

**REPORT OF THE
VIRGINIA STATE CRIME COMMISSION**

Firearms and Ammunition

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



Senate Document No. 9

**COMMONWEALTH OF VIRGINIA
RICHMOND
1988**



COMMONWEALTH of VIRGINIA

VIRGINIA STATE CRIME COMMISSION

General Assembly Building

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IN RESPONSE TO
THIS LETTER TELEPHONE
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EXECUTIVE DIRECTOR

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HOWARD P. ANDERSON
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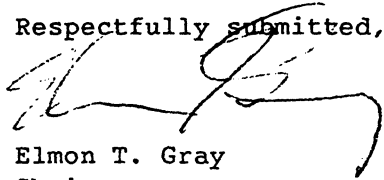
ATTORNEY GENERAL'S OFFICE
H. LANE KNEEDLER

November 9, 1987

To: The Honorable Gerald L. Baliles, Governor of Virginia,
and Members of the General Assembly:

In a letter dated March 20, 1987, to the chairman of the Crime Commission, Governor Gerald L. Baliles noted there exists a number of complex issues raised by the law enforcement community and concerned citizens related to firearms and ammunition which appear to pose extraordinary threats to the safety of law enforcement and the general public. Governor Baliles formally requested that the Commission make a comprehensive assessment of these issues and noted armor piercing ammunition and plastic firearms as two obvious examples. In complying with the Governor's request, a comprehensive study was conducted by the Virginia State Crime Commission. I have the honor of submitting herewith the study report and recommendations on Firearms and Ammunitions.

Respectfully submitted,



Elmon T. Gray
Chairman

ETG/sab

Respectfully Submitted

by the

Virginia State Crime Commission

From the Senate of Virginia:

**Elmon T. Gray, Chairman
Howard P. Anderson
William T. Parker**

From the House of Delegates:

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Subcommittee

Studying

Firearms and Ammunition

Members:

Delegate Clifton A. Woodrum, Subcommittee Chairman
Mr. L. Ray Ashworth
Senator Elmon T. Gray
Mr. H. Lane Kneedler
Reverend George F. Ricketts, Sr.
Delegate Warren G. Stambaugh
Col. Robert L. Suthard, Va. State Police, Ex-Officio Member

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SUBCOMMITTEE STUDYING ISSUES PERTAINING TO FIREARMS AND AMMUNITION

I. Background and Authority for the Study

The Honorable Gerald L. Baliles, Governor of the Commonwealth of Virginia, signed into law HB 830, of the 1987 General Assembly, which, as of January 1, 1987, prohibits any county, city, or town ordinance which governs "the purchase, possession, transfer, ownership, carrying, or transporting firearms, ammunition, or components or combination thereof other than those expressly authorized by statute." In his March 20, 1987 letter to Senator Elmon T. Gray, chairman of the Crime Commission, Governor Baliles noted there exists a number of complex issues raised by the law enforcement community and concerned citizens related to firearms and ammunition which appear to pose extraordinary threats to the safety of law enforcement and the general public. Governor Baliles also requested that the Commission make a comprehensive assessment of these issues and noted armor piercing ammunition and plastic firearms as two obvious examples. (Appendix A).

Section 9-125 of the Code of Virginia establishes and directs the Virginia State Crime Commission (VSCC) "to study, report and make recommendations on all areas of public safety and protection." Section 9-127 of the Code of Virginia provides that "The Commission shall have the duty and power to make such studies and gather information and data in order to accomplish its purposes as set forth in §9-125..., and to formulate its recommendations to the Governor and the General Assembly." Section 9-134 of the Code of Virginia authorizes the Commission "to conduct private and public hearings, and to designate a member of the Commission to preside over such hearings." The VSCC, in fulfilling its legislative mandate, undertook the Firearms and Ammunition Study as requested by Governor Baliles.

II. Subcommittee Appointed

During the April 13, 1987 meeting of the Crime Commission, Senator Gray appointed Delegate Clifton A. Woodrum of Roanoke to serve as the chairman of the Subcommittee on Firearms and Ammunition. The members who served on the subcommittee are:

Delegate Clifton A. Woodrum, of Roanoke, Chairman
Mr. L. Ray Ashworth, of Richmond
Senator Elmon T. Gray, of Sussex
Mr. H. Lane Kneedler, of Richmond (Attorney General's Office)
Rev. George F. Ricketts, of Richmond
Delegate Warren G. Stambaugh, of Arlington
Col. Robert L. Suthard, of Richmond (Virginia State Police)
(Ex-Officio member)

III. Objectives

The subcommittee should evaluate how to best balance the citizen's right to bear arms with the government's responsibility to protect the public in regard to the specific issues to be addressed.

The subcommittee, with respect to the degree of hazard posed to law enforcement and the public, should closely evaluate the items under study. The subcommittee was charged with reporting its findings and recommendations to the full commission on November 5, 1987. The subcommittee, upon completion of its examination, should draft appropriate legislation to affect any changes in or additions to Virginia law as is deemed necessary.

IV. Scope of the Study

The subcommittee held its initial meeting on June 10, 1987 in the General Assembly Building in Richmond, Virginia. The purpose of the public meeting was to determine the scope of the study.

In addition to the two specific areas of study identified by Governor Baliles, the subcommittee reviewed recommendations proposed through correspondence and those presented at the meeting by representatives of various organizations for inclusion in the study. Input was received from the Department of State Police, the Governor's Commission on Efficiency in Government, the Virginia State Lodge of the Fraternal Order of Police, the Virginia State Rifle and Revolver Association and other concerned citizens.

Based on these proposals and input from subcommittee members, the subcommittee agreed to study eight specific issues as follows:

Plastic Firearms - Does a truly all plastic firearm capable of escaping detection by metal detectors exist; or if not, is the production of such a weapon imminent or possible? If such a weapon exists or will soon be available, what legislative initiative would be advisable to counter any threat to public safety? What federal initiatives have been undertaken in this area?

