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Oregon's Carry Concealed Weapon Laws: A Historical Review of the Right to Personal Protection

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OREGON'S CARRY CONCEALED WEAPON LAWS:
A HISTORICAL REVIEW OF THE RIGHT TO PERSONAL PROTECTION

by

RICHARD MEEK BASH

A thesis submitted in partial fulfillment of the
requirements for the degree of

MASTER OF SCIENCE
in
ADMINISTRATION OF JUSTICE

Portland State University
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THESIS APPROVAL

The abstract and thesis of Richard Meek Bash for the Master of Science in Administration of Justice were presented January 30, 1996, and accepted by the thesis committee and department.

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ABSTRACT

An abstract of the thesis of Richard Meek Bash for the Master of Science in Administration of Justice presented January 30, 1996.

Title: Oregon's Carry Concealed Weapon Laws: A Historical Review of the Right to Personal Protection.

This thesis reviews many of the historical, constitutional and legal factors behind today's gun control policy and how they relate to the laws governing the carrying of concealed firearms within the state of Oregon. The historical review of handgun law extends from the 17th century and emphasis is placed upon the time surrounding the few years before the American Revolution in the 1770s as well as from latter part of the 19th century into the 1930s. Since the right of citizens to possess firearms is grounded in both the Second Amendment to the Federal constitution and Article 1, Section 27, of the Oregon constitution, those areas are also discussed. Many legal cases are explored for their impact on the carriage of concealed weapons. An important mass murder which precipitated the Oregon legislation is also reviewed. This is followed by an thorough examination of the Oregon legislative history behind HB 3470, sponsored by then-House Speaker Vera Katz, which was enacted in July, 1989, was effective January 1, 1990, and became the kernel of the snowball passage of CCW (carry concealed weapon) laws within the United States. Statistical tests were conducted using information from the FBI

Uniform Crime Report data for the years 1986-1993. The tests reveal that the passage of the Oregon law did not result in an increased murder rate. The paper concludes by exploring the arguments raised against the concealed handgun licensing law in Oregon. These arguments are found to be both historically inaccurate and statistically inadequate.

PREFACE

A person interested in exploring the area of public policy relating to the carriage of concealed weapons by members of the general public should logically ask what are the indicators of governmental policy in that regard. My review indicates that one principal indicator is the legislation created by state government.

There is a plethora of legislation throughout the United States on firearms regulation. Several reports indicate that today over 20,000 separate laws are on the books of the various levels of government addressing the issue of gun control.¹ To these laws are currently being added laws which permit the citizen to carry a concealed handgun on his or her person. Oregon was one of the first states, after Florida, to address liberalizing the requirements for concealed carrying of a handgun.

The print and electronic media are alive with reports of crime and the illegal use of firearms throughout America. A casual observer, let alone an academic researcher, would have to surmise that whatever policy is in effect, it is a decided failure, since the issue of gun control continues to surface in the media as well as scholarly publications while the reports of misuse of firearms grow and the cries for still more control over firearms in the hands of the public mount. Amid this confusion comes the question of whether or not the growing number of control measures against firearms infringes upon the constitutional rights spelled out in the Second Amendment to the United States Constitution. It is against this background that the issue of permitting any law abiding citizen to carry a concealed handgun in public for his or her personal protection is raised.

This work reviews the development and legislative history of the current law which governs the carrying of concealed handguns in the state of Oregon, the arguments for and against such liberalization, a review of the statistics on murder prior to the passage of the law and also six years following the passage of the law, and a determination of whether the law resulted in its intended goals without engendering an increase in self-defense shootings by license holders.

Harvard *Blue Book* citing technique is used throughout this thesis.

Richard Bash
Portland, Oregon
January 30, 1996

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Without the assistance of Flora Bash, whose tireless reading of the thesis identified innumerable petty errors, this thesis would not be as polished as it is.

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CHAPTER I

INTRODUCTION

Today, throughout the United States, there are federal, state and local laws addressing the regulation of firearms. Every agency from the United States Congress to the smallest city council seems to have written laws on the subject. Such laws often overlap each other. These laws combine to become a general statement of governmental policy, namely that the possession and use of firearms is of such importance in American society that government must respond and regulate this activity through appropriate legislation. The overall design of the various regulations attempts to determine who may and may not possess firearms as well as what firearms are eligible for possession by the general population. The thrust of these regulations is to penalize those in possession of firearms who are deemed ineligible to possess them, provide additional penalties for their misuse and make known to government who is in possession of such weapons.

The United States appears unique among the family of nations when it comes to the issue of firearms, especially handguns. America, unlike the countries of Europe, was founded after the development of firearms and, consequently, firearms were an integral part of the establishment of the United States. They were used to "tame" the wilderness, to expand the geographical boundaries of the nation, as an implement to provide food for people, and to repel aggressors. America seems to

stand out as a country more than a little infatuated with firearms. Firearms were so critical in the early days of the United States that the Founding Fathers even made provisions for them in the amendments to the Constitution:

"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."²

But firearms are not used in the United States to merely repel invaders, to gather food or to defend one's life and property. They are also used to settle disputes and that results in a death rate from firearms unlike any other country. Every year some 30,000 Americans die from firearm related injuries (about 16,000 suicides, 12,000 legal or illegal homicides and 2,000 accidents). Another 40,000 survive firearm-related injuries.³ The criminal use of firearms is a serious problem in America, with criminals seeming to prefer the easy concealability of handguns to rifles or shotguns. There were an estimated 60,000,000 handguns in the United States in 1992.⁴

But regulations and laws at every level have failed to stem the tide of the criminal misuse of firearms. Barely a day goes by that the television news does not tell us of yet another instance of death from a firearm. Police arrest wrongdoers who have used a firearm in the commission of a crime, courts sentence them and the ranks of the penal institutions swell to house the offenders. Taxes are raised. Bonds are issued. New correctional facilities are erected and rapidly fill. Proponents of both sides of the gun control argument have lobbied the nation's leaders with their arguments. Statistics are presented to validate both sides of the gun control argument. Editorials of newspapers⁵ and magazines⁶ discuss gun control, law school

journal articles⁷ explore the legal and constitutional ramifications of gun control, scholarly research publications⁸ address the issue, unending surveys⁹ poll the citizenry about their attitudes regarding one gun control issue or another, and pamphlets¹⁰ from gun control advocates and their opponents are received weekly by their respective supporters. More laws get passed as the result of such efforts. In spite of these efforts, the criminal use of firearms continues.

The public health sector of the medical profession has addressed the issue¹¹. Epidemiologists, practitioners of a branch of modern medicine which deals with the incidence and prevalence of disease in large populations and with detection of the source and cause of epidemics, have entered the arena of the debate because some physicians and public health officials have determined that an epidemic of gun violence exists throughout the nation.

The totality of these issues raises the question in the minds of the citizens of a given state whether they can better be protected by their own efforts. This has become the cry of many pro-guns groups today. That cry is countered by those who, like Steve Duin of *The Oregonian*,¹² argue that the proliferation of concealed carriage of handguns will result in a blood bath, akin to the Wild West days.

As terrorism comes to vogue again in America, many citizens feel a need to arm themselves.¹³ "The terrorist's actions in a domestic setting may not differ appreciably from those committed by conventional offenders."¹⁴ There are many motivations for arming one's self but the root cause is defense against personal violence.

America, compared to the vast majority of civilized nations throughout the world, is still a young nation. America stands alone as the sole industrial, first-world country that maintains a gun culture.¹⁵ The firearm is a "symbol of a much larger ongoing political, social, and cultural struggle -- kulturkampf -- to define the kind of nation America should be."¹⁶ This cultural struggle or conflict was addressed as long ago as 1939 by Edwin Sutherland¹⁷ and by his co-author, Donald Cressey, in 1968.¹⁸ This cultural struggle is one of fundamental interest to American citizens and justice administrators alike. America's gun position is both a statement of the freedom her citizens enjoy and a testimonial to her inability to control the criminal misuse of firearms.

RESEARCH FOCUS

The purpose of this master's thesis is to examine the policies surrounding the carrying of concealed handguns by the citizenry within the state of Oregon. The passage of Oregon House Bill 3470 (HB 3470), initiated by then-Speaker of the Oregon House of Representatives Vera Katz in 1989, changed the laws concerning carrying concealed handguns in the state. With the passage of six years since the implementation of that law, there are adequate data available which permit one to determine the efficacy of liberalizing permits to allow the general citizen to carry a concealed firearm (CCW permits). The object of the examination will be to determine if the arguments which were presented against such liberalized legislation

have held up over time or whether a liberal CCW permit policy is a decided public good.

JUSTIFICATION

The issue of the carriage of concealed handguns by citizens is one of public policy, policy which persons in the field of criminal justice are often called upon to implement and enforce. It is hoped that this study will enable the criminal justice employee interested in public policy issues to gain a greater insight into some of the confusion in this area.

Another reason justifying this thesis is that, to my knowledge, the history of the current Oregon concealed handgun licensing system has not been recorded. This document therefore provides a resource for other researchers wishing to investigate this topic.

LAW ENFORCEMENT VIEWS ON SELF-PROTECTION

The view of the inability of government to provide for the protection of those under its domain is readily verified by law enforcement:

A poll taken for the National Association of Chiefs of Police surveyed heads of more than 15,400 U.S. law enforcement agencies and found that 87 percent think citizens "should take training in self-defense with firearms to protect their homes and property."

The poll showed that 83.6 percent believe the criminal justice system has broken down to the point that its inability to prosecute and imprison criminals is the major cause of crime, and 95.1 percent said that courts are "too soft on criminals in general."

Nearly 90 percent believed their own departments are understaffed and three out of four said that they cannot provide the same level of service as a decade ago, the survey said.¹⁹

This raises the question of whether the ability of the gun owner to provide himself or herself protection is a mere myth. There is evidence suggesting that is not the case:

"Gun-control advocates say guns don't provide protection for owners, yet in 83 percent of the cases in which armed victims confront criminals, the assailant surrenders or flees. 98% of gun-owners are law-abiding citizens."²⁰

HOMICIDE RATES

Is there any other statistical evidence available to support the proposition that firearms in the possession of the citizenry work in their defense? Look for a moment at the homicide rates in Figure 1 for the period 1980-1990:²¹

Figure 1 - Homicide rates per 100,000 population 1980-1990

Figure 1 graphically illustrates that there has not been any "significant increase in homicides in the 1980s. The homicide rate for 1985 through 1990 is 12% below the homicide rate of 1980. If one were to take out the top ten American cities, which have all been controlled by the Democratic Party for years, the national homicide rates of the 1980s would decrease by 27%."²² It is conceded that from 1985 to 1990 there has been an increase but the overall homicide rate for the 10 year period is decidedly down. Interestingly, the "assault rifle" homicide rate for all of the 1980s was less than 1%.²³

INTRAFAMILY KILLINGS

Another view pertains to the use of firearms in domestic and acquaintance murders.²⁴ There have been numerous arguments calling for a severe restriction on firearms or their ban altogether based on the belief that such restrictions or bans, particularly on handguns, would significantly reduce the killings of people known to the shooter. One organization, Handgun Control, Inc., has repeatedly expressed that view in their literature. Since the growth of the women's movement in the past 30 years, more women are presenting that argument. Many studies in a variety of disciplines have been reported in the literature that women are often the targets of domestic and acquaintance violence. Such violence occasionally leads to death at the hands of the perpetrator. It would seem prudent to examine the charge that the possession of firearms by the general population is not primarily used for defense against intruders but against persons known to the assailant.

"The anti-gun crusaders claim most murders result from gun ownership among ordinary citizens: 'That gun in the closet to protect against burglars will most likely be used to shoot a spouse in a moment of rage ... The problem is you and me--law-abiding folks.'"²⁵

If this latter charge is valid, the application of gun control restrictions should reduce the number of such killings and in a state such as Oregon with more liberal gun laws, there should be an associated increase in such killings. Moreover, if the arguments are correct then one would expect an increase in killings committed by CCW licensees due to the ready availability of a weapon.²⁶ While such gun restrictions would not impact the murders by "hardened criminals, terrorists, and assassins,"²⁷ they might protect against spousal and acquaintance murders caused by inflamed passions and the ready availability of a firearm. According to Don Kates,

"If this portrayal of murderers were true, a gun ban might drastically reduce murder because the primary perpetrators (law-abiding citizens) might give up guns even though [criminals] would not. Unfortunately for this appealingly simple nostrum, every national and local study of homicide reveals that murderers are not ordinary citizens--nor are they people who are likely to comply with gun laws. Murderers (and fatal gun accident perpetrators) are atypical, highly aberrant individuals whose spectacular indifference to human life, including their own, is evidenced by life histories of substance abuse, automobile accident, felony [arrests], and attacks on relatives and acquaintances."²⁸

One special data collection computer analysis from the Federal Bureau of Investigation (FBI)²⁹ showed that 74.7% of the people arrested over a four year period nationwide for murder had prior arrest records for either burglary or one or more violent felonies. This finding suggests that, in order to prevent these elements from committing criminal homicide (all killings are legally considered homicide; some are legal and justified, such as self-defense, police shootings or court mandated executions), society must somehow reach these people during the early

stages of their criminal careers and turn them around. That is not the case in the United States.

"Criminal law in the United States is largely classical, with its strong emphasis on individual responsibility for actions and on due process of law. In our contemporary criminal justice system, not until sentencing is there a move away from the classical emphasis, with some sentences designed to 'treat' the offender."³⁰

But if society is totally unable to prevent a murder by a hardened criminal, then is there hope that restrictive gun control or even a gun ban could reduce the number of spousal killings? The problem rests in the background data on prior instances of violence perpetrated by intrafamily murderers. Because attacks on spouses or other immediate family members are often not reported to law enforcement agencies, thus signifying that there may be no prior arrest records, such killings are often found to be the first recorded incident of crime by the assailant. However, many times there are records of police responding to domestic disputes involving that individual and no arrest was performed or warranted at that time.

"Intrafamily murderers are especially likely to have engaged in far more previous violent crimes than show up in their arrest records. But because these attacks were on spouses or other family members, they will rarely have resulted in an arrest. So domestic murderers' official records tend not to show their full prior violence, but only their adult arrests for attacking people outside their families. Therefore, only about '70 to 75 percent of domestic homicide offenders have been previously arrested and about half previously convicted.' As to how many crimes they perpetrate within the family, even in a relatively short time, 'review of police records in Detroit and Kansas City' shows that in 90 percent of the cases of domestic homicide, police had responded at least once to a disturbance call at the home during the two-year period prior to the fatal incident, and in over half (54 percent) of the cases, they had been called five or more times.

"In contrast to these evaluations, neither of the data sets, which are cited as supporting claims that murderers 'are good citizens who kill each other,' is persuasive. The National Coalition to Ban Handguns' assertion that 'most murders are committed by a relative or close acquaintance of the victim' is conceptually unpersuasive because it is a non sequitur: it simply does not follow

that because a murderer knows or is related to his victims, he must be an ordinary citizen rather than a long-time criminal. The conclusion would make sense only if ordinary citizens differed from criminals by neither knowing anyone nor being related to anyone."³¹

The Bureau of Justice Statistics, a division of the National Institute of Justice (itself a department within the federal Department of Justice) refutes the presumption that homicide is caused wholly or in substantial part because of the handiness of the firearm.

"It is commonly hypothesized that much criminal violence, especially homicide, occurs simply because the means of lethal violence (firearms) are readily at hand and, thus, that much homicide would not occur were firearms generally less available. There is no persuasive evidence that supports this view."³²

But does the possession of firearms by the civilian population deter crime at all? In Kennesaw, Georgia, the city council passed an ordinance that required every homeowner to possess a firearm. What were the results of that move?

"Kennesaw, Georgia gained national attention in 1982 when it passed a law requiring every homeowner to own a gun and has some interesting statistics to reveal. Since passage of the law, reports Mark Curriden in *The Dallas Morning News*, the community north of Atlanta has experienced a single, non-gun homicide and a reduction in home burglaries from 11 per 1,000 residents to 3 per 1,000 during a period when the town population has nearly doubled to 9,000 residents."³³

In the next section the literature reviewed and its relationship to the carriage of concealed handguns will be explored.

CHAPTER II

BRIEF HISTORY OF RESTRICTIONS IN AMERICA

The issue of restrictions against the possession of firearms in America is not a new or novel concept. The literature indicates that American gun owners have faced one variation of it or another for nearly 325 years. The first is the instance in 1671 when English colonies were being established in America during the reign of Charles II. The king's government passed legislation to disarm the subjects in England and a similar effort was advanced by his governing party in the Virginia colony, headed by Sir William Berkeley, to disarm the native American Indians. English colonists in Virginia were permitted to carry arms but selling arms to Indians was a capital crime. Berkeley's governorship must have been very repressing to many among the Virginia colonists, for in 1676 a revolt led by a colonist named Bacon (Bacon's Rebellion) challenged Berkeley's authority. Berkeley won the contest. His gun control act of 1677 limited the gathering of armed persons to five; more than that was considered to be a group plotting riot.³⁴

The second probable instance of gun control in the United States also occurred in Virginia. The Virginia Act of 1680 "prohibited slaves from carrying any staff, gun, sword, or other weapon, offensive or defensive. These prohibitions were later extended to all negroes, mulattoes and Indians whomsoever, with a few

exceptions in favor of housekeepers, residents on a frontier plantation, and such as were enlisted in the militia.”³⁵

In 1774 during the English reign of King George III, when advised that the colonists had guns, the king asked his ministers to determine where they had obtained them. Told that the guns were ordered from England, King George III ordered that the export of the weapons to the colonies be prohibited.³⁶ With the shortage of arms rearing its head, independent militias throughout the colonies began to form.

By 1775 the British military occupation of Boston was so complete that in order for a resident to leave the city, he had to surrender his arms. Thousands of people, fearing for their lives, applied for exit passes. Each pass granted to leave Boston was annotated with British General Thomas Gage’s order that “No arms nor ammunition is allowed to pass.”³⁷ Gage’s seizure of the privately owned arms was so offensive to the senses that, later, Colonel John Dickinson and Thomas Jefferson included reference to the incident in the document they jointly prepared to list their reasons for taking up arms against the British.³⁸

The inhabitants of Boston being confined within that town by the general their governor, and having, in order to procure their dismissal, entered into a treaty with him, it was stipulated that the said inhabitants having deposited their arms with their own magistrate, should have liberty to depart, taking with them their other effects. They accordingly delivered up their arms, but in open violation of honour, in defiance of the obligation of treaties, which even savage nations esteemed sacred, the governor ordered the arms deposited as aforesaid, that they might be preserved for their owners, to be seized by a body of soldiers; detained the greatest part of the inhabitants in the town, and compelled the few who were permitted to retire, to leave their most valuable effects behind.³⁹

Tennessee law in 1801 prohibited persons to "publicly ride or go armed to the terror of the people, or privately carry any dirk, large knife, pistol, or any other dangerous weapon, to the fear or terror of any person."⁴⁰ Alabama in 1841 passed a statute specifying that when a death occurred in which the assailant did the killing "by use of a deadly weapon, concealed before the commencement of the fight, his adversary having no deadly weapon drawn," such a slaying would be at least second degree murder but the jury was also empowered to consider first degree murder.⁴¹ Shopkeepers in Georgia in 1837 were proscribed from selling, having in stock or carrying about on their persons "bowie or other knives or pistols, dirks, sword canes, and spears."⁴²

Throughout the antebellum South there were restrictions on the rights of blacks to possess firearms. Slaves had been permitted possession of firearms on an on-off basis. They were used as a necessity at times in a frontier society and on Southern plantations. But legislation prohibiting either slaves or free blacks from possessing firearms, except under very restrictively controlled conditions, continued to be passed.⁴³ One example can be found in North Carolina, where in 1840 the Assembly passed Chapter 30, "An act to prevent free persons of color from carrying firearms." That law specifically stated:

"Be it enacted, etc. That if any free negro, mulatto, or free person of color, shall wear or carry about his or her person, or keep in his or her house, any shot gun, musket, rifle, sword, dagger or bowie-knife, unless he or she shall have obtained a license therefor from the Court of Pleas and Quarter sessions of his or her county, within one year preceding the wearing, keeping or carrying thereof, he or she shall be guilty of a misdemeanor, and may be indicted therefor."

The North Carolina Supreme Court ruled on the constitutionality of that law during their December 1844 term.⁴⁴ In that case, on June 1, 1843, Newsom, a free person of color, carried on his person an unlicensed shotgun, "to the evil example of all others in like manner offending. . . ." Upon a guilty finding by the trial court, it was appealed. The North Carolina Supreme Court, Justice Nash presiding, decided that the 1840 act was not in violation of the Second Amendment to the Constitution of the United States nor did the Second and other Amendments apply to the States; it would be nearly 100 years before the incorporation clause of the Fourteenth Amendment was used to bind other Amendments to the States—and the Second Amendment itself has *never* been so incorporated. Nor was the 1840 act in violation of the 17th article in the North Carolina Constitution (comparable to the Second Amendment).⁴⁵ Moreover, the Court stated, ". . . that the free people of color cannot be considered as citizens in the largest sense of the term" We will see this legal argument about citizenship taken to its illogical extreme in the Dred Scott decision.

The North Carolina Supreme Court upheld the guilty verdict, saying, "Upon full consideration of all the objections urged by the prisoner's counsel, we do not find such clear repugnancy between the [North Carolina] Constitution and the act of 1840 as to warrant us in declaring that act unconstitutional and void. . . . This decision must be certified to the Superior Court of Cumberland County, with directions to proceed to judgment and sentence thereon agreeably to this decision and the laws of the State."

The Georgia Supreme Court seems to have read this North Carolina ruling. During the January 1848 term, in the case of *Cooper and Worsham v. Savannah*,⁴⁶ the court referred to a joint resolution of the Legislature of Georgia in 1842⁴⁷ and declared:

"Free persons of color have never been recognized here as citizens; they are not entitled to bear arms, vote for members of the legislation, or to hold any civil office. They have always been considered as in a state of pupillage, and have been regarded as our wards, and for that very reason we should be extremely careful to guard and protect all the rights secured to them by our municipal regulations. They have no *political* rights, but they have *personal* rights, one of which is personal liberty." [Italics in original]

This thinking matches that of the Louisiana Supreme Court's 1836 ruling that, "The power of the master is absolute, and the slave cannot resist, nor be heard if he complain of the abuse of this power."⁴⁸ Also note Mississippi's position in an 1845 case: "A negro is *prima facie* a slave."⁴⁹

The coup de grâce was delivered by none other than the United States Supreme Court when, in December 1856, the Court, with Chief Justice Taney delivering the majority decision, held that, regarding blacks being considered as citizens:

"For if they were so received, and entitled to the privileges and immunities of citizens, it would exempt them from the operation of the special laws and from the police regulations which they considered to be necessary for their own safety. It would give to persons of the negro race, who were recognized as citizens in any one State of the Union, the right to enter every other State whenever they pleased, singly or in companies, without pass or passport, and without obstruction, to sojourn there as long as they pleased, to go where they pleased at every hour of the day or night without molestation, unless they committed some violation of law for which a white man would be punished; and it would give them the full liberty of speech in public and in private upon all subjects upon which its own citizens might speak; to hold public meetings upon political affairs, *and to keep and carry arms wherever they went* [italics mine]. And all of this would be done in the face of the subject race of the same color, both free and slaves, and inevitably producing discontent and insubordination among them, and endangering the peace and safety of the State.

"It is impossible, it would seem, to believe that the great men of the slaveholding States, who took so large a share in framing the Constitution of the United States, and exercised so much influence in procuring its adoption, could have been so forgetful or regardless of their own safety and the safety of those who trusted and confided in them."⁵⁰

There is a mistaken belief that gun control as we know it in America today is a product of the "Wild West" frontier and that the legal restrictions against handguns originated in the Northeast and followed the urbanization growth in the West and South. Additionally, there is the misconception that restrictions against handguns started in the Eastern United States in a liberal, labor-based atmosphere. Both of these beliefs are incorrect.⁵¹ Barry Bruce-Briggs is an historian and social policy analyst who said of this phenomenon of cultures in collision:

[The handgun prohibition controversy] represents a sort of low grade war between two alternative views of what America is and ought to be. On the one side are those who take bourgeois Europe as a model of civilized society: a society just, equitable and democratic; but well ordered, with the lines of responsibility and authority clearly drawn, and with the decisions made rationally and correctly by intelligent men for the entire nation. To such a people, hunting is atavistic, personal violence is shameful, and uncontrolled gun ownership is a blot upon civilization.

