

PENNSYLVANIA
MEDICAL
SOCIETY

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April 11, 1990

Honorable Ruth Harper
House Post Office
Harrisburg, PA 17120

Dear Representative Harper:

I was recently contacted by a member of your staff regarding the Pennsylvania Medical Society's position on House Bill 1928, a measure you sponsored relating to gun control.

The Pennsylvania Medical Society's Board of Trustees have never adopted a pro or con position on gun control. However, you should be aware that the American Medical Association (AMA) has addressed this issue on a number of occasions beginning in 1987.

For your information, I have enclosed copies several "reports" from the AMA's 1987-89, House of Delegates meetings that specifically address various aspects of this issue.

Should you need additional information, please do not hesitate to contact me.

Sincerely,

Jerry L. Rothenberger
Director, Governmental Relations

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REPORTS OF COUNCIL ON SCIENTIFIC AFFAIRS

The following reports, A-E, were presented by George M. Bohigian, M. D., Chairman:

{ A. FIREARMS AS A PUBLIC HEALTH PROBLEM IN THE }
 UNITED STATES: INJURIES AND DEATHS }
 (Reference Committee E, page 360)

HOUSE ACTION: ADOPTED AS FOLLOWS:

Substitute Resolution 46, adopted at the 1986 Interim Meeting, called for the AMA to review the effectiveness of programs designed to reduce deaths and injuries caused by handguns and to support and promote those educational programs sponsored by nationally funded research organizations that have been demonstrably successful.

INTRODUCTION

"Few health issues in our recent history have engendered as complex and lasting a controversy as that surrounding the prevention of firearm deaths and injuries. Through individual and collective action, health professionals can become a potent force to control this epidemic of modern times." (The Epidemiology of Firearm Deaths Among Residents of California, 1987) There is unquestionably a need to treat this public health matter with as much urgency as any dread disease.

Precise figures are not available, but there are now perhaps 180 to 200 million firearms in the United States, of which 55 to 60 million are handguns. In the wake of the increasing incidence of gun-related violent crimes and accidental and intentional deaths and injuries, laws have been enacted to control and/or discourage private gun ownership and especially to eliminate guns from the hands of the criminals.

Gun control proponents contend that the increased rates in firearm-related homicide and suicide are related to the increasing availability of firearms. Nationwide, firearms account for 58 percent of all homicides and 57 percent of all suicides. Moreover, high rates of firearm homicides, suicides and unintentional deaths correlate with high regional or local rates of gun ownership. Proponents also contend that guns produce more crime than they prevent. Unfortunately, there is no way of determining how many crimes may have been deterred because of civilian gun ownership. (A survey would be possible, using a sampling frame of the National Opinion Research Center at the University of Chicago. {Personal communication, G. Wintemute, M. D., August 3, 1987})

Gun control opponents argue that such laws are an abrogation of the citizens' rights under the U. S. Constitution to bear arms in peacetime. They also cite data showing that handguns are not a major cause of injuries and death, especially when compared to cardiovascular disease, cancer, diabetes and accidents caused by automobiles, falls, drowning and fires. However, data from the table that follows would indicate otherwise. In a recent symposium on the subject of gun control, Kaplan raised a number of questions that bear consideration, for example: What effect would the complete absence of guns have on domestic violence or "predatory crimes"? Would the laws, even if enforced successfully and completely, reduce crimes by those who are the greatest threat to society? If only some firearms were less available, might not criminals turn to unrestricted weapons, such as shotguns and rifles — probably sawed-off for reason of concealability — which are considerably more lethal than handguns? And if entirely deprived of guns, might not assailants use another type of weapon and do as much damage?

Guns — both handguns and long guns — are irrefutably extremely dangerous and are capable of causing unacceptable and unnecessary numbers of injuries and fatalities even when used by responsible persons. If

Twelve Leading Causes of Death in the United States, 1983

ALL CAUSES	2,019,201
Heart disease	770,432
Cancer	442,986
Stroke (CV disease)	155,598
ACCIDENTS (all causes)	92,488
Motor vehicle	44,452
Falls	12,024
Drowning	6,353
Fires, burns	5,028
Ingestion of food, other objects	3,387
Firearms	1,696*
(said to include some 500 handgun and 300 hunting accidents)	
Pneumonia	54,423
Diabetes mellitus	36,246
Suicide (all means)	28,295
Firearms-related	16,600*
Chronic liver disease, cirrhosis	27,266
Atherosclerosis	26,371
Homicides	19,530
Firearms-related	12,040*
Perinatal conditions	19,310
Nephritis, nephrosis	18,998
 TOTAL FIREARMS-RELATED DEATHS	 32,099

* Another 257 deaths were due to legal intervention and 507 were undetermined (i. e., either accidental or intentional).

society hopes or intends to reduce the number of firearm-related injuries and deaths significantly, it should be willing at least to remove guns — especially handguns — from the hands of persons who are a threat to society and to remove from society those persons who threaten the public with guns or other lethal weapons. Meanwhile, educating rightful firearms owners and users in the proper handling and storage of their weapons must continue, an action that may help to reduce unnecessary deaths and injuries.