Armor Piercing Ammunition - What is the availability of this ammunition, and how is Armor Piercing Ammunition distinguished from other types? As with the other areas of study, what is the current federal restriction, if any, and what is its degree of effectiveness? What danger is actually posed by such ammunition?

Ballistic Knives - What constitutes a ballistic knife and if they are available, what danger do they pose? What is the federal law regarding these devices?

Mandatory sentencing - How effective is Virginia's current enhanced penalty statute in discouraging the use of firearms in the commission of certain felonies (§ 18.2-53.1)? Does the sanction need to be changed, and if so, to what degree? What is the relationship between enhanced penalties and the decision to commit a prohibited act?

Detecting and Tracing Firearms - How do Virginia's law enforcement officers determine the origin of weapons used in crimes? Does the current procedure, within existing federal and state legislation, provide a mechanism to identify firearms illegally obtained by criminals? Is an improvement needed, and if so is it feasible?

Concealed Weapons - How effective is Virginia's concealed weapons statute in deterring the unauthorized carrying of weapons hidden from common observation? Are improvements needed in the process by which permits to carry concealed weapons are issued?

Machine Gun Registration - Should Virginia eliminate the requirement to register machine guns with the Department of State Police, since they must be registered under federal regulations with the Bureau of Alcohol, Tobacco, and Firearms?

Waiting Periods for the Purchase of Firearms - What is the effect of waiting periods on the criminals ability to obtain firearms? Does a waiting period reduce firearm availability in the case of homicidal rage or suicidal despair? What would be the effect of waiting periods and purchaser background checks on law enforcement resources? How do criminals obtain their weapons?

With each of the areas under study, the subcommittee examined existing federal and state legislation. In instances where a federal law applied to a specific topic, its effectiveness was considered. Further, the advisability of introducing parallel state legislation was examined for several areas.

V. Recommendations

-- Summary --

The Virginia State Crime Commission met on November 5, 1987 in Richmond, Virginia and received the report of the subcommittee. After careful consideration, the findings and recommendations of the subcommittee were adopted by the Commission.

In summary, the legislative recommendations include:

- 1. Banning ballistic knives**
- 2. Establishing a penalty for transferring a firearm to a felon**
- 3. Making the theft of any firearm punishable as felony**
- 4. Including altered or modified semi-automatic weapons under § 18.2-295**

The non-legislative recommendation is for the Virginia State Crime Commission to continue monitoring developments, if any, in plastic firearms which could escape detection.

The proposed bills are presented in Appendix B of this report.

-- Discussion --

The subcommittee met in Richmond on October 1, 1987 to consider the information it had received and formulate recommendations. The first two issues considered by the subcommittee were plastic firearms and armor piercing ammunition. These two issues were specifically recommended for study by Governor Baliles in his March 30, 1987 letter to the Commission. Delegate Woodrum noted that the subcommittee would strive to be responsive to the Governor's request.

-- Plastic Firearms --

At its August 31, 1987 public hearing, the subcommittee examined a Glock 17 handgun which has received much publicity as being a "plastic pistol." The examination revealed a substantial number of metal components in the composition of the weapon. At the hearing, a hand-held metal detector used daily by the Richmond City Sheriff's Department to screen visitors at the John Marshall Courts Building, easily identified the presence of the Glock 17 concealed on a participant in the demonstration.

The research conducted by the subcommittee revealed that a totally plastic gun capable of escaping metal detectors now in use is not commercially available. Further, the Federal Aviation Administration and the Bureau of Alcohol, Tobacco, and Firearms indicate that the Glock 17 "plastic pistol" presents no problem in detection. Other information shows that certain developers are attempting to perfect and create a mostly plastic firearm. Presently, this weapon has not been produced and the progress is being monitored by federal authorities.

The subcommittee recommends no legislation to be introduced. However, the Virginia State Crime Commission should continue to closely monitor developments in this area of technology.

-- Armor Piercing Ammunition --

Section 18.2-308.3 of the Code of Virginia prohibits the use of certain restricted firearms ammunition while committing or attempting to commit a crime of violence. The penalty was established as a Class 5 felony. This section was enacted in 1983. Effective January 16, 1987, Public Law 99-408 (100 stat 920) defines armor piercing ammunition that can be used in a handgun and prohibits the sale or delivery of same unless it is for governmental use, exportation or authorized testing. Also, 18USCS § 929 provides a penalty of a five-year minimum mandatory sentence for possession or use of armor piercing ammunition during or in a federal crime of violence or drug trafficking if committed by the use of a deadly or dangerous weapon and the ammunition could be used in that weapon.

Therefore, the subcommittee made no recommendation for additional legislation.

-- Ballistic Knives --

Ballistic knives are specifically defined and are federally banned. State and local law enforcement officers are not empowered to enforce federal law, except in certain circumstances such as mutual aid agreements. The local or state officer on the street cannot now seize the weapon as evidence, much less make an arrest under the federal ban. Federal officers alone, as a rule, are empowered to enforce federal law. The disguised nature of the true destructive capability of the ballistic knife presents an inherent threat to citizens and law enforcement officers of the Commonwealth.

Therefore, the subcommittee recommends that a bill be introduced to amend and reenact §§ 18.2-308, 18.2-310 and 18.2-311 of the Code of Virginia to ban ballistic knives. This proposal would define ballistic knives, prohibit their sale or possession, and provide for their forfeiture.

-- Mandatory Sentencing --

Section 18.2-53.1 of the Code of Virginia prohibits the use or display of a firearms in committing certain felonies. It establishes a 2-year sentence for the first conviction and 4 years for any subsequent convictions. The sentence is mandatory and judges have no discretion regarding punishment.

There is also a penalty under federal law for the use of a firearm by a person who has unlawfully possessed, sent or received any firearm or ammunition in violation of 18 U.S.C. § 922(g) when such person has three prior convictions in any court for a violent felony or serious drug offense, or both. 18 U.S.C. § 924(e).

