FOR PARTICIPATING ESTABLISHMENTS, DEFINES POLYSTYRENE FOAM, REMOVES HARSHIP EXEMPTION, AND CHANGES EFFECTIVE DATE.

ACCOMPANIED BY DRAFT RESOLUTIONS WHICH MAKES A FINDING CONCERNING THE EXISTENCE OF A RECYCLING SYSTEM THAT IS ACTIVELY SUPPORTED BY THE PLASTICS INDUSTRY. What other local jurisdictions in the metropolitan area have enacted similar legislation?

CITY OF PORTLAND

What has been the experience in other areas with this type of legislation?

What authority is there for Multnomah County to adopt this legislation? (State statute, home rule charter). Are there constitutional problems?

HOME RULE CHARTER PROVIDES AUTHORITY.

THERE ARE NO CONSTITUTIONAL PROBLEMS

Fiscal Impact Analysis

NONE

(If space is inadequate, please use other side)

SIGNATURES:

Office of County Counsel

Office of County Management

Department Head

(Underlined sections are new or replacement;
[bracketed] sections are deleted)

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ORDINANCE NO. _____

An ordinance to amend Ordinance 614, relating to polystyrene foam, and changing the effective date of certain provisions therein.

Multnomah County ordains as follows:

Section I. Findings.

Since the adoption of Ordinance 614 additional issues have been raised regarding the polystyrene foam ban and recycling alternatives. The following amendments provide clarification of these issues.

Section II. Ordinance 614, Section II, subsection C is amended to read as follows:

(C) On or after [January 1, 1990] April 1, 1990, neither Multnomah County nor any food vendor operating in facilities controlled by the County, nor any restaurant or retail food vendor shall use or serve food to patrons in any polystyrene foam products unless the County, restaurant, or vendor has a recycling program for polystyrene foam products used on the premises and for take-out food, and unless the Board of County Commissioners has found there exists in Multnomah County a recycling system actively supported by the plastics industry. Any recycling program operating pursuant to this section must collect all types of polystyrene foam products including take out products and must meet the following minimum requirements:

[1. The County, restaurant, or vendor must collect all polystyrene foam products including take-out products; and

2. The County, restaurant, or vendor must document that delivery of these plastic products to a recycling processor is occurring.]

1. Bins on the premises for collecting sorted polystyrene containers;

2. If the restaurant or retail food vendor relies on customers to clear their own tables, posted notices to customers about where and how to dispose of polystyrene on the premises;

3. If the restaurant or retail food vendor staff is responsible for clearing eating surfaces and/or premises, posted notices for staff about sorting and disposing of polystyrene;

4. Information to customers that cleaned take-out polystyrene packaging can be returned to the restaurant or food vendor or dropped off at a polystyrene foam recycling drop-off site. Notice to this effect can be made either by posting a sign or by providing some notice on the to go container; and

5. Documentation of delivery of the polystyrene foam product to a recycler/processor. Documentation should be dated and signed by the recycler and should include the estimated amount of polystyrene foam delivered and the location of the recycling station. All documentation should be kept for one year following its issuance.

[3] 6. Further specifications [shall] may be adopted by the Board of County Commissioners upon recommendation by the task force created by this ordinance.

Section III. Ordinance 614, Section II, subsection D, paragraph 1(f) is amended to read as follows:

f. To recommend whether on or after [May 1, 1990] January 1, 1991 restaurants and food vendors, both for profit and/or non-profit, shall be prohibited from serving foods to patrons in any nondegradable plastic products unless a recycling program for disposable plastic products is in place. Toward this end, the task force shall recommend to the Board of County Commissioners additional standards governing recycling programs for disposable plastics used on premises and for take-out food.

Section IV. Ordinance 614, Section II, subsection H is repealed.

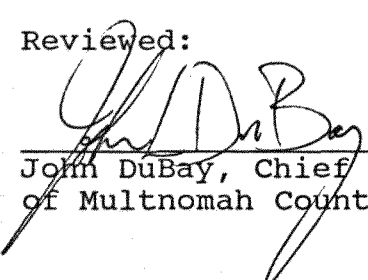
Section V. Ordinance 614, Section II, subsection I is amended by addition of the following:

13. Polystyrene foam means any material composed of polystyrene and having a closed cell air capacity of 25 percent or greater, or a density of less than .787 grams per cubic centimeter based on an average polystyrene density of 1.05 grams per cubic centimeter, as determined by an analytical testing laboratory.

