

Crime -  
Gun Ideas

TO: George Stephanopoulos  
FROM: Jody Powell  
DATE: January 14, 1994  
FAX #: 456-2883  
# OF PAGES: 4 (including this cover)

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I realize this is late, but thought I'd send it over anyway.

To: President Clinton  
Bruce Reed  
Fr: GS

This makes a  
lot of sense  
(GS)

January 14, 1994

## MEMORANDUM

TO: George Stephanopoulos  
FROM: Jody Powell *JP*  
RE: Gun Control

I am reluctant to stick my nose into an area in which I am by no means an expert. However, gun control is something that I have thought about a good deal; and I believe it poses real dangers to the administration. So, here goes.

If there is an area that needs "new thinking," "rethinking," "a different kind of Democrat," and all that, crime/gun control is it. From the outside this does not appear to be happening. What I hear and read sounds like the same old ideas being presented with the same worn-out rhetoric.

There are, I think, two cardinal principles that ought to be kept in mind:

1. To make it worth the effort, you must be able to come up with something on gun control that holds real promise of being effective, and, most importantly, being effective in dealing with the type of violent crime that concerns most Americans.
2. You must talk about what you are doing, even in the policy formulation process, in ways that clearly set this effort apart from past Democratic efforts that have proven to be both ineffective and politically costly.

Let's start with effectiveness. The first and last question that must be asked about any of the policy proposals is, "Do you honestly believe this will really make a significant difference in street crime -- not hunting accidents, not domestic violence, but street crime?"

In my humble estimation, the reason we never get the political benefit from gun control that the polls seem to promise is because our proposals are substantively weak. We have yet to propose anything that people believe will make any difference. The people who are generally for gun control don't make it a voting issue because it has no real impact on their lives. On the other hand, the inconvenience and hassle of wading through another round with indifferent and

incompetent bureaucrats and the fear that this is only the first step toward more radical measures are quite real to people who own guns. As much as I hate to say it, the NRA is effective primarily because it is largely right when it claims that most gun control laws inconvenience and threaten the law-abiding while having little or no impact on violent crime or criminals.

(If you doubt this last, call the D.C. government, say you just moved to town with a couple of shotguns for hunting, and ask what you need to do to comply with the law. Then ask yourself whether you think this law and what you are told to do has had, or is ever likely to have, any beneficial impact on your chances of being shot down on the street, or in your car, or in your house by some kid with no hope and no conscience.)

I do not have the answer to the question of what you could propose that really would make a difference. But I do have a thought or two.

Focus on what really upsets and scares people. It is the growing threat of random violence by strangers. What you want to do is get guns off the street. It is certainly true that too many people die in hunting accidents or domestic violence or occasionally because a five-year old got his hands on a loaded gun. But none of that is what drives the crime issue. And none of that is worth the political capital you would have to expend to make a real difference.

It is easy to be distracted from this focus. The much-publicized Emory study of a few months ago is a classic example. You may think that having a gun in the house for personal protection is ill-advised, but the people who think otherwise don't have to be your enemies. And they aren't all nuts. Once you get past all the rhetoric, my read is that the Emory study basically said, that if you have relatives or frequent guests in your home who are inclined to settle arguments by killing people, it is probably not a good idea to have a gun around.

\* My advice is not to try to go after or spend a lot of time talking about guns in the home. To  
\* repeat myself, that is not what is driving the crime issue. Moreover, given the state of this  
\* society, trying to convince people to support a law that denies their right to protect their homes  
X is probably a loser.

Whatever you propose will require sacrifices from people who own guns or think they might want to someday. If violent crime is truly is a national emergency, perhaps other compromises need to be considered, too. Specifically, is there not some way to broaden and strengthen the ability of police to act against people carrying unlicensed firearms on their person or readily accessible in their vehicle? That is the guts of the issue. Unless you figure out a way to improve enforcement against this type of behavior, the impact of licensing, registration, and the like is marginal at best.

I support registration in principle. But two questions need to be asked. Are the people causing the problem going to comply voluntarily? If not, do you have a way to effectively enforce compliance? If the answer is "no" in both cases, consider whether the benefits are worth making Bob Dole majority leader.

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Finally, a word on rhetoric and positioning. What I have heard thus far are things like, "ending our national love affair with guns" and "making it as least as hard to buy a gun as to get a driver's license." Your problem and the national problem does not come from people who love guns and hunting and other shooting sports. The truth is you need their help. I'm not sure what the second comment means; and I doubt whoever said it is either; but I doubt Washington's murder rate is due to the fact that street punks are insufficiently educated in the safe and effective use of their weapons.