The complexity of the factors involved makes it difficult to determine whether or not the mandatory additional penalty for firearm felonies has had an impact on overall rates of violent crimes. However, it should be noted the statistics on law enforcement officer assaults involving firearms in Virginia show significant declines in 1976, following the statute's passage by the legislature, and in 1983 after the 1982 amendment increased the penalty to its present severity.

Studies on mandatory sentencing show the effects most pronounced on less predatory criminals. More predatory felons make the decision to carry weapons based primarily on the perception of a need to carry for personal survival on the street, considering their associations. Also, the certainty of punishment is deemed to be more of a deterrent factor than the severity.

The Department of Corrections submitted an impact statement which documented that increasing the 2 and 4 year penalties to 5 and 10 years, respectively, would result in a need for 212 new prison bed spaces by 1998 with actual impact beginning in 1993. The impact can be calculated by noting each new prison cell would cost \$60,000 to build and the annual average adult incarceration rate is \$18,000. This calculates to \$12.7 million in capital outlay initially and \$3.8 million in recurring annual cost (See Appendix G).

The subcommittee agreed that the major fiscal impact of this particular proposal must be weighed in light of the deterrent impact of further increasing the degree of minimum penalty for use of a firearm in the commission of certain crimes. Therefore, the subcommittee made no recommendation in this area.

-- Tracing Firearms --

Under § 18.2-311.1 of the Code of Virginia it is a Class I misdemeanor to remove, alter, obliterate, etc., any mark or identification on any firearm. Further, § 15.1-524 of the Code of Virginia authorizes counties to require sellers of handguns to report the details of such sales to the clerk of the circuit court who must keep a record of this report. To date, most counties have not enacted an ordinance pursuant to § 15.1-524.

The Bureau of Alcohol, Tobacco and Firearms' (BATF) National Tracing Center in Washington, D.C. provides firearms and explosives tracing services to law enforcement agencies in the U.S. and foreign countries. Manufacturers, importers, wholesalers, and retail dealers cooperate in tracing by providing upon request specific information from their records regarding manufacture, import or sale. BATF, through its licensing authority, is the only agency with access to these records.

A typical trace would follow a weapon from the importer or manufacturer to the wholesaler, then to the retailer, and then to the individual purchaser who first purchased the gun. Licensees must keep bound records with the serial numbers of all weapons which they manufacture or sell. Purchasers must fill out a yellow form when purchasing a gun to verify that they are in compliance with section 922(g) of the Gun Control Act of 1968 (not a convicted felon, fugitive, drug abuser or addict, mental defective or committed patient, alien, dishonorably discharges veteran, or person who has renounced citizenship).

The subcommittee made no recommendation for changes in Virginia law in this area.

-- Concealed Weapons --

Every state in the U.S. except Vermont requires a license or permit to carry a concealed weapon. Section 18.2-308 of the Code of Virginia provides that a person is not allowed to carry a weapon "about his person, hidden from common observation". There is an enhanced penalty for felons convicted of rape, robbery, or a firearm felony in any state (§ 18.2-308.2). Also, possession of a firearm while in possession of certain controlled substances is a Class 6 felony under § 18.2-308.4. This particular statute was recommended by the Crime Commission in the 1987 Session of the General Assembly.

The concealed weapons law in Virginia has undergone careful examination by the General Assembly and, as a result, numerous modifications. The subcommittee made no legislative recommendations.

-- Machine Gun Registration --

According to State Police records there are 2,519 machine guns registered in Virginia; 889 of these are inactive registrations. Section 18.2-295 requires machine guns to be registered with the State Police within 24 hours of acquisition. The registrant is then provided with a certificate of registration. The Superintendent must be given notice of transfers. Failure to keep or produce the certificate for inspection upon request is a Class 3 misdemeanor. A peace officer may then seize the gun without a warrant and subsequently apply for its confiscation. Non-registration of a machinegun is prima facie evidence of a violation of § 18.2-290 (use of machine gun for aggressive purpose). Possession or use of a machine gun for an offensive or aggressive purpose is a Class 4 felony.

Further, federal law requires machine guns to be registered with the Bureau of Alcohol, Tobacco and Firearms and a \$200 transfer tax must be paid. This registration becomes tax information and as a result is not accessible by local and state law enforcement agencies. Due to this provision, Col. Robert L. Suthard, Superintendent of the Virginia State Police, formally requested that § 18.2-295 of the Code of Virginia remain unchanged in this regard.

The subcommittee was concerned over information it received regarding the relative ease of converting a semi-automatic weapon into a machine gun. The members felt that § 18.2-295 may not currently be worded so as to leave no question that these converted weapons are to be registered as machine guns.

Therefore, the subcommittee recommends a bill to amend and reenact § 18.2-295 of the Code of Virginia to specifically include any semi-automatic weapon which has been altered or converted into a machine gun; and to include the manufacture of any machine gun.

-- Waiting Periods --

Waiting periods require the purchaser of a handgun to wait for a specified period between application to purchase and acquisition. This time could be used by authorities to check the individual's eligibility to own a firearm. Currently, the purchaser must make a statement of his eligibility on a federal form, but neither the federal government nor the Commonwealth of Virginia has adopted a waiting period.

Virginia has adopted a preemption statute granting authority over firearm laws to the legislature (Virginia Code 15.1-29.15). Further, Virginia Code § 15.1-525 requires permits to sell or purchase pistols or revolvers in any county with a population density of more than one thousand a square mile. Section 15.1-524 authorizes counties to require sellers of handguns to report the details of such sales to the clerk of the circuit court, who must keep a record of this report.

The subcommittee carefully examined the information it had received from research and public comment. Much discussion was generated over the advisability of waiting periods for the purchase of handguns and the impact on the State Police if the record of each prospective handgun purchaser were to be checked.

The National Institute of Justice Study, "The Armed Criminal in America," published in November 1986, surveyed 1800 convicted, male, adult felons. This study showed that few of the gun owning felons had bought their guns from a retail source. The majority acquired their firearms from family members or friends, or on the street; or they stole them. Information received by the subcommittee from law enforcement representatives did indicate a current trend of criminals having a friend or relative with no criminal record purchase firearms from retail channels for them. In some cases, multiple purchases are made in this way over time and the firearms are traded on the street for illegal drugs.