On the other side is a group of people who do not tend to be especially articulate or literate, and whose world view is rarely expressed in print. Their model is that of the independent frontiersman who takes care of himself and his family with no interference from the state. They are "conservative" in the sense that they cling to America's unique pre-modern tradition—a non-feudal society with a sort of medieval liberty writ large for every man. To these people, "sociological" is an epithet. Life is tough and competitive. Manhood means responsibility and caring for your own.⁵²

To better understand the history of handgun restrictions, it is important to note that handguns, during the settlement of America's West, were largely the province of "outlaws, the military, the police, and company security personnel."⁵³ The handgun of the early 1800s was notoriously inaccurate and useful only at short ranges. The weapon of choice for the settler was the rifle, followed by the shotgun.

With the development of Samuel Colt's revolver in 1835, some improvements were made in handguns. But the cost of the Colt at that time (\$35.00) was well beyond the means of the average settler. It was not until the close of the American Civil War that handguns began to proliferate, primarily caused by the surplus sale of Civil War weaponry.⁵⁴

Nonetheless, the expanding Western frontier of the early 19th century associated concealable weapons with a decided criminal element. Thus we see those frontier states legislating early against the carrying of concealed handguns, knives, and other such weapons. Kentucky (1813), Indiana (1819) and Arkansas and Georgia (1837) adopted such restrictions. The only "Eastern" state to do so was Virginia (1838). By 1850, Don Kates reports that every Western state had laws in place which prohibited the carrying of concealed weapons. It wasn't until 1924 that New Jersey developed a gun law and that was only to prevent the practice of dueling.⁵⁵

Anyone who has watched any television knows of the case of the cowboy of the 1800s who came to town and turned his gun over to the town's marshal. That Hollywood drama is grounded in fact.⁵⁶ In the antebellum South there were restrictions on the carrying of concealed weapons beyond those applying to blacks.⁵⁷

In the post-Civil War period, however, handgun prohibitions were directed primarily at blacks and poor whites. With the withdrawal of the last remaining Union Army forces from the South through the Electoral Compromise of 1876, and the prior imposition of the Civil Rights Act of 1866 and the Fourteenth Amendment (1868),⁵⁸ the horror of the reign of the Ku Klux Klan began. While the blacks were

protected de jure through the Fourteenth Amendment, and discriminatory handgun prohibitive legislation forbidden, they remained de facto at the mercy of the Klan and its supporters for decades to come. If Southern blacks were found in possession of a handgun in the 1870s, and perhaps through the 1960s, "The sheriff would then arrest them and confiscate their pistols which would be either destroyed or turned over to the local Klavern. In short order, blacks, and whites unpopular with local authorities, learned that pistol purchases were a waste of hard-earned cash, and dangerous to boot."⁵⁹

It was during the Reconstruction period that Tennessee's legislature, after white supremacists regained political control, in 1870 passed a ban on selling all handgun models except the Army and Navy models; viz., the most expensive models, too expensive for purchase by most blacks and poor whites. In 1881 Arkansas passed similar legislation. The remainder of the Deep South simply ignored the Fourteenth Amendment and chose to enforce pre-emancipation statutes forbidding blacks to possess firearms.⁶⁰ On the West Coast, San Francisco passed a law in 1875 forbidding the carrying of deadly weapons without special approval. Immediately following the enactment of the law, several hundred applications for permission to carry were made and granted.⁶¹

In 1893 Alabama law imposed heavy taxes on handguns and Texas adopted this practice in 1907. The 1896 *Revised Codes of North Dakota* prohibited the carrying of concealed arms but did not specifically outlaw carrying them openly.⁶² South Carolina's legislature painted with a broader brush and in 1902 merely banned

all handgun sales except to sheriffs and their "special" deputies (an explicit metaphor for the KKK and what Kates calls "company goons"). Mississippi passed the first registration law for retailers in 1906.⁶³

Perhaps the most famous example of all is the 1911 legislation by New York State known as the Sullivan Law. This required a police permit for the possession of a handgun.⁶⁴ In 1913 Oregon statutes were modified to restrict handgun purchases. Canada adopted its handgun permit law in 1919 and Hawaii in 1934.⁶⁵

Kates argues that this 1870-1934 period of handgun restrictions was during the time of vast immigration into America and the subsequent xenophobia that developed. Business clamored for these restrictions due to fears of armed robberies committed by "foreigners." Added to this was the series of assassinations, with President Garfield and Czar Alexander II in 1881, Austrian Empress Elizabeth (1898), Italian King Humbert (1900), and President McKinley (1901) as victims. Here was ample evidence of the misdeeds of the foreigner with handguns (except for Garfield). The attempted assassination of President Theodore Roosevelt in 1912 served to bring the remaining states without prohibitions into the fold.⁶⁶ With all of these attacks on handgun possession and carrying, it is small wonder that by 1930 the National Rifle Association had grown from a tiny, rather elite organization, concerned with shooting contests, into a group representing the rights of its membership.⁶⁷

Federal activity in the sphere of gun control was not significant until 1934 with the passage of the National Firearms Act.⁶⁸ This was followed by the Federal

Firearms Act of 1938 and finally the Gun Control Act of 1968, which restricted felons from possessing firearms, including handguns.⁶⁹ The growth of federal activity has evolved further into the field. Today we even have an organization, Handgun Control, Inc.,⁷⁰ which is dedicated to lobbying for handgun restrictions.

Like California's Roberti-Roos Act of 1989⁷¹, the various legislative efforts have largely been reactive, as opposed to proactive measures, in that they reacted to some criminal incident which, in turn, resulted in the specific legislation. Citing the Schumann and Presser study⁷² and the Erskine study⁷³, Don Kates shows that nearly 50 years of polling the public have shown a consensus for some form of gun control in America.⁷⁴

CHAPTER III

OREGON CONCEALED WEAPONS STATUTES & LICENSING PROCESS

OREGON'S CONCEALED HANDGUN LICENSING PROVISIONS

The foregoing chapters have partially laid the historical, legal, and constitutional foundation for the examination of the 1989 legislation which provides the State of Oregon with its current statutes relating to the carrying of concealed weapons (CCW). The state's control over who is eligible for a license to carry a handgun concealed on one's person is also a form of gun control. Oregon adopted its state constitution based on the 1816 Indiana constitution. In doing so, it also adopted Indiana's provisions about the right of its citizens to keep and bear arms:

The people shall have the right to keep and bear arms for the defence of themselves and the state, but the military shall be kept in strict subordination to the civil power.⁷⁵

But one other incident was critical to the formulation of the current law on licensing holders of concealed handguns in Oregon.

PATRICK EDWARD PURDY AND THE OREGON LAW

On January 17, 1989, Patrick Edward Purdy, using weapons he legally purchased, killed 5 children and wounded 29 others in a crowded Stockton, California, school yard and then shot and killed himself with a pistol. Immediately following that shooting in Stockton in 1989, then-Speaker of the Oregon House of

Representatives, Vera Katz, prepared House Bill 3470,⁷⁶ which became the basis of the current law on concealed handgun licensing in Oregon. This bill also sought to remedy problems in the Oregon Revised Statutes (ORS) relating to the sale and use of firearms.⁷⁷ To garner support for this bill, Speaker Katz enlisted the cooperation of the National Rifle Association (NRA). Working with a coalition of the NRA, local firearms groups, representatives of law enforcement, and the Oregon Department of Justice, Speaker Katz and other co-sponsoring legislators formulated a bill that was generally satisfactory to all parties.

HB 3470 did many things. A reading of the history of this bill strongly suggests that prior to the passage of this legislation the State of Oregon was not theretofore in full compliance with the more restrictive regulations of the U.S. Treasury Department's Bureau of Alcohol, Tobacco, and Firearms.⁷⁸ The earlier Oregon laws, for example, permitted a convicted felon to be in possession of a firearm that was lengthier than 26-inches in order to permit that party to hunt.⁷⁹ The federal laws make no such allowances and specifically prohibit felons to be in possession of firearms.

Beyond putting the state in compliance with federal firearms provisions, the bill's primary impact was to change the waiting period for handgun purchases from the then-existing 5 days to 15, require a thumbprint on the dealer's record of sale form and other identification supplements (the form is sent to local law enforcement for the criminal background check), dramatically modify existing law regarding issuance of concealed handgun licenses (removed discretion of sheriff to deny even

if applicant otherwise qualified), require a demonstration of competency with a handgun for concealed handgun license applicants and a maximum waiting period of 45 days for the issuance of the license, allow persons with a concealed handgun license to be exempt from the 15-day waiting period for a handgun (they already went through a 45-day waiting period and thorough background check), and increase penalties for persons unlawfully in possession of a firearm.⁸⁰

SUMMARY OF THE OREGON LAW

The requirements to obtain a concealed handgun license under the provisions of HB 3470 are similar to those in states which later liberalized CCW permit applications. Here is a National Rifle Association summary of the Oregon law (complete text of the current version of the law is found in Appendix 3 beginning on page 109):⁸¹

It is unlawful to carry concealed upon the person or concealed about one's person in a vehicle any firearm unless one has a license to carry a concealed weapon. Exceptions to the above prohibition are:

1. Persons possessing a handgun at their home or place of business.
2. Organizations which are by law authorized to purchase or receive weapons from the U.S.
3. Policemen and law enforcement personnel, whether active or honorably retired.
4. Military personnel when on active duty.
5. Members of a shooting club while at a range or going to or from a range.
6. Licensed hunters or fishermen, while engaged in hunting or fishing or going to or from a hunting or fishing expedition.

Firearms carried openly in belt holsters are not considered to be "concealed."

Application for a license to carry a concealed weapon is made to the sheriff of a county who shall take fingerprints and a photograph and shall issue the person within 45 days of application a concealed handgun license if the person;

1. Is at least 21 years of age;
2. Has a principal residence in the county in which the application is made;
3. Has no outstanding warrants for arrest;
4. Is not free on any form of pretrial release;
5. Demonstrates competence with a handgun by one of the prescribed handgun safety programs, or can certify training in the armed forces, or has a license already;
6. Has never been convicted or found guilty of a felony ;
7. Has not been convicted of or found guilty, except for insanity, of a misdemeanor, within the last four years;
8. Has not been committed to the Mental Health Division within four years prior to the effective date of the 1989 amendment;
9. Has not been found to be mentally ill and is not subject to an order that the person be prohibited from purchasing or possessing a firearm;
10. Is not listed in the Health Division Registry.

The license is valid for two years, and the fee for the initial issuance is \$50.00; renewals \$25.00.

No civil or criminal liability shall attach to the authority issuing or receiving an application.

It is unlawful to possess a loaded firearm in a snowmobile.

HB 3470 included an "escape clause" which allows the sheriff to deny a license under the following circumstances:

Notwithstanding ORS 166.291(1), and subject to review as provided in ORS 166.274, a sheriff may deny a concealed handgun license if the sheriff has reasonable grounds to believe that the applicant has been or is reasonably likely to be a danger to self or others, or to the community at large, as a result of the applicant's mental or psychological state, as demonstrated by past pattern of

behavior or participation in incidents involving unlawful violence or threats of unlawful violence.⁸²

"The escape clause [ORS 166.293(2)] handles the case where the applicant has a history of wandering the streets shouting threats at Martians or pink elephants, or getting into bar fights, but has so far managed to avoid conviction or mental hospital commitment. Yet the language is sufficiently narrowly drawn that a sheriff would need a 'pattern' of behavior to refuse a permit. If the sheriff simply refused an applicant based on a single such incident, it would doubtless lead to appeal to the courts, where the sheriff would be liable for the filing fees, if the applicant were to win his appeal."⁸³

One unique section of Oregon's licensing process relates to recognition of a CCW permit issued by any state "that has requirements substantially comparable to this state for issuance of the permit or license shall be recognized by this state as a valid concealed handgun license within this state. The Department of State Police shall determine which states have requirements substantially comparable to those of this state and shall make that information available to local law enforcement agencies."⁸⁴ As of the date of this paper, the Oregon State Police has never "recognized" another state's CCW license/permit.

THE NUMBER OF CONCEALED HANDGUN LICENSEES IN OREGON

Concealed handgun licenses (CHL; an alternative term for CCW) within the state of Oregon appear to be very popular with the citizenry. Since HB 3470 became law on January 1, 1990, the Oregon State Police reports that 71,386 licenses have been issued (11,255 in Multnomah County), as of December 1, 1995.⁸⁵ Of the 71,386 concealed handgun licenses issued, the Law Enforcement Data System (LEDS) shows 1,172 revocations (0.0164178 or approximately 1.64%). This underscores the point that holders of concealed handgun licenses in Oregon are far and away a law abiding group of citizens.

This contrasts well with recent statistics from Florida. "Despite the hysteria that accompanied passage of Florida's concealed carry law in 1987, which allows qualified applicants to receive permits, Florida has not experienced a rush of 'frontier justice.' According to John R. Russi, director of Florida's Division of Licensing, 266,710 licenses have been issued and only 470 have been revoked. Of these revocations, only 19 were the result of a firearms-related incident."⁸⁶ This corresponds to a revocation rate of approximately 0.18% or about two-tenths of one percent and again illustrates that the liberalization of concealed handgun licenses does not seem to be followed with vigilante actions on the part of the licensees. This suggests that law abiding citizens, even when duly armed, are consistent in their law abiding behavior as it applies to firearms. Perhaps the adage that "people will do the right thing" has merit.

THE PRE-ISSUANCE INVESTIGATIVE PROCESS

The process of investigating concealed handgun license applications in Oregon involves others besides the county sheriff at the location where the applicant submits the material. The sheriff forwards a copy of the application and fingerprint card to the Identification Services Section of the Oregon State Police (OSP) in Salem. At OSP one of the two office specialists charged with handling these materials receives the application and reviews it for general correctness. To compensate the OSP for their work in the licensing process the sheriffs throughout the state are required to pay the OSP \$15.00 for state processing. That payment may be sent with the application, provided through a billing system, or through automatic bank transfer.

Assuming the application is complete, a computer check is run on the applicant at OSP to determine the existence of a State Identification number (SID). A SID is assigned to criminals when their cases are entered into the computer system. However, SID's are also assigned to law abiding members of society when they are approved for a conceal handgun license or other things. Thus, the presence of the SID means that further investigation is needed to determine why the applicant is in the system in the first place. This SID check occurs on about the second day following the arrival of the materials at OSP.

On approximately the third day after receiving the package of materials from the forwarding sheriff's office to OSP, the fingerprint card is sent to the Automatic

Fingerprint Identification System section (AFIS) of OSP and the fingerprints are checked against others in the database. Should a match be found, the hard copy of the earlier fingerprint card in the OSP system is pulled and checked.

The day after the AFIS check the applicant is assigned a SID number and the packet of materials is returned to the OSP's Identification Services Section for entry into the LEDS computer database. This entry also automatically broadcasts a message to the originating sheriff's office, thereby telling the sheriff's office that the application is being processed by OSP (and also confirms receipt of the application in Salem).

Approximately six days after the State Police receive the application package, it is transferred to the microfilm recording section of OSP. There the application and fingerprint card are queued for subsequent recording. This section of OSP has many demands placed upon it and the application package can be in the hands of the microfilm section for ten days or so before the recording is completed.

Once the data are recorded on microfilm (in a microfiche format), the microfiche is filed away in the appropriate section of OSP. Hence, the total time from receipt of the application package in Salem until OSP's investigation is completed is typically three weeks or so but can take longer as a function of system demands upon the agency and staff.

THE COUNTY LEVEL PROCESS

While this process is occurring at OSP the county sheriff's office of the applicant is also acting upon the application. For purposes of illustration this paper will examine the work done by the Multnomah County Sheriff's Office (MCSO).⁸⁷ The MCSO approved 11,255 concealed handgun licenses between January 1990 and December 1, 1995.

The MCSO sends to OSP the application and fingerprint card. They then conduct a thorough and comprehensive computer check of the applicant, including a local check of MCSO records, LEDS, NCIC (National Crime Information Computer), PPDS (Portland Police Data System), CPMS, mental health records, DMV (Department of Motor Vehicles) and wants and warrants for both Oregon and the nation. Following this check the application packet is given to an investigator who further examines the applicant and provides his/her recommendation to deny, hold or approve the application. The sheriff's office cannot proceed further with the application until they receive from OSP the electronic notification on the status of the application in Salem. Once that is received, a decision is made and the applicant's license is issued. The entire process takes 45 *working* days.

Since HB 3470 went into effect in 1990, the MCSO has denied 244 applications and revoked 270 licenses (0.0239893 or nearly 2.4%). There have only been five cases of shootings involving license holders in Multnomah County since 1990 (one in 1991, three in 1993, and one in 1994). Of those five cases, three are

reported to be "good shootings." These are shootings which are justifiable under the law. Shooting instances which are not so justified usually result in revocation of the holder's concealed handgun license and may lead to criminal charges.⁸⁸

In the next chapter the data collection method and the issues surrounding the statistical analysis performed will be explored.

CHAPTER IV

METHODS

DATA SOURCES AND MATERIALS

The Federal Bureau of Investigation's *Uniform Crime Reports* for 1980 through 1993 and the Oregon Law Enforcement Data System criminal statistics for 1984 through 1993 were examined at the FBI office in Portland, Oregon. From the material the FBI provided me, I extracted the murder statistics for the years mentioned previously and these form the data set I created and from which tables and charts contained in Chapter V were derived. The data set created contains the recorded number of murders per annum and is further broken down, for Oregon, by general type of firearm used. Since the issue is one regarding handguns, other implements used to effect the murders are not analyzed and only those murders committed by use of a firearm are contained in the data set.

DESIGN

This portion of the thesis concerns itself with determining what the impact of HB 3470 was upon handgun murder rates within Oregon. The end product was to compare the handgun murder rates prior to the bill's effective date to those after that date (January 1, 1990). As will be explained in greater detail in a later chapter, one criticism of the bill was that its implementation would result in an increase in

handgun related murders. This quantitative analysis of the data examines the pre- and post-effective periods to determine if such an increase occurred.

PROCEDURE

The data collected from the FBI and LEDS publications were entered into a Lotus 1-2-3™ (version 2.3) spreadsheet as well as SPSS for Windows version 6.1™. The 1-2-3™ spreadsheet was then used to create tables and charts. The SPSS™ program was used to run a linear regression analysis.

A t-test was run comparing mean handgun murder rates in Oregon for four years on either side of the effective date of HB 3470. The question posed was whether there was a statistically significant difference ($p < 0.05$) between the two means (means of the periods before and after the effective date of the bill).

HYPOTHESES

In preparing my analysis, I created a research hypothesis (H_a) and a null hypothesis (H_o). Those hypotheses are:

- H_a : Handgun murders will increase following the effective date of HB 3470 (January 1, 1990).
- H_o : Handgun murders will decline or remain the same following the effective date of HB 3470.

In order to determine whether the passage of the bill resulted in a statistically significant increase in the number of murders, the research/alternative hypothesis (H_a) states that the difference between the means was greater than zero ($t_2 > t_1$).

Conversely, the null hypothesis states that there was either a decrease or no difference ($t_1 \leq t_2$).⁸⁹ The small n values for the two samples (4 samples covering 1986-1989 and 4 for 1990-1993) are readily acknowledged.

The Central Limit Theorem states:⁹⁰

If all possible random samples of N observations are drawn from any population with mean μ_Y and variance σ_Y^2 , then as N grows large, these sample means approach a normal distribution, with mean μ_Y and variance σ_Y^2/N .

However, it is equally important to note that the Central Limit Theorem requires a large N to be relevant.

...we cannot say precisely how large a sample must be. Some textbooks say 30 observations, others suggest 100. On the basis of experience, we suggest that when the sample size is 100 or more, the sampling distribution of means closely approximates a normal distribution. But for samples of 30 or fewer cases, we would hesitate to assume a normal sampling distribution.⁹¹

The applicability in the study at hand is that this is an N of eight and the reader is duly cautioned.

The repeated measures t test was used because the two related samples come from the same population.⁹² Taken at different intervals, before and after January 1, 1990, then it is a point of contention that the period after the bill's implementation is independent of the period prior, particularly when (a) such a narrow time frame is involved and (b) when the sample size is so small.⁹³

In the next chapter the results of the analyses will be examined in detail, using appropriate tables, charts and graphs.

CHAPTER V

RESULTS AND DISCUSSION

RESULTS

I ran a paired (repeated measures) t-test for the following:

Murders before HB 3470	Murders after HB 3470
61	39
37	42
48	36
38	57

The "before" column contains the annual murders in Oregon (LEDS) for the years 1986-89 and the "after" column lists the annual Oregon murders for 1990-1993, respectively. These data were analyzed and provided the following:

Total observations: 4

	BEFORE	AFTER
No. of cases	4	4
Minimum	37	36
Maximum	61	57
Mean	46	43.500
Standard deviation	11.165	9.327

Paired samples t-test on BEFORE versus AFTER with 4 cases

Mean difference	2.500
SD difference	18.157
T	0.275
DF	3
Probability	0.801

From a table of critical values for the t distribution for a one-tail test⁹⁴ with 3 degrees of freedom and $p < 0.05$, it can be determined that the rejection region (or

critical t) begins at 2.353. Hence the t value of .275 for these calculations is not in the rejection region and the null hypothesis cannot therefore be rejected.

The result of the t test supports the argument that HB 3470 had no statistically significant effect upon increasing handgun murders (H_0 cannot be rejected). Failure to reject the null hypothesis suggests that more evidence is needed to support any claim that implementation of HB 3470 resulted or would result in an increased number of murders in Oregon.

NATIONAL TRENDS

In Oregon, murder *rates*⁹⁵ were already on the decline, both relative to the U.S. rate and compared to the 1986 state peak, when HB 3470 was placed in effect on January 1, 1990. Throughout the nation the murder rate has declined for the past three years in a row.⁹⁶ As a result, it would be unrealistic to give the new law all the credit for the continuing sharp decline in murder rate in 1990. In addition, while murder rate percentages in 1991 and 1992 rebounded, examination of the murder rates (see Table 2 on page 39) shows that this is more an artifact of the sharp decline in the U.S. murder rate in 1992, rather than because of a dramatic increase in the Oregon murder rate. Indeed, the Oregon murder rate in 1992 was on a par with the rate in 1989 when the new law was passed—and well below the rate for the three years before the new law.

OREGON TRENDS

What were the effects of the passage of HB 3470 upon handgun killings within Oregon? In order to provide a reasonably fair analysis I begin with a review of the number of murders throughout the United States for the period from 1984 through 1993 (most recent year for FBI Uniform Crime Report published; 12/04/94). These are then broken down by the type of firearm used to commit the murder. Also illustrated in Figure 2 is the murder rate per 100,000 of the population. Table I shows the number of murders committed each year during the period. The last column, Other Firearm, is used when the reporting agency could not determine the type of firearm used to commit the crime.

TABLE I—U.S. FIREARM RELATED MURDERS

Year	Total Murders	Handgun Used	Rifle Used	Shotgun Used	Other Firearm
1984	16689	7557	785	1194	19
1985	17545	7548	810	1188	24
1986	19257	8460	788	1296	22
1987	17963	7847	776	1101	16
1988	17971	8147	753	1105	15
1989	18954	9013	865	1173	34
1990	20273	10099	746	1245	25
1991	21676	11497	745	1124	30
1992	22716	12580	706	1111	42
1993	23271	13252	754	1059	38

Figure 2

In Figure 2 you can see the rise in total murders per annum during the 1983-1993 period. Note the previously mentioned anomaly for 1986.

During this same ten year period, Figure 3 contrasts the growth in all murders throughout the United States (upper line) with those attributed to handguns (lower line). This line graph illustrates that handgun murders follow the same general pattern as the total annual murders in the country.

Figure 3

The logical comparison is to look now at the data for murders within Oregon for this 1984-1993 period, according to the FBI's Uniform Crime Reports. In Table II on page 39, these numbers show that over this ten year period Oregon's population grew from 2,674,000 to 3,032,000 (values are estimated by the FBI; the 1990 figure is from the census), or 13.39%. Meanwhile, the number of murders per

year in Oregon went from 128 to 140, for a net increase of 9.38%. Thus, the number of murders per year for this ten year period grew at *less* than the rate of growth for the Oregon population.

The fourth column of Table II is calculated by first dividing the Oregon population column by 100,000 and then dividing the resulting amount into the number of Oregon murders for that year. This value, murders per 100K, provides a number that is better suited for making comparisons for different periods.