My first bit of advice on positioning is to think carefully before you make gun control the centerpiece of your crime package (which is the way it sounds like you are headed.) Unless you come up with something much more effective than anything yet proposed (which means solving the enforcement problem), it ain't gonna work; and, what is worse, you ain't gonna be able to convince very many people that it will. You will be asking some good Democrats to cast a very tough vote for no good end -- and in a year in which you are already going to be asking for more than a few tough votes.

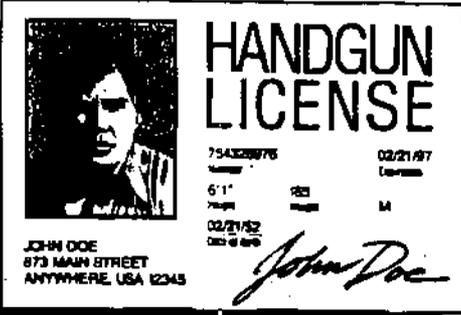
If you are able to come up with something that really has a chance of working, why not make a direct appeal for the support of rational, reasonable gun owners? That would involve choking off the silly rhetoric noted above, telling the truth about what you are proposing and what it is likely to accomplish, and providing some reassurances from the president that he opposes the more radical agendas of some of your allies in the gun control movement -- such as a total ban on handguns or requiring that hunters deposit their guns in government warehouses or the like. It would also involve acknowledging that we are asking people who are not responsible for the problem to make some sacrifice in terms of time and convenience. Most importantly, it would involve a crime program with other workable, effective elements so you would not be in the untenable position of implying that the problem could be solved through gun control alone.

I would like nothing better than to help kick the NRA's butt. With good substance and decent positioning I think it can be done. I also think it would be possible to put together a strong, well-financed coalition that goes well beyond the traditional gun control groups. Indeed, I think such a coalition is critical. You really don't want the traditional groups as the principal leaders. Though I have supported and contributed to some of them, their ineffectiveness is demonstrable and the goals of some are not consistent with the best interests of the administration.

Sorry this is so long and rambling and late. If any of it makes sense to you and I can help, give me a call.

Crime -  
Gun Shows

# Proposed Comprehensive Bill of Handgun Control, Inc.



Requires a license to buy a handgun; mandates fingerprint checks and safety training for license applicants; includes a permanent 7-day cooling-off period; and requires the registration of handgun transfers.



Prohibits gun possession by those convicted of violent misdemeanors, including spousal abuse and child abuse; and requires a special license for the possession of a gun arsenal (20 guns or 1000 rounds of ammunition).

(any Firearm)



Requires gun dealers to pay an annual license fee of \$1000; prohibits the sale of more than one handgun a month to any individual; mandates a federal license for ammunition dealers; requires background checks for gun store employees; bans firearms sales at gun shows; and creates a private cause of action for gun law violations.



Bans semiautomatic assault weapons, Saturday Night Special handguns, and non-sporting ammunition; regulates gun safety; and increases the surtax on handguns and handgun ammunition.

## **Introduction**

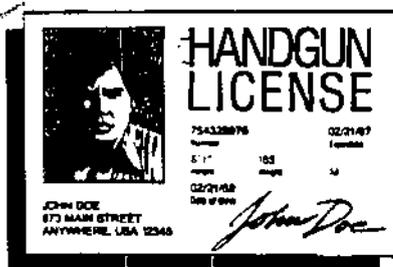
*Since 1987, while the homicide rate has soared, the rate of murders committed with all weapons other than handguns has actually declined by 7%. The entire increase in the national murder rate, from 1987 to 1992, was due to a huge, 52% jump in the rate of murders committed with handguns.*

*Handgun Control has, for years, argued that handguns are the problem, and that we need a "national gun policy" in order to reach a solution. Although the Brady Bill has consumed the public's attention over the past few years, Americans are ready for much more comprehensive initiatives.*

*According to a 1993 Louis Harris poll, 82% of Americans favor handgun registration, 67% favor limiting purchasers to one-gun-per-month, 63% favor a ban on assault weapons, and 62% favor a special handgun tax.*