Therefore, the subcommittee made the following legislative recommendations:

1. A bill to add a section to the Code of Virginia numbered § 18.2-308.2:1 making the transfer of any firearm to any person the owner knows to be convicted of a class 1, 2 or 3 felony, rape, robbery or a felony involving the use of a firearm, punishable as a class 1 misdemeanor. This proposal also provides for forfeiture of the weapon.
2. A bill to amend the Code of Virginia to add a section numbered 18.2-108.1 making the theft of, or receiving a stolen firearm punishable as grand larceny, regardless of the value of the firearm. Currently, the offense would be punished as a misdemeanor if the stolen weapon was valued at less than \$200.

VI. Work of the Subcommittee

The subcommittee conducted a public hearing to solicit input from concerned individuals and organizations. The subcommittee also solicited and analyzed a voluminous amount of material related to each area under study. The subcommittee wrote letters of inquiry and requests for published research, documents, papers, studies, and input from a variety of sources. These included:

Bureau of Alcohol, Tobacco and Firearms
International Association of Chiefs of Police
Citizens Committee for the Right to Keep and Bear Arms
Virginia Department of Criminal Justice Services
Kentucky Council of State Government
International Union of Police Associations, AFL-CIO
National Governor's Conference
National Coalition to Ban Handguns

Handgun Control
Firearms Coalition
Gun Owners of America
Federal Aviation Administration
Virginia State Rifle and Revolver Association
Virginia State Lodge - Fraternal Order of Police
California State University
The Honorable Howard W. Metzenbaum, United States Senate
Nassau County Police Department, Mineola, New York
Mr. Steven Halbrook, Esq., Ph.D., Fairfax, Virginia
National Institute of Corrections
Virginia Department of Corrections
Virginia Commonwealth University
American Civil Liberties Union
Virginia Parole Board
National Sheriffs Association
National Rifle Association
Federal Bureau of Investigation
Ferrum College, Ferrum, Virginia
Old Dominion University, Norfolk, Virginia
American University, Washington DC
Roanoke College, Roanoke, Virginia
National Institute of Justice

Of course, information was not received from all of those queried but a number were able to provide the subcommittee with ample information.

The subcommittee analyzed each document or paper received and condensed the main points in preparing a digest of each original document. These individual digests were further condensed into a brief summary of the current literature and existing information on each of the eight areas under study by the subcommittee. The Research Findings section of this report contains those summaries.

As its next phase of the study, the subcommittee held a public hearing on August 31, 1987 in the General Assembly Building in Richmond, Virginia. The hearing was well attended and lasted the entire day. Many of the points brought forward by the speakers were consistent with the existing literature either pro or con on each issue. In addition other interesting points were made as follows:

Regarding plastic firearms, Mr. Mike Buchanan from the Bureau of Alcohol, Tobacco and Firearms and Captain E.L. McGregor from the Richmond City Sheriffs Office performed a demonstration which showed that the Glock 17 pistol, an Austrian weapon containing parts made of metal and of plastic, could be detected by a standard security device used to screen visitors to the John Marshall Courts Building. Mr. Ray Cahen, of the Virginia State Rifle and Revolver Association, and Mr. Charles Cunningham, representing the National Rifle Association, noted that plastic explosives are a greater threat to the public than plastic guns.

Regarding the tracing of firearms, Mr. Paul Tuttle of the Richmond Police Bureau outlined an innovative procedure used by the Bureau for tabulating information on firearms through which it hopes to be able to identify the sources of firearms used for crimes in Richmond.

During testimony related to concealed weapons, several witnesses remarked on the difficulty that exists in some areas of the state for ordinary citizens who seek a permit to carry a concealed weapon.

Mr. Cleon Mauer and Mr. John Ward from the Division of Consolidated Laboratories testified during discussion of the machinegun registration issue that, although conversion of semi-automatic weapons to automatic is not a significant problem in Virginia, it can be accomplished within a matter of minutes using easily obtainable kits for modifying recently manufactured Uzis.

Minutes of the staff presentations and public comments received are available for inspection at the Commission's offices for those desiring more detailed information.

Subsequent to the public hearing, the subcommittee surveyed all county managers or executives in the Commonwealth to determine which counties have enacted local ordinances pursuant to § 15.1-524 of the Code of Virginia. A copy of this survey is presented in Appendix F.

Section 15.1-524 authorizes counties to require sellers of handguns to report the details of the sale to the clerk of the circuit court who shall maintain a record of the transaction. Of the 95 counties responding to the survey only the county of Chesterfield has enacted an ordinance pursuant to § 15.1-524.

VII. Research Findings

A. Study Design:

The summary of findings for each issue contains a discussion of federal and state law (if existent) and other relevant research findings by the subcommittee. Also, included in these summaries are general major points, pro and con on each issue, put forward by a variety of documents, research studies, papers and other publications. As was described in the "work of the subcommittee" section of this report, a substantial amount of current information on each of the eight areas under study was analyzed.

The concept of firearms control and the advisability and effectiveness of certain related measures lends itself to being a philosophical issue. One item worth noting is that on several issues objective, verifiable and authoritative data was scarce. Thus, some of the material examined represented subjective viewpoints from leading proponents and opponents in the particular area under study. For this reason, the pro and con viewpoints were summarized as reported and do not necessarily reflect the position of the subcommittee.

The Crime Commission has in its files the original documents, and a digest of each referenced document which are available for inspection at the Commission's office at 910 Capitol Street, Richmond, Virginia.

B. Plastic Firearms

There are currently five bills in Congress dealing with plastic weapons (firearms which can escape detection): four in the House and one in the Senate. The Subcommittee on Crime of the House Committee on the Judiciary held hearings on May 20 and May 27, but the bills are still in subcommittee at present and no further action has been taken.