TABLE II—OREGON MURDERS 1984-1993

Year	Oregon Murders (UCR)	Oregon Population (UCR)	Murders per 100K (UCR)	
1984	128	2674000	4.787	
1986	178	2698000	6.597	
1987	153	2724000	5.617	
1988	139	2741000	5.071	
1989	134	2820000	4.752	
1990	108	2842321	3.800	◀Year HB 3470 went into effect
1991	133	2922000	4.552	
1992	139	2977000	4.670	
1993	140	3032000	4.617	

Graphically, you can see in Figure 4 by the uppermost line that the annual murders in Oregon do not have the same pattern as that of the entire United States. While I cannot provide a figure with both Oregon and total U.S. murders on it (problems of scale) it is easy to visually compare this line with that shown in Figure 2 on page 37. The middle line of Figure 4 represents the Oregon population in hundreds of thousands. The lowermost line tracks the changes in the number of Oregon murders per 100,000. This lower line shows the fundamentally unchanged number of murders per 100,000 population over the ten year period.

Figure 4

Examining the data from LEDS for Oregon covering the same period, some minor differences in population figures between the FBI and LEDS databases are noted; they are insignificant for our purposes.⁹⁷ Readers interested in such differences are invited to review the material in the data set in Appendix 1 (page 98). The purpose in now turning to the LEDS data is that it, and not the FBI's UCR material for each state, breaks down the Oregon murders by weapon used.

Table III-A allows you to see that for any given year during the period, the percentage of firearms-related murders relative to all murders in a given year hovered between approximately 48% and 53%.

TABLE III-A—OREGON FIREARMS RELATED MURDERS (1984-1993)

Year	Total Oregon Population (LEDS)	Total Oregon Murders (LEDS)	Total Firearms Related (LEDS)	Percent Firearms Related Murders	
1984	2660000	128	62	48.44%	
1985	2675800	122	50	40.98%	
1986	2659500	175	88	50.29%	
1987	2690000	154	62	40.26%	
1988	2741000	140	69	49.29%	
1989	2791000	128	65	50.78%	
1990	2844000	110	55	50.00%	◀Year HB 3470 went into effect
1991	2930000	129	55	42.64%	
1992	2979000	137	60	43.80%	
1993	3038000	141	75	53.19%	

Table III-B (page 42) illustrates that during the period the absolute number of handgun related murders increased but the number of handgun related murders per 100,000 population remained relatively stable. If an overall increase in violence were characteristic of the 10 year period, then it would follow that murders

committed with other firearms should reflect such increasing violence. That is *not* the case.

TABLE III-B—OREGON HANDGUN RELATED MURDERS (1984-1993)

Year	Oregon Handgun Murders (LEDS)	Percent Firearms Related Murders	Handgun Murders 100K Pop.	
1984	42	67.74%	1.579	
1985	29	58.00%	1.084	
1986	61	69.32%	2.294	
1987	37	59.68%	1.375	
1988	48	69.57%	1.751	
1989	38	58.46%	1.362	
1990	39	70.91%	1.371	◀Year HB 3470 went into effect
1991	42	76.36%	1.433	
1992	36	60.00%	1.208	
1993	57	76.00%	1.876	

Tables III-C through III-E cover the murders committed within Oregon using rifles, shotguns and unknown firearms.

TABLE III-C—OREGON RIFLE RELATED MURDERS (1984-1993)

Year	Oregon Rifle Murders (LEDS)	Percent Firearms Related Murders	Rifle Murders 100K Pop.	
1984	11	17.74%	0.414	
1985	8	16.00%	0.299	
1986	18	20.45%	0.677	
1987	16	25.81%	0.595	
1988	11	15.94%	0.401	
1989	13	20.00%	0.466	
1990	10	18.18%	0.352	◀Year HB 3470 went into effect
1991	5	9.09%	0.171	
1992	14	23.33%	0.470	
1993	7	9.33%	0.230	

TABLE III-D—OREGON SHOTGUN RELATED MURDERS (1984-1993)

Year	Oregon Shotgun Murders (LEDS)	Percent Firearms Related Murders	Shotgun Murders 100K Pop.	
1984	6	9.68%	0.226	
1985	9	18.00%	0.336	
1986	7	7.95%	0.263	
1987	8	12.90%	0.297	
1988	7	10.14%	0.255	
1989	13	20.00%	0.466	
1990	6	10.91%	0.211	◀Year HB 3470 went into effect
1991	5	9.09%	0.171	
1992	5	8.33%	0.168	
1993	7	9.33%	0.230	

TABLE III-E—OREGON UNKNOWN TYPE OF FIREARM RELATED MURDERS (1984-1993)

Year	Oregon UNK Firearm Murders (LEDS)	Percent Firearms Related Murders	Unknown Firearm Murders 100K Pop.	
1984	3	4.84%	0.113	
1985	4	8.00%	0.149	
1986	2	2.27%	0.075	
1987	1	1.61%	0.037	
1988	3	4.35%	0.109	
1989	1	1.54%	0.036	
1990	0	0.00%	0.000	◀Year HB 3470 went into effect
1991	3	5.45%	0.102	
1992	5	8.33%	0.168	
1993	4	5.33%	0.132	

Tables III-C through III-E also show that even the absolute number of murders committed with firearms other than handguns remained remarkably stable over the period. Thus, there is no carry-over from the number of handgun related murders to murders by other types of firearms.

Figure 5 extracts the essential elements from Table III-A (page 41), which are the total murders committed annually within Oregon contrasted with the portion of those murders which are firearms related.

Figure 5

Figure 6 compares the annual firearm murders in Oregon for the period with those attributable to handguns. These are the salient elements of Table III-B (page 42).

Figure 6

Calculating the average of the percentages in Table III-B shows that handgun related murders averaged 66.6% of all firearm related murders in Oregon over the ten year period. For 1984-1989 handgun murders averaged 63.8% of all firearm murders. For 1990-1994 handgun murders averaged 70.8% of all murders caused by firearms.

In Figure 7 the relevant parts of Tables III-C through III-E (pages 42-43) are combined. This provides a convenient way to compare the types of firearms used to commit murder within Oregon during the 1984-1993 period.

Figure 7

It is also instructive to graphically contrast the changes in population over the period with changes in both annual firearm related murders and handgun related murders. In Figure 8, the population reported by LEDS has been divided by 10,000 to better illustrate the contrasts and is represented by the uppermost line in the illustration.

Figure 8

What meaning can be derived from the data presented herein? As the population of Oregon increased from 1984 to 1993, the absolute number of murders in the state increased. But the change in the murder rate has been *less* than the rate of population change. The Oregon murder rate per 100,000 members of the

population actually decreased from 4.787 in 1984 to 4.617 in 1993 (see Table II on page 39). Prior to the effective date of HB 3470 (January 1, 1990) the average number of murders by handgun was 1.57 per 100,000 (for the 1984-1989 period in Table III-B; page 42). After the passage of the bill, the average number of murders by handgun was 1.472 per 100,000 (for the 1990-1993 period in Table III-B). The the 1984-1993 period in Table III-B).

Figure 9 on the following page combines the data into a summary figure. The top line shows the total number of Oregon firearm murders. The second line shows those murders attributable to handguns, the third to rifles, the fourth to shotguns and the lowermost line to murders from unknown firearms.

SUMMARY: OREGON FIREARM MURDERS

Source: Law Enforcement Data Systems

Figure 9

One area worth exploring is the correlation between the Oregon population and the number of handgun related murders. I ran an SPSS™ linear regression with Oregon's handgun related murders as the dependent variable and the population as the independent variable, using the LEDS data.

As the following data in Table IV below clearly illustrate, the regression calculation produced an r^2 of .015, which means that only about 1.5% of the variation in handgun murders is attributable to population. Hence there is little predictive power in using population figures to forecast the number of handgun murders in Oregon, based upon the data from this ten year period.

TABLE IV—REGRESSION ANALYSIS: OREGON HANDGUN MURDERS VS. POPULATION (LEDS)

MULTIPLE REGRESSION

Dependent Variable: HGMUR_LE (Handgun related murders - LEDS)
 Independent Variable: POP_LEDS (Oregon population - LEDS)
 Multiple R .123
 R Square .015
 F .124
 Significant F .734
 Beta .123
 Standard error 10.420

Variable	T	Sig T
POP_LEDS	.352	.734
(Constant)	.273	.792

Resulting equation: $HGMUR_LE = .273 + .352 (POP_LEDS)$

SUMMARY

The data for the ten year period of 1984 through 1993 show that although the population grew in Oregon and the number of murders committed also grew, the rate at which the murders grew was less than the rate at which the population grew.

The results of the t test showed that there was insufficient evidence to conclude that handgun murders increased following the implementation of HB 3470.

The percentage of murders attributed to handguns in the years prior to the effective date of HB 3470 was 63.8% and the percentage was 70.8% for 1990-1993. At first blush, this would suggest that there might be a correlation between the institution of HB 3470 and the proportion of handgun related murders. As will be seen in the following chapter, this is not only an incorrect interpretation, but HB 3470's primary focus and concern (making the concealed handgun licensing process easier for Oregon citizens) is also unrelated to the increase in the percentage of handgun related murders since 1990.

CHAPTER VI

CONCLUSIONS AND IMPLICATIONS OF THE STUDY

The effects of the passage and implementation of HB 3470 in Oregon have been to cause a rapid increase in the number of persons applying for and being granted concealed handgun licenses. Recent data from the Oregon State Police show that as of December 1, 1995, there were 71,386 such licenses in force. See Appendix 2 for a complete break down of the concealed handgun licensees. This is an estimated one licensee for every 44 persons in the state. As an example of the level of growth, in 1989 Clackamas County Sheriff Captain F. Sherwood Stillman, commander of the Clackamas County sheriff's civil division, reported his office issued 250 such licenses. There were 140 applications in the first five days following the effective date of HB 3470. This forced that office to hire a full-time clerk just to process the applications.⁹⁸

This increase in licensees has been shown not to have been associated with an increase in the murder rate in the state. However, there were dire predictions of mayhem by many. Letters-to-the-editor reflected some of the public's concern. Steve Amy wrote in the January 10, 1990, issue of *The Oregonian* that:

Increased concealed-weapons permits will make the streets of Portland more dangerous. People will be prompted to engage in gunplay in the event of a robbery. These shootouts could have tragic results.

There is no mechanism in the Oregon law to keep concealed weapons out of bars. Barfights could turn into shootouts.

Confrontations might arise from people simply showing their gun off to make an impression, or from irresponsible joking about the pistol.

If all of our bored citizens are willing to jeopardize public safety in order to live out some Dirty Harry fantasy, they must be very, very bored.

Michael D. Schrunk, Multnomah County district attorney, stated, "The real danger with more people carrying guns is escalation. We know people do irrational things. Good people lose it."⁹⁹ The local media diligently reported the rare incidents of licensees who lacked training and accidentally discharged their weapon. For example, Douglas K. Haywood was unloading his .45-caliber pistol in a vehicle on May 14, 1990, and accidentally shot himself in his right leg. Haywood, 35, had received his permit from the Multnomah County Sheriff's Office on March 5. MCSO Detective David W. Simpson said at the time, "It appears to be a case of poor training and it could've been more serious to the victim and to others . . . This is one of the initial concerns we had when the ordinance went into effect."^{100,101}

By May 24, 1990, the number of licensees in Multnomah County had climbed to about 2,000 from the pre-January 1 figure of about a dozen.¹⁰² The public acceptance of the law had been overwhelming. This demand has generally continued unabated to the present period.

CONCERNS ABOUT THE CRIMINAL ELEMENT

As has been explained on pages 27 through 29, the requirements to obtain a concealed handgun license in Oregon (and it is true in other states as well) include a

thorough check of the applicant's criminal records. Assuming the records are up to date and accurate, this should preclude the issuance of such a license to any felon. It should be noted that felons are barred from possessing firearms by both federal and state statutes,¹⁰³ unless their gun rights were reinstated through proper appeal procedures.¹⁰⁴

There is also a process in effect within Oregon which identifies the concealed handgun licensee on the LEDS data record for their driver's license. This alerts law enforcement during a stop that the person has been issued a CHL. Also, if a license holder is later arrested, the courts' computers throughout the state are set up to automatically check for the existence of a concealed handgun license. This results, upon conviction, in the revocation of the license.¹⁰⁵

SUGGESTED AREAS FOR FURTHER RESEARCH

My research on the topic of concealed handgun licensing in Oregon has revealed three areas meriting further research.

TRAINING

Accidental shootings by licensees underscore the need for a review of the training requirements under the current law. Such a review could include an analysis of the number of licensees who had their licenses revoked for what would possibly be due to either errors in firearms training or insufficiency of training. This should be balanced against the cost of implementing such training. While no price can be

placed on human life, a comprehensive and expensive training program may not be justified if the number of incidents do not exceed some predetermined minimum.

EFFECTS OF REVOCATIONS

An analysis of the causes for revocation of licenses is needed. If revocations are truly random, then they should be proportioned much the same as the county populations. However, a preliminary review of the current figures (Appendix 2, page 103) shows that certain counties have a disproportionate number of revocations. An examination into the causes of these revocations is needed. Questions that need to be asked include whether a given county's sheriff office has a particular propensity for initiating revocation proceedings (selective enforcement), whether the data show that such proceedings are justified, whether there are precursors involved, or whether the larger counties are more likely to contain offenders.

DENIALS OF LICENSES

The final area needing study is the denials of licenses to applicants. Why were such denials made? Are the trends across the state? Were the initial denials appealed? If so, what were the outcomes of the appeals? Do any counties show a number of denials disproportionate to the rest of the state? Compare the number of licensee applicants denied to the number of gun purchasers denied. How many license applicants are denied as a result of fingerprinting?

CONCLUSIONS

The current Oregon concealed handgun licensing program stemmed from legislation introduced in 1989 by Vera Katz. Her primary purpose was to extend the waiting period for handgun purchases. In order to gain the support of gun rights groups, then-Speaker of the House Katz took the unprecedented step of inviting groups such as the NRA to meet with her and law enforcement personnel to work out a compromise bill. Speaker Katz garnered their support in exchange for an overhaul in the state's concealed handgun licensing program.¹⁰⁶ With that exchange, the NRA and other gun rights groups dropped their objections and HB 3470 was passed into law.

The form of concealed handgun licensing law which demands that the sheriff issue the applicant a license unless good cause can be found to deny it is known in the legislatures as a "shall issue" law. That requirement removes the former discretionary powers of the sheriff in this particular regard. That power loss naturally would be resisted by the sheriffs in many locales. One of the leading organizations lobbying for the rejection of "shall issue" legislative proposals is the International Association of Chiefs of Police. I was fortunate to receive a copy of their September 1995 memo outlining the IACP's position.¹⁰⁷ That document very clearly shows the opposition this representative of law enforcement management can muster in such a power struggle. This may also be illustrative of Thorsten Sellin's "secondary cultural conflicts."¹⁰⁸

The implementation of HB 3470 has not been without its problems.

However, the argument that passage of the law would result in an increased murder rate, with such increases coming from licensees, simply is not correct, based upon the evidence available. To illustrate the fallacy in this argument, consider the case of Multnomah County, which has issued more concealed handgun licenses than any other county in the state (11,255 licenses with 244 denials and 270 revocations; see Appendix 2 on page 103)

The role of LEDS (Law Enforcement Data System) in all of this matters. LEDS is an Oregon agency formed by 1969 legislation and came into physical existence in January 1971. Mike "Woody" Woodward, who provided me with much of the information about LEDS¹⁰⁹, came to work in their data processing section in April 1971. LEDS does not input any data (that is done by sheriffs' offices) but is charged with maintaining the custody of it. Today, LEDS' 17 employees manage the entirety of the operation statewide. Over 5,000 terminals throughout Oregon connect with LEDS, 270 of which are on dedicated leased lines. LEDS uses an Amdahl 5995 1100/A which is managed and updated by the Oregon Department of Administrative Services. Within the Salem office LEDS has an IBM System 88 for message switching. This staff and hardware combination work to house and maintain Oregon's concealed handgun licensing statistics.

The concealed handgun licensing program stimulated by HB 3470 has evolved since it when it was implemented in January 1990. April 1, 1990, was when LEDS began receiving notices of revocation from the sheriffs' offices throughout the

state; LEDS first released a report containing a list of such concealed handgun license revocations on April 13, 1990. That list would have included persons licensed before and after January 1, 1990, in order to bring on-line a complete picture of licensees. On June 1, 1990, a procedure became effective in which the courts would notify the local sheriff's office whenever an individual before the court was ruled as being prohibited from obtaining a concealed handgun license. Also on that date the concealed handgun licensees that were current under the pre-HB 3470 law were consolidated within the post-January 1, 1990, records, yielding a total number of issued permits throughout the state of 745. On January 1, 1993, a procedure was instituted in which arrests of holders of concealed handgun licenses in Oregon were made known to the sheriff's office which issued the license. This provided further tracking in the event an arrest was made outside the county of issuance which resulted in a conviction necessitating revocation. In order to gain further insights into revocations, a new procedure went into effect on January 4, 1994, whereby any of the 15 categories of revocation could be reflected in the LEDS core data.¹¹⁰

Totals as of December 1, 1995 were received by phone from LEDS and are reflected in the data shown in Table V on the following page. This snapshot reveals the current "health" of the Oregon program. The number of persons obtaining a concealed handgun license in the state increased approximately 9,645% since HB 3470 went into effect. The program has shown no attendant increase in the murder rates, has brought the law enforcement officials in closer contact with the public, has

provided a vehicle in which an individual in Oregon can be further held responsible for their actions (revocation/prohibition), and has been done with a minimal impact upon the taxpayers who do not participate in the program. Oregon is one of the nation's leading states in this experiment of citizen responsibility and the program is a success due to the efforts of the public, the law enforcement personnel involved, as well as the media.

TABLE V

OREGON CONCEALED HANDGUN LICENSE STATUS
AS OF DECEMBER 1, 1995

Concealed handgun licenses in force	71,386
Pending applications	3,028
Applications denied	872
Percentage denied *	1.22%
Licenses revoked	1,172
Percentage revoked *	1.64%
Pending revocations	47
Persons prohibited from obtaining a license by court order	419
Percentage prohibited *	0.59%

* As a percentage of those licenses currently in force

CITED REFERENCES

1. "Historical Development and Subsequent Erosion of the Right to Keep and Bear Arms" by James B. Whisker. Extracted from the Summer, 1988 edition of *Journal on Firearms and Public Policy*, page 124-152, sponsored by the Second Amendment Foundation, Bellevue, Washington. This 20,000 figure (page 124) is an estimate provided by the National Shooting Sports Foundation in 1968. National Shooting Sports Foundation, True Facts on Firearms Legislation, 1968.
2. Second Amendment to the *United States Constitution*.
3. *The Gun Control Debate - You Decide*, edited by Lee Nisbet, page 12, Prometheus Books, 700 Amherst Street, Buffalo, NY 14215, 1990.
4. Based upon the 20,991 handguns per 100,000 of population in the United States in 1979 from *Why Handgun Bans Can't Work* by Don B. Kates, Jr., page 20, Second Amendment Foundation, Bellevue, WA, 1982. The 1979 population of 220,100,000 (ibid) was then multiplied by Kates' figure of 20,991 handguns per 100,000 to yield 46,201,191 handguns in 1979. This latter figure was then increased by this author very conservatively at 2% per annum from 1979 until 1992 ($46,201,191 \times [1.02]^{13} = 59,766,167$) or approximately 60 million. On June 2, 1992 NBC Sunrise news reporter Ann Curry reported that there were 200 million guns in circulation (Channel 8, KSBW, Monterey, California, 6:15 a.m. PST).
5. Example: *San Francisco Examiner*, Friday, June 16, 1995: "Youth's Biggest Killer—The Belly Gun" by Michael Rodriguez. Ironically, the author of this article got the entire concept of a "belly gun" wrong when he stated:

"On the street, these inaccurate weapons are known as 'belly guns.' To ensure a hit, the shooter must put the barrel right up against the victim's belly."

The reader is advised that the "belly gun" term refers to a handgun that is stowed inside the belt in the area of the belly. This is but one more example of the errors in reporting regarding firearms. As another example of gross errors in reporting, the 11:00 p.m. news report on KOIN-TV, Channel 6, Portland, Oregon, reported twice on January 4, 1996, that a perpetrator in a crime, James Rincker, used a "machinegun," when in fact several other

earlier reporters from that station had correctly said the firearm was a semiautomatic rifle (7.62x39mm Chinese AKS).

6. Example: *Time* magazine, May 29, 1995, vol. 145, no. 22, page 18, "Gun Control: Inside the N.R.A." The article opens with, "With 3.4 million members, the gun lobby is at the peak of its power and armed with a militant message: the government is the key threat to the right to bear any and all arms."

Example: *Congressional Quarterly*, weekly report, March 25, 1995, vol. 53, no. 12, p. 882, "Candidates' Voting Records Match Reputations." In this article, five GOP presidential candidates are either sitting or former senators. *CQ* does a comparison of their voting records. While there are many similarities, the candidates are split on gun control issues.

Final example: *Soldier of Fortune*, June, 1995, vol. 20, no. 6, page 32, "Gun Control Is Dangerous To Your Health." This is an editorial opinion (Col. Robert Brown).

7. Aborn, Richard M., "The Battle Over The Brady Bill And The Future Of Gun Control Advocacy," *The Fordham Urban Law Journal*, Winter 1995, vol. 22, no. 2, p. 417. This is but one of a multitude of examples. This particular journal is available at Lewis & Clark Law School.
8. Example: Funk, T. Markus, "Gun Control and Economic Discrimination: The Melting-Point Case-in Point," in *Journal of Criminal Law and Criminology*, Winter 1995, vol. 85, no. 3, p. 764.
9. Example: WJBK-TV2 (Southfield, MI) poll: *Has the government done enough about gun control?* Source: PR News Wire via DowVision, June 5, 1995. The article states:

"1 out of 2 Americans feel that the government has not done enough about gun control, according to a nationwide poll conducted by WJBK TV2 this past week. In an exclusive WJBK TV2 poll conducted by Mitchell Research & Communications, 1,000 people nationwide were surveyed. The poll has a margin of error of plus or minus 3%. TV2 asked 'What do you think of the Federal Government's gun control efforts?' While 15% felt that the government had gone too far, 51% felt that the government had not gone far enough, and 27% felt just about enough had been done. 7% were undecided."

10. As a life member of the National Rifle Association I receive a constant stream of such pamphlets. Most are solicitations for money for one cause or another.
11. Examples include "Weapon Involvement in Home Invasion Crimes" by Arthur L. Kellerman, MD, et al, *JAMA*, June 14, 1995, pp. 1759-1762. These articles, and Kellerman has written several, seem to all err statistically by making conclusions which the authors apply to the general population while, in fact, their research failed to use a randomized sampling technique. While there is not room in this paper to rebut each and every one of these types of studies by the public health sector, these studies, and Kellerman's especially, lack *external validity*. Below are some extracts from *Research Methods in Social Relations*, 6th ed., by Charles Judd, Eliot Smith and Louise Kidder, Holt, Rinehart and Winston, Fort Worth, 1991, on the subject.

"A final criterion concerns the extent to which one can generalize the results of the research to the population and settings of interest in the hypothesis. This is known as the research study's external validity. In the example we are considering, suppose the constructs were well measured (high construct validity). Suppose further that we found a relationship between crowdedness and achievement and could reasonably claim that result to be a causal one (high internal validity). We would then want to know whether that causal relationship held in only the relatively few classrooms we observed in our research or whether we could generalize the causal relationships to other classrooms we did not observe. . . . A study from which generalization is difficult has low external validity." — pp. 28-29.

"First, it is necessary to specify *before* (italics mine) the research is conducted the limits of desired generalization. . . . To enhance generalization, we want to select that sample so that it is as similar as possible to the population as a whole. . . . The only way we can be confident about generalizing from a sample to a population of interest is to draw a random or probability sample." — p. 35.

In Kellerman's June 14, 1995, *JAMA* article his complete conclusion states:

"A majority of home invasion crimes result in injury. Measures that increase the difficulty of forced entry or enhance the likelihood of detection could be useful to prevent these crimes. Although firearms are often kept in the home for protection, they are rarely used for that purpose." — *Op. cit.*, p. 1759.

Did Kellerman use a *randomized* sample? No. Instead he drew his sample of cases from the Atlanta Police Department reports "between June 1 and August 1, 1994. . ." The problem with such a sample is that any conclusions drawn really apply to that select sample and not to a larger population. The study has a low level of external validity but the stated conclusions makes generalized claims that cannot be supported.

12. "Send in the helicopters, and quick" by Steve Duin, *The Oregonian*, January 9, 1990, Multnomah County Library CD-ROM archives. There is no page number for any of these archived articles.
13. From: *TIME Daily* - Dec 19, 1995 at 6:46 PM EDT.