*A Peter Hart Maryland poll conducted in September 1993 found that 80% would support a "comprehensive" handgun bill, including licensing, registration, regulation of private transfers, a mandatory safety examination and a limit of only two handgun purchases per year. This proposal received approval just as broad as a simple ban on assault weapons. But support for a comprehensive approach is even more deep. People want real solutions to the problem of gun violence, and only a comprehensive program provides such a solution.*

*Therefore, Handgun Control proposes the following comprehensive legislation to regulate every level of the gun industry. While the Brady Bill will save lives, our comprehensive legislation, coupled with education and legal action, will offer a solution to America's epidemic of gun violence.*



# Handgun License and Registration

## The Problem:

*Handguns are much too easily accessible in this country. In 24 states, you can buy a handgun just as fast as you can buy a quart of milk. As a result, handguns are obtained and used by felons, fugitives, the mentally ill, and those who resort to violence in the heat of passion or the depths of depression.*

*The Brady Bill will save many lives by making handguns less accessible. But the Brady Bill will not solve the whole problem. We need to do more. Obtaining a handgun should be more like buying and using a car.*

*In our country, we require a drivers' license and motor vehicle registration because cars are very dangerous consumer products. In order to get a drivers' license, one has to (1) reach a minimum age; (2) present proof of residency; (3) successfully complete a safety examination; (4) present proof of liability insurance coverage; and (5) pay a fee to cover the cost of the license.*

*This has proven to be an effective system for regulating drivers and tracking car ownership. We should implement such a licensing and registration system for handguns because handguns are much more dangerous than automobiles. While cars kill by accident, handguns kill because they are designed and intended to do so. The need is clear.*

## The Solution:

A. A person would have to obtain a handgun license in order to buy, or otherwise receive transfer of any handgun or handgun ammunition. In many ways, a handgun license would be like a driver's license. It would be issued by states and function as a photo identification card. It would remain valid for two years and be renewable. To get a handgun license, an applicant would have to:

- (1) Be at least 21 years old. Currently, federal law prohibits licensed dealers from selling handguns to persons under 21 but it is perfectly legal for an unlicensed person to sell or give a handgun to a child of any age.
- (2) Present proof of residency such as utility bills. It is illegal for an unlicensed person to buy a handgun outside his/her state. However, several states require very little proof of residency to buy a gun.
- (3) Go through both fingerprint and name-based background checks. The Brady Bill requires a name-based criminal history check. But fingerprints provide the most reliable proof of identity.
- (4) Successfully complete a mandatory safety training course. An untrained handgun owner is a menace to society and himself/herself.
- (5) Present proof of liability insurance coverage.
- (6) Pay a fee to cover the cost of the license.

B. Before taking possession of any handgun, a person would display his/her license. Then the transferor, whether a licensed gun dealer or a private individual, would contact the state police or similar authorized agency and:

- (1) Confirm that the handgun license is still valid, because licenses would be revoked if the licensee no longer meets the qualifications.
- (2) Provide information necessary to register the handgun transfer.

C. The purchaser would then have to wait through a 7-day cooling-off period before receiving a handgun. Even if an applicant has no criminal record, he/she should complete a cooling-off period so shootings will not take place in the heat of passion or depths of depression.



# *Restrictions on Gun Possession*

## **The Problem:**

*Currently, there are no restrictions on the possession/ownership of firearms except on persons who are: felons, fugitives, committed to a mental institution, dishonorably discharged from the military, or illegal aliens.*

*It was perfectly legal for David Koresh to own hundreds of guns and millions of rounds of ammunition. It is legal for children, and most people convicted of violent crimes (i.e., misdemeanor assaults), to possess guns. Federal law needs strengthening.*

## **The Solution:**

A. The following would be added to the list of persons prohibited from receiving or possessing firearms:

- (1) Persons convicted of violent misdemeanors, such as simple assault;
- (2) Persons convicted of spousal abuse or child abuse; and
- (3) Persons subject to a protective order.

B. It would be illegal for persons under age 21 to possess handguns, except while under the direct supervision of a parent/guardian or adult instructor authorized by the parent/guardian. It would also be illegal to transfer a handgun to such a juvenile or to negligently store or leave a loaded handgun where it is accessible to a juvenile.

C. There would be required a special federal arsenal license for any person to possess more than 20 firearms or more than 1000 rounds of ammunition. The requirements for getting such a license would be similar to the requirements for a machine gun license, including: (1) a full background check; (2) a fee; and (3) a certificate from local law enforcement approving the license. Anyone who has a personal arsenal is a danger to society. Even if the person never intends to shoot anyone, he/she is a perfect target for gun theft. The federal and local law enforcement authorities should know the location of such arsenals and require strict anti-theft security measures.