EXTENT AND CONSEQUENCES OF GUN-RELATED
CRIME AND VIOLENCE

Death

In 1983, firearms were ranked among the 12 leading causes of death in the United States, and, compared to all other causes of accidental death, firearm accidents ranked among the top ten. Precisely where firearm accidents rank is debatable because of differences in definitions and reporting.

The number of fatal firearm accidents among U. S. civilians, according to the "Vital Statistics of the United States, 1936-66," held near-steady at approximately 2,200 per year until 1966; the declining rate (from approximately 2.2 per 100,000 to 1.4 per 100,000) was balanced by the increase in population

growth. The number of deaths annually increased to 2,400 in 1970 and to 2,900 in 1987. The increase in the number of firearm-related homicides closely paralleled the increase in the number of all homicides from 1982 to 1988.

Kellerman and Reay studied the epidemiology of deaths due to firearms in the home by reviewing all gunshot deaths in Washington state from 1978 to 1983. Of the 743 firearm-related deaths - 70.5 percent of which were caused by handguns - 398 (54 percent) occurred in the home where the firearm was kept, and only 9 of the 398 (2.3 percent) were justifiable homicides. In other words, for every firearm homicide related to self-protection, there were 1.3 accidental deaths, 4.6 criminal homicides and 37 suicides.

An analysis of 26,442 firearm deaths among California residents from 1977 through 1983 disclosed that firearms were the number one cause of death for certain groups of people in that state: black males aged 25 to 34 years and females aged 15 to 24 years. Firearms were among the top ten causes of death for the state as a whole; moreover, its firearm homicide, suicide and unintentional death rates were similar to the median for all states.

In another study, the accidental firearm fatality rate increased threefold in Cuyahoga County, Ohio, from 1967 to 1973. These deaths, which occurred most commonly in those aged 25 to 34, were more frequent in the central city (Cleveland) than in the suburbs, usually took place within the home, and were more prevalent among males, especially nonwhites. About one-half of the adults had been drinking alcohol at the time. The authors of the study were of the opinion that the frequency of fatalities was related to the increase in availability of handguns (one retail dealer is said to have been selling from 30 to 40 handguns per day, seven days a week) and that the presence of the loaded weapon was more likely to cause an accidental death than to kill an intruder (about 41 percent of the accidental deaths for children up to age 15 were self-inflicted; about 70 percent of accidental deaths in adults were self-inflicted).

When Rushforth, et al analyzed homicide patterns in Cuyahoga County, Ohio, for 1958-74, the trends noted were consistent with those in other U. S. metropolitan counties, and the increased use of handguns was the factor most consistently associated with those trends. Firearms were used more frequently and firearm deaths were more prevalent than other modes of killing males (i. e., by cutting or piercing weapons) but there was a greater relative increase in homicides using objects other than firearms and knives among white women in cities. Although the homicide rate increased during 1958 to 1974, the proportion of white male felonious homicide victims killed by firearms rather than other weapons was constant at about 76 percent, but the rate of killings increased by 600 percent. Overall, the increase in homicide rates was not believed to be due solely to an increase in firearm deaths.

An examination of firearm fatalities in South Carolina from 1970 to 1978 disclosed 5,808 accidental, homicide, suicide or undetermined deaths, for an average incidence of 645 fatalities per year, or a rate of 23.4 per 100,000 population. In 1975, firearms were the sixth leading specific cause of all deaths - a rate of 2.9 percent. Significant declines in the fatality rates during the 1970s was allegedly due to decreases in the rates for nonwhites.

Fatalities in Children: One of the more grievous aspects of handgun violence is the fact that children are very often the victims of fatal gunshot wounds, either intentionally or accidentally self-inflicted or as innocent bystanders in scenes of domestic or street violence. Schetky has stated that gun accidents are the fifth leading cause of death in young children.

Most unintentional firearm deaths among children younger than 15 years were traced to loaded and unlocked weapons used in play. The 88 cases in one study represented 64 percent of all unintentional firearm deaths and 19 percent of all firearm deaths in California from 1977 through 1983. The shooter was another family member in 24 percent of the incidents and a playmate in 35 percent; 70 percent were boys aged 10 to 14 years. The authors added that unintentional deaths of friends and family members in the home were up to six times more common than shootings of criminals.

To verify the extent of the firearms hazard in their community, Patterson and Smith surveyed 150 families who attended the pediatric clinic at the University of Texas Medical Branch, Galveston. The authors found that 33 percent of these families had at least one gun in the home; 55 percent in this group said that their guns were always loaded and 10 percent added that their weapons were loaded, unloaded and within reach of a child.

Of the 210 cases of accidental gunshot deaths (38 percent were with handguns) in North Carolina from 1976-1980, 94 were self-inflicted and 116 were inflicted by others. Most of the victims were white males, and 31 percent were under age 15; in 16 percent of the accidents involving children, the victims were playing with guns, while in 14 percent the weapons were dropped or mishandled.