CIA CHIEF PREDICTS TERRORISM SURGE

WASHINGTON (Reuter) - CIA chief John Deutch predicted Tuesday a worldwide surge in terrorism in the next decade and said he was shifting U.S. spy resources to help meet the threat.

"I regret that I have come to the conclusion there is going to be tremendous growth in terrorism over the next decade or so, not only directed towards Americans but throughout the world," he told the House Intelligence Committee.

Deutch said the forecast rise in terrorism would have "immense impact on how we conduct our foreign policy, immense impact on how American businesses operate abroad."

Replying to a question about the threat, the head of the Central Intelligence Agency did not discuss why he expected a surge nor pinpoint the possible perpetrators.

But in his opening statement he said: "It is my judgement that ideologies and regimes inimical to democracy will continue to exist. Examples today are Iran, Iraq and North Korea." He also cited unspecified transnational groups involved in drug running, organized crime and terrorism.

Deutch said the CIA and its sister U.S. intelligence agencies were "shifting resources" to cope with the threat, and called for a halt in criticism of the CIA's covert operations arm, derided in recent years for bungled operations from the discovery of a Moscow mole in its midst to bribing bureaucrats for trade secrets in Paris.

14. *Perspectives on Terrorism* by Harold J. Vetter and Gary R. Perlstein, Brooks/Cole Publishing Co., Pacific Grove, CA, 1991, p. 188.
15. "America as a Gun Culture" by Richard Hofstadter. This article appears as chapter 1 in *The Gun Control Debate - You Decide* (supra) and originally appeared in *American Violence: A Documentary History*, edited by Richard Hofstadter and Michael Wallace, Alfred A. Knopf, Inc., New York, 1970.
16. Op. cit. *Why Handgun Bans Can't Work* by Don B. Kates, Jr., page 24.
17. *Theoretical Criminology*, 3rd edition, by George Vold and Thomas Bernard, Oxford University Press, New York, 1986, p. 210, citing Sutherland's work *Criminology*, 1939 edition, p. 7.
18. *Theoretical Criminology*, supra. Cressey actually changed Sutherland's term, "culture conflict," to "normative conflict" after Sutherland's death and wrote an article to that effect in a 1968 publication (*Crime and Culture* by Marvin Wolfgang, Wiley, New York, 1968, pp. 43-54).
19. "Police Officials Say Citizens Should Take Up Arms," *Reuters News Service*, May 1, 1991, poll from the National Association of Chiefs of Police, a non-profit organization that operates the American Police Hall of Fame and Museum in Miami.
20. "Myths About Guns," *The Washington Times*, February 15, 1990.
21. Historical Statistics of the United States; *Statistical Abstract of the United States*. Extracted from page 21 of the November 1991 issue of *American Firearms Industry* magazine.
22. Ibid.
23. Ibid.
24. *Guns, Murders, and the Constitution: A Realistic Assessment of Gun Control* by Don B. Kates, February, 1990, pages 45-49. Mr. Kates' entire work is available from the Pacific Research Institute for Public Policy, 177 Post Street, San Francisco, CA 94108, (415) 989-2411. Pages 45-49 are available for retrieval from the Combat Arms Bulletin Board Service (BBS) as

ACQUAINT.ZIP, telephone (503) 221-1777.

25. Ibid. Originally from "A Carnage in the Name of Freedom," by Kairys, *Philadelphia Inquirer*, Sept. 12, 1988. Mr. Kairys is a lawyer and part-time teacher of sociology.
26. As explained elsewhere in this thesis, that argument is without merit. Between January 1990 and June 1995 there were 5 shooting cases in Multnomah County committed by persons with a concealed handgun license. There are over 12,000 such licensees in the county.
27. Ibid.
28. Supra, *Guns, Murders, and the Constitution: A Realistic Assessment of Gun Control*, pages 45-49. Originally attributed by Kates to Lane, "On the Social Meaning of Homicide Trends in America," in T. Gurr, *Violence in America*, volume 1, 59 (1989) ("... the psychological profile of the accident-prone suggests the same kind of aggressiveness shown by most murderers").
29. Ibid. Originally from the *Uniform Crime Report*, Federal Bureau of Investigation, 1971, page 38.
30. *Criminological Theory* by Frank P. Williams III and Marilyn D. McShane, 2nd edition, Prentice-Hall, Englewood Cliffs, NJ, 1994, p. 19.
31. Ibid. "Police have traditionally been loathe to arrest in such situations; moreover, in upwards of 50 percent of relatively serious cases, the police have no opportunity to make an arrest because the victim fails to report the matter (out of belief that the matter is a private affair, or that the police will not take action, or out of fear of retaliation)." See the U.S. Bureau of Justice Statistics publications, *Family Violence* (April 1984); *Preventing Domestic Violence Against Women* (Aug. 1986); and *Violent Crime by Strangers and Non-Strangers* (Jan. 1987), all based on survey responses rather than reports to police. Also see Kleck, "Policy Lessons from Recent Gun Control Research," 49 *Law & Contemporary Problems* 35 (1986) at 40-41. and Browne & Williams, *Resource Availability for Women at Risk: Its Relationship to Rates of Female-Perpetrated Partner Homicide*, a paper presented at the 1987 annual meeting of the American Society of Criminology (available from the authors at Family Research Laboratory, University of New Hampshire).
32. *Under the Gun: Weapons, Crime, and Violence in the United States* by James Wright, Peter H. Rossi, & K. Daly, Aldine, New York, 1983. Unless otherwise stated, all references to the NIJ Evaluation are to this, its final

commercially published version, rather than to the NIJ-published version, which is J. Wright, P. Rossi, & K. Daly, *Weapons Crime and Violence in America: A Literature Review and Research Agenda*, U.S. Government Printing Office, Washington, DC, 1981.

33. News item printed in the *American Rifleman*, June 1991 issue, page 21, National Rifle Association, Washington, DC.
34. *That Every Man Be Armed - The Evolution of a Constitutional Right* by Stephen P. Halbrook, pages 54-57, LibertyTree Press, San Francisco, 1984. Original copyright held by University of New Mexico Press and reprinted with permission by LibertyTree Press.
35. Ibid. Pages 99-100. The act was reenacted in 1705 and 1792. The commentary was originally found in *Dissertation on Slavery: With a Proposal for the Gradual Abolition of it, in the State of Virginia* by St. George Tucker, page 55, Philadelphia, 1796. Tucker also included his "Dissertation" as an appendix to his edition of Volume 1 of Blackstone's *Commentaries* (1803).
36. Told at a lecture held by Stephen P. Halbrook at the LibertyTree branch office at 134 98th Avenue, Oakland, CA 94603 (telephone 510-632-1366) on May 16, 1990 at 6:45 p.m., which I attended. In that lecture, Halbrook (according to the notes I made that evening) told of 1,778 muskets being turned in to the British by Boston residents as they fled the city on April 27, 1777. Counting handguns and blunderbusses, over 3,000 firearms were surrendered by the fleeing Bostonians to the British that single day.

As a footnote on history, another George—George Bush—ordered the importation of assault rifles into the United States banned in March, 1989: "A decision by the Bush administration to suspend imports of semiautomatic assault weapons has fueled the debate over proposals to ban sales of such weapons," *Congressional Quarterly* weekly report, March 18, 1989, vol. 47, no. 11, page 579.

37. Supra, *That Every Man Be Armed*, page 59. Originally attributed to Volume II of *Writings* by Samuel Adams, page 119.
38. This became the *Declaration of Causes of Taking up Arms* of July 6, 1775. The first attempt at drafting such a declaration was by Thomas Jefferson, but was ruled far too militant. A second attempt was made by Colonel Dickinson, known for earlier pamphlets in which he called himself "The Farmer." The final result was apparently a combination of both writers.

39. Prepared by Gerald Murphy (The Cleveland Free-Net - aa300), distributed by the Cybercasting Services Division of the National Public Telecomputing Network (NPTN) and downloaded from the Case Western Reserve University bulletin board. The original text is to be found in the *Journal of Congress*, edited 1800, volume I, pages 134-139.
40. *Frontier Law and Order—10 Essays* by Philip D. Jordan, p. 2, University of Nebraska Press, Lincoln, 1970.
41. Ibid.
42. Ibid., p. 3.
43. Cramer, op. cit, p. 1, citing Daniel H. Usner, Jr.'s work, *Indians, Settlers, & Slaves in a Frontier Exchange Economy: The Lower Mississippi Valley Before 1783*, (Chapel Hill, NC: University of North Carolina Press, 1992), pp. 139, 165, 187.
44. *State v. Elijah Newsom*, 27 NC 250, 1844.
45. The 17th article of the North Carolina Constitution states:

"That the people have a right to bear arms, for the defence of the State; and, as standing armies, in time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power."
46. Formally cited as *Samuel Cooper and Hamilton Worsham, by their next friend, etc. vs. The Mayor and Aldermen of the City of Savannah*, 4 Ga. 68.
47. "Resolved, that free negroes are not citizens of the U.S., and that Georgia will never recognize such citizenship." *Pam. Acts*, 1842, p. 182.
48. *Poydras v. Mourain*, 9 La. 492.
49. *Randal v. State*, 4 Smedes & M. (12 Miss.) 349.
50. *Dred Scott, plaintiff in error, v. John F. A. Sandford*, 60 U.S. 393; 15 L. Ed. 691.

Justice Taney seems to have been incorrectly vilified for stating the Court's majority opinion. The view of the time was that slaves were property and merely moving to another location did nothing to the property. As property they lacked citizenship as such. Taney wrote after the historic decision and justified his legal

reasoning. Part of it was based upon the Constitution's declaration (Article I - Section 2) that:

"Representative and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons."

To Taney this explicitly illustrated that slaves were neither free people nor citizens.

It is ironic that Dred Scott never lived long enough to see the start of the Civil War and that Justice Taney did not see it end on April 9, 1865. Nor did Taney survive long enough to witness the assassination of President Lincoln five days after Lee surrendered at Appomattox.

51. *Restricting Handguns—The Liberal Skeptics Speak Out*, edited by Don B. Kates, Jr., page 9, North River Press, Inc., Croton-on-Hudson, NY, 1979.
52. *Ibid.*, p. 9. Taken from "The Great American Gun War," 45 *The Public Interest* 37, 40; 1976.
53. *Ibid.*, p. 10.
54. *Ibid.*, pp. 10-11.
55. *Ibid.*, p. 11.
56. *City of Junction City, Appellant, v. Vernon Lee, Appellee*, Supreme Court of Kansas, 216 Kan. 495; 532 P.2d 1292:

"The governing bodies of some cities may conclude they are sufficiently protected by the state statutes on weapons control but that is their business. Evaluation of the wisdom or necessity of the Junction City enactment of a weapons control ordinance more rigid than statutory law is not within our province, although the city fathers undoubtedly were aware of the fact that in situations where passions or tempers suddenly flare easy accessibility of weapons, whether carried openly or concealed, may contribute to an increased number of fatalities, and further that their own problem is rendered more acute by the presence of an adjoining military reservation from whence combat troops

trained in the use of handguns and knives sometimes repair to the city during off-duty hours. *In an earlier era the cowboy entering the Kansas cowtown was frequently required to deposit his gunbelt with the marshal.*[emphasis mine] We conclude conflict in terms or language between the parts of the ordinance and the state statute does not exist."

57. "'Shall Issue': The new wave of concealed handgun permit laws", Clayton E. Cramer & David B. Kopel, *Tennessee Law Review*, October, 1994. This document cites the case of *State v. Reid*, 1 Ala. 612 (1840) and states further, "See generally Clayton E. Cramer, *For The Defense Of Themselves And The State: The Original Intent & Judicial Interpretation of the Right To Keep And Bear Arms* (Westport, Conn.: Praeger, 1994), pp. 76-78. Even the most restrictive state laws, however, included an exemption for travelers."
58. *The American Way—Teacher's Edition* by Nancy W. Bauer, pp. 442-443, Holt, Rinehart and Winston, New York, 1979.
59. Op. cit., *Restricting Handguns*, pp. 13-14.
60. *Restricting Handguns*, supra, p. 14.
61. *The Western Peace Officer* by Frank Richard Prassel, p. 11, University of Oklahoma Press, Norman, 1972.
62. *Frontier Law and Order*, supra, p. 4.
63. Ibid., pp. 14-15.
64. Below is the current New York City law for obtaining a permit for a rifle or shotgun. This is *less* complicated than obtaining a permit for a handgun in New York City.

New York City Administrative Code

CHAPTER 3 - FIREARMS

10-303 Permits for possession and purchase of rifles and shotguns.

It shall be unlawful to dispose of any rifle or shotgun to any person unless said person is the holder of a permit for possession and purchase of rifles and shotguns; it shall be unlawful for any person to have in his or her possession any rifle or shotgun unless said person is the holder of a permit for the possession and purchase of rifles and shotguns.

The disposition of a rifle or shotgun, by any licensed dealer, to any person presenting a valid rifle and shotgun permit issued to such person, shall be conclusive

proof of the legality of such disposition by the dealer.

a. Requirements.

No person shall be denied a permit to purchase and possess a rifle or shotgun unless the applicant:

- (1) is under the age of eighteen; or
- (2) is not of good mental character; or
- (3) has been convicted anywhere of a felony or of a serious offense; or
- (4) has not stated whether he or she has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness; or
- (5) is not now free from any mental disorders, defects or diseases that would impair the ability safely to possess or use a rifle or shotgun; or
- (6) unless good cause exists for the denial of the permit.

b. Application.

Application for a rifle and shotgun permit shall be made to the police commissioner, shall be signed and affirmed by the applicant and shall state his or her full name, date of birth, residence, physical condition, occupation and whether he or she complies with each requirement specified in subdivision a of this section, and any other information required by the police commissioner to process the application. Each applicant shall submit with his or her application a photograph of himself or herself in duplicate, which shall have been taken within thirty days prior to the filing of the application. Any willful or material omission or false statement shall be a violation of this section.

c. Before a license is issued or renewed, the police department shall investigate all statements required in the application. For the purpose, the records of the department of mental hygiene concerning previous or present mental illness of the application shall be available for inspection by the investigating officer of the police department. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed. Two copies of such fingerprints shall be taken on standard fingerprint cards eight inches square, and one copy may be taken on a card supplied for that purpose by the Federal Bureau of Investigation. When completed, one standard card shall be promptly submitted to the division of criminal justice services where it shall be appropriately processed. A second standard card, or the one supplied by the federal as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the police department. The failure or refusal of the federal bureau of investigation to make the fingerprint check provided for in this section shall not constitute the sole basis for refusal to issue a license pursuant to the provisions of this section. Of the remaining two fingerprint cards, one shall be filed with the executive department, division of state police, Albany, within ten days after issuance of the license, and the other remain of file with the police department. No such fingerprints may be inspected by any person other than a peace officer, when acting pursuant to his or her special duties, or a police officer, except under order of a justice of a court of record either upon notice to the licensee or without notice, as the judge or justice may deem appropriate. Upon completion of the investigation, the police department shall report the results to the

police commissioner without unnecessary delay.

d. Fees.

The fee for an application for a rifle and shotgun permit or renewal shall be twenty-five dollars (\$25).

e. Issuance.

(1) Upon completion of the investigation, and in no event later than thirty days from submission of the application, unless the police commissioner determines more time is needed for an investigation and then it shall not exceed sixty days, the commissioner shall issue the permit or shall notify the applicant of the denial of the application and the reason or reasons therefor. The applicant shall have the right to appeal said denial pursuant to procedures established by the police commissioner for administrative review.

(2) Any person holding a valid license to carry a concealed weapon in accordance with the provisions of the penal law, shall be issued such permit upon filing an application and upon paying the established fee therefor, without the necessity of any further investigation, affidavits or fingerprints, unless the police commissioner has reason to believe that the status of the applicant has changed since the issuance of the prior license.

f. Validity.

Any person to whom a rifle and shotgun permit has been validly issued pursuant to this chapter may possess a rifle or shotgun. No permit shall be transferred to any other person. Every person carrying a rifle or shotgun shall have on his or her person a permit which shall be exhibited for inspection to any police officer upon demand. Failure of any such person to so exhibit his or her permit shall be presumptive evidence that he or she is not duly authorized to possess a rifle or shotgun and the same may be considered by the police commissioner as cause for forfeit of such permit. A permit shall be valid for three (3) years and shall be subject to automatic renewal, upon sworn application, and without investigation, unless the police commissioner has reason to believe that the status of the applicant has changed since the previous application.

g. Revocation or suspension.

A permit shall be revoked upon the conviction in this state, or elsewhere, of a person holding a rifle or shotgun permit, of a felony or a serious offense. A permit may be revoked or suspended at any time upon evidence of any other disqualification set forth in subdivision a of this section. Upon revocation or suspension of a permit for any reason, the police commissioner shall immediately notify the New York state division of criminal justice services. The police commissioner shall from time to time send a notice and supplemental report hereof, containing the names, addresses and permit numbers of each person whose rifle and shotgun permit has been revoked to all licensed dealer in rifles and shotguns throughout the city for the purpose of notifying such dealers that no rifles or shotguns may be issued or sold or in any way disposed of to any such persons. The police commissioner or any police officer acting at the police commissioners

direction shall forthwith seize any rifle or shotgun permit which has been revoked or suspend hereunder and shall seize any rifle or shotgun possessed by such person provided that the person whose rifle or shotgun permit has been revoked or suspended, or such person's appointee or legal representative, shall have the right at any time up to one year after such seizure to dispose of such rifle or shotgun to any licensed dealer or any other person legally permitted to purchase or take possession of such rifle or shotgun. The licensee shall have the right to appeal any suspension or revocation pursuant to procedures established by the commissioner for administrative review.

h. Non-residents.

Non-residents of the city of New York may apply for a rifle or shotgun permit subject to the same conditions, regulations and requirements as residents of the city of New York.

10-304 Certificates of registration.

a. It shall be unlawful for any person to have in his or her possession any rifle or shotgun unless said person is the holder of a certificate of registration for such rifle or shotgun.

b. It shall be unlawful for any person who is not a licensed dealer to dispose of any rifle or shotgun for which such person does not have a certificate of registration unless such person files with the police commissioner a declaration in duplicate, signed and affirmed by the declarant which shall list by caliber, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark, of each rifle and shotgun possessed by the declarant. Upon receipt of acknowledgment of said declaration by the police commissioner, the declarant may lawfully sell, transfer, or otherwise dispose of such rifles or shotguns to a licensed dealer or any other person legally permitted to purchase or take possession of such rifles or shotguns.

Any willful or material omission or false statement shall be a violation of this section.

c. Exhibition of certificate.

Every person carrying a rifle or shotgun shall have on his or her person a certificate of registration valid for such weapon. Upon demand, the appropriate certificate shall be exhibited for inspection to any peace officer or police officer. Failure of any person to so exhibit his or her certificate shall be presumptive evidence that he or she is not duly authorized to possess such rifle or shotgun.

d. Revocation.

The revocation of a rifle or shotgun permit shall automatically be deemed to be a revocation of all certificate of registration for rifles and shotguns held by the person whose permit has been revoked.

e. Disposition of rifles and shotguns.

No person lawfully in possession of a rifle or shotgun shall dispose of same except to a licensed dealer in firearms, licensed dealer in rifles and shotguns, the holder of valid rifle and shotgun permit, an exempt person as enumerated in this chapter, or a non-resident of the city of New York not subject to the permit requirements of this chapter.

Any person so disposing of a rifle or shotgun shall report the disposition on forms provided by the commissioner setting forth the rifle and shotgun permit number of both the seller and purchaser, the make, caliber, type, model and serial number, if any, and if the seller is a licensed dealer the certificate of registration number, of all such rifles and shotguns. Such form shall be signed by both seller and purchaser and the original shall be forwarded to the police commissioner within seventy-two hours of the disposition, one copy shall be retained by the seller, another by the purchaser.

1. If the seller is a licensed dealer, he or she shall at the time of the sale issue a certificate of registration to the purchaser provided to the dealer for that purpose by the police commissioner and shall forward to the police commissioner the duplicate thereof, together with the report of disposition.

2. If the seller is not a licensed dealer, the police commissioner shall, if the purchaser's rifle permit is valid, issue the certificate of registration within ten days of the receipt by the commissioner of the report of disposition. Pending receipt of the certificate but in no event for any longer than fourteen days from the date of purchase the copy of the report of disposition shall serve in lieu of the purchaser's certificate of registration.

f. No fee shall be charged for a certificate of registration.

g. Notwithstanding any other provision of this action concerning the transfer, receipt, acquisition, or any other disposition of a rifle or shotgun, a rifle and shotgun permit shall not be required for the passing of a rifle or shotgun upon the death of an owner, to his or her heir or legatee, whether the same be by testamentary bequest or by the laws of intestacy, except that the person who shall so receive or acquire said rifle or shotgun shall be subject to all other provisions of this chapter, provided further that if the heir or legatee of the owner of such rifle or shotgun does not qualify to possess same under this chapter, the rifle or shotgun may be possessed by the heir or legatee for the purpose of sale as otherwise provided herein for a period not exceeding one hundred eighty days or for such further limited period beyond the one hundred eighty days as may be approved by the commissioner, said extensions in no event to exceed a total of ninety days.

10-305 Exemptions.

The section requiring rifle and shotgun permits and certificates shall not apply as follows:

a. Minors.

Any person under the age of eighteen years may carry, fire, or use any rifle or

shotgun in the actual presence or under the direct supervision of any person who is a holder of a rifle or shotgun permit, or for the purpose of military drill under the auspices of a legally recognized organization and under competent supervision or for the purpose of competition or target practice in and upon a firing range approved by the police commissioner or any other governmental agency authorized to provide such approval, or the national rifle association, which is under competent supervision at the time of such competition or target practice, provided that the rifle or shotgun is otherwise properly registered or exempt from registration by virtue of some other provision of this chapter.

b. Antiques and ornament.

The provisions of this chapter shall not apply to antique rifles and shotguns which are incapable of being fired or discharged or which do not fire fixed ammunition, or those weapons manufactured prior to eighteen ninety-four and those weapons whose design was patented and whose commercial manufacture commenced prior to eighteen hundred ninety-four without any substantial alteration in design or function, and for which cartridge ammunition is not commercially available and are possessed as curiosities or ornaments or for their historical significance and value.

c. Persons in the military service in the state of New York, when duly authorized by regulations issued by the chief of staff to the governor to possess the same and police officers, and other peace officers.

d. Persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess the same.

e. Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the same is necessary for manufacture, transport, installation and testing under the requirements of such contract.

Any person exempted by subdivision c, d and e above, may purchase a rifle or shotgun only from a licensed dealer, and must submit to the dealer full and clear proof of identification including shield number, serial number, military or government order or authorization, and military or other identification. Any dealer who disposes of a rifle or shotgun to any exempt person without securing such identification shall be in violation of these sections.

f. During the month of June only, each year, to a person voluntarily surrendering a rifle or shotgun to the police commissioner or the commissioner's designee, provided that the same shall be surrendered by such person only after he or she gives notice in writing to the police commissioner, stating such person's name, address, the type of gun to be surrendered, and the approximate time of day and place where such surrender shall take place.

g. The regular and ordinary transport of rifles and shotguns as merchandise provided that the person transporting such rifles and shotguns where he or she knows or has reasonable means of ascertaining what such person is transporting, notifies, in writing, the police commissioner of the name address of the consignee and the place of delivery, and withholds delivery to the consignee for such reasonable period of time designated in writing by the police commissioner as the police commissioner may deem necessary for investigation as to whether the consignee may lawfully receive and possess

such rifles and shotguns.

h. Possession by retail customers for the purpose of firing at duly licensed rifle target concessions at amusement parks, piers, and similar locations provided that the rifles to be used be firmly chained or affixed to the counter and that the individual rifles are registered by the proprietor and that the proprietor is in possession of a rifle and shotgun permit.

i. (1) Non-residents in transit.

Any other provision of this chapter to the contrary notwithstanding, a non-resident of the city of New York, who, without a rifle and shotgun permit issued hereunder, enters the city of New York possessing a rifle or shotgun in the course of transit to a destination outside the city of New York shall have a period of seventy-two hours subsequent to such entering to be exempt from penalty under this chapter for the unlawful possession of a rifle or shotgun, provided that such rifle or shotgun shall at all times be unloaded and in a locked case, or locked automobile trunk, and that said non-resident is lawfully in possession of said rifle or shotgun according to the laws of his or her place of residence.