The Senate bill, sponsored by Mr. Metzenbaum, is currently being studied by the Subcommittee on the Constitution of the Committee on the Judiciary, and a hearing was held on June 28.

An Office of Technology Assessment study was requested by Congressmen Weiss, Mrazek, and Schumer to investigate technical aspects of the feasibility of manufacturing and smuggling firearms built from non-metallic parts. The OTA study found that the technology does exist to manufacture firearms which would be completely or almost completely non-metallic. The Glock-17 does not fit into this category since it contains substantial amounts of metal.

Non-metallic firearms with only very small metal parts such as springs would be much easier to smuggle through standard airport security equipment. Alarms or existing metal detectors are not set to register very small metal objects, and existing airport security x-rays would not detect plastic weapons concealed in baggage. Since the Glock-17 has over one pound of metal, it is much more readily detected by standard airport metal detectors, and existing x-ray systems should detect it if the operators are trained and diligent.

Modern reinforced plastic composites or advanced polymer materials could withstand the pressures and temperatures developed in a handgun. It is likely that modifications such as a ceramic barrel liner would be required in a weapon intended for long-term use.

Dave Byron, president of Byron, Inc. of Castleberry, Fla. claims to have developed a 0.22 caliber pistol which is plastic except for seven metal springs. The gun weighs about 1/5 of a comparable steel weapon, uses no oil, and has a ceramic liner in the barrel. The gun would be made by injection molding, and would require no finishing operations when it comes out of the mold. He is about 1-2 years away from production and estimates that the pistol would cost about \$200 on the commercial market. It could be equipped with a non-removable metal implant which would make the gun detectable. Byron has submitted patents for the detector.

American Science and Engineering, Inc. has developed an x-ray machine that uses a pencil beam and backscatter techniques to improve detection of low atomic weight materials such as plastics that existing x-rays cannot readily "see." The company estimates that this equipment will cost several times as much as the standard x-ray equipment now used to screen carry-on luggage.

In addition to carrying weapons in carry-on luggage, passengers may attempt smuggling within checked baggage or air cargo. U.S. Customs is responsible for stopping smuggling, but employees cannot screen everyone arriving at ports of entry. Inspections of baggage and air cargo are not conducted unless the questioning of the passenger or information on the cargo arouse suspicion. Suitcases or cargo crates are not routinely run through x-ray equipment. Customs mainly relies on selective sampling of suspected law violators, rather than routine inspection. However, if the inspection system were focused on plastic firearms as a possible threat, the new "Low-Z" x-ray system shows promise for use in inspection of packages or baggage containing plastic firearms or plastic explosives.

At the present time there are no firearms being manufactured which can escape detection by a properly functioning magnetometer or x-ray device.

C. Armor Piercing Ammunition

Section 18.2-308.3 of the Code of Virginia prohibits the use of certain restricted firearms ammunition while committing or attempting to commit a crime of violence. The penalty was established as a Class 5 felony. This section was enacted in 1983.

Effective January 16, 1987, Public law 99-408 (100 stat 920) defines armor piercing ammunition that can be used in a handgun and prohibits the sale or delivery of same unless it is for governmental use, exportation or authorized testing.

Also, 18 USCS § 929 provides a five-year minimum mandatory sentence for possession or use of armor piercing ammunition during or in a federal crime of violence or drug trafficking if committed by the use of a deadly or dangerous weapon and the ammunition could be used in that weapon.

Opponents of the ban on armor piercing ammunition argue that no policeman has ever been killed by such ammunition, and media hype surrounding the issue has educated the criminal about concealed police body armor. Others argue against the ban on constitutional grounds.

Proponents argue that armor piercing ammunition has no legitimate sporting purpose and poses a clear threat to the safety of law enforcement officers.

One major issue has been the definition of armor piercing ammunition that can be used in a handgun. Federal law now provides an in-depth description, and the Bureau of Alcohol, Tobacco, and Firearms has issued a list of ten specific brands or types of armor piercing handgun ammunition.



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms
Washington, D. C. 20226

Number: 86-15

Date: 12/4/86

ARMOR PIERCING AMMUNITION

Federal Firearms Licensees and others concerned:

On August 28, 1986, the President signed Public Law 99-408 (100 Stat. 920) which regulates the manufacture, importation and sale of armor piercing ammunition.

The Act amends chapter 44 of title 18, United States Code to define the term armor piercing ammunition as "a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. Such term does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device."

Provisions of Public Law 99-408 provide that:

1. No person may manufacture or import armor piercing ammunition and no manufacturer or importer may sell or deliver such ammunition except:
 - a. for the use of the United States or any department or agency thereof or any State or any department, agency or political subdivision thereof;
 - b. for the purposes of exportation; or
 - c. for the purposes of testing or experimentation as authorized by the Director.

2. Manufacturers and importers of armor piercing ammunition must be licensed by the Bureau. Such licenses have a fee of \$1,000 per year.
3. Licensed importers and licensed manufacturers must mark all armor piercing projectiles and packages containing such projectiles for distribution.
4. The Director may, after notice and opportunity for hearing, revoke the license of a licensed dealer who willfully transfers armor piercing ammunition.

The Bureau is issuing temporary regulations which will be effective on the date of publication in the Federal Register, except for the licensing provisions which will be effective December 1, 1986.

Regulatory provisions will establish recordkeeping requirements for all armor piercing ammunition dispositions and procedures for approval to receive armor piercing ammunition for testing or experimentation. Regulations will establish the marking requirements for armor piercing projectiles and packages containing such projectiles.

Regulations promulgated under the Act will allow for armor piercing ammunition received and maintained by licensed dealers as business inventory prior to August 28, 1986, to be transferred to any department or agency of the United States or any State or political subdivision thereof if a record of such ammunition is maintained in the form and manner prescribed by regulation.

As required by the Act, the Director is hereunder furnishing each licensed dealer information defining projectiles considered armor piercing. Such information is not all-inclusive for the purposes of the prohibition on manufacture, importation, or sale or delivery by a manufacturer or importer of such ammunition or 18 U.S.C. 929 relating to criminal misuse of armor piercing ammunition.