The Paulson and Rushforth review of homicides in Cuyahoga County, Ohio, between 1958 and 1982 disclosed that more than 15 percent of children less than 4 years old, 49 percent of those 5 to 9 years old, and 63 percent of those 10 to 14 years old die of firearm injuries, a little more than 55 percent of which are due to handguns.

Suicides: Depression and chronic alcoholism are reported to be the major reasons Americans consider suicide. As of 1982, over 28,000 Americans per year committed suicide, more than half (59 percent) were committed with firearms, and a very significant proportion involved youths and the elderly. Almost 50,000 youths between 15 and 24 years old committed suicide in the United States from 1970 to 1980; the number and rate was twice as high for young adults (20 to 24 years) as for teenagers (15 to 19 years), and the greatest proportion of suicides among both males and females was committed with firearms. The firearms suicide rate among people of both sexes aged 15 to 24 years roughly paralleled the corresponding rate by all other means, but it increased by 139 percent from 1933 to 1982 (for all other means, the rate increased only 32 percent). Beginning in 1970, however, the firearms suicide rate for those in this age group, especially males, rose dramatically compared to the rise by other means - about three times faster for 15- to 19-year-olds and ten times faster for 20- to 24-year-olds. One plausible explanation for the rise has been a concomitant increase in the availability of firearms. However, much of the available data are inadequate for anything more than a suggested causal relationship, in part because statistics on suicide are underestimated. Firearms have been the more traditional method of suicide for 10- to 14-year-old males and 10- to 24-year-old females and are even more favored today by females. Overall growth in suicide rates has slowed since 1980, and those related to use of firearms are only slightly higher than those caused by other means.

The same authors also investigated specific suicide methods among adolescents by breaking the data down into five-year age groups rather than the usual ten-year grouping. Boyd and Moscicki urge physicians treating depressed or potential suicide patients to inquire about and to prevent access to weapons.

Markush and Bartolucci compared the prevalence of firearms with the regional incidence of suicide and determined that a significant demographic relationship between firearms and suicide applied only to white males.

The availability of alcohol and the increasing prevalence of its abuse may also be a significant reason for the rising suicide rate among minors. From 1960 to 1983, firearms victims 11 to 19 years old in Allegheny County, Pennsylvania were about five times more likely to have been drinking beforehand than non-firearm victims.

For anyone intent on suicide, firearms are an assured means of death; about half of the victims choose this method. Had these same persons resorted to less instantly lethal means because fewer or no guns were available, their lives may have been saved. A limited number of those who had received speedy emergency treatment were glad to be alive and may not try again. Hanging, asphyxiation and drowning can be just as irreversible as using a gun if intervention measures are not applied in time, so it does not necessarily follow that the number of suicides would be reduced significantly because of fewer available firearms as

as persons intent on dying can find a lethal means. Availability is probably a big factor in those with a highly impulsive nature - in whom thoughts of suicide occur less than 24 hours before the event.

Injuries

There are virtually no reliable data available on the number of nonfatal firearm injuries because of errors and reporting system incompatibilities; the data that do exist are often misclassified or are incompatible from one system to another. Nonfatal firearm injuries are presumed to greatly outnumber firearm deaths. In a relatively small study, Waller and Whorton found that 6 percent of the unintentional gunshot wounds were fatal, and this figure is probably little different today. In 1968, nonfatal firearm injuries were estimated to be three times more common than firearm deaths; in 1972, the ratio was 5:1. The "best guess" of Wright and Rossi for 1975 was 170,000±75,000 injuries, and 30 times more injuries were inflicted by knives and other penetrating weapons than by guns. In the absence of an adequate database, only the crudest estimates are available on which to formulate legislative policy and to reform society.

Inadequate government funding can be blamed for much of the lack of research and data collection. The disparity in the allocation of federal grant money is stressed in Jagger's comparison of National Institutes of Health research grants for firearm injuries versus five "low-frequency infectious diseases" (LID) (i. e., cholera, diphtheria, polio, congenital rubella syndrome and rabies): there were more than 198,000 firearm injuries compared to 17 cases of LID, yet LIDS received 19 NIH grants while firearm injuries received none.

An early study from California disclosed that only motor vehicle crashes and falls surpassed firearms as a cause of spinal cord injuries. At the Rehabilitation Institute of Chicago, however, admissions for treatment of spinal cord injuries from gunshot wounds (24 percent) exceeded those due to auto accidents (20 percent).

RELATIONSHIP BETWEEN FIREARMS AND VIOLENCE

According to Kleck, there is little evidence to show that the possession of a gun will trigger the aggression of its owner. Instead, the gun, especially insofar as robberies are concerned, may inhibit as well as stimulate aggression: He contends, for instance, that robbers with guns are less likely to assault their victims than if armed with other types of weapons. Weak assailants are more apt to use guns when their intended victims are stronger than they are (for instance, women against men, elderly against young). Kleck also believes that it may not be entirely plausible to conclude that guns are really more deadly than, say, knives, because the gun may be used in situations where the intent is to inflict more serious bodily harm. Consider, however, the findings from a study of 1,639 cases of interpersonal violence in Denmark: 60 percent of the incidents involving firearms were lethal and no more than 7 percent involving knives were lethal. These figures are supported by Newton and Zimring, who have asserted that guns are five times more likely to result in death than knives.