(2) Non-residents purchasing a rifle or shotgun from a licensed dealer.

Any other provisions of this chapter notwithstanding, a non-resident of the city of New York may purchase a rifle or shotgun from a licensed dealer provided that he or she presents the dealer with documentary evidence of his or her identity and place of residence, and the rifle or shotgun purchased is either personally delivered to the purchaser or transmitted by the dealer directly to the purchaser's residence. In the event the purchaser is traveling from the city by rail, ship or plane, the dealer is hereby authorized to deliver such rifle or shotgun at the appropriate terminal to a representative of the railroad, airline or shipping company, for placement aboard such train, plane or ship. If the rifle or shotgun is personally delivered to the non-resident purchaser within the city of New York, the purchaser shall have the rifle or shotgun removed from the city no later than twenty-four hours after the time of purchase.

j. Nothing herein contained shall be construed to be a prohibition of the conduct of business by manufactures, wholesale dealers, interstate shippers, or any other individuals or firms properly licensed by the federal government.

k. Special theatrical permit.

Nothing herein contained is intended to prevent the possession or utilization of any rifle or shotgun during the course of any television, movie, stage or other similar theatrical production, or by a professional photographer in the pursuance of his or her profession, provided however, that the rifle or shotgun so used shall be properly registered and a special theatrical permit shall have been issued pursuant to regulations established by the commissioner.

l. Persons in possession of, using or transporting rifles which have been issued by the director of civilian marksmanship of the department of the army, pursuant to the

provisions of ten U.S.C.A., section 4307-4309, unto a civilian rifle club, or unto a rifle team representing an educational institution, provided that such persons are members in good standing of an accredited civilian rifle club, or are connected as students or coaches with such educational institution, shall not be required to obtain a certificate of registration for such rifle.

m. Any resident of the city of New York acquiring a rifle or shotgun outside the city of New York shall within seventy-two hours after bringing such weapons into the city make application for a rifle and shotgun permit, if such person does not already possess such permit, and for a certificate of registration.

Pending the issuance of such permit and/or certificate of registration such resident shall deposit such weapon with a designated officer, at the police precinct in which such person resides, who shall issue a receipt thereof and an said weapon shall be retained at the precinct until the resident shall produce the proper permit and registration certificate.

n. The provisions of section 10-303 of this chapter shall not apply to persons who are members of units of war veterans organization, which organizations are duly recognized by the veterans administration, pursuant to section three thousand four hundred two of title thirty-eight of the United States code, and who are specifically designated to carry rifles or shotguns by commanders of said units while actually participation in, going to or returning from, special events authorized by the commissioner. Said rifles or shotguns, to be carried, must be the property of the unit of the war veterans organization, must be registered with the police commissioner pursuant to section 10-304 of this chapter and must be kept at the unit's headquarters or some central place as registered.

o. Nothing herein shall exempt a member of a unit of a war veterans organization from possessing a permit issued pursuant to section 10-303 on this chapter, to carry rifles or shotguns which are not the property of a war veterans organization; nor shall that member be exempt from registering such rifles or shotguns, pursuant to section 10-304 of this chapter, which said member may personally own, possess or purchase.

10-306 Sale and purchase of ammunition.

No ammunition suitable for use in a rifle of any caliber or for any shotgun shall be sold or given away, or otherwise disposed of to any person who has not been issued a rifle or shotgun permit and a certificate of registration and who does not exhibit same to the dealer at the time of the purchase. In no event shall rifle or shotgun ammunition be sold to any such person except for a shotgun, or for the specific caliber of rifle, for which the certificate of registration has been issued.

A record shall be kept by the dealer of each sale or any other disposition of ammunition under this section which shall show the type and quantity of ammunition sold, the name and address of the person receiving same, the date and time of the transaction, and number of the permit and certificate exhibited as required by this section.

Notwithstanding any other provision of this section, ammunition may be disposed of in the same manner and pursuant to the same requirements, regulations and

exemption as disposal or other transfer of rifles or shotguns under this chapter.

10-307 Supply of forms.

The commissioner shall provide all dealers in rifles and shotguns with adequate supplies of all forms including applications for permits as required by this chapter, without charge.

10-308 Vehicles; possession therein.

The presence of a rifle, or shotgun, or rifle or shotgun ammunition, in a vehicle, without a rifle and shotgun permit therefore and a certificate of registration thereof, shall by presumptive evidence of possession thereof by all persons occupying the vehicle at the time.

10-309 Identifying marks.

a. Defacing.

Any person who alters, changes, removes, disfigures, obliterates or defaces the name of the maker, model, manufacturer's or serial number of a rifle or shotgun shall be in violation of this section.

b. Any rifle or shotgun sold or otherwise disposed of by a licensed dealer, which does not contain a manufacturer's or serial number, must have embedded into the metal portion of such rifle or shotgun a dealer's number. Failure to mark and identify any rifle or shotgun shall be a violation of this section.

10-310 Violation.

Except as is otherwise provided in section 10-302 of this chapter, violation of sections 10-301 through 10-309 shall be a misdemeanor punishable by a fine of not more than five hundred dollars or imprisonment of not more than one year or both, provided that the first violation of such sections involving possession of a unregistered rifle or shotgun shall be an offense punishable by a fine of not more than three hundred dollars or imprisonment of not more than fifteen days, or both on condition that (a) the first violation of possession of an unregistered rifle and shotgun is not in conjunction with the commission of a crime or (b) the possessor has not been previously convicted of a felony or a serious offense or (c) the possessor has not previously applied for and been denied a permit for such possession.

65. *Restricting Handguns*, supra, pp. 15-19.
66. Ibid., p. 18.
67. Ibid., p. 24.
68. From *The Right to Keep and Bear Arms*, the Report of the Senate subcommittee on the Constitution of the Committee on the Judiciary, United States Senate, 97th Congress second session, February, 1982; beginning on

page 19 of the report.

69. Op. cit.
70. Chaired by Sarah Brady and located in Washington, DC, this organization has struggled to get its views adopted by Congress. The *Brady Law*, named after Sarah Brady's husband, James Brady, who was shot during the attempted assassination of President Ronald Reagan, is their most significant victory (introduced as HR 277, January 5, 1993, by Congressman Mazzoli).
71. Passed by the California Legislature on April 17, 1989, and went into effect on January 1, 1990. This was in response to the Patrick Purdy killing described elsewhere in this thesis.
72. "Attitude Measurement and the Gun Control Paradox," 41 *Public Opinion Quarterly* (1983), p. 345.
73. "The Polls: Gun Control," 36 *Public Opinion Quarterly* (1972), p. 455.
74. "Bigotry, Symbolism and Ideology in the Battle over Gun Control," *Public Interest Law Review*, 1992.
75. Article 1, Section 27 of the Oregon *Constitution*.
76. *Journals and Calendars of the Senate and House* for the Regular 1989 legislative session, Sixty-fifth Legislative Assembly of the State of Oregon, pages H-264 and 265 detail the legislative history of the bill. That publication shows the following:

HB 3470	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, SHOEMAKER, 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)—Relating to firearms; and appropriating money.
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4-12(H)	First reading. Referred to Speaker's desk.
4-13	Referred to Judiciary with subsequent referral to Ways and Means.
4-21	Public Hearing and Work Session held.
4-26	Public Hearing and Work Session held.
5-2	Work Session held.
5-10	Work Session held.
5-11	Work Session held.
5-17	Work Session held.
5-22	Work Session held.
5-24	Work Session held.
5-26	Work Session held.
5-30	Work Session held.
6-1	Work Session held.
6-5	Work Session held.
6-6	Work Session held.
6-8	Recommendation: Do pass with amendments, be printed A-Engrossed.
	Referred to Ways and Means by prior reference.
6-13	Assigned to Human Resources Subcommittee.
6-22	Public Hearing and Work Session held.
6-26	Recommendation: Do pass with amendments, be printed B-Engrossed.
	Rules suspended. Second reading.
6-27	Third reading. Carried by Katz/Burton. Passed. Ayes, 49—Nays, 11, Baum, Clarno, Dix, Dominy, Gershon, Johnson, Markham, Miller, Nelson, Parkinson, Repine.
6-28(S)	First reading. Referred to President's desk.
6-28	Public Hearing and Work Session held.
	Referred to Judiciary, then Ways and Means.
6-29	Public Hearing and Work Session held.
6-30	Work Session held.
7-1	Work Session held.
7-1	Work Session held.
	Recommendation: Do pass with amendments to the B Eng. measure. (Printed C Eng.) Be returned to President's desk requesting subsequent referral to Ways and Means be rescinded.
	Subsequent referral to Ways and Means rescinded by order of the President. (SR 8-40)
	(Amendments distributed.)
	Second reading.
	Rules suspended. Third reading. Carried by Shoemaker. Passed.

	Ayes, 19—Nays, 11, Bradbury, Brockman, Bunn, Grensky, Hannon, J. Hill, Jolin, Kerans, Springer, Thorne, Timms
	Vote explanation entered in Journal Hannon, Kerans.
7-2(H)	Rules suspended. House concurred in the Senate amendments and repassed measure.
	Ayes, 42—Nays, 7, Clarno, Dix, Dominy, Gershon, Johnson, Nelson, Repine. Excused for business of the House, 11, Burton, Clark, Courtney, Gilmour, Hanlon, Hanneman, D.E. Jones, Mason, Peterson, Sowa, Van Vliet.
7-13	Speaker signed.
7-15(S)	President signed.
7-26(H)	Governor signed.
	(Chapter 839, 1989 Session Laws) Effective date, January 1, 1990.

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 ex-convict in possession of firearms.

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.

77. Oregon Joint Ways and Means Committee report dated June 23, 1989. The following paragraph describes the bill:

House Bill 3470— Relating to firearms; creating new provisions; amending ORS 46.060, 51.080, 161.610, 166.210, 166.240, 166.250, 166.270, 166.370, and others; repealing ORS 166.290, 166.340, and 166.440; and appropriating money.

This measure relates to the sale and use of firearms. It presents a balance of civil liberty and public safety interests. The substance of the bill has been extensively debated in the House Judiciary Committee. The primary purpose of Ways and Means Committee is the fiscal impact to the Department of State Police. The cost of the OSP study of firearms sales required by Section 29 and the fingerprint processing is estimated at \$741,612. This amount is offset by \$315,000 of anticipated concealed weapon application fees for a net General Fund appropriation of \$426,612.

78. It is a proverb of law that a state's laws may be more restrictive but not less restrictive than federal law.
79. *HB 3470 Section Summary*, 4-20-89, page 4. This document is found in the minutes of the House Judiciary Committee. The law now reads:

166.270. Certain felons forbidden to possess firearms.

- (1) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any firearm, commits the crime of felon in possession of a firearm.
- (2) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any instrument or weapon having a blade that projects or swings into position by force of a spring or by centrifugal force and commonly known as a switchblade knife, or any instrument or weapon commonly known as a blackjack, slung shot, sandclub, sandbag, sap glove or metal knuckles, or who carries a dirk, dagger or stiletto, commits the crime of felon in possession of a restricted weapon.

- (3) For the purposes of this section, a person "has been convicted of a felony" if, at the time of conviction for an offense, that offense was a felony under the law of the jurisdiction in which it was committed. Provided, however, that such conviction shall not be deemed a conviction of a felony if:
 - (a) The court declared the conviction to be a misdemeanor at the time of judgment; or
 - (b) The offense was for possession of marijuana and the conviction was prior to January 1, 1972.
- (4) Subsection (1) of this section shall not apply to any person who has been:
 - (a) Convicted of only one felony under the law of this state or any other state, or who has been convicted of only one felony under the laws of the United States, which felony did not involve criminal homicide, as defined in ORS 163.005, or the possession or use of a firearm or switchblade knife, and who has been discharged from imprisonment, parole or probation for said offense for a period of 15 years prior to the date of alleged violation of subsection (1) of this section; or
 - (b) Granted relief from the disability under ORS 166.274 or 18 U.S.C. Sec. 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of another jurisdiction.
- (5) Felon in possession of a firearm is a Class C felony. Felon in possession of a restricted weapon is a Class A misdemeanor.

(Amended by 1975 c.702 Sec. 1; 1985 c.543 Sec. 4; 1985 c.709 Sec. 2; 1987 c.853 Sec. 1; 1989 c.839 Sec. 4; 1993 c.735 Sec. 2)

80. Ibid., pp. 1-14.

81. Captured from the World Wide Web home page of the National Rifle Association on July 25, 1995. The address is:

<http://www.nra.org>

This material was checked against the provisions of the Oregon Revised Statutes and found to be accurate.

82. ORS 166.293—Denial of license; review, paragraph (2).

83. "*Shall Issue*": *The New Wave of Concealed Handgun Permit Laws*, revised edition, by Clayton E. Cramer & David B. Kopel. Excerpted from an article

of theirs which originally appeared in the October 1994 *Tennessee Law Review*. The article is available from the *Combat Arms BBS* as CCW_ISSU.ZIP.

84. ORS 166.292(4)(a)
85. Data obtained via voice call with Sue Nash, Office Specialist, at the Oregon State Police's Identification Services Section, 3772 Portland Road N.E., Salem, OR 97303. Phone call to 1-503-378-3070 at approximately 10:05 a.m. on December 15, 1995.
86. *The Gottlieb-Tartaro Report*, Issue 005, May, 1995, Second Amendment Foundation, ISSN 1079-6169. This report was received via the Internet. The URL is: <http://www.saf.org> and *The Gottlieb-Tartaro Report* is available electronically about one month after publication. The organization may be reached at 206-454-7012. To receive the electronic edition of this newsletter send an e-mail message to listproc@saf.org with:

subscribe gt-report Your Name

(where Your Name is replaced by your name) as the body of a message.
87. Telephone interview on July 26, 1995, at approximately 10:00 a.m. with Sgt. Robert Barnhart at the Concealed Weapons Permits unit (a division of the Intelligence unit) at Multnomah County Sheriff's Office, 12240 N.W. Glisan, Portland, OR 97230, telephone (503) 251-2417 (FAX 253-2663).
88. Sgt. Robert Barnhart of MCSO reports that there were two instances of shootings which were not justified. The first was a license holder using a firearm in a domestic setting and the second where an accidental discharge of a rifle resulted in an injury to a party in another part of a building.
89. *SPSS 6.1 Guide to Data Analysis* by Marija J. Norušis, p. 241, Prentice-Hall, Englewood Cliffs, NJ, 1995.
90. *Statistics for Social Data Analysis* by David Knoke and George W. Bohrnstedt, 3rd edition, pp. 88-90, F.E. Peacock Publishers, Inc., Itasca, IL, 1994.
91. Ibid., p. 90.
92. From the on-line help text of *SPSS for Windows* version 6.1.
93. *Statistics for Public Managers* by William F. Matlack, pp. 191-192, F.E. Peacock, Itasca, IL, 1993.

94. Ibid., p. 446.
95. By "rates" I mean the murder rate per 100,000 members of the population. While the absolute number of annual murders continues to rise, they do so at a rate less than the rate of increase in population.
96. The following citation was taken from the Internet on October 23, 1995. The source was <http://www.nando.net> (*The Nando Times*).

Nation's murder rate down for third straight year

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WASHINGTON (Oct 23, 1995 - 10:01 EDT) – The number of homicides in the United States fell in 1994 for the third straight year, the government announced today.

The homicide rate fell 8.2 percent, from 10.5 homicides per 100,000 people in 1993 to 9.7 in 1994, the National Center for Health Statistics said. The number of homicides fell from 25,470 in 1993 to 23,730 in 1994.

Some of the nation's largest cities, including Detroit, Chicago and Los Angeles, already have noted downturns in their murder rates. And New York is expected to end this year with 48 percent fewer killings than its record high 2,245 in 1990, according to the research center.

The national center didn't speculate as to the cause of the falling homicide rate, but police attribute the drop in part to a higher profile on the streets by law enforcement officers in high-crime areas.

'When you look at the crimes, many are gang or drug related,' said Lt. John Dunkin, a spokesman for the Los Angeles Police Department. 'These are things that can be attacked by law enforcement efforts.'

'Hopefully, it's putting officers out on foot beats, getting the community involved and interceding programs for young people. But you certainly don't want to overlook to some extent it's cyclic,' he added.

The south bureau of the police department, covering one quarter of Los Angeles and one of the highest crime areas, has seen a drop in homicides of about 22 percent to 225 for the past year, according to Dunkin.

Early indications suggest the drop in the homicide rate continued nationwide through March 1995 as well, the center said. From 1987 through 1991, the homicide rate had risen by 5 percent a year.

The drop in homicide rates in 1994 meant that it fell from 10th to 11th among the leading causes of deaths in the United States overall. The leading cause of death in America is heart disease.

Homicide remains the second leading cause of death among young people ages 15 to 24, according to the research center, with the most common cause accidents, particularly involving motor vehicles. Homicide is still the third leading cause of death among children ages 5 to 14, the center reported, with accidents No. 1 and cancer No. 2.

97. For reasons I cannot determine, the federal data have an error in them. The data set in Appendix 1 on page 97 and the following equation illustrate the problem:

$$\text{TOTFAMUR} \neq \text{HG_UCR} + \text{RIFLEUCR} + \text{SG_UCR} + \text{OTHR_UCR}$$

In fact, the total murders committed by firearms (TOTFAMUR) *should* be equal to the sum of the handgun (HG_UCR), rifle (RIFLEUCR), shotgun (SG_UCR) and unknown firearm (OTHR_UCR) murders. The individual states supply the data to the FBI through agencies such as LEDS. Why the total firearms murder figure for each year is not equal to the sum of the murders committed by various firearms is an answer I am unable to provide. The first time I discovered this problem, I cross-checked the figures in my data set against the figures in the original FBI data to see if I made an error in posting the numbers. Three separate checks revealed no posting errors on my part. Hence, my data set faithfully reproduces the values in the original copies of the *Uniform Crime Report* volumes from whence they were taken.

For additional details, see Note 1 in Appendix 1 on page 100.

98. "Sheriff's office besieged for gun permits," by Steven Amick, *The Oregonian*, January 5, 1990, edition 3. Citation taken from microfiche archives at Multnomah County Library; no page number given.
99. "Shooting intruders permitted - at times. The laws of Oregon allow the use of deadly force by a homeowner who is confronting an intruder," by Holley Gilbert, *The Oregonian*, January 15, 1990, edition 1. Citation taken from microfiche archives at Multnomah County Library; no page number given.
100. "Man shoots his own leg accidentally," by David Austin, *The Oregonian*, May 14, 1990, Page B3, edition 3.
101. "Man arrested for waving gun at grocery picketers," by John Snell, *The Oregonian*, August 2, 1990, page A12, edition 3:

The former owner of Burfitt Plumbing was arrested Monday afternoon after he waved a handgun at striking grocery workers and accused them of being communists.

Frank F. Burfitt Jr., 76, of 3027 N.E. Alameda Drive, was accused by Portland police

with two counts of menacing, a misdemeanor. He was released Monday afternoon after being processed at the Justice Center Jail.

Burfitt had a permit to carry a concealed weapon, but police said they would seek to have it revoked.

Burfitt drove his 1976 white Rolls Royce to the Kienow's store at Northeast 33rd Avenue and Hancock Street Monday at about 1:45 p.m., said Officer Henry Groepper, spokesman for the Police Bureau.

After shopping, Burfitt got back into his car and as he was driving out of the parking lot, pulled next to a clerk carrying a picket sign and called the man a communist, Groepper said.

"Witnesses said there didn't appear to be any provocation," Groepper said, adding that the picketer replied that he had the right to be demonstrating against the business.

Burfitt left the store, then came back a few minutes later and confronted other picketers, calling them communists before pulling his .38 caliber handgun from the glove box.

Pickers scattered and later told police that Burfitt told them his name and his home address.

Police went to Burfitt's home, where he told them the same story related by witnesses in the parking lot, Groepper said. Burfitt offered no resistance as he was handcuffed and placed under arrest.

Bart Whalen, spokesman for the Multnomah County Sheriff's Department, said being arrested for a misdemeanor involving a gun generally carries a two-year revocation; being convicted of the charge carries an additional two years. Either revocation can be appealed.

A strike of Northwest Oregon grocery stores was in its second week, after members of Local 555 of the United Food & Commercial Workers began picketing 116 stores on July 21.

102. "City Council moves toward gun controls," by Sarah Carlin Ames, *The Oregonian*, May 24, 1990, Page D6, Edition 3. The article states, in part:

Gun control moved to Portland's political forefront after a state law that took effect this year. The law extends the waiting period during hand-gun sales, allowing police to check the buyers' criminal and mental health background. Another part of the law allows anyone without a criminal record or serious mental health problem to obtain a concealed weapons permit.

Multnomah County sheriffs had been stingy with such permits in the past, when they had that choice. But now that they don't, about 2,000 county residents now can carry concealed weapons around town - up from about a dozen.

All those concealed weapons permits have worried some local officials, such as

city Commissioner Mike Lindberg, who want to clamp down.

"To drive around the city and know that many people are packing a piece - it's ominous," Lindberg said.

103. See 18 USC 922(g) and (h):

- (g) It shall be unlawful for any person -
 - (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
 - (2) who is a fugitive from justice;
 - (3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
 - (4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
 - (5) who, being an alien, is illegally or unlawfully in the United States;
 - (6) who has been discharged from the Armed Forces under dishonorable conditions; or
 - (7) who, having been a citizen of the United States, has renounced his citizenship; to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.
- (h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment -
 - (1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or
 - (2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

Possession of a firearm by a convicted felon is also prohibited in Oregon by virtue of Oregon Revised Statute 166.250(1)(C), which states in part:

166.250. Unlawful possession of firearms.

(1) Except as otherwise provided in this section, ORS 166.260, 166.270, 166.274, 166.280, 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm if the person knowingly:

- (a) Carries any firearm concealed upon the person, without having a license to carry the firearm as provided in ORS 166.291 and 166.292;
- (b) Carries concealed and readily accessible to the person within any vehicle which is under the person's control or direction any handgun, without having a license to carry such firearm as provided in ORS 166.291 and 166.292; or

(c) Possesses a firearm and:

(A) Is under 18 years of age;

(B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470; and

(ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being charged under this section;

(C) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(D) Was committed to the Mental Health and Developmental Disability Services Division under ORS 426.130; or

(E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness.

104. 18 USC 925(c):

- (c) A person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition may make application to the Secretary for relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the disability, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest. Any person whose application for relief from disabilities is denied by the Secretary may file a petition with the United States district court for the district in which he resides for a judicial review of such denial. The court may in its discretion admit additional evidence where failure to do so would result in a miscarriage of justice. A licensed importer, licensed manufacturer, licensed dealer, or licensed collector conducting operations under this chapter, who makes application for relief from the disabilities incurred under this chapter, shall not be barred by such disability from further operations under his license pending final action on an application for relief filed pursuant to this section. Whenever the Secretary grants relief to any person pursuant to this section he shall promptly publish in the Federal Register notice of such action, together with the reasons therefor.

The reader is reminded that such a prohibited person must also seek relief from the state as well as the federal government. Thus, two separate relief petitions must be filed and approved.

105. Op. cit.; Sue Nash telephone interview at OSP of December 15, 1995.

106. This information was obtained through July 1995 interviews with both now-Mayor Vera Katz of Portland and John Hosford of the National Rifle Association's Washington Office. At the time of the round of meetings between gun rights groups and then-Speaker Katz, John was employed by the Citizens' Committee for the Right to Keep and Bear Arms/Second Amendment Foundation in Washington state.

107. INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE
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EXECUTIVE DIRECTOR
 DANIEL N. ROSENBLATT

DEPUTY EXECUTIVE DIRECTOR
 EUGENE R. CROMARTIE

- - - - - (IACP) - - - - -

MEMORANDUM

To: Executive Committee
 S&P Representatives
 SACOP Representatives

From: Dan Rosenblatt, Executive Director

Date: September 21, 1995

Re: Concealed Carry Weapon (CCW) Legislation at the State Level

At our last Executive Committee meeting in Oklahoma City, staff was directed to prepare a simple position paper and strategy guide for members in states contemplating CCW legislation. Attached please find such a report. This draft document has been forwarded to President Whetsel, Chief Polisar and IACP Firearms Committee Chairman Chief Clarence Harmon for their review. All have given their approval and recommend that it be shared. If you have any initial comments on what else you would like included in the document, this would be a good time to bring them up.

Status

Over the past several years the National Rifle Association (NRA) has actively "coordinated" efforts at the state level to have legislation passed that would allow citizens to carry concealed weapons in states where such activity previously had been prohibited or left to the discretion of law enforcement officials to issue concealed carry permits to persons able to demonstrate a specific need. Coupled with the results of the 1994 election and the public's apparent concern with what is discerned to be increasingly random violent crime, their successes have been significant as shown by the following table.