Adopted this _____ day of _____, 19____ being
the date of its _____ reading before the Board of County
Commissioners of Multnomah County, Oregon.

By _____
Gladys McCoy
Multnomah County Chair

Reviewed:



John DuBay, Chief Deputy County Counsel
of Multnomah County, Oregon

DRAFT

RESOLUTION
BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Section 2, subsection C of Ordinance 614 prohibits food vendors operating in facilities controlled by the County, and restaurant and retail food vendors in Multnomah County from using or distributing food to patrons in any polystyrene product unless the Board of County Commissioners has found there exists in Multnomah County a recycling system actively supported by the plastics industry.

In order for such a finding to be made the Board of County Commissioners must identify the elements of a recycling system and receive verification that these elements are in place.

Staff investigation has identified three distinct elements in the recycling process; collecting, processing, and end market sale.

Findings

Whereas a facility exists in the Metropolitan area where polystyrene foam may be received for recycling;

Whereas the reprocessing industry provides information to restaurants and retail food vendors in Multnomah County about methods for collection of polystyrene foam;

Whereas the methods introduced by the reprocessing industry make it possible for the restaurants and retail food vendors to obtain verification of the estimated amount of polystyrene foam received by the processors. Verification is a requirement for establishments participating in the Multnomah County polystyrene foam recycling program;

Whereas the plastics reprocessor has the ability to prepare and reprocess polystyrene foam received from restaurants and retail food vendors into a form suitable for use in a commodity market;

Whereas the plastics reprocessor processes 90% of the polystyrene foam that it receives from the restaurants and food vendors;

Whereas 100% of the polystyrene foam that is reprocessed, is turned into general purpose polystyrene and conveyed into the commodity market;

Investigation has shown that the elements necessary for a recycling system actively supported by the plastics industry are in place and, based on the foregoing:

The Board of County Commissioners hereby resolves that the findings above stated are adopted by the Board pursuant to Section 2, subsection C of Ordinance 614.

DATE SUBMITTED 12-7-89

(For Clerk's Use)

Meeting Date _____

Agenda No. _____

REQUEST FOR PLACEMENT ON THE AGENDA

Subject: POLYSTYRENE Foam

Informal Only* 12-12-89
(Date)

Formal Only 12-14-89
(Date)

DEPARTMENT NON DEPARTMENTAL

DIVISION BCC

CONTACT KAREN BELSEY

TELEPHONE 248-5237

*NAME(s) OF PERSON MAKING PRESENTATION TO BOARD _____

BRIEF SUMMARY Should include other alternatives explored, if applicable, and clear statement of rationale for the action requested.

Amends Ordinance 614 pertaining to polystyrene foam. Delineates recycling standards, defines polystyrene foam, removes hardship exemption, and changes effective date.

(IF ADDITIONAL SPACE IS NEEDED, PLEASE USE REVERSE SIDE)

ACTION REQUESTED:

☐ INFORMATION ONLY ☐ PRELIMINARY APPROVAL ☐ POLICY DIRECTION

INDICATE THE ESTIMATED TIME NEEDED ON AGENDA 45 MINUTES

IMPACT: NONE

PERSONNEL

☐ FISCAL/BUDGETARY

☐ -General Fund

Other _____

SIGNATURES:

DEPARTMENT HEAD, ELECTED OFFICIAL, or COUNTY COMMISSIONER: _____

BUDGET / PERSONNEL _____

COUNTY COUNSEL (Ordinances, Resolutions, Agreements, Contracts) _____

OTHER _____

(Purchasing, Facilities Management, etc.)

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NONE

(If space is inadequate, please use other side)

SIGNATURES:

Office of County Counsel

Office of County Management

Department Head

Liaison Coordinator

(Underlined sections are new or replacement;
[bracketed] sections are deleted)

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FOR MULTNOMAH COUNTY, OREGON
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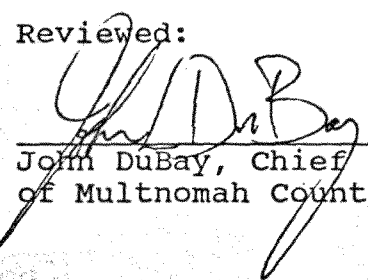
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Adopted this _____ day of _____, 19____ being
the date of its _____ reading before the Board of County
Commissioners of Multnomah County, Oregon.