Residential crimes have been increasing sharply in line with firearms in the home, which may indicate that guns in the hands of homeowners does not necessarily deter crime; more likely, the opposite is true. Incidents involving civilians using guns against criminals, though highly publicized by the media, may be based on inadequate data. Unpublished computer counts by the Federal Bureau of Investigation in 1983 indicate there were 490 justifiable (i. e., "excusable") homicides by civilians (422 by firearms) during 1981; there is no way of knowing how many of these were in self-defense because data of this type are not collected either. In Detroit alone, of 297 excusable homicides, 124 were justifiably committed by civilians and only a very small number of these were believed to be accidental.

Accidental deaths (25) from home firearm accidents in Detroit in 1967 exceeded the number of residential robbers and burglars killed in four and one-half years (23). One argument states that if homeowners did shoot and kill some burglars and robbers, one could infer that robbers might perceive an armed victim

as a threat and avoid him; burglars would not expect to have a confrontation. On the other hand, both burglars and robbers would have all the more reason to carry guns if they expected their victims to be armed.

Business burglaries are more prevalent nationwide than robberies, according to the Small Business Administration; usually the crime takes place when the premises are not occupied by guards or operating personnel, in which case guns would offer no protective value.

EDUCATIONAL PROGRAMS TO REDUCE FIREARM INJURIES AND DEATHS

Numerous organizations have developed, or are in the process of preparing, educational materials and programs on the proper storage and handling of firearms. The largest group, the National Rifle Association (NRA), supports more than 2,000 civilian rifle clubs and trains more than 96,000 teenagers annually. The American Legion is now offering the NRA's basic firearms education courses at its local posts.

The Police Executive Research Forum and the Handgun Information Center (HIC) are nonprofit organizations dedicated to public information and education about handguns and handgun violence. One of the most ambitious recent community education projects was developed jointly by these two organizations. A citywide campaign was conducted in Charlotte, North Carolina during the entire month of April 1985. Program planning and post-critique, including a discussion of difficulties that were encountered, are presented in the "Handgun Safety Campaign: Program Manual." For communities interested in this or similar programs, HIC will provide partial funding to "fill gaps in local campaign resources" and possibly to match local funds. HIC also will provide copies of its brochure and news media materials to law enforcement agencies at nominal cost.

The Foundation for Handgun Education, another nonprofit educational organization dedicated to reducing handgun violence, operates in conjunction with the National Coalition to Ban Handguns. The coalition is composed of 31 national educational, religious, medical and professional organizations whose common goal is to prevent needless injuries and loss of life from handgun violence. The foundation also acts as a clearinghouse for firearms litigation information. The foundation has recently begun in Cleveland phase one of a national education campaign to heighten the public's awareness of handgun risks and to "change the attitudes and behaviors of the American people." This city was selected as a marketing research model because it has a high incidence of handgun-related violence.

Effectiveness: The Charlotte program was evaluated by Vogel and Dean who tested its effectiveness against five hypotheses. This program, of questionable merit because it used nonstandard methods and relied on self-reporting of personal behavior, showed statistical significance in only one of the five hypotheses, i. e., those persons exposed to the campaign were more likely to lock up their guns. Most of the controversy raised by the citizens of Charlotte dealt with storing the guns and ammunition in separate locations as a means of optimum safety.

Vintemuth and Teret believe it unlikely that "expanded educational efforts to promote the safe use of firearms will lead to significant future reductions in firearm deaths," because more than 95 percent of the firearms incidents are intended to do harm.

CRIME DETERRENT LEGISLATION

Legislative Efforts to Control Possession of Handguns

More than 20,000 federal, state and local gunlaws in the United States deal with the sale, distribution and use of firearms — more than anywhere else in the world. Most states have some form of firearm control; Massachusetts passed the first law in the 1600s, Kentucky in 1813, Indiana in 1819, and Arkansas and Georgia in 1837.

Over the years, a number of polls have shown that the general population is in favor of controls, yet Congress usually has responded only after sensational acts of violence have occurred. Most of the proposed legislation, especially relating to handguns, has encountered stiff opposition and has been either defeated entirely or watered down to the point of ineffectual control. More important, most gun-control legislation has been aimed at the use of guns after they have been placed in circulation, not before their introduction in the market. The National Firearms Act of 1934, for example, was enacted during the reign of the Capone era mobsters to cope with the civilian ownership of "gangster-type" automatic weapons; however, it emerged as a tax measure. The Federal Firearms Act of 1938 regulates interstate shipment and receipt of firearms. The Omnibus Crime Control and Safe Streets Act of 1968 and the Gun Control Act of 1968 were prompted by assassinations in the 1960s. (A detailed discussion of the scope and frailties of legislation and its administration are presented by Newton and Zimring [Federal Firearms Laws]; a similar discussion is presented for foreign firearms laws [Foreign Firearms Laws].)