<u>Number of States With CCW</u>	<u>1993</u>	<u>1995</u>
Prohibition against CCW	12	8
Restrictive--may issue	18	14

Of the eight states that currently prohibit CCW, six states had legislation introduced in 1995 to permit it. Of the 14 states that permitted CCW at the discretion of law enforcement or judicial officers, six states had legislation introduced in 1995 to liberalize their laws by removing discretion. As of this writing, four of these bills are still pending in state legislatures and will be until December, unless defeated sooner.

We can anticipate that similar legislation will again be introduced in 1996 in the states where CCW is either prohibited or restricted (see Attachment I). Chiefs in these states have expressed concern for the safety of their citizens and officers, and asked how other states have handled these legislative challenges. What follows is such an analysis.

The Arguments

Proponents of the CCW laws contend that criminals will be hesitant to victimize individuals who might be carrying a weapon. The fact, however, that the weapon is concealed would seem to greatly reduce this deterrence value. Arguably, a criminal might be more inclined to shoot first, anticipating a victim might be armed. The facts are that there is (sic) no hard data on what happens to the crime rate when citizens carry concealed weapons. Studies have interpreted the same data different ways. The state of Florida which first started the liberalization of CCW laws in 1986 has produced studies that both credits CCW laws for a 29 percent decrease in homicides, while the same data has (sic) been interrupted (sic) as leading to as much as a 74 percent increase in gun homicides, in one city. Many other intervening factors ranging from immigration, other gun control laws, to the weather may have an effect on crime rates. Proponents of CCW laws indicated that Florida law enforcement has not had difficulties because of its CCW law. The Commissioner of the Florida Department of Law Enforcement and IACP Executive Committee member Tim Moore would be in a position to comment on that but he can also attest to the fact that the Florida CCW law requires fingerprinting, vigorous background checks and firearms training. If faced with a CCW legislative proposal, check the proposed bill to see that it has at least the same safeguards as the Florida legislation before accepting that argument (Attachment II).

While data on the rate of change in the crime rate may be hard to interpret, public health officials have found that for every time a gun kept in the home is used to kill someone in self-defense, it is used 43 times to kill someone in a criminal homicide, suicide, or unintentional shooting. We believe that this same statistic will apply for guns carried outside the home under CCW laws.

What To Do About Proposed Legislation

If you are in one of the listed states, you can anticipate a bill. Here are some suggested strategies:

Before Introduction

1. Poll your state association of chiefs of police to determine the level of support for opposing either enacting new or liberalizing existing CCW laws.

2. Attempt to establish a coalition of groups who might share your views to increase public awareness and concern. They might include other law enforcement groups--prosecutors, medical groups, MADD members, violence prevention groups such as churches and gun control advocates.
3. Let the media know of your concerns through op-ed pieces in the newspaper and/or interviews on radio or television. Encourage the media to poll their readers and listeners.

After Introduction

1. Check the bill carefully to see what it contains and what it omits. How liberal is this *particular bill*?
2. Contact the author of the bill with recommendations on tightening it up through amendments.
3. Contact state Representatives and Senators to voice your opposition and see how strong support is for the bill by asking if they support it. Have a chief who lives in the district represented by the legislature to make the contact if possible. Keep track of how the vote count stands and make sure your coalition members make the same types of contact.

If You Have Votes to Defeat

Keep up an active media campaign until a final vote on the measure; do not let it just slip through--because it could very easily.

If You Don't the Votes to Defeat (sic)

Try to tighten the bill by having a friendly legislator include any of the suggestions contained in Attachment III,

Conclusion

These are tough legislative battles requiring dedication, coordination, and effort. The opposition is well-organized and financed. By in (sic) large the general population is troubled by the thought of more weapons being on the streets, and what that does for their safety. In states that have passed CCW laws recently, the press coverage in the initial few days has shown long lines of citizens applying for permits, implying a great deal of interest in carrying concealed weapons. But in actuality, those lines quickly disappear as the initial wave of applicants are processed. It would be interesting to see if a campaign could be mounted to have one or two of these liberalized CCW laws repealed based on a lack of interest by the citizens.

ATTACHMENT ONE

STATES PROHIBITING CCW

NAME	CONTACT	PHONE NUMBER
* Illinois (sic)		

- * Kansas
- Kentucky
- * Missouri
- Nebraska
- * New Mexico
- # Ohio
- # Wisconsin

STATES WITH RESTRICTIVE OR DISCRETIONARY CCW

NAME	CONTACT	PHONE NUMBER
* California		
* Colorado		
Delaware		
Hawaii		
Indiana		
Iowa		
* Louisiana		
Maryland		
# Massachusetts		
# Michigan		
Minnesota		
New Jersey		
New York		
* South Carolina		

* Indicates the states that had CCW legislation introduced during 1995 and were successful (sic) in defeating.

Indicates the states that had CCW legislation introduced during 1995 and where the legislature remains in session without having killed or passed the legislation.

As of 8/16/95

(What follows in the original is a photocopy of Chapters 790.01 to 790.06 of the Florida state laws. This section deals with carrying concealed weapons. It has not been reproduced here.)

ATTACHMENT III

Following is a list of issues that you may want addressed by your legislative members when they are considering any CCW proposal:

1. Requirement that all applicants be subject to finger printing and finger print background checks.
2. Requirement that all applicants be subject to criminal history, drug/alcohol addiction and mental health background checks. Prohibit those with criminal, drug/alcohol addiction and/or mental illness history (both voluntary and involuntary commitment to mental facility) from acquiring CCW permit. This check should cross-reference with other states and federal law enforcement agencies to include FBI, DEA, Secret Service, Park Service, INS and Border Patrol, as well as Interpol, to cast the widest net possible.
3. Requirement that all applicants have a certain number of hours of firearms training instruction administered by either a state or local law enforcement approved (certified) instructor. Most states' law enforcement communities have pushed for 10 or more hours per year.
4. Requirement that applicants pay for any cost associated with processing of applications. Most states have also pushed for yearly to bi-annual re-application. As part of the process, applicant should be subject to an eye test and weapons performance demonstration at a certified shooting range yearly.
5. Establishment of stiffer penalties for those who carry concealed without an active permit. For instance, moving such criminal violation from a misdemeanor to a felony.
6. Establish a CCW permit sticker, to be placed on state drivers license with photo, and vehicle license check, to notify police that person might have possession of a weapon, in course of routine traffic stops.
7. Establish CCW permit information entry on 911 database, so that police responding to a residence or business for possible domestic disturbance may be aware of gun ownership and CCW permit holders located at that location.
8. Establish a procedure for swift revocation for cause for criminal conduct such as stalking, domestic abuse, etc. Allow for automatic suspension of permit if person is subject of criminal investigation, with restoration pending outcome of criminal case. Also, mandate permanent suspension if person does not voluntarily turn in permit to police; and police subsequently discover that person is subject of criminal investigation or convicted of a criminal violation in or out of state - or another country.
9. Requirement that before any law is enacted which would liberalize CCW, it must come up for a vote in public referendum for those states which provide public referendums. This is the last option, but we feel confident that "shall issue" CCW proposals will fail in this arena in most, if not all states.
10. Require that the law be subject to a sunset or reauthorization provision in a limited number of years (3 to 5 years from enactment). Also, require that a study be conducted to track the number of permits processed, denied, approved, those with permits that commit crimes with or without a weapon, costs associated with permit process, effect on crime rate, and for other purposes.
11. Requirement that individual must be citizen of the state for specified time (60 to 120 days) and a citizen of the United States to acquire CCW permit, thereby prohibiting

out-of-state and foreign legal and/or illegal aliens from acquiring CCW permits.

12. Requirement that the state will not honor CCW permits from other states which do not meet or exceed all provision of its CCW law.
13. Requiring written consent of those applying for CCW permits to allow police to scan for gun detection in future. Also, requiring training for permit holders on how to conduct themselves at a crime incident/scene where officers are present, so as not to have them "mistaken" by police for criminal perpetrators with a weapon.
14. Require separate CCW permit application for each specific weapon an individual wants to have authority to carry concealed. Limit permit holder to one gun purchase per month. Virginia passed such legislation separate from CCW several years ago in an attempt to alter its historical ranking as the number one state origin for providing neighboring U.S. northeast corridor states with guns used in the commission of crime. The result was that significantly less guns from Virginia now find their way into neighboring states or are connected with crimes in other states.
15. Prohibit CCW permits from allowance to carry at bars, sporting events, concerts, festivals, fairs, restaurants, colleges and schools, any governmental building/land or any site where alcoholic beverages are served. Also, allowance for private businesses, property owners and residences to ban gun possession on property by posting and notification.
16. Require that list of citizens with CCW permits not be open to public - restricted to law enforcement access only - as at least one unethical entrepreneur has solicited CCW permit holders in Florida to buy police look-a-like "badges" to accompany their concealed weapon.
17. Require verification of purchase of gun liability insurance at a set amount (\$75,000.00 to \$150,000.00) for gun purchasers and CCW permit applications before allowing issuance of gun purchase and/or permit to that individual.
18. Allow for residents of any political subdivision, township, municipality, incorporated city or other locality to vote for greater restriction or prohibition than state law requires on the issuance of CCW permits within that area of jurisdiction. This provision is bolstered by the University of Maryland study - commissioned by the Center for Disease Control and Prevention (CDC) which suggested that liberalized CCW laws tend to contribute to increased crime rates - particularly in urban areas.
19. Require a local police involvement in the permit process, either as the place to conduct the permit application process, or require a consultation with the local law enforcement agency if a state law enforcement agency implements the CCW permit application process. They may know the individual personally and have direct input as to that person's character and past conduct.
108. For a detailed explanation of Sellin's theories, see *Theoretical Criminology*, 3rd edition, by George B. Vold and Thomas J. Bernard, p. 270, Oxford University Press, New York, 1986. Vold and Thomas say secondary cultural conflicts: ". . . are said to occur when a single culture evolves into several

different subcultures, each having its own conduct norms." The law enforcement culture could conceivably be in conflict with the culture of gun rights supporters in America.

109. Telephone interview with Mike "Woody" Woodward on December 19, 1995, at approximately 8:30 a.m. The entirety of this paragraph stems from that interview. Mike is located at LEDS, 400 Public Service Building, Salem, Oregon 97310, telephone (503) 378-5565.
110. According to a telephone conversation with Mike "Woody" Woodward at the Law Enforcement Data Services in Salem, Oregon, on December 15, 1995, at approximately 10:00 a.m., there are 15 categories of revocation of concealed handgun licenses in Oregon. Mr. Woodward subsequently mailed me the following chart of those categories. The totals of these categories are reflected in the LEDS data but are not detailed by category in this thesis.

R01	Pre-Trial Release for Misdemeanor
R02	Pre-Trial Release for Felony
R03	Misdemeanor Conviction
R04	Felony Conviction
R05	Misdemeanor Warrant
R06	Felony Warrant
R07	False Application
R08	Federal Prohibition
R09	Endanger Self/Others/Community
R10	Failure to Change Address
R11	ORS 166.300: Loss of Right to Bear Arms
R12	Danger—Mental
R13	Drug Addiction
R14	Alcohol Addiction
R15	ORS 166.293 (3) Condition of Application not Met

APPENDICES

APPENDIX 1

DATA SET USED FOR THIS THESIS

YEAR	TOTLMURD	TOTFAMUR	HG_UCR	RIFLEUCR	SG_UCR	OTHR_UCR
1980	21860	13650	10012	1124	1636	53
1981	20053	12523	9193	968	1528	82
1982	19485	11721	8474	1017	1377	38
1983	18673	10895	8193	831	1243	19
1984	16689	10175	7557	785	1194	19
1985	17545	10296	7548	810	1188	24
1986	19257	11381	8460	788	1296	22
1987	17963	10612	7847	776	1101	16
1988	17971	10895	8147	753	1105	15
1989	18954	11832	9013	865	1173	34
1990	20273	13035	10099	746	1245	25
1991	21676	14373	11497	745	1124	30
1992	22716	15489	12580	706	1111	42
1993	23271	16189	13252	754	1059	38

YEAR	CUT_UCR	BLUNTUCR	PERS_UCR	POISON_U	EXPLOD_U	ORMURUCR	ORPOPUCR
1980	4212	1094	1282	17	21	N/A	N/A
1981	3886	1038	1132	12	16	117	2647000
1982	4065	957	1298	19	12	136	2649000
1983	4075	1062	1280	20	5	109	2662000
1984	3653	1007	1134	6	8	128	2674000
1985	3694	972	1180	7	11	125	2687000
1986	3957	1099	1310	14	16	178	2698000
1987	3643	1045	1165	34	12	153	2724000
1988	3457	1126	1095	15	34	139	2741000
1989	3458	1128	1050	11	16	134	2820000
1990	3526	1085	1119	11	13	108	2842321
1991	3430	1099	1202	12	16	133	2922000
1992	3296	1040	1131	13	19	139	2977000
1993	2957	1024	1164	9	26	140	3032000

YEAR	ORMURCAP	CAP_LEDS	POP_LEDS	TOTM_LED	TOTM_POP	FAMUR_LE	HGMUR_LE
1980	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1981	4.420098	N/A	N/A	N/A	N/A	N/A	N/A
1982	5.134012	N/A	N/A	N/A	N/A	N/A	N/A
1983	4.094665	N/A	N/A	N/A	N/A	N/A	N/A
1984	4.786836	40319	2660000	128	4.812030	62	42
1985	4.652028	44691	2675800	122	4.559384	50	29
1986	6.597479	46745	2659500	175	6.580184	88	61
1987	5.616740	44660	2690000	154	5.724907	62	37
1988	5.071141	45286	2741000	140	5.107624	69	48
1989	4.751773	46786	2791000	128	4.586169	65	38
1990	3.799711	48840	2844000	110	3.867791	55	39
1991	4.551676	49246	2930000	129	4.402730	55	42
1992	4.669129	50928	2979000	137	4.598858	60	36
1993	4.617414	53117	3038000	141	4.641211	75	57

(Data set continued on next page)

YEAR	HGMURPOP	RFLMUR_L	RFMURPOP	SGMUR_LE	UNKFA_LE
1980	N/A	N/A	N/A	N/A	N/A
1981	N/A	N/A	N/A	N/A	N/A
1982	N/A	N/A	N/A	N/A	N/A
1983	N/A	N/A	N/A	N/A	N/A
1984	1.578947	11	0.413533	6	3
1985	1.083788	8	0.298976	9	4
1986	2.293664	18	0.676818	7	2
1987	1.375464	16	0.594795	8	1
1988	1.751185	11	0.401313	7	3
1989	1.361519	13	0.465782	13	1
1990	1.371308	10	0.351617	6	0
1991	1.433447	5	0.170648	5	3
1992	1.208459	14	0.469956	5	5
1993	1.876234	7	0.230414	7	4

EXPLANATION OF VARIABLES IN DATA SET

YEAR	Calendar year (January 1 through December 31)
TOTLMURD	Total murders in US per year; UCR
TOTFAMUR	Total murders in US per year attributable to firearms; UCR
HG_UCR	Total murders in US per year attributable to handguns; UCR
RIFLEUCR	Total murders in US per year attributable to rifles; UCR
SG_UCR	Total murders in US per year attributable to shotguns; UCR
OTHR_UCR	Total murders in US per year attributable to other firearms; UCR
CUT_UCR	Total murders in US per year attributable to knifings; UCR
BLUNTUCR	Total murders in US per year attributable to blunt objects; UCR
PERS_UCR	Total murders in US per year attributable to personal (strangling, etc.); UCR
POISON_U	Total murders in US per year attributable to poisoning; UCR
EXPLOD_U	Total murders in US per year attributable to use of explosives; UCR
ORMURUCR	Total murders in Oregon per year; UCR
ORPOPUCR	Oregon population per year; UCR
ORMURCAP	Oregon murder rate per 100,000 population calculated using UCR data.
CAP_LEDS	Total crimes against a person per year for Oregon; LEDS
POP_LEDS	Oregon population; LEDS
TOTM_LED	Total murders in Oregon per year; LEDS
TOTM_POP	Oregon murder rate per 100,000 population calculated using LEDS data.
FAMUR_LE	Total murders in Oregon per year attributable to firearms; LEDS
HGMUR_LE	Total murders in Oregon per year attributable to handguns; LEDS

HGMURPOP	Oregon handgun murder rate per 100,000 pop. calculated with LEDS data.
RFLMUR_L RFMURPOP	Total murders in Oregon per year attributable to rifles; LEDS Oregon rifle murder rate per 100,000 population calculated with LEDS data.
SGMUR_LE	Total murders in Oregon per year attributable to shotguns; LEDS
UNKFA_LE	Total murders in Oregon per year attributable to unknown firearms; LEDS

Note 1: The sum of the UCR values for handgun, rifle, shotgun and other firearm murders does not equal the UCR value for total firearm murders. The sum is, on average, 6.77% less than the published firearms murder total each year between 1980 and 1993. I have triple-checked the figures here against the published figures in the *Uniform Crime Report* for each year at the FBI office in Portland. This problem does not exist with the LEDS data. Below is a breakdown of the annual difference (Δ).

Year	Δ	$\Delta\%$
1980	-825	-6.04%
1981	-752	-6.00%
1982	-815	-6.95%
1983	-609	-5.59%
1984	-620	-6.09%
1985	-726	-7.05%
1986	-815	-7.16%
1987	-872	-8.22%
1988	-875	-8.03%
1989	-747	-6.31%
1990	-920	-7.06%
1991	-977	-6.80%
1992	-1050	-6.78%
1993	-1086	-6.71%

Note 2: The Oregon murder rates per 100,000 population for shotguns and unknown firearms are provided in Tables III-D and III-E, respectively (page 43).

Note 3: Murder rates per 100,000 population were calculated by the author and are not part of the LEDS data set.

Note 4:

The use of N/A in the data set for 1980-1983 for the variables CAP_LEDS through UNKFA_LE is provided because there were no LEDS data available for those years at the time of data collection. The nationwide UCR data are provided because the FBI had *Uniform Crime Report* editions for the earlier years. The Millar Library does not have a complete set of UCR manuals and many years are missing. That is why, at the suggestion of Dr. Gary Perlstein, the FBI office was contacted.

END OF DATA SET

APPENDIX 2

OREGON CONCEALED HANDGUN LICENSEE DATA

REPRESENTING INFORMATION FROM L.E.D.S

AS OF DECEMBER 1, 1995

APPENDIX 2

OREGON CONCEALED HANDGUN LICENSEE DATA

This Appendix is based upon data received from the Law Enforcement Data System and represents the information in the LEDS computers for the counties throughout Oregon. These figures are current as of December 1, 1995.

COUNTY	PERMITS	DENIALS	REVOCATIONS	% REVOKED*
Baker	468	0	4	0.85%
Benton	1,092	6	9	0.82%
Clackamas	8,576	222	162	1.89%
Clatsop	727	3	8	1.10%
Columbia	1,389	5	12	0.86%
Coos	1,949	20	27	1.39%
Crook	579	3	2	0.35%
Curry	656	2	1	0.15%
Deschutes	2,879	14	12	0.42%
Douglas	2,994	9	56	1.87%
Gilliam	81	0	0	0.00%
Grant	260	0	1	0.38%
Harney	142	2	0	0.00%
Hood River	309	0	1	0.32%
Jackson	4,208	46	73	1.73%
Jefferson	284	1	2	0.70%
Josephine	1,980	23	26	1.31%
Klamath	2,068	2	16	0.77%

Lake	203	0	2	0.99%
Lane	6,146	55	124	2.02%
Lincoln	941	9	24	2.55%
Linn	2,370	43	30	1.27%
Malheur	229	4	11	4.80%
Marion	5,310	38	70	1.32%
Morrow	220	1	2	0.91%
Multnomah	11,255	244	270	2.40%
Polk	1,232	31	14	1.14%
Sherman	72	0	0	0.00%
Tillamook	751	15	11	1.46%
Umatilla	1,719	11	17	0.99%
Union	655	5	6	0.92%
Wallowa	200	0	0	0.00%
Wasco	503	9	8	1.59%
Washington	7,094	48	158	2.23%
Wheeler	39	0	0	0.00%
Yamhill	1,806	1	13	0.72%
TOTALS	71,386	872	1,172	1.64%

The % Revoked column represents my calculations of the number in the Revocations column divided by the value in the Permits column and converted to a percentage. This is displayed for each county and for the totals.

The population of Oregon, based upon the estimate provided in Chapter 4 and extended to 1995 using the same growth pattern, is 3,103,600. That suggests there is one licensee for approximately every 44 persons in the state.

CHARACTERISTICS OF LICENSEES

AGE DISTRIBUTION (71,386 licensees, 872 denials and 1,172 revocations)

TYPE	21	22-25	26-35	36-45	46-55	56-65	66-75	76-99	Totals
Males: Permits	1,102	3,341	9,620	13,586	13,288	8,199	4,789	920	54,845
Males: Denials	31	96	231	222	136	50	16	5	787
Males: Revoked	23	129	268	310	210	83	30	5	1,058
Males: Prohibit	15	23	92	92	42	17	9	3	293
Females: Permits	258	847	3,257	5,066	4,406	1,965	667	75	16,541
Females: Denials	1	10	26	28	11	5	4	0	85
Females: Revoked	1	11	38	44	14	5	1	0	114
Females: Prohibit	5	12	29	44	17	11	5	3	126
Total males	1,156	3,566	10,119	14,118	13,634	8,332	4,835	930	56,690
Total females	260	868	3,321	5,138	4,431	1,975	672	75	16,740
Grand total	1,416	4,434	13,440	19,256	18,065	10,307	5,507	1,005	73,430
Percent male licensees	81.6%	80.4%	75.3%	73.3%	75.5%	80.8%	87.8%	92.5%	77.2%
Percent female licensees	18.4%	19.6%	24.7%	26.7%	24.5%	19.2%	12.2%	7.5%	22.8%

Of the 1,172 revoked licensees, 9.73% were female and 90.27% were male. This resolves to 0.69% of all female licensees and 1.93% of all male licensees, suggesting that males are about three times as likely to experience revocation. Both males and females experienced the greatest number of revocations in the 36 to 45 year age group. As with revocations, the 36-45 year age group also represented the greatest number of court ordered license prohibitions (67.65% of whom were male and 32.35% were female). Note also that this age group represents the greatest number of licensees. Of all prohibited persons, 69.93% were males and 30.07% were female.

APPENDIX 3

**OREGON REVISED STATUTES
PERTINENT TO CONCEALED HANDGUN LICENSING
TITLE 16.
CRIMES AND PUNISHMENTS
CHAPTER 166.
OFFENSES AGAINST PUBLIC ORDER;
FIREARMS AND OTHER WEAPONS; RACKETEERING
Current through Ch. 820 of the 67th Legislative Assembly (1993)**

APPENDIX 3

OREGON REVISED STATUTES

TITLE 16.

CRIMES AND PUNISHMENTS

CHAPTER 166.

OFFENSES AGAINST PUBLIC ORDER;

FIREARMS AND OTHER WEAPONS; RACKETEERING

Current through Ch. 820 of the 67th Legislative Assembly (1993)

POSSESSION AND USE OF WEAPONS

166.180. Negligently wounding another.

Any person who, as a result of failure to use ordinary care under the circumstances, wounds any other person with a bullet or shot from any firearm, or with an arrow from any bow, shall be punished by imprisonment in the county jail for a period not to exceed six months, or by a fine not to exceed \$500, or both. In addition, any person so convicted shall forfeit any license to hunt, obtained under the laws of this state, and shall be ineligible to obtain a license to hunt for a period of 10 years following the date of conviction.

166.190. Pointing firearm at another; courts having jurisdiction over offense.

Any person over the age of 12 years who, with or without malice, purposely points or aims any loaded or empty pistol, gun, revolver or other firearm, at or toward any other person within range of the firearm, except in self-defense, shall be fined upon conviction in any sum not less than \$10 nor more than \$500, or be imprisoned in the county jail not less than 10 days nor more than six months, or both. Justices of the peace and district courts have jurisdiction concurrent with the circuit court of the trial of violations of this section. When any person is charged before a justice of the peace with violation of this section, the court shall, upon motion of the district attorney, at any time before trial, act as a committing magistrate, and if probable cause be established, hold such person to the grand jury.