List of Armor Piercing Ammunition

The following is an initial listing of projectiles considered armor piercing.

1. KTW ammunition, all calibers. (Identified by a green coating on the projectile).

2. ARCANE ammunition, all calibers. (Identified by a pointed bronze or brass projectile).
3. THV ammunition, all calibers. (Identified by a brass or bronze projectile and having a head stamp containing the letters SFM and THV).
4. Czechoslovakian manufactured 9mm Parabellum (Luger) ammunition having an iron or steel bullet core. (Identified by a cupro nickel jacket and a head stamp containing a triangle, star and dates of 49, 50, 51 or 52. This bullet is attracted to a magnet).
5. German manufactured 9mm Parabellum (Luger) ammunition having an iron or steel bullet core. (Original packaging is marked Pistolenpatronen 08 m.E. This bullet is attracted to a magnet).
6. MSC .25ACP caliber ammunition. (Identified by a hollow point bronze bullet).
7. Black Steel Armor Piercing Ammunition as produced by National Cartridge, Atlanta, Georgia.
8. Black Steel Metal Piercing Ammunition as produced by National Cartridge, Atlanta, Georgia.
9. 7.62mm NATO AP. (Identified by black coloring on the bullet tip. This ammunition is produced in various NATO countries. The U.S. military designation is M61 AP).
10. 7.62mm NATO SLAP. (Identified by a projectile having a plastic sabot around a hard penetrator. The penetrator protrudes above the sabot and is similar in appearance to a Remington accelerator cartridge).

Inquiries regarding this circular should refer to its number and be addressed to the Associate Director- (Compliance Operations) Bureau of Alcohol, Tobacco and Firearms, P.O. Box 189, Washington, DC 20044-0189.


Director

D. Ballistic Knives

A ballistic knife means a knife with a detachable blade that is propelled by a spring loaded mechanism. A ballistic knife advertised for sale by Florida knife Corp. acclaimed the weapons ability to be fired silently and accurately and kill to a distance of 10 meters. It was originally designed for the USSR version of our special forces.

Federal law prohibits the manufacture, sale, and importation of the ballistic knife under 18 USCS §1245 with a penalty of imprisonment of not more than 10 years, or a fine, or both.

18 USCS §1716 prohibits mailing ballistic knives in exactly the same manner as it does switchblade knives.

Virginia law does not address ballistic knives and Virginia law enforcement authorities have no legal basis for enforcing the provisions of a federal statute.

Opponents of a ban on ballistic knives argued that many collectors and even law enforcement officers would be in violation if such a law were passed. The argument supports the concept of possession for novelty purposes. Further, it is argued that a ballistic knife has never been used in the commission of a crime.

Those supporting a ban on these knives note that its disguised nature would not give police officers and others adequate notice of the inherent threat to their safety. Further, Congressman Mario Biaggi of New York testified in Congress that he witnessed, in a demonstration, the knife "penetrate the soft body armor that policemen wear as well as a panel of wood up to three-quarters of an inch thick".

HAZARDOUS SUBSTANCES

15 USCS § 1261

§ 1245. Prohibition of possession, manufacture, sale, and importation of ballistic knives

(a) Whoever knowingly possesses, manufactures, sells, or imports a ballistic knife shall be fined as provided in title 18, United States Code, or imprisoned not more than ten years, or both.

(b) Whoever possesses or uses a ballistic knife in the commission of a Federal or State crime of violence shall be fined as provided in title 18, United States Code, or imprisoned not less than five years and not more than ten years, or both.

(c) The exceptions provided in paragraphs (1), (2), and (3) of section 4 with respect to switchblade knives shall apply to ballistic knives under subsection (a) of this section.

(d) As used in this section, the term "ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.

(Aug. 12, 1958, P. L. 85-623, § 7[5], as added Oct. 27, 1986, P. L. 99-570, Title X, § 10002, 100 Stat. 3207-167.)

The Ballistic Knife

NCB*

...the Knife that Shoots! \$79⁹⁵

The only one of its kind currently available in the free world

In the summer of 1984, it was learned from U.S. and Swedish intelligence sources that the U.S.S.R. had developed a special knife for issue to their elite forces or 'Spetsnaz'. This knife was reported to be capable of being fired silently and accurately with the ability to kill to a distance of ten meters. These crack troops were the Soviet version of our special forces and they considered this knife to be an extension of their ability to kill swiftly and silently.

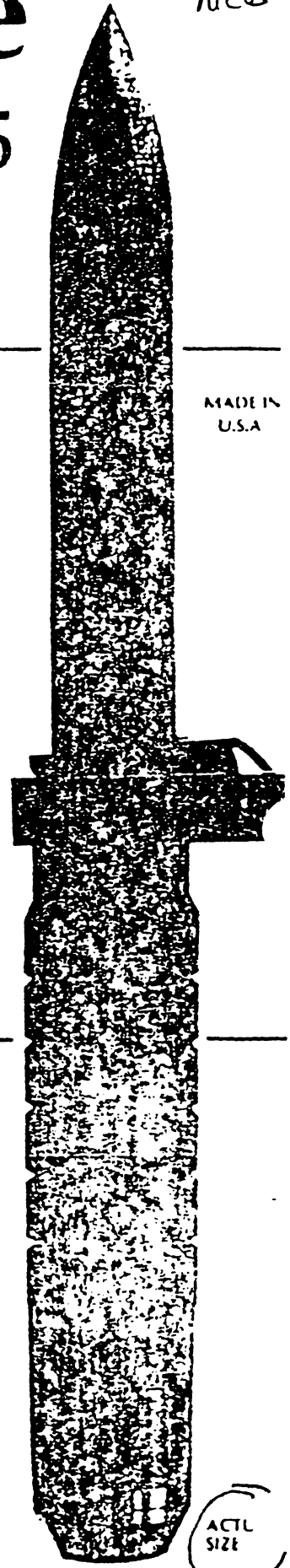
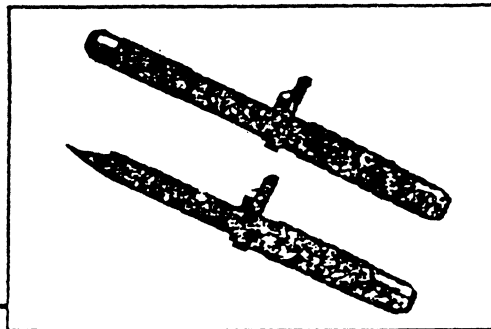
Although technical information was sketchy, using captured samples and powerful U.S. computers, a new, more modern design with an even better flight stability was evolved. With this history, Florida Knife Corporation was formed for the purpose of offering a U.S. built version of the knife to the public. We call this knife the "Ballistic Knife."