The nation's first gun control laws and many of today's municipal laws proscribe the "place and manner" of carrying and using firearms to prevent illegitimate use. "Permissive" laws rely on ownership permits, which are denied to certain relatively small, definable groups who are presumed to be unacceptable risks to society. Unfortunately, purchasers are not required to prove they are not in a high-risk group. Thus, an alternative is a "restrictive" law that does require proof of character and a valid, justifiable reason for ownership. "Registration" complements the licensing process and is one of the cheapest options to administer, but it is not a popular approach and no one can be certain about how effective it will be. It is hoped that registered owners will be responsible about storage and transfer of their weapons in order that they not fall into the wrong hands. The "transfer-notice" in place of registration is meant to report whenever a gun is given, sold, lost or stolen. It is thought to be simpler and less burdensome to the owners and perhaps records would be cheaper to maintain and thus more feasible than registration. No one can be sure how effective compliance will be with either system. However, all of these controls will probably remain ineffectual as long as interstate traffic in arms sales continues.

Several legislative options have been proposed to correct inadequacies in the current situation, for example: (1) regulate the manufacture and importation of firearms and bar the interstate flow of firearms to "unqualified buyers"; (2) force dealers to verify a buyer's place of residence; (3) increase substantially the cost of a dealer's license fee; (4) require that all private sales be conducted through firearm dealers; and (5) hold firearm manufacturers, distributors and owners strictly liable when their weapons cause wrongful deaths and injuries.

Effectiveness: The Comptroller General's "Report to Congress" in 1978 on the effectiveness and costs of handgun control pointed out that there is "strong and widespread disagreement" about the effectiveness and costs of the various measures for gun control in the United States. The report analyzed the various means of reducing gun-related crime, the extent of which firearms were used in violent crimes, and the relationships between firearm availability, violent crime and handgun control.

The report found little solid data about the number of firearms and firearm owners in the United States, and only a few good empirical studies on evaluation of gun control laws. None of the studies showed that there was a decrease in the overall level of violence as attributable to gun control, and it was too soon to evaluate properly the influence of more severe and mandatory sentencing measures. Gun control did not seem to be the answer to national crime, for the "roots" of crime go deeply into the socioeconomic fabric of contemporary society.

At the time of the report, only 20 states and the District of Columbia attempted to screen for undesirable applicants — and even these methods were highly variable. Of the 20, only New York and Massachusetts required the applicant to prove his character and reason for ownership.

Baltimore's "buy-back" program from August to November 1974 (in which owners were given \$50 for each weapon turned in and a \$150 bounty was paid for information that led to a confiscation) was

analyzed after that program ended. Based on very limited data over a 17-month period, statistically there was no significant decrease in overall crime (i. e., murders, assaults, robberies and aggravated assaults) that could be attributed to the program, no lasting decrease in firearm assaults and robberies or aggravated assaults, and no appreciable drop in the rate of murders committed with firearms.

Even the most carefully drafted and enforced gun control laws have had a questionable impact on crime. Most, while still on the books, are obsolete, unenforced and unenforceable, undoubtedly because of a lack of uniformity nationwide and the inability of any or all of them to halt the interstate transport of arms. According to the Bureau of Alcohol, Tobacco and Firearms' Project CUE, controls do limit the availability of guns in those states with restrictive laws but the nonuniformity of the laws and the ineffectiveness of bans on out-of-state sales does not entirely prevent the import of weapons. Authors of Project CUE contended that criminals may have been forced to use older weapons, thus suggesting that the project had some effect, but more extensive analysis would be necessary to confirm this contention.

Current state legislation is a "hodge-podge," full of loopholes, and lacks effective enforcement. The Gun Control Act of 1968 offers little improvement: It cannot halt interstate movement of arms because it does not require dealers to verify the buyer's place of residence, and it is unable to prevent nondealers from buying arms in one state and transporting and selling in another state. Furthermore, any adult who claims some "address for business" can pay \$10 a year and obtain a federal firearms dealer's license. For private sales, no licenses are required.

At least 70 percent of the U. S. population is ruled by gun purchase or acquisition statutes, and 66 percent are subject to a police check either before or after the purchase of a handgun. Yet the literature abounds with accounts of ineffectual enforcement. In Illinois, for example, most gun-related arrests from 1972 to 1976 were for "unlawful use of a deadly weapon"; in actuality, the culprits were apprehended for another infraction, and the offenses were adjudged primarily for carrying a concealed weapon. Only about 12 percent of the persons convicted from 1968 to 1973 under Chicago's gun registration ordinance (in addition to Illinois' "fairly strict" license law) served time in jail, the mean term being 36 days. About a tenth as many were convicted for unlawful possession and about a fifth for not having a firearms owner's license. Based on an estimated 1.7 million gun owners in Illinois, about 26 percent do not have gun licenses; therefore, about 500,000 persons could be arrested on that charge alone. The situation in New York City, which — like Chicago — allegedly has an "extremely strict" gun control law, is no better.