166.210. Definitions.

As used in ORS 166.250 to 166.270, 166.280, 166.291 to 166.295 and 166.410 to 166.470:

(1) "Antique firearm" means:

(a) Any firearm, including any firearm with a matchlock, flintlock, percussion cap or similar type of ignition system, manufactured in or before 1898; and

(b) Any replica of any firearm described in paragraph (a) of this subsection if the replica:

(A) Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

(B) Uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and that is not readily available in the ordinary channels of commercial trade.

(2) "Firearm" means a weapon, by whatever name known, which is designed to expel a projectile by the action of powder and which is readily capable of use as a weapon.

(3) "Firearms silencer" means any device for silencing, muffling or diminishing the report of a firearm.

(4) "Handgun" means any conventional pistol or revolver using a fixed cartridge containing a propellant charge, primer and projectile, and designed to be aimed or fired otherwise than from the shoulder and which fires a single shot for each pressure on the trigger device.

(5) "Machine gun" means a weapon of any description by whatever name known, loaded or unloaded, which is designed or modified to allow two or more shots to be fired by a single pressure on the trigger device.

(6) "Minor" means a person under 18 years of age.

(7) "Short-barreled rifle" means a rifle having one or more barrels less than 16 inches in length and any weapon made from a rifle if the weapon has an overall length of less than 26 inches.

(8) "Short-barreled shotgun" means a shotgun having one or more barrels less than 18 inches in length and any weapon made from a shotgun if the weapon has an overall length of less than 26 inches.

(Amended by 1977 c.769 Sec. 1; 1979 c.779 Sec. 3; 1989 c.839 Sec. 1; 1993 c.735 Sec. 14)

166.220. Unlawful use of weapon.

(1) A person commits the crime of unlawful use of a weapon if the person:

(a) Attempts to use unlawfully against another, or carries or possesses with intent to use unlawfully against another, any dangerous or deadly weapon as defined in ORS 161.015; or

(b) Intentionally discharges a firearm, blowgun, bow and arrow, crossbow or explosive device within the city limits of any city or within residential areas within urban growth boundaries at or in the direction of any person, building, structure or vehicle within the range of the weapon without having legal authority for such discharge.

(2) This section does not apply to:

(a) Police officers or military personnel in the lawful performance of their official duties;

(b) Persons lawfully defending life or property as provided in ORS 161.219;

(c) Persons discharging firearms, blowguns, bows and arrows, crossbows or explosive devices upon public or private shooting ranges, shooting galleries or other areas designated and built for the purpose of target shooting; or

(d) Persons lawfully engaged in hunting in compliance with rules and regulations adopted by the State Department of Fish and Wildlife.

(3) Unlawful use of a weapon is a Class C felony.

(Amended by 1975 c.700 Sec. 1; 1985 c.543 Sec. 1; 1991 c.797 Sec. 1)

166.240. Carrying of concealed weapons.

(1) Except as provided in subsection (2) of this section, any person who carries concealed upon the person any knife having a blade that projects or swings into position by force of a spring or by centrifugal force and commonly known as a switchblade knife, any dirk, dagger, ice pick, slung shot, metal knuckles, or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person, commits a Class B misdemeanor.

(2) Nothing in subsection (1) of this section applies to any peace officer as defined in ORS 133.005, whose duty it is to serve process or make arrests. Justices of the peace have concurrent jurisdiction to try any person charged with violating any of the provisions of subsection (1) of this section.

(Amended by 1977 c.454 Sec. 1; 1985 c.543 Sec. 2; 1989 c.839 Sec. 21)

166.245. Authority of cities and counties to regulate possession.

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.

(1989 c.839 Sec. 38)

166.250. Unlawful possession of firearms.

(1) Except as otherwise provided in this section, ORS 166.260, 166.270, 166.274, 166.280, 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm if the person knowingly:

(a) Carries any firearm concealed upon the person, without having a license to carry the firearm as provided in ORS 166.291 and 166.292;

(b) Carries concealed and readily accessible to the person within any vehicle which is under the person's control or direction any handgun, without having a license to carry such firearm as provided in ORS 166.291 and 166.292; or

(c) Possesses a firearm and:

(A) Is under 18 years of age;

(B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470; and

(ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being charged under this section;

(C) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(D) Was committed to the Mental Health and Developmental Disability Services Division under ORS 426.130; or

(E) Was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness.

(2) This section does not prohibit:

(a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from possessing a firearm:

(A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or guardian or by another person with the consent of the minor's parent or guardian; or

(B) Temporarily for hunting, target practice or any other lawful purpose; or

(b) Any citizen of the United States over the age of 18 years who resides in or is temporarily sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270 and subsection (1) of this section, from

owning, possessing or keeping within the person's place of residence or place of business any handgun, and no permit or license to purchase, own, possess or keep any such firearm at the person's place of residence or place of business is required of any such citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle while used, for whatever period of time, as residential quarters.

(3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

(4) Unlawful possession of a firearm is a Class A misdemeanor.

(Amended by 1979 c.779 Sec. 4; 1985 c.543 Sec. 3; 1989 c.839 Sec. 13; 1993 c.732 Sec. 1; 1993 c.735 Sec. 12)

166.260. Persons not affected by ORS 166.250.

(1) ORS 166.250 does not apply to or affect:

(a) Sheriffs, constables, marshals, police officers, whether active or honorably retired, or other duly appointed peace officers.

(b) Any person summoned by any such officer to assist in making arrests or preserving the peace, while said person so summoned is actually engaged in assisting the officer.

(c) The possession or transportation by any merchant of unloaded firearms as merchandise.

(d) Members of the Army, Navy, Air Force, Coast Guard or Marine Corps of the United States, or of the National Guard, when on duty.

(e) Organizations which are by law authorized to purchase or receive weapons described in ORS 166.250 from the United States, or from this state.

(f) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their organization.

(g) A corrections officer while transporting or accompanying an individual convicted of or arrested for an offense and confined in a place of incarceration or detention while outside the confines of the place of incarceration or detention.

(2) Except for persons who are otherwise prohibited from possessing a firearm under ORS 166.250 (1)(c) or 166.270, ORS 166.250 does not apply to or affect:

(a) Members of any club or organization, for the purpose of practicing shooting at targets upon the established target ranges, whether public or private, while such members are using any of the firearms referred to in ORS 166.250 upon such target ranges, or while going to and from such ranges.

(b) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from a hunting or fishing expedition.

(Amended by 1977 c.207 Sec. 1; 1991 c.67 Sec. 36; 1993 c.735 Sec. 1)

166.270. Certain felons forbidden to possess firearms.

(1) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any firearm, commits the crime of felon in possession of a firearm.

(2) Any person who has been convicted of a felony under the law of this state or any other state, or who has been convicted of a felony under the laws of the Government of the United States, who owns or has in the person's possession or under the person's custody or control any instrument or weapon having a blade that projects or swings into position by force of a spring or by centrifugal force and commonly known as a switchblade knife, or any instrument or weapon commonly known as a blackjack, slung shot, sandclub, sandbag, sap glove or metal knuckles, or who carries a dirk, dagger or stiletto, commits the crime of felon in possession of a restricted weapon.

(3) For the purposes of this section, a person "has been convicted of a felony" if, at the time of conviction for an offense, that offense was a felony under the law of the jurisdiction in which it was committed. Provided, however, that such conviction shall not be deemed a conviction of a felony if:

(a) The court declared the conviction to be a misdemeanor at the time of judgment; or

(b) The offense was for possession of marijuana and the conviction was prior to January 1, 1972.

(4) Subsection (1) of this section shall not apply to any person who has been:

(a) Convicted of only one felony under the law of this state or any other state, or who has been convicted of only one felony under the laws of the United States, which felony did not involve criminal homicide, as defined in ORS 163.005, or the possession or use of a firearm or switchblade knife, and who has been discharged from imprisonment, parole or probation for said offense for a period of 15 years prior to the date of alleged violation of subsection (1) of this section; or

(b) Granted relief from the disability under ORS 166.274 or 18 U.S.C. Sec. 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of another jurisdiction.

(5) Felon in possession of a firearm is a Class C felony. Felon in possession of a restricted weapon is a Class A misdemeanor.

(Amended by 1975 c.702 Sec. 1; 1985 c.543 Sec. 4; 1985 c.709 Sec. 2; 1987 c.853 Sec. 1; 1989 c.839 Sec. 4; 1993 c.735 Sec. 2)

166.272. Unlawful possession of machine guns, certain short-barreled firearms and firearms silencers.

(1) A person commits the crime of unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer if the person knowingly possesses any machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer not registered as required under federal law.

(2) Unlawful possession of a machine gun, short-barreled rifle, short-barreled shotgun or firearms silencer is a Class B felony.

(1989 c.839 Sec. 13a)

166.274. Relief from prohibition against possessing or purchasing firearm.

(1) A person barred from possessing a firearm under ORS 166.250 (1)(c) or 166.270 or barred from purchasing a firearm under ORS 166.470 may file a petition for relief from the bar in:

(a) A justice court in the petitioner's county of residence that is reasonably accessible to the petitioner; or

(b) If no justice court is reasonably accessible, the district court in the petitioner's county of residence or, if there is no district court for the county, the circuit court.

(2) A person may apply once per calendar year for relief under the provisions of this section.

(3)(a) A person petitioning for relief under this section shall serve a copy of the petition on:

(A) The city chief of police if the court in which the petition is filed is located in a city; or

(B) The sheriff of the county in which the court is located.

(b) The copy of the petition shall be served on the chief of police or sheriff at the same time the petition is filed at the court.

(4)(a) When a petition is denied, the judge shall cause that information to be entered into the Department of State Police computerized criminal history files.

(b) When a petition is granted, the judge shall cause that information and a fingerprint card of the petitioner to be entered into the Department of State Police computerized criminal history files. If, after a petition is granted, the petitioner is arrested and convicted of a crime that would disqualify the petitioner from purchasing or possessing a firearm, the Department of State Police shall notify the court that granted relief under this section. The court shall review the order granting relief and determine whether to rescind the order. The Department of State Police may charge a reasonable fee, under ORS 192.440, for the entry and maintenance of information under this section.

(5) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county, district or other political subdivision or public corporation in this state, without appearance by attorney, may appear as a party to an action under this section.

(6) If the petitioner seeks relief from the bar on possessing or purchasing a firearm, relief shall be granted when the petitioner demonstrates, by clear and convincing evidence, that the petitioner does not pose a threat to the safety of the public or the petitioner.

(7) A person barred from possessing or purchasing a firearm because the person, while a minor, was found to be within the jurisdiction of the juvenile court for committing an act which, if committed by an adult, would have constituted a felony or a misdemeanor involving violence, is not eligible to petition for relief under this section until more than four years have passed since the person was discharged from the jurisdiction of the juvenile court.

(8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of filing or as soon as is practicable thereafter, but not more than 30 days thereafter. The judge shall then make findings and conclusions and issue a judgment based on the findings and conclusions in accordance with the requirements of law.

(9) Filing fees shall be as for any civil action filed in the court. If the petitioner prevails, the amount of the filing fee shall be paid by the respondent to the petitioner and may be incorporated into the court order.

(10)(a) Initial appeals of petitions shall be heard de novo. Appeals from district court shall go to the circuit court.

(b) Any party to a judgment under this subsection may appeal to the Court of Appeals in the same manner as for any other civil action.

(c) If the governmental entity files an appeal under this subsection and does not prevail, it shall be ordered to pay the attorney fees for the prevailing party.

(1989 c.839 Sec. 11; 1991 c.67 Sec. 37; 1993 c.732 Secs. 3,4)

166.275. Possession of weapons by inmates of institutions.

Any person committed to any institution who, while under the jurisdiction of any institution or while being conveyed to or from any institution, possesses or carries upon the person, or has under the custody or control of the person any dangerous instrument, or any weapon including but not limited to any blackjack, slingshot, billy, sand club, metal knuckles, explosive substance, dirk, dagger, sharp instrument, pistol, revolver or other firearm without lawful authority, is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the custody of the Department of Corrections for a term not more than 20 years.

(1953 c.533 Sec. 1; 1987 c.320 Sec. 88)

166.280. Seizure of firearms, dangerous weapons and concealed weapons; destruction; exception; sale by auction.

(1) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any machine gun, pistol, revolver, other firearm capable of being concealed upon the person, or any firearm or any dangerous weapon described in ORS 161.015, used during the commission of any felony or misdemeanor is a nuisance. Any such weapons taken from the person or vehicle of any person unlawfully carrying the same are nuisances, and shall be surrendered to the magistrate before whom the person is taken, except that in any city, county, town or other municipal corporation the weapons shall be surrendered to the head of the police force or police department.

(2) The officers to whom the weapons are surrendered, except as provided under subsection (4) of this section or upon the certificate of a judge of a court of record or of the district attorney of the county that their preservation is necessary or

proper to the ends of justice, shall have authority and be responsible, subject to applicable laws, for selling such weapons or shall destroy the weapons to such extent that they are wholly and entirely ineffective and useless for the purpose for which they were manufactured.

(3) Upon the certificate of a judge or of the district attorney that the ends of justice will be subserved thereby, such weapon shall be preserved until the necessity for its use ceases, at which time, except as provided under subsection (4) of this section, the court shall order that the weapons be delivered to the officials having responsibility under applicable laws and subsection (2) of this section for selling such weapons, or destroying the weapons to such extent that they are wholly and entirely ineffective and useless for the purpose for which they were manufactured.

(4) In the event any such weapon has been stolen and is thereafter recovered from the thief or the thief's transferee, it shall not be destroyed but shall be restored to its lawful owner as soon as its use as evidence has been served, upon identification of the weapon and proof of ownership.

(5) The sale of any weapons under this section shall be by public auction. The agency holding the weapons shall conduct the auction annually. The agency shall publish notice of the time and place of the auction in the principal local newspaper no less than 20 nor more than 30 days before the date of the auction. Written or printed notice of the auction shall also be posted in three public places of the county where the sale is to take place, not less than 10 days successively. The agency shall permit public inspection of the weapons to be auctioned. Items shall be sold individually unless there is no interested bidder, in which case they may be sold in lots.

(Amended by 1981 c.767 Sec. 1; 1993 c.625 Sec. 2)

166.291. Issuance of concealed handgun license; application; fees; liability.

(1) The sheriff of a county, upon a person's application for an Oregon concealed handgun license, upon receipt of the appropriate fees and after compliance with the procedures set out in this section, shall issue the person a concealed handgun license if the person:

(a)(A) Is a citizen of the United States; or

(B) Is a legal resident alien who can document continuous residency in the county for at least six months and has declared in writing to the Immigration and Naturalization Service the intent to acquire citizenship status and can present proof of the written declaration to the sheriff at the time of application for the license;

(b) Is at least 21 years of age;

(c) Has a principal residence in the county in which the application is made;

(d) Has no outstanding warrants for arrest;

(e) Is not free on any form of pretrial release;

(f) Demonstrates competence with a handgun by any one of the following:

(A) Completion of any hunter education or hunter safety course approved by the State Department of Fish and Wildlife or a similar agency of another state if handgun safety was a component of the course;

(B) Completion of any National Rifle Association firearms safety or training course if handgun safety was a component of the course;

(C) Completion of any firearms safety or training course or class available to the general public offered by law enforcement, community college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or a law enforcement agency if handgun safety was a component of the course;

(D) Completion of any law enforcement firearms safety or training course or class offered for security guards, investigators, reserve law enforcement officers or any other law enforcement officers if handgun safety was a component of the course;

(E) Presents evidence of equivalent experience with a handgun through participation in organized shooting competition or military service;

(F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been revoked; or

(G) Completion of any firearms training or safety course or class conducted by a firearms instructor certified by a law enforcement agency or the National Rifle Association if handgun safety was a component of the course;

(g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;

(h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor within the four years prior to the application;

(i) Has not been committed to the Mental Health and Developmental Disability Services Division under ORS 426.130;

(j) Has not been found to be mentally ill and is not subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness; and

(k) Has been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, the person was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470.

(2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. Sec. 925(c) or has had the person's record expunged under the laws of this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection (1)(g) to (k) of this section.

(3) Before the sheriff may issue a license:

(a) The application must state the applicant's legal name, current address and telephone number, date and place of birth, hair and eye color and height and weight. The application must also list the applicant's residence address or addresses for the previous three years. The application must contain a statement by the applicant that the applicant meets the requirements of subsection (1)(a) to (k) of this section. The application must be signed by the applicant.

(b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff shall fingerprint and photograph the applicant and shall conduct any investigation necessary to corroborate the requirements listed under subsection (1) of this section.

(4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon request. The forms shall be uniform throughout the state in substantially the following form:

APPLICATION FOR LICENSE TO CARRY CONCEALED HANDGUN

Date _____

I hereby declare as follows:

I am a citizen of the United States or a legal resident alien who can document continuous residency in the county for at least six months and have declared in writing to the Immigration and Naturalization Service my intention to become a citizen and can present proof of the written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, I was found to be within the jurisdiction of the juvenile court for having committed an act which, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years, been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor. There are no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not been committed to the Mental Health and Developmental Disability Services Division under ORS 426.130, nor have I been found mentally ill and presently subject to an order prohibiting me from purchasing or possessing a firearm because of mental illness. If any of the previous conditions do apply to me, I have been granted

relief or wish to petition for relief from the disability under ORS 166.274 or 166.293 or 18 U.S.C. Sec. 925(c) or have had the records expunged. I understand I will be fingerprinted and photographed.

Age____ Date of birth____ Place of birth____ Social Security Number____ (Disclosure of your social security account number is voluntary. Solicitation of the number is authorized under ORS 166.420. It will be used only as a means of identification.)

Proof of identification (Two pieces of current identification are required, one of which must bear a photograph of the applicant. Type of identification and number on identification to be filled in by sheriff):

1. _____

2. _____

Height____ Weight____

Current address_____

(List residence addresses for
the past three years on back)

City_____ County_____ Zip_____ Phone_____

I have read the entire text of this application, and the statements therein are correct and true. (Making false statements on this application is a misdemeanor.)

(Signature of Applicant)

Character references.

Name	Address

Name	Address

Approved__ Disapproved__ by__

Competence with handgun demonstrated
by_____ (to be filled in by sheriff)

Date_____ Fee Paid_____

License No. _____

(5)(a) Fees for concealed handgun licenses are:

(A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

(B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

(C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

(b) The sheriff may enter into an agreement with the Department of Transportation to produce the concealed handgun license.

(6) No civil or criminal liability shall attach to the sheriff or any authorized representative engaged in the receipt and review of, or an investigation connected with, any application for, or in the issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful performance of duties under those sections.

(7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff shall enter the applicant's name into the Law Enforcement Data System indicating that the person is an applicant for a concealed handgun license or is a license holder.

(8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section for a resident of a contiguous state who has a compelling business interest or other legitimate demonstrated need.

(1989 c.839 Sec. 8 (166.291 to 166.293 enacted in lieu of 166.290); 1991 c.67 Sec. 38; 1993 c.732 Sec. 2; 1993 c.735 Sec. 4)

166.292. Procedure for issuing; form of license; duration.

(1) If the application for the license is approved, the sheriff shall issue and mail or otherwise deliver to the applicant at the address shown on the application, within 45 days of the application, a wallet sized license bearing the photograph of the licensee. The license must be signed by the licensee and carried whenever the licensee carries a concealed handgun.

(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.

(3) Licenses for concealed handguns shall be uniform throughout the state in substantially the following form:

OREGON CONCEALED HANDGUN LICENSE	
County _____	License Number _____
Expires _____	Date of birth _____
Height _____	Weight _____
Name _____	Address _____
Licensee's City _____	Zip: _____ Photograph _____
Signature _____	
Issued by _____	
Date of issue _____	

(4) An Oregon concealed handgun license issued under ORS 166.291 and this section, unless revoked under ORS 166.293, is valid for a period of four years from the date on which it is issued.

(5) The sheriff shall keep a record of each license issued under ORS 166.291 and this section, or renewed pursuant to ORS 166.295.

(6) When a sheriff issues a concealed handgun license under this section, the sheriff shall provide the licensee with a list of those places where carrying concealed handguns is prohibited or restricted by state or federal law.

(1989 c.839 Sec. 9 (166.291 to 166.293 enacted in lieu of 166.290); 1993 c.625 Sec. 5; 1993 c.693 Sec. 2; 1993 c.735 Sec. 5)

166.293. Denial or revocation of license; review.

(1) If the application for the concealed handgun license is denied, the sheriff shall set forth in writing the reasons for the denial. The denial shall be sent to the applicant by certified mail, restricted delivery, within 45 days after the application was made. If no decision is issued within 45 days, the person may seek review under the procedures in subsection (5) of this section.

(2) Notwithstanding ORS 166.291 (1), and subject to review as provided in subsection (5) of this section, a sheriff may deny a concealed handgun license if the sheriff has reasonable grounds to believe that the applicant has been or is reasonably likely to be a danger to self or others, or to the community at large, as a result of the applicant's mental or

psychological state, as demonstrated by past pattern of behavior or participation in incidents involving unlawful violence or threats of unlawful violence.

(3) Any act or condition that would prevent the issuance of a license under ORS 166.291 to 166.293 shall be cause for revoking a concealed handgun license. A sheriff may revoke a license by serving upon the licensee a notice of revocation. The notice must contain the grounds for the revocation and must be served either personally or by certified mail, restricted delivery. The notice and return of service shall be included in the file of the licensee. The revocation is effective upon the licensee's receipt of the notice.

(4) Any peace officer or corrections officer may seize a concealed handgun license and return it to the issuing sheriff when the license is held by a person who has been arrested or cited for a crime that can or would otherwise disqualify the person from being issued a concealed handgun license. The issuing sheriff shall hold the license for 30 days. If the person is not charged with a crime within the 30 days, the sheriff shall return the license unless the sheriff revokes the license as provided in subsection (3) of this section.

(5) A person denied a concealed handgun license or whose license is revoked or not renewed under ORS 166.291 to 166.295 may petition the district court in the petitioner's county of residence or, if there is no district court, the circuit court to review the denial, nonrenewal or revocation. The petition must be filed within 30 days after the receipt of the notice of denial or revocation.

(6) The judgment affirming or overturning the sheriff's decision shall be based solely on whether the petitioner meets the criteria that are used for issuance of the license under ORS 166.291 to 166.293. Whenever the petitioner has been previously sentenced for a crime under ORS 161.610 or for a crime of violence for which the person could have received a sentence of more than 10 years, the court shall only grant relief if the court finds that relief should be granted in the interest of justice.

(7) Notwithstanding the provisions of ORS 9.320, a corporation, the state or any city, county, district or other political subdivision or public corporation in this state, without appearance by attorney, may appear as a party to an action under this section.

(8) Petitions filed under this section shall be heard and disposed of within 15 judicial days of filing or as soon as practicable thereafter.

(9) Filing fees for actions shall be as for any civil action filed in the court. If the petitioner prevails, the amount of the filing fee shall be paid by the respondent to the petitioner and may be incorporated into the court order.

(10) Initial appeals of petitions shall be heard de novo. Appeals from district court shall go to circuit court.

(11) Any party to a judgment under this section may appeal to the Court of Appeals in the same manner as for any other civil action.

(12) If the governmental entity files an appeal under this section and does not prevail, it shall be ordered to pay the attorney fees for the prevailing party.

(1989 c.839 Sec. 9a (166.291 to 166.293 enacted in lieu of 166.290); 1993 c.735 Sec. 6)

166.295. Renewal of license.

(1)(a) A concealed handgun license is renewable by repeating the procedures set out in ORS 166.291 and 166.292, except for the requirement to submit fingerprints and provide character references.

(b) An otherwise expired concealed handgun license continues to be valid for up to 45 days after the licensee applies for renewal if:

- (A) The licensee applies for renewal before the original license expires;
- (B) The licensee has proof of the application for renewal; and
- (C) The application for renewal has not been denied.

(2) If a licensee changes residence, the licensee shall report the change of address and the sheriff shall issue a new license as a duplication for a change of address. The license shall expire upon the same date as would the original.

(1989 c.839 Sec. 10; 1993 c.735 Sec. 7)

166.297. Annual report regarding revocation of licenses.

(1) The sheriff of a county shall submit annually to the Department of State Police a report containing the number of concealed handgun licenses revoked during the reporting period and the reasons for the revocations.

(2) The Department of State Police shall compile the reports submitted under subsection (1) of this section and shall submit the compilation to the Legislative Assembly biennially.

(1993 c.735 Sec. 13)

166.300. Killing another as cause for loss of right to bear arms.

(1) Any person who has committed, with firearms of any kind or description, murder in any degree, or manslaughter, either voluntary or involuntary, or who in a careless or reckless manner, kills or injures another with firearms, and who, at any time after committing murder or manslaughter or after said careless or reckless killing or injury of another, carries or bears firearms of any kind or description within this state, shall be punished upon conviction by a fine of not more than \$500, or by imprisonment in the county jail not to exceed one year, or both.