The Ballistic Knife is both a conventional knife and an innovative close range defensive system. It can be used as a thrusting rod, shot as a baton (with sheath intact), used as a fighting knife or it can be fired up to an effective range of thirty feet. The typical penetration of this knife is about three times that of a manual stab. The blade will usually penetrate its complete length in meat or animal tissue. This knife is currently the only one of its type available in the free world and represents a truly unique military item.

MADE IN U.S.A.

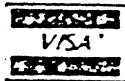
SPECIFICATIONS

Overall length	9.5"
Blade length	4.5"
Spring length	11.5"
Handle diameter	1.1"
Sheath diameter885"
Blade thickness055"
Weight	10 oz.
Blade	Rockwell 56



ACTL SIZE

To order, send coupon below along with cashier's check or money order to:



FLORIDA KNIFE CORP.

P.O. Box 1630

Merritt Island, FL 32952



Please send THE BALLISTIC KNIFE to the following address. Enclosed is a cashier's check or money order for \$81.95 (\$79.95 plus \$2.00 shipping for each knife).

NAME _____

ADDRESS _____

CITY _____ STATE _____

ZIP _____ PHONE (AREA CODE) _____

VISA or MASTERCARD number _____ Exp. date _____

RETAIL DEALER INQUIRIES INVITED. CALL (305) 453-4770

E. Mandatory Sentencing

The use of criminal penalties for the use of firearms while committing crimes has enjoyed increasing popularity in the last several years. Over one-half of the states provide for enhanced penalties and over one-fourth have adopted mandatory sentencing for offenders, and more are likely to follow.

Virginia Code § 18.2-53.1 prohibits the use or display of a firearm in committing certain felonies. There is a 2 year penalty for the first conviction and 4 years for any subsequent convictions. The sentence is mandatory and judges have no discretion respecting punishment (In re Commonwealth, 229 Va. 159, 326 S.E.2d 695 (1985)). There is no suspension or probation for sentences and they may not run concurrently with sentences for the underlying felonies. The level of proof needed for a conviction has been clearly established. Where a defendant's actions and the perceptions of the victim are sufficient to cause the victim to believe that defendant was armed, the evidence is sufficient to prove guilt beyond a reasonable doubt under this section (Cromite v. Commonwealth, 3 Va. App 64, 348 S.E.2d 38 (1986)). See also Bradshaw v. Commonwealth, 228 Va. 484, 323 S.E.2d 567 (1984); Barrett v. Commonwealth, 231 Va. 102, 341 S.E. 2d 190 (1986); Hill v. Commonwealth, 2 Va. App. 683, 347 S.E.2d 913 (1986). When a single act results in more than one offense, each felony conviction constitutes subsequent convictions under the statute (Morris v. Commonwealth, 228 Va. 206, 321 S.E.2d 633 (1984)).

The complexity of the factors involved makes it difficult to determine whether or not the mandatory additional penalty for firearm felonies has had an impact on overall rates of violent crimes. However, it should be noted the statistics on law enforcement officer assaults involving firearms in Virginia show significant declines in 1976, following the statute's passage by the legislature, and in 1983 after the 1982 amendment increased the penalty to its present law.

There is also a penalty under federal law for the use of a firearm by a person who has unlawfully possessed sent or received any firearm or ammunition in violation of 18 U.S.C. § 922(g) when such person has three prior convictions in any court for a violent felony or serious drug offense, or both (18 U.S.C. § 924(e)).

Pro: Sentence enhancement may reduce firearms crime rates through specific deterrence, general deterrence and through an incapacitative effect (which occurs regardless of offender's knowledge or evaluation).

Mandatory penalties for firearm misuse are targeted directly at criminals and do not affect legitimate firearms owners and users.

Where the penalties for a mandatory sentencing law are communicated to potential offenders, gun crime may be deterred through an "announcement effect."

Con: Deterrence depends on 1) communication of the added costs of using a gun to the criminal, 2) his evaluation of that cost as being too great to carry a gun, and 3) his perception that there is a high probability of receiving the enhanced sentence.

Mandatory Sentencing Con's (Con't)

Con: Studies of mandatory sentencing laws in Massachusetts, Michigan, New York, and Florida indicate that the laws are not always used effectively - courts tend to apply the laws selectively through plea bargaining or other mitigating mechanisms so that a "going rate" for various crimes is preserved.

If the additional penalty for use of a firearm is too weak in relation to the sentence for the underlying felony it will not be effective. According to surveys of felons, as reported in a recent NIJ study, their major motive for acquiring and carrying guns is self-protection. Stiffer penalties will deter less predatory felons from carrying firearms, but not serious offenders for whom the cost of being caught unarmed in a dangerous situation outweighs the cost of a few years in prison.