The bans enacted in San Francisco in 1982 (later struck down by an appellate court) and Morton Grove, Illinois (in 1981), though not total prohibitions because they covered only handguns, allowed firearms to be kept at home or at work. San Francisco's law, in response to the assassination of a mayor and councilman, would seem to be a flat prohibition on the possession of any handgun and with no restriction on long guns; actually, its many exceptions that are subject to interpretation, such as private citizens of "good moral character," "for good cause" and for "business purposes," provide many loopholes for legitimate ownership. Morton Grove's law was prompted by an application to open a gun shop in the community. This law survived both state and federal courts, but it too has a number of exceptions, the broadest of which pertain to police officers and "special agents."

Overcrowded prisons, overburdened prosecutor case loads, excessive paperwork and other priorities for limited resources are blamed as the reasons for enforcement laxity. For example, Chicago has a special court for gun cases, but its judges are reluctant to sentence a simple gun violator to prison — especially a "respectable citizen" — when, for lack of space, a murderer or rapist must be released.

Legislation Efforts to Increase Penalties

Inasmuch as handgun bans have turned out to be economically and politically infeasible, some gun control advocates urged — and legislation became focused on — more severe punishment for persons who committed crimes using guns.

The Bertley-Fox Amendment of 1974 to Massachusetts General Law imposed a mandatory one-year sentence — without suspension, probation, parole or furlough — on anyone convicted of illegally carrying a gun (i. e., without a proper identification and authorization to possess and/or carry). Its intent was to require a finding and to prevent plea bargaining and a judge's imposition of a lesser sentence for that which was mandated. In theory, judge and parole board were no longer able to decide the length of sentence of the offender; the effect, however, was to shift discretion about guilt or innocence from the courts to the arresting officers and district attorneys, who became more selective of persons to be frisked, reported, arrested and/or charged in order to avoid incurring the wrath of the "otherwise innocent."

Other states — Connecticut, Hawaii, Maryland, New Hampshire — and the Virgin Islands have emulated the Bertley-Fox Amendment. Only Maryland (most like Massachusetts but without a mandatory penalty, in general, on the first offense and an escalating sentence with prior convictions) attempted to eliminate most of the judicial discretion. Hawaii perhaps has the harshest law: a two- to five-year sentence, with no probation and no required finding.

The Michigan Felony Firearm Statute (enacted about 1979) mandatorily added two years to the sentence of a convicted felon who possessed a firearm during the commission of a crime. If strictly enforced, this law should have obviated the shortcomings inherent in the Bertley-Fox Amendment. However, in practice, no differences were observed in the length of sentences imposed between crimes with or without guns; the courts merely adjusted the sentence of the primary felony downward to compensate for the mandatory two-year addition.

California Penal Code 12022, enacted in 1977, is similar to Michigan law: it added a one-year prison sentence to anyone, including accomplices, armed with a firearm while committing or attempting to commit a felony, and two years were added if the weapon was actually used in the crime. However, as in Michigan, for some unclear reason the courts in California have refused to abide by the letter of the law. California's law is not used by the courts except against the most serious of repeat offenders and then probably as a means of "throwing the book" at them. Again, perhaps judges resent this incursion of their turf or they may believe that other weapons, such as knives and clubs, used in crimes of assault (i. e., homicides and rapes) are "messier and more heinous" than firearms. In other crimes, it has been reasoned that these types of laws interfere with the plea-bargaining process.

Based on experience in New York, harsh or mandatory prison sentences are not effective deterrents against drug and other felony offenses; neither have they reduced the flow of illegal drugs or the overall level of serious crimes. Consider too, that police are unable to solve the most serious crimes, a large number of which are never reported. Few felons are even arrested, and even fewer are convicted. Then, too, the costs could be staggering: New York City estimated the costs of operating its mandatory prison law in 1974 at close to \$20 million for personnel and \$30,000 per cell for construction.

Inasmuch as the criminal justice system is already overcrowded, this alternative to gun control may be doomed to failure also. The Justice Department's Bureau of Justice Statistics has recently estimated that the federal prison system operated at 27 percent to 59 percent above capacity at the end of 1986. The number of inmates at federal and state prisons reached an all-time high of 546,659, an increase of 217,000 since 1980.

Apart from prison overcrowding, leading national crime commissions oppose mandatory sentences for the following reasons: (1) Judges cannot base sentences on what they perceive as "individual factors" and may, therefore, dismiss or acquit the offender or juries may fail to convict the offender because they feel the mandatory sentence is inappropriate to the individual or crime. (2) Such sentences may seriously interfere with bargaining attempts to obtain a plea of guilty and thereby induce judges and prosecutors to use *sub rosa* means to avoid mandatory sentences. (3) The courts, as well as the police and prosecuting attorneys, may simply refuse to enforce or may even misconstrue the law. (4) Incarceration is ineffective and may even be counterproductive when it is applied to all crimes and most offenders.