(2) Subsection (1) of this section does not deprive the people of this state of the right to bear arms for the defense of themselves and the state, and does not apply to any peace officer in the discharge of official duties or to a member of any regularly constituted military organization while on duty with such military organization.

(3) Justices of the peace, district courts, county courts and all other courts having jurisdiction as justices of the peace, shall have concurrent jurisdiction with the circuit courts of all prosecutions under subsection (1) of this section.

166.320. Setting springgun or setgun.

(1) Any person who places or sets any loaded springgun, setgun, or any gun, firearm or other device of any kind designed for containing or firing explosives, in any place where it may be fired, exploded or discharged by the contact of any person or animal with any string, wire, rod, stick, spring or other contrivance affixed to or connected with it, or with its trigger, shall be punished upon conviction by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail for not less than 30 days nor more than six months, or both.

(2) Subsection (1) of this section does not apply to any loaded springgun, setgun, firearm or other device placed for the purpose of destroying gophers, moles or other burrowing rodents, and does not prevent the use of a coyote getter by employees of county, state or federal governments engaged in cooperative predatory animal control work.

166.330. Use of firearms with other than incombustible gun wadding.

Any person who uses in any firearms discharged on lands within this state, not owned by the person, anything other than incombustible gun wadding, shall be punished upon conviction by a fine of not less than \$5 nor more than \$100, or by imprisonment in the county jail for not less than two days nor more than 60 days.

166.350. Unlawful possession of armor piercing ammunition.

(1) A person commits the crime of unlawful possession of armor piercing ammunition if the person:

(a) Makes, sells, buys or possesses any handgun ammunition the bullet or projectile of which is coated with Teflon or any chemical compound with properties similar to Teflon and which is intended to penetrate soft body armor, such person having the intent that the ammunition be used in the commission of a felony; or

(b) Carries any ammunition described in paragraph (a) of this subsection while committing any felony during which the person or any accomplice of the person is armed with a firearm.

(2) As used in this section, "handgun ammunition" means ammunition principally for use in pistols or revolvers notwithstanding that the ammunition can be used in some rifles.

(3) Unlawful possession of armor piercing ammunition is a Class A misdemeanor.

(1985 c.755 Sec. 2; 1987 c.158 Sec. 29)

POSSESSION OF FIREARM IN PUBLIC BUILDING OR OF DESTRUCTIVE DEVICE

166.360. Definitions for ORS 166.360 to 166.380.

As used in ORS 166.360 to 166.380, unless the context requires otherwise:

(1) "Capitol building" means the Capitol, the Supreme Court Building, the State Office Building, the State Library Building, the Labor and Industries Building, the State Transportation Building, the Agriculture Building or the Public Service Building and includes any new buildings which may be constructed on the same grounds as an addition to the group of buildings listed in this subsection.

(2) "Loaded firearm" means:

(a) A breech-loading firearm in which there is an unexpended cartridge or shell in or attached to the firearm including but not limited to, in a chamber, magazine or clip which is attached to the firearm.

(b) A muzzle-loading firearm which is capped or primed and has a powder charge and ball, shot or projectile in the barrel or cylinder.

(3) "Public building" means a hospital, capitol building, a public or private school, college or university, a county courthouse, a city hall or the residence of any state official elected by the state at large, and the grounds adjacent to each such building. The term also includes that portion of any other building occupied by an agency of the state or a municipal corporation, as defined in ORS 297.405.

(1969 c.705 Sec. 1; 1977 c.769 Sec. 2; 1979 c.398 Sec. 1; 1989 c.982 Sec. 4; 1993 c.741 Sec. 2)

166.370. Possession of firearm or dangerous weapon in public building; exceptions; discharging firearm at school.

(1) Any person who intentionally possesses a loaded or unloaded firearm or any other instrument used as a dangerous weapon, while in or on a public building, shall upon conviction be guilty of a Class C felony.

(2) Subsection (1) of this section does not apply to:

(a) A sheriff, police officer, other duly appointed peace officers or a corrections officer while acting within the scope of employment.

(b) A person summoned by a peace officer to assist in making an arrest or preserving the peace, while the summoned person is engaged in assisting the officer.

(c) A member of the military forces of this state or the United States, when engaged in the performance of duty.

(d) A person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun.

(e) A person who is authorized by the officer or agency that controls the public building to possess a firearm in that public building.

(f) Possession of a firearm on school property if the firearm:

(A) Is possessed by a person who is not otherwise prohibited from possessing the firearm; and

(B) Is unloaded and locked in a motor vehicle.

(3)(a) Any person who knowingly, or with reckless disregard for the safety of another, discharges or attempts to discharge a firearm at a place that the person knows is a school shall upon conviction be guilty of a Class C felony.

(b) Paragraph (a) of this subsection does not apply to the discharge of a firearm:

(A) As part of a program approved by a school in the school by an individual who is participating in the program; or

(B) By a law enforcement officer acting in the officer's official capacity.

(4) Notwithstanding the provisions of subsection (2)(d) of this section, a person who is licensed under ORS 166.291 and 166.292 to carry a concealed handgun may not possess a firearm in a courtroom, jury room, judge's chambers or the areas adjacent thereto that the presiding judge determines should be free of firearms to insure the safety of the litigants, court personnel, witnesses and others.

(5) Any firearm or other dangerous weapon carried in violation of this section is subject to the forfeiture provisions of ORS 166.280.

(6) Notwithstanding the fact that a person's conduct in a single criminal episode constitutes a violation of both subsections (1) and (3) of this section, the district attorney may charge the person with only one of the offenses.

(7) As used in this section, "dangerous weapon" means a dangerous weapon as that term is defined in ORS 161.015.

(1969 c.705 Secs. 2,4; 1977 c.207 Sec. 2; 1979 c.398 Sec. 2; 1989 c.839 Sec. 22; 1989 c.982 Sec. 5; 1991 c.67 Sec. 39; 1993 c.625 Sec. 1)

166.372. Violations of federal Gun Free School Zones Act.

The district attorney shall notify the United States Attorney General concerning any alleged violation of the Gun Free School Zones Act of 1990, 18 U.S.C. Sec. 922.

(1993 c.625 Sec. 3)

166.380. Examination of device or firearm by peace officer; arrest for failure to allow examination.

(1) A peace officer may examine a firearm possessed by anyone on the person while in or on a public building to determine whether the firearm is a loaded firearm.

(2) Refusal by a person to allow the examination authorized by subsection (1) of this section constitutes reason to believe that the person has committed a crime and the peace officer may make an arrest pursuant to ORS 133.310.

(1969 c.705 Sec. 3)

166.382. Possession of destructive device prohibited; exceptions.

(1) A person commits the crime of unlawful possession of a destructive device if the person possesses:

(a) Any of the following devices with an explosive, incendiary or poison gas component:

(A) Bomb;

(B) Grenade;

(C) Rocket having a propellant charge of more than four ounces;

(D) Missile having an explosive or incendiary charge of more than one-quarter ounce; or

(E) Mine; or

(b) Any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) of this subsection and from which a destructive device may be readily assembled.

(2) As used in this section:

(a) "Destructive device" does not include any device which is designed primarily or redesigned primarily for use as a signaling, pyrotechnic, line throwing, safety or similar device.

(b) "Possess" has the meaning given that term in ORS 161.015.

(3) This section does not apply to:

(a) Persons who possess explosives as provided in ORS 480.200 to 480.280.

(b) The possession of an explosive by a member of the Armed Forces of the United States while on active duty and engaged in the performance of official duties or by a member of a regularly organized fire or police department of a public agency while engaged in the performance of official duties.

(c) The possession of an explosive in the course of transportation by way of railroad, water, highway or air while under the jurisdiction of, or in conformity with, regulations adopted by the United States Department of Transportation.

(d) The possession, sale, transfer or manufacture of an explosive by a person acting in accordance with the provisions of any applicable federal law or regulation that provides substantially the same requirements as the comparable provisions of ORS 480.200 to 480.275 and 480.280 (2).

(4) Possession of a destructive device is a Class C felony.

(1989 c.982 Sec. 1)

166.384. Unlawful manufacture of destructive device.

(1) A person commits the crime of unlawful manufacture of a destructive device if the person assembles, produces or otherwise manufactures:

(a) A destructive device, as defined in ORS 166.382; or

(b) A pyrotechnic device containing two or more grains of pyrotechnic charge in violation of chapter 10, Title 18 of the United States Code.

(2) Unlawful manufacture of a destructive device is a Class C felony.

(1989 c.982 Sec. 2)

SALE OR TRANSFER OF FIREARMS

166.410. Manufacture, importation or sale of firearms.

Any person who manufactures or causes to be manufactured within this state, or who imports into this state, or offers, exposes for sale, or sells or transfers a handgun, short-barreled rifle, short-barreled shotgun, firearms silencer or machine gun, otherwise than in accordance with ORS 166.250 to 166.270, 166.280, 166.291, 166.292 and 166.420 to 166.470, shall be guilty of a Class B felony.

(Amended by 1979 c.779 Sec. 5; 1987 c.320 Sec. 89; 1989 c.839 Sec. 23)

166.420. Register of transfers of handguns; form and content of register and by whom to be maintained.

(1) Except as provided in subsection (10) of this section, every person engaged in the business, as defined in 18 U.S.C. Sec. 921, of selling, leasing or otherwise transferring a handgun, whether the person is a retail dealer, pawnbroker or

otherwise, shall keep a register in which shall be entered the time, date and place of sale, the name of the salesperson making the sale, the make, model, manufacturer's number, caliber or other marks of identification on the handgun. The register shall be printed by the State Printer in the form provided in subsection (11) of this section, and shall be obtained from and furnished by the Department of State Police to the dealer on application at cost.

(2) The purchaser of any handgun shall sign, and the dealer shall require the person to sign, the name of the person and affix the address of the person to the register in triplicate and the salesperson shall affix the signature of the salesperson in triplicate as a witness to the signature of the purchaser. Any person signing a fictitious name or address is guilty of a misdemeanor.

(3)(a) The duplicate sheet of the register shall, on the day of sale, be hand delivered or mailed to the local law enforcement authority. If the sale is made in a district where there is no municipal police department, the duplicate sheet shall be hand delivered or mailed first class to the sheriff of the county wherein the sale is made. The duplicate sheets are exempt from disclosure under any public records law. The agency receiving the duplicate sheet shall:

(A)(i) Determine, from criminal records and other information available to it, whether the purchaser is disqualified under ORS 166.470 from completing the purchase; and

(ii) Notify the dealer when a purchaser is disqualified from completing the purchase. The notification shall be in writing, mailed by certified mail and made within 15 calendar days of the date the duplicate was mailed by the dealer.

(B) Retain the duplicate sheets for no more than five years at which time the sheets shall be destroyed.

(b) The triplicate sheet of the register shall be mailed on the day of sale to the Department of State Police. The Department of State Police shall conduct a criminal records check of the purchaser using the thumbprints on the triplicate and shall send, within 10 calendar days of the date the triplicate was mailed by the dealer, the triplicate with the results of the records check to the agency that received the duplicate. If the thumbprints are illegible, the Department of State Police, by mail, shall immediately notify the dealer of that fact.

(c) Notwithstanding any public records law to the contrary, it is unlawful for any division of state government to compile or maintain any information on lawful purchases of firearms. The firearm identification information shall be used only to determine if the firearm is stolen or has been used in the commission of a crime. Any public employee who intentionally violates this paragraph is guilty of a Class A misdemeanor.

(4) No public employee, official or agency shall be held criminally or civilly liable for performing the investigations required by this section provided this employee, official or agency acts in good faith and without malice.

(5) Before any handgun shall be delivered:

(a) Fifteen calendar days shall have elapsed after application for the purchase and the register entries required by this section have been completed, except that if the seller is notified by the Department of State Police that the thumbprints on the triplicate are illegible, a new set of thumbprints shall be taken and sent to the Department of State Police and a new 15-day period shall begin; and

(b) The purchaser must present to the dealer two pieces of current identification, one of which must bear a photograph of the purchaser.

(6) Notwithstanding the provisions of subsection (5)(a) of this section, the seller may deliver a handgun at the time of the sale to a person holding a valid concealed handgun license issued by this state or to a person presenting identification that shows the person is a police officer. As used in this subsection, "police officer" includes an officer or member of a law enforcement unit who is employed full- or part-time as a peace officer commissioned by a city, port, school district, mass transit district, county, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a member of the Department of State Police and who is responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security. "Police officer" also includes:

(a) A corrections officer, a parole and probation officer, a United States Marshal or an officer of the Federal Bureau of Investigation; and

(b) A city or county reserve police officer if the person presents a letter signed by a chief of police or a county sheriff certifying that the person is a reserve police officer of the city or county, that the person has satisfied the city or county

that the person is not prohibited from possessing a firearm and that the agency's police applicant fingerprint card is currently on file with the state bureau of criminal identification.

(7) When a handgun is delivered, it shall be unloaded.

(8) Notwithstanding the provisions of subsections (2) and (3) of this section, when the purchaser of the handgun holds a valid concealed handgun license issued by this state and the handgun will be delivered to the purchaser less than one year after the date that the concealed handgun license was issued, the dealer:

(a) Shall require the purchaser to sign only the original and the duplicate sheets of the register; and

(b) Shall not deliver the triplicate sheet as provided in subsection (3) of this section, but shall destroy the triplicate sheets.

(9) Any person engaged in the business, as defined in 18 U.S.C. Sec. 921, of selling, leasing or otherwise transferring a firearm, who intentionally violates this section, is guilty of a Class C felony.

(10) This section does not apply to transactions between persons licensed as dealers under 18 U.S.C. Sec. 923.

(11) The register provided for in this section shall be designed by the Attorney General in substantially the following form, except that the triplicate sheet shall contain a place for the thumbprints of the purchaser:

Series No. _____

Sheet No. _____

ORIGINAL
(DEALERS' RECORD OF SALE OF HANDGUN)
State of Oregon

Notice to Dealers: This original is for your files. If spoiled in making out, do not destroy. Keep in books. Fill out in triplicate. Place the purchaser's thumbprints in the place provided on the triplicate of this form.

Carbon duplicate must be hand delivered or mailed on the day of sale, to the local law enforcement authority. Carbon triplicate must be mailed to the Department of State Police. Violation of this law is a Class C felony. Use carbon paper for duplicate and triplicate. Use indelible pencil.

Sold by _____ Salesperson _____ Business Name _____ Business Address _____ Business Telephone _____ City, town or township _____ Description of handgun (state whether revolver or pistol) _____ Maker _____ Model _____ Serial Number _____ Caliber _____ Name of purchaser _____ Age _____ years

Other names used by purchaser _____ Date of Birth _____ Place of Birth _____ Permanent address (state name of city, town or township, street and number of dwelling) _____

Social Security Number _____ (Disclosure of your social security account number is voluntary. Solicitation of the number is authorized under ORS 166.420. It will be used only as a means of identification.)

Proof of identification (type of identification and number on identification to be filled out by salesperson):

1. _____

2. _____

Concealed Handgun License Number _____

Height _____ feet _____ inches. Weight _____

Occupation _____ Eyes _____ Hair _____

Race _____ Sex _____ If traveling, or in locality temporarily, give local address _____

I hereby declare that I:

1. Am not prohibited from purchasing or possessing a handgun under ORS 166.470 or 166.250; or
2. Have been granted relief from that disability under ORS 166.274 or 18 U.S.C. Sec. 925(c) or have had my record expunged under the law of this state or an equivalent law of another jurisdiction.

Signature of purchaser _____

(Providing materially false information is a Class A misdemeanor and disqualifies applicant from completing purchase.
To be signed in triplicate.)

Witness _____ Salesperson.

(To be signed in triplicate.)

Name and address of agency to which duplicate was sent _____

(Amended by 1989 c.839 Sec. 2; 1993 c.4 Sec. 1; 1993 c.594 Sec. 4; 1993 c.693 Sec. 1)

166.422. Enforcement of ORS 166.420.

Where appropriate, a person may enforce the legal duties imposed by ORS 166.420 and section 31, chapter 839, Oregon Laws 1989, by the provisions of ORS 30.260 to 30.300 and 183.310 to 183.550.

(1989 c.839 Sec. 12)

166.425. Unlawful purchase of firearm.

(1) A person commits the crime of unlawfully purchasing a firearm if the person, knowing that the person is prohibited by state or federal law from owning or possessing the firearm or having the firearm under the person's custody or control, purchases or attempts to purchase the firearm.

(2) Unlawfully purchasing a firearm is a Class A misdemeanor.

(1989 c.839 Sec. 15)

166.427. Register of transfers of used firearms.

(1) Whenever a person engaged in the business, as defined in 18 U.S.C. Sec. 921, of selling, leasing or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker or otherwise, buys or accepts in trade, a used firearm, the person shall enter in a register the time, date and place of purchase or trade, the name of the person selling or trading the firearm, the number of the identification documentation presented by the person and the make, model and manufacturer's number of the firearm. The register shall be printed by the State Printer and shall be obtained from and furnished by the Department of State Police to the dealer on application at cost.

(2) The duplicate sheet of the register shall, on the day of purchase or trade, be hand delivered or mailed to the local law enforcement authority.

(3) Violation of this section by any person engaged in the business of selling, leasing or otherwise transferring a firearm is a Class C misdemeanor.

(1989 c.839 Sec. 16; 1993 c.4 Sec. 3)

166.429. Firearms used in felony.

Any person who, with intent to commit a felony or who knows or reasonably should know that a felony will be committed with the firearm, ships, transports, receives, sells or otherwise furnishes any firearm in the furtherance of the felony is guilty of a Class B felony.

(1989 c.839 Sec. 17)

166.450. Obliteration or change of identification number on firearms.

Any person who intentionally alters, removes or obliterates the identification number of any firearm for an unlawful purpose, shall be punished upon conviction by imprisonment in the custody of the Department of Corrections for not more than five years. Possession of any such firearm is presumptive evidence that the possessor has altered, removed or obliterated the identification number.

(Amended by 1987 c.320 Sec. 90; 1989 c.839 Sec. 24)

166.460. Antique firearms excepted.

(1) ORS 166.250, 166.260, 166.280, 166.291 to 166.295, 166.410, 166.420, 166.425 and 166.450 do not apply to antique firearms.

(2) Notwithstanding the provisions of subsection (1) of this section, possession of an antique firearm by a person described in ORS 166.250 (1)(c)(B), (C) or (D) constitutes a violation of ORS 166.250.

(Amended by 1979 c.779 Sec. 6; 1989 c.839 Sec. 25; 1993 c.735 Sec. 8)

166.470. Limitations and conditions for sales of firearms.

(1) Unless relief has been granted under ORS 166.274, 18 U.S.C. Sec. 925(c) or the expunction laws of this state or an equivalent law of another jurisdiction, no person shall intentionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that the recipient:

- (a) Is under 18 years of age;
- (b) Has been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony;
- (c) Has any outstanding felony warrants for arrest;
- (d) Is free on any form of pretrial release for a felony;
- (e) Was committed to the Mental Health and Developmental Disability Services Division under ORS 426.130;
- (f) After January 1, 1990, was found to be mentally ill and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness; or
- (g) Has been convicted of a misdemeanor involving violence or found guilty, except for insanity under ORS 161.295, of a misdemeanor involving violence within the previous four years. As used in this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160, 163.190, 163.195, 163.208 or 166.155 (1)(b).

(2) No person shall sell, deliver or otherwise transfer any firearm that the person knows or reasonably should know is stolen.

(3) Subsection (1)(a) of this section does not prohibit:

(a) The parent or guardian, or another person with the consent of the parent or guardian, of a minor from transferring to the minor a firearm, other than a handgun; or

(b) The temporary transfer of any firearm to a minor for hunting, target practice or any other lawful purpose.

(4) Violation of this section is a Class A misdemeanor.

(Amended by 1989 c.839 Sec. 3; 1991 c.67 Sec. 40; 1993 c.735 Sec. 11)

166.480. Sale or gift of explosives to children.

Any person who sells, exchanges, barter or gives to any child, under the age of 14 years, any explosive article or substance, other than an ordinary firecracker containing not more than 10 grains of gunpowder or who sells, exchanges, barter or gives to any such child, any instrument or apparatus, the chief utility of which is the fact that it is used, or is ordinarily capable of being used, as an article or device to increase the force or intensity of any explosive, or to direct or control the discharge of any such explosive, is guilty of a misdemeanor.

(Amended by 1989 c.839 Sec. 26)

166.490. Purchase of firearms in certain other states.

(1) As used in this section, unless the context requires otherwise:

(a) "Contiguous state" means California, Idaho, Nevada or Washington.

(b) "Resident" includes an individual or a corporation or other business entity that maintains a place of business in this state.

(2) A resident of this state may purchase or otherwise obtain a rifle or shotgun in a contiguous state and receive in this state or transport into this state such rifle or shotgun, unless the purchase or transfer violates the law of this state, the state in which the purchase or transfer is made or the United States.

(3) This section does not apply to the purchase, receipt or transportation of rifles and shotguns by federally licensed firearms manufacturers, importers, dealers or collectors.

(4) This section expires and stands repealed upon the date that section 922(b) (3) of the Gun Control Act of 1968 (18 U.S.C. Sec. 922(b) (3)) and regulations pursuant thereto are repealed or rescinded.

(1969 c.289 Secs. 1,2,3,4)

DISCHARGING WEAPONS

166.630. Discharging weapon on or across highway, ocean shore recreation area or public utility facility.

(1) Except as provided in ORS 166.220, any person is guilty of a violation who discharges or attempts to discharge any blowgun, bow and arrow, crossbow, air rifle or firearm:

(a) Upon or across any highway, railroad right of way or other public road in this state, or upon or across the ocean shore within the state recreation area as defined in ORS 390.605.

(b) At any public or railroad sign or signal or an electric power, communication, petroleum or natural gas transmission or distribution facility of a public utility, telecommunications utility or railroad within range of the weapon.

(2) Any blowgun, bow and arrow, crossbow, air rifle or firearm in the possession of the person that was used in committing a violation of this section may be confiscated and forfeited to the State of Oregon. This section does not prevent the discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation.

(3) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty and forfeiture provided in subsections (1) and (2) of this section.

(4) As used in this section:

(a) "Public sign" includes all signs, signals and markings placed or erected by authority of a public body.

(b) "Public utility" has the meaning given that term in ORS 164.365 (2).

(c) "Railroad" has the meaning given that term in ORS 760.005.

(Amended by 1963 c.94 Sec. 1; 1969 c.501 Sec. 2; 1969 c.511 Sec. 4; 1973 c.196 Sec. 1; 1973 c.723 Sec. 118; 1981 c.900 Sec. 1; 1987 c.447 Sec. 113; 1991 c.797 Sec. 2)

166.635. Discharging weapon or throwing objects at trains.

(1) A person shall not knowingly throw an object at, drop an object on, or discharge a bow and arrow, air rifle, rifle, gun, revolver or other firearm at a railroad train, a person on a railroad train or a commodity being transported on a railroad train. This subsection does not prevent a peace officer or a railroad employee from performing the duty of a peace officer or railroad employee.

(2) Violation of subsection (1) of this section is a misdemeanor.

(1973 c.139 Sec. 4)

166.638. Discharging weapon across airport operational surfaces.

(1) Any person who knowingly or recklessly discharges any bow and arrow, gun, air gun or other firearm upon or across any airport operational surface commits a Class A misdemeanor. Any bow and arrow, gun, air gun or other firearm in the possession of the person that was used in committing a violation of this subsection may be confiscated and forfeited to the State of Oregon, and the clear proceeds shall be deposited with the State Treasury in the Common School Fund.

(2) As used in subsection (1) of this section, "airport operational surface" means any surface of land or water developed, posted or marked so as to give an observer reasonable notice that the surface is developed for the purpose of storing, parking, taxiing or operating aircraft, or any surface of land or water when actually being used for such purpose.

(3) Subsection (1) of this section does not prohibit the discharge of firearms by peace officers in the performance of their duty or by military personnel within the confines of a military reservation, or otherwise lawful hunting, wildlife control or other discharging of firearms done with the consent of the proprietor, manager or custodian of the airport operational surface.

(4) The hunting license revocation provided in ORS 497.415 is in addition to and not in lieu of the penalty provided in subsection (1) of this section.

(1981 c.901 Sec. 2; 1987 c.858 Sec. 2)

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