D. The authority of ATF to grant "restoration of gun privileges" to prohibited persons would be abolished. Further, states could only restore gun privileges to prohibited persons if the state's reviewing agency affirmatively restores such privileges after specifically considering whether a restoration of *gun* privileges is warranted. In 1986, Congress made it much too easy for guns to be restored to felons. Felons should only have gun privileges restored if state authorities specifically order it.



## *Restrictions on Sellers/Dealers*

### **The Problem:**

*There are more than 280,000 federally licensed gun dealers in America. According to the National Alliance of Stocking Gun Dealers, there are only about "16,000 legitimate storefront independent firearms dealers" and "approximately 5,500 chain and department stores" which sell guns. So, more than 90% of federally licensed gun dealers are not engaged in the regular, legitimate sale of guns.*

*Hundreds of thousands of "kitchen table" dealers exist because it is so easy to get a license. All one has to do is fill out a simple form and pay \$10 per year.*

*Further, there are a whole host of loopholes in the law. A federal license is not required in order to sell ammunition, and in fact, ammunition is sold across state lines by mail! Felons and children can legally be employed by gun stores to sell guns. And federally licensed dealers are not legally required to cooperate when law enforcement authorities telephone for gun tracing information.*

### **The Solution:**

**A. Federal Firearms Licenses ("FFLs") would be limited to bona fide dealers by requiring:**

- (1) Dealers must prove that they are in compliance with all state and local laws. Now, the federal government is required to grant a gun license even when it is known that gun sales are forbidden at the licensed premises.
- (2) The annual fee would be increased to \$1000 per year.
- (3) The time granted to ATF to conduct a background check on applicants would be extended from 45 to 180 days. ATF is simply unable to conduct a reasonable background check in 45 days, especially because applications are currently received at the rate of about 400 per working day.
- (4) The number of yearly inspections permitted would be increased from 1 to 3. In 1986, Congress restricted the inspection authority of ATF. There is simply no justification for tying the hands of law enforcement.
- (5) Licensees must prove they carry adequate business liability insurance.

**B. It would be illegal for any person to sell to one person, or buy, more than one handgun per month.** The purpose of this provision, now law in Virginia and South Carolina, is to make gunrunning impractical. Currently, federal law contains no restriction on the number of handguns which can be bought or sold in one transaction. The multiple sale of handguns by a federally licensed dealer must be reported to ATF pursuant to 18 U.S.C. 923(g)(1)(D)(3). But (a) the reporting occurs after-the-fact, so the gunrunners are long gone before ATF can do anything about them; (b) ATF simply doesn't have the resources to check out a large percentage of the multiple sales reported; and (c) current federal law only applies to transfers by federally licensed dealers, and many multiple handgun sales occur between unlicensed individuals at gun shows. Federal law must be changed in order to stop interstate gunrunning. And the one-handgun-per-month proposal has been proven to work.

**C. No one could engage in the business of selling ammunition without being a federally licensed dealer. The interstate sales of ammunition to non-FFLs would be banned.** Currently, one does not have to be licensed to sell ammunition, or buy ammunition across state lines. In fact, there are mail order catalogues which sell unlimited amounts of ammunition through the mail. They don't even ask if the purchaser is an adult! This means there are no controls at all on who has access to ammunition.

**D. In order to work in a gun store, all employees must pass name-based and fingerprint-based criminal background checks. All**

employees with access to handguns or handgun ammunition must be at least 21 years old and all employees with access to long guns and long gun ammunition must be at least 18 years old. This does not apply to an employee who has no unsupervised access to firearms or ammunition. It is currently not illegal for felons and children to sell guns, or otherwise have unsupervised access to guns and ammunition by working at a gun store. This must be changed.

E. Gun dealers would not be permitted to sell firearms in any location other than the licensed premises. Guns could be exhibited, but not sold, at gun shows. Current federal law explicitly exempts gun shows from the normal requirement that dealers conduct their business at the premises specified in their license. See 18 U.S.C. §923(j). Gun "shows" are really massive gun sales. They provide the ideal setting for gun traffickers to obtain a lot of guns at one time, and it is just impossible for ATF to properly police compliance with federal law at these events.