Boston Youth Program

A demonstration project, titled the Boston Youth Program (funded by the Robert Wood Johnson Foundation) experimented with roleplaying techniques as a possible means of handling depression and of solving disputes without violence (both depression and violence being potential precursors of firearm injuries, suicides and homicides). The program was developed for tenth-grade health students in four Boston schools and one community agency. Eighty-seven percent of its participants enjoyed the program, 73 percent found it helpful in dealing with depression, and 63 percent found it helpful in handling anger.

OTHER MEANS TO REDUCE HANDGUN VIOLENCE

Improved Weapons Design

Irrespective of the success or failure of all other measures to reduce gun-related deaths and injuries (i. e., gun control and crime deterrent laws, public education), it would seem prudent to require improvements or modifications to firearms to make them as safe as humanly possible: improvements should, as a minimum, indicate that the weapon is loaded or ready to fire, prevent accidental discharge, and be less concealable. Redesigning the weapon for safety will be far simpler than attempting to change the behavior of the gun owner, bearing in mind that children lack an appreciation for and the consequences of the dangers of firearms. If the U. S. government can legislate and enforce child-restraint aspirin bottles, why can it not do the same to child-proof handguns?

Tort Liability

Some persons now advocate recourse to product liability litigation to reduce firearm crime and violence and their associated injuries and deaths. An entire symposium was devoted to the discussion - pro and con - of a manufacturer's liability and victim's recovery via tort law, with due consideration for the immediate victim as well as the bystander. (The case of James Brady vs John Hinkley and R. G. Industries was also discussed in the symposium's proceedings.)

Teret and Wintemute urge that handgun manufacturers be made liable and financially responsible for injuries arising from their products, even apart from the fact that the weapons function as intended and their dangers are not hidden. The authors contend that the manufacturer should know and have foreseen the public health significance of its product from the extensive epidemiologic data and, therefore, should be presumed culpable. Furthermore, the manufacturers should be responsible for acts committed by their products, inasmuch as the utility and social benefits of their products are far outweighed by the potential risks of injury and death.

"There is no greater perversion of the free enterprise system than that which seeks to reap profits from human suffering. Who should bear the cost when the products sold by these merchants of destruction accomplish exactly what they are intended to accomplish? It's time to make them pay for the wrongs which a sane society can no longer tolerate. If the notions of morality, conscience and common sense are not enough to constrain these corporations, then just maybe redistributing some of their dollars to the innocent victims of crime will suffice." (W. Turley, C. Harrison, *Strict Tort Liability of Handgun Suppliers*)

Three developments in the strict liability law may have "set the stage" for its application to handgun suppliers: (1) bystander recovery, (2) foreseeable environment of use, and (3) the question of defect. A large body of law relating to motor vehicles (and others) parallels the situation with handguns and may furnish adequate legal precedence.

Turley, et al, contend that strict liability or negligence suits that force handgun manufacturers, distributors and owners to compensate their victims for their wrongful gun-related injuries or deaths would make it uneconomical to manufacture, sell or use handguns. Halbrook is of the opposite opinion, in that the principles of strict liability or negligence per se cannot be applied when the defendant has complied with existing statutes. On the other hand, in *Kelley, et al vs. R. G. Industries, Inc., et al*, the Maryland Court of Appeals ruled in 1985 that the Saturday Night Special was an "unreasonably dangerous product, and its manufacturers and distributors may be liable for harm that results from its use." R. G. Industries, one of the primary manufacturers of these weapons, was finally forced out of business.

OTHER EMERGING ISSUES - PLASTIC HANDGUNS

Wintemute, et al, have called attention to the recent introduction of plastic handguns that, if unrestrained, may pose an even greater public health and security risk. Promoted as "dishwasher safe" and "for women to use as a self-defense weapon," these weapons not only may end up being mistakenly used by children as toys, but they also may be used by terrorists to evade airport security measures, inasmuch as they are nonmetallic and transparent to x-ray radiation. Several bills attempting to cope with this issue have been introduced in the 100th Congress, i. e., HR 84, HR 155, HR 1036 and S 465.

SUMMARY AND RECOMMENDATIONS

The Council on Scientific Affairs recognizes that uncontrolled ownership and use of firearms, especially handguns, is a serious threat to the public's health inasmuch as the weapons are one of the main causes of intentional and unintentional injuries and deaths. The Council, therefore, recommends that the American Medical Association:

1. Encourage and endorse the development and presentation of safety education programs that will engender more responsible use and storage of firearms;
2. Urge that government agencies, the Centers for Disease Control in particular, enlarge their efforts in the study of firearm-related injuries and in the development of ways and means of reducing such injuries and deaths;
3. Urge Congress to enact needed legislation to regulate more effectively the importation and interstate traffic of all handguns;
4. Urge the Congress to support recent legislative efforts to ban the manufacture and importation of nonmetallic, not readily detectable weapons, which also resemble toy guns;
5. Encourage the improvement or modification of firearms so as to make them as safe as humanly possible; and
6. Encourage nongovernmental organizations to develop and test new, less hazardous designs for firearms.