By _____
Gladys McCoy
Multnomah County Chair

Reviewed:



John DuBay, Chief Deputy County Counsel
of Multnomah County, Oregon

DRAFT

RESOLUTION
BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

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Investigation has shown that the elements necessary for a recycling system actively supported by the plastics industry are in place and, based on the foregoing:

The Board of County Commissioners hereby resolves that the findings above stated are adopted by the Board pursuant to Section 2, subsection C of Ordinance 614.

SUPPLEMENTAL AGENDA

THURSDAY, DECEMBER 14, 1989

EXECUTIVE SESSION

9:00 AM

Discussion of pending litigation - John DuBay, Lorna Stickel, Scott Pemble

allowed under ORS 192.660 (1)(h)

SUBJECT: EXECUTIVE SESSION (ORS 192.660(1)(h) - DISCUSSION OF PENDING LITIGATION
JOHN DuBAY, LORNA STICKEL, SCOTT PEMBLE
DECEMBER 14, 1989 - 9:00 A.M. METRO WESTSIDE BYPASS ISSUE

PRESS LIST

DATE: DECEMBER 13, 1989

THE FOLLOWING WERE CALLED THIS DATE REGARDING:

- a) Meeting: _____
b) Executive Meeting: X
c) Other: _____

Signed: DEBORAH C. ROCKERS

✓ KOIN	Channel 6	464-0797 or 464-0614 Assignment Desk
✓ KGW	Channel 8	226-5111 Assignment Desk
✓ KATU	Channel 2	231-4260 Assignment Desk
✓ KPTV	Channel 12	222-9921 News Desk
✓ KPDX	Channel 49	239-4949 Lee Haglund
✓ KEX	1190 AM	222-1929 Newsroom/Message
✓ KSGO	1520 AM	223-1441 News Desk (After 9, Before 11:30)
✓ KXL	750 AM	231-1071/0750 Newsroom/Message
✓ KGW	62 AM	226-5095 News Desk
✓ K-103 FM		643-5103 Newsroom
✓ KXYQ - 105 FM		226-6731
✓ Oregonian		294-4065 Liz Moore OR 294-4065 Michele McClellan
✓ Gresham Outlook		665-2181 Robin Franzen
✓ Skanner		287-3562 Patrick Mazza
✓ Cable		667-7636 Mike Heinrich or Gary Ellis ROSEMARY KNOX

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

In the Matter of Authorizing
Petition to Court of Appeals
to Appear Amicus Curiae

)
)
)

ORDER NO. 89-213

WHEREAS, the decision of the Oregon Land Use Board of Appeals (LUBA) in Sensible Transportation Options for People et al v. Metropolitan Service District et al applied land use laws in a manner inconsistent with the best interests of the County by creating uncertainty as to what governmental body has authority to exercise comprehensive land use planning authority respecting the statewide planning goals, particularly the Urbanization goal, Goal 14, and when the responsible governmental body must apply that Goal; and

WHEREAS, LUBA's decision has been appealed to the Oregon Court of Appeals; and

WHEREAS, an appearance in the appeal proceeding as Amicus Curiae is the only method available to voice the County's position preserving the County's right to measure transportation siting decisions within the County against all relevant statewide land use planning goals.


NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS ORDER:

County Counsel is hereby authorized to petition the Oregon Court of Appeals to appear as Amicus Curiae in the appeal now before the court in CA No. A 62687.

Dated this 14th day of December, 1989,

(SEAL)

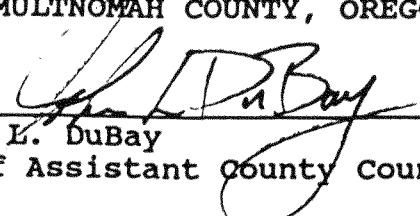
By


Gladys McCoy, Chair
Multnomah County, Oregon

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By


John L. DuBay
Chief Assistant County Counsel

ATTY1.10/mw
12/14/89/1

Teen Pregnancy and School-Based Health Clinics

HB 3466-A Engrossed

Please vote NO on funding!

Mrs. Louise Weidlich
This passed with funding under Human Services.