F. Dealers would be required to cooperate with criminal investigations by:

(1) Responding to ATF's telephone requests for tracing information; and

(2) Reporting all gun thefts and losses to ATF and local police. ATF reports that some gun dealers refuse to cooperate when requests for gun tracing information are requested over the phone. Incredibly, dealers are not required to cooperate. Similarly, dealers are not required to report thefts from their stores even though a quick investigation makes it much more likely to capture the criminals.

G. Component parts of a handgun would be treated as a handgun, so buyers would need a license, sellers would need an FFL, and interstate sales would be illegal. Component parts mean the frame, barrel, stock, receiver, any part of the action, or ammunition magazine. Gun publications regularly advertise gun parts for sale. Since only the lower receiver of a gun, the part containing the serial number, is considered to be a "firearm," all other gun parts can be bought and sold through the mail by unlicensed persons.

H. When delivering firearms, a common carrier must confirm the recipient is an FFL. Companies which deliver firearms from one licensee to another should double-check that the addressee is an FFL by inspecting the license.

I. If an innocent third party injured with a firearm sues for damages, the transferor of that firearm would be held liable for all injuries caused by a violation of the Gun Control Act, and attorney's fees would be assessed against a seller found to have violated the Act. This provision is the key to effective enforcement of federal gun laws. Because the damages inflicted by firearms are so severe, this provision would be a powerful incentive to obey the law. No federal bureaucracy will ever have the impact of civil litigation. Federal civil rights and antitrust laws work primarily because of the private statutory remedies.



# Restrictions on Manufacturers/Importers

## The Problem:

*Contrary to popular belief, a whole range of weapons are currently banned or severely restricted under federal law, mostly through the National Firearms Act, 26 U.S.C. §5801 et seq. Such weapons include machine guns, silencers, sawed-off rifles and shotguns, and non-sporting firearms with a barrel diameter in excess of one-half inch. In addition, non-sporting firearms such as assault weapons and Saturday Night Special handguns, are banned from importation under 18 U.S.C. §925(d). The question, then, is not whether to draw a line between acceptable and unacceptable guns, but where to draw that line.*

*We propose to add certain types of guns to the prohibited category, specifically: semiautomatic assault weapons, Saturday Night Special handguns, and non-sporting ammunition. All of these are already banned from importation into the United States pursuant to 18 U.S.C. §925(d).*

*In addition, we propose to ban large-capacity ammunition magazines which are now totally unregulated in America. Since magazines are not defined as "firearms," they can be manufactured, as well as bought and sold across state lines, without any license. Felons can legally purchase and possess large-capacity ammunition magazines.*

## The Solution:

A. A new system would classify types of firearms into three categories: Class A/Prohibited Firearms; Class B/Licensed Firearms; and Class C/Unlicensed Firearms.

B. Class A/Prohibited Firearms would include weapons currently regulated under the National Firearms Act (such as machine guns), as well as semiautomatic assault weapons, the component parts of machine guns or semiautomatic assault weapons, Saturday Night Special handguns, non-sporting ammunition such as the "dragon's breath" shell, and ammunition magazines with a capacity in excess of six rounds. For all such firearms:

- (1) Future manufacture and importation is banned; and
- (2) Future transfers would require registration of the weapon, payment of a transfer tax, and approval of local law enforcement.

C. Class B/Licensed Firearms would include handguns and handgun ammunition, and all future transfers of such would require a handgun license.

D. Class C/Unlicensed Firearms would include long guns (rifles and shotguns) and long gun ammunition, and all future transfers by FFLs would be subject to the national instant check system, once it is operational under the Brady Bill.

E. The federal government would be authorized to regulate the safety of firearms, but would be forbidden from banning firearms. Currently, firearm safety is totally unregulated. It is legal to sell a gun which does not function, or which blows up in the hand of the user. More important: it is legal to sell guns without the simplest and cheapest of safety devices. Many preventable accidents result.

F. The 10% federal tax on handguns would be increased to 30% and the tax on handgun ammunition would be increased from 11% to 50%. All the proceeds from the handgun/ammo tax should fund a law enforcement program to prevent gun violence, and/or a health care program to treat the victims of gun violence. Currently, there is a 10% surtax on the first sale of a handgun, from the manufacturer or importer to a wholesaler or dealer, and an 11% surtax on long guns and ammunition. The proceeds from this tax are currently disbursed to state fish and game departments through the Pittman-Robertson Program. Those funds are earmarked to benefit hunting and sport shooting.