(References pertaining to Report A of the Council on Scientific Affairs are available from the Office of Science and Technology.)

(June 1953)

Reference Committee B

Testimony before the Reference Committee indicated general support for the intent of Resolution 105. However, numerous questions were raised over the propriety of the Association calling for legislative action that would have a direct effect on the internal affairs of other nations. The Association is on record in support of WHO anti-smoking efforts and is in opposition to the U. S. trade policy concerning tobacco production in foreign countries. The other actions requested by this resolution raise serious questions of international law and foreign relations that need detailed study.

((7) RESOLUTION 140 - BAN LOOK-ALIKE TOY GUNS)

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that (1) the title of Resolution 140 be amended to read "Ban Realistic Toy Guns," and (2) Substitute Resolution 140 be adopted as follows: (see page 367)

Resolved, That the American Medical Association work with civic groups and other interested parties to ban production, sale and distribution of realistic toy guns; and be it further

Resolved, That the AMA take a public stand on banning realistic toy guns by various public appeal methods.

Resolution 140 asks the AMA to work with civic groups and other interested agencies to ban production, sale and distribution of look-alike toy guns.

Your Reference Committee heard testimony in support of a ban on toy guns that closely resemble real firearms. The Committee believes that the term "look-alike" may be confusing and the substitute resolution better expressed the issue of concern regarding realistic toy guns.

((8) RESOLUTION 79 - CONTROL OF HANDGUNS)

RECOMMENDATION:

Mr. Speaker, your Reference Committee recommends that (1) the title of Resolution 79 be amended to read "Control of Non-Metallic Handguns," and (2) Substitute Resolution 79 be adopted as follows: (see page 367)

Resolved, That the American Medical Association support a ban on the manufacture, importation and sale of non-metallic handguns which make metal detectors and airport screening devices useless; and be it further

Resolved, That this policy be distributed to both the national media and U. S. legislators.

Resolution 79 calls on the AMA to support a ban on the manufacture and sale of plastic handguns which make metal detectors and airport screening devices useless and that this policy be distributed to national media and U. S. legislators.

Your Reference Committee notes that the AMA is already on record in support of a ban on the manufacture and sale of non-metallic handguns which make metal detectors and airport screening devices useless. The Reference Committee believes that the title and the first Resolve of this resolution should be modified by substituting the word "non-metallic" for the word "plastic," thereby covering all types of guns, including those made from ceramic and other similar materials, that would evade metal detectors and airport screening devices.

(Not Final Action of the House)

Jan. 1967

H. 100-1000

RESOLVED, That the AMA disseminate this information to practicing physicians through existing AMA publications and other communications, seminars, and lectures.

RESOLVED, That the AMA encourage state, local and national groups to work with local public health departments and other agencies in providing health care to underserved populations.

No. 262 VOLUNTARY HEALTH SCREENING PROGRAMS
AND RESPONSIBLE COUNSELING
Introduced by Young Physicians Section

HOUSE ACTION: FOLLOWING SUBSTITUTE RESOLUTION 262 ADOPTED:

RESOLVED, That the American Medical Association conduct a survey to evaluate potential problems regarding the accuracy and efficacy as well as communication and follow-up of test results or other health information obtained by voluntary health screening programs not directed by a physician and report back to the House of Delegates at its 1966 Annual Meeting.

No. 263 CHINESE GOVERNMENT OPPRESSION OF ITS STUDENTS AND CITIZENS
Introduced by Young Physicians Section

HOUSE ACTION: FOLLOWING SUBSTITUTE RESOLUTION 263 ADOPTED:

RESOLVED, That the American Medical Association publicize its displeasure about the atrocities in which the Chinese government used deadly military force in attacking unarmed students and citizens and then violated basic human dignity by refusing to account for the injured and the bodies of the dead; and be it further

RESOLVED, That the AMA transmit its sympathy and horror over these tragic events to Chinese student groups and the Chinese medical community in America and, if appropriate, in China and offer its support wherever possible; and be it further

RESOLVED, That the AMA transmit its feelings of outrage over the recent actions of the Chinese government to the U. S. State Department and the World Medical Association, and ask these organizations to request that in the name of humanity the Chinese government refrain from further actions and spare the lives of the students and citizens sentenced to death, and indicate that the Chinese government's actions have strained the relationship that has been built between China and the medical, scientific and educational community; and be it further

RESOLVED, That the AMA Committee on Human Rights continue to monitor the situation in China and take appropriate action.

No. 264 RESTRICTION OF ASSAULT WEAPONS
Introduced by Young Physicians Section

HOUSE ACTION: FOLLOWING SUBSTITUTE RESOLUTION 264 ADOPTED
IN LIEU OF RESOLUTIONS 148 AND 264:

RESOLVED, That the American Medical Association support appropriate legislation that would restrict the sale and private ownership of large clip, high-rate-of-fire automatic and semi-automatic firearms, or any weapon that is modified or redesigned to operate as a large clip, high-rate-of-fire automatic or semi-automatic weapon.