Introduction

The sexual revolution of the last two decades has brought about a marked increase in the sexual activity of America's youth. During the 1970s, the percentage of sexually active teens grew nearly 67 percent, and while this growth has begun to level off in recent years, there are still more than 11 million sexually active teenagers in America today.¹

This increased sexual behavior has spurred a dramatic rise in the pregnancy rate for unmarried teenage females. In fact, more than one million teenagers become pregnant each year.²

To combat this growing problem, public health clinics have made birth control counseling and free contraceptives available to minors and many public schools have implemented sex education programs.

Although well-intentioned, these programs have not worked. In fact, they may have actually exacerbated the problem. In a recent report on teen pregnancy, the House Select Committee on Children, Youth & Families found that despite sex education and contraceptive distribution programs

*there has been no change in the percentage of sexually active teens who become pregnant, but there has been a huge increase in the percentage of teens who are sexually active. And this increase in sexual activity has led to a proportionate increase in pregnancies to unmarried teens.*³

Why has teenage sexual activity and pregnancy increased despite the development and implementation of well-intentioned and well-financed programs?

The primary reason these programs have failed is that they are based on three flawed presuppositions:

- (1) teenagers will exercise greater sexual responsibility if they have an increased awareness of sexuality and an increased accessibility to contraceptives;
- (2) programs that do not explicitly encourage or discourage teen sexual activity are "morally neutral;" and
- (3) teens will be sexually active even if encouraged to say "no."

Barrett Mosbacker has worked with several organizations involved in helping pregnant teenagers. He is a member of the Family Research Council's Resource Network.

School-based health clinics appear to be the latest step in a growing movement to transform public schools into social welfare agencies which provide a wide range of peripheral services that interfere with academic pursuits.

Teen pregnancy is merely the symptom of a greater problem—premarital, adolescent sexual behavior. Accordingly, public and private programs designed to reduce teen pregnancy should focus on discouraging sexual involvement among youth prior to marriage.

No responsible teacher, parent, school superintendent or counselor would take a 'neutral approach' to stealing, lying, cheating on exams, or violence. Yet, this is precisely what is being done in the area of sexual activity.

Contraception is the Answer?

The first presupposition undergirding current pregnancy prevention projects is that adolescents do not have enough information on the proper use of contraceptives. It is assumed that teenage pregnancy will be reduced if teenagers have easier access to contraceptives and better education on responsible sexual behavior and the proper use of birth control.

If the greater availability of contraceptives and sex education is effective in reducing teenage pregnancy, one would expect to see a correlation between increased contraceptive use and decreased pregnancies. But a study of premaritally sexually active females aged 15-19 found that as sexual activity increases, the probability of pregnancy also increases—even when contraceptives are used consistently.⁴

The contraceptive failure rate is largely responsible

Although well-intentioned, these (sex education and contraceptive distribution) programs have not worked. In fact, they may have actually exacerbated the problem.

for this phenomenon. To quote from the Select Committee on Children, Youth & Families:

The contraceptive failure rate for teens who always use contraceptives is about 10% (Zelnik and Kantner, 1976 and 1979). Therefore, hypothetically, if sexual activity among teens reached 100% and the constant use of contraceptives 100%, we would still have a pregnancy rate of about 10%.⁵

While teen contraceptive use has increased, so has the sophistication in birth control methods. According to Dr. James Ford and Michael Schwartz of the Free Congress Foundation:

At least as significant as the increased regularity of contraceptive use was the increased sophistication in contraceptive methods. By 1976, oral contraception had far outstripped all other methods in popularity among unmarried teenagers, having been used by 58.8% of all unmarried teenage contraceptive users.⁶

This increase in teen pregnancy has occurred even though more teens are using contraceptives, using more effective forms of contraceptives, and are exposed to more instruction on sexual behavior and birth control methods.

'Program advocates and service providers are more or less obligated to exaggerate the potential benefits of services in order to secure political and material support.'

Progressively over the last 25 years, we have, as a nation decided that it is easier to give children pills than to teach them respect for sex and marriage.

Many parents believe that in-school clinics usurp their authority and responsibility for helping children make decisions about sex.

See if these clinics are being started in your school. Often supported by your county commission & school board. (Mrs.) Louise Weidlich

This information is condensed from a book. Let's Write:



Research Council
of America, Inc.

515 Second Street, N.E. • Capitol Hill
Washington, D.C. 20002 • (202) 546-5400

MOTHERS FOR CHILDREN

P. O. BOX 19224
PORTLAND, OREGON 97219