Assaults on Virginia's
Law Enforcement Officers

	<u>Firearm</u>	<u>Knife</u>	<u>Other Weapon</u>	<u>Hands-Feet</u>
1975	119	32	117	1,246
1976	71	22	117	1,271
1977	60	30	122	1,482
1978	33	24	115	1,292
1979	43	40	98	1,247
1980	42	25	102	1,275
1981	42	21	95	1,444
1982	47	47	74	1,618
1983	23	29	92	1,374
<u>1984</u>	<u>23</u>	<u>33</u>	<u>92</u>	<u>1,310</u>
10 yr. total	503	303	1,024	13,559

source: Provided by Department of Criminal Justice Services.
Original data is from Crime in Virginia by the Department of State Police.

F. Firearms Tracing

ATF's National Tracing Center in Wash., D.C. provides firearms and explosives tracing services to law enforcement agencies in the U.S. and foreign countries. Manufacturers, importers, wholesalers, and retail dealers cooperate in tracing by providing upon request specific information from their records regarding manufacture, import or sale. AFT, through its licensing authority, is the only agency with access to these records.

Requests may be relayed through the local AFT office, or may be sent directly to the National Tracing Center by means of NLETS (National Law Enforcement Telecommunications System), the mail, telex, telephone or code-a-phone system.

Traces are processed according to their priority:

- 1) Priority I - URGENT (firearm used in crime of violence and/or information essential to apprehend or hold suspect; Tracing Center will attempt to complete trace in 9 hours or 1 working day, unless weekend intervenes).
- 2) Priority II - EXPEDITE (information essential for completing investigation; requests will attempt to be completed within 3 to 5 working days).
- 3) Priority III - ROUTINE (completed within 5 to 7 working days or less).

A typical trace would follow a weapon from the importer or manufacturer to the wholesaler, then to the retailer, and then to the individual purchaser who first purchased the gun. Licensees must keep bound records with the serial numbers of all weapons which they manufacture or sell. Purchasers must fill out a yellow form when purchasing a gun to verify that they are in compliance with section 922(g) of the Gun Control Act of 1968 (not a convicted felon, fugitive, drug abuser or addict, mental defective or committed patient, alien, dishonorably discharged veteran, or person who has renounced citizenship). The bound records are kept forever, either by the licensee or ATF, and the yellow forms must be kept for 20 years.

There is no transfer tax on weapons unless they fall into the category of Title II weapons (machineguns, destructive devices, and certain other firearms). An ordinary firearms purchased by a private citizen may be transferred without any record of the transaction, so these transfers cannot be traced. Of course, once a weapon is stolen there is no way for the ATF to trace it either.

The Gun Control Act of 1968, under section 922(k), makes it unlawful for a person to knowingly transport, ship or receive in interstate or foreign commerce any firearm which has had the serial number removed or altered. (p.16) The penalty is a fine up to \$5,000, imprisonment up to five years, or both as provided in section 924(a)(1). (p.28).

Under § 18.2-311.1 of the Code of Virginia it is a Class 1 misdemeanor to remove, alter, obliterate, etc., any mark or identification on any firearm.

G. Concealed Weapons

Every state in the U.S. except for Vermont requires a license or permit to carry a concealed weapon.

The Virginia statute which prohibits carrying a concealed weapon is Va. Code § 18.2-308. A person is not allowed to carry a weapon "about his person, hidden from common observation. Section 18.2-308.2 provides an enhanced penalty for felons convicted of rape, robbery, or a firearm felony in any state. Also, possession of a firearm while in possession of certain controlled substances is a Class 6 felony under section 18.2-308.4.

The only available authority for interpreting this statute is the Virginia Supreme Court case of Schaaf v. C', 348 Va. 429, 258A S.E.2d 574 (1979). According to Schaaf, the statute seeks to prevent a person from carrying a deadly weapon concealed about his person so that it is readily accessible for use or surprise if desired. Id at 430, 258 S.E.2d at 575.

The Schaaf case involved a loaded handgun which the defendant carried into a courtroom in her handbag. In an earlier decision the court had ruled that a pistol in a scabbard, carried in a pair of saddle bags with the lids down, would not violate the statute even if the saddle bags were carried by hand. Sutherland's Case, 109 Va. 834, 65 S.E. 15 (1909). Sutherland was overruled by the Schaaf court, two justices dissenting, and defendant's conviction was affirmed.

The federal law regarding carrying weapons deals only with interstate transportation of firearms as regulated by 18 U.S.C. § 926A, an amendment to the Gun Control Act of 1968 enacted July 1986. This section allows any person who is not prohibited under the Act from transporting, shipping, or receiving a firearm to transport a firearms for any lawful purpose from one place of lawful possession to another as long as the firearm is unloaded and the firearm and any ammunition are stored in the trunk or in a locked container other than the glove compartment or console (where vehicle has no trunk).

Studies dealing with the effect of restrictive gun carrying laws indicate that they cause a substitution pattern to occur. For example, if robbers are deprived of guns the robbery murder rate would fall but the robbery injury rate would rise, with a redistribution from less to more vulnerable targets, such as noncommercial places and less well-defended victims. With homicides, the assaultive murder rate would decline, but the overall assault rate might well increase as potential killers focus on more vulnerable victims. Cook, (1981).

These results have been described as a mixed blessing. While a vigorous crackdown on carrying concealed weapons may cause a decline in gun crime, aggressive enforcement procedures could lead to more unreasonable searches and seizures and the aggravation of relations between civilians and police. Blackman, (1985).

H. Registration of Machine Guns

According to State Police records there are 2,519 machine guns registered in Virginia; 889 of these are inactive registrations.

Section 18.2-295 requires machine guns to be registered with the State Police within 24 hours of acquisition. The registrant is then provided with a certificate of registration. The Superintendent must be given notice of transfers. Failure to keep or produce the certificate for inspection upon request is a Class 3 misdemeanor. A peace officer may then seize the gun without a warrant and subsequently apply for its confiscation.

Non-registration of a machine gun is prima facie evidence of a violation of § 18.2-290 (use of machine gun for aggressive purpose). Possession or use of a machine gun for an offensive or aggressive purpose is a Class 4 felony.

The National Firearms Act contains a provision which bars use of registration data in criminal prosecution for prior or concurrent offenses. 26 U.S.C. § 5848. This "use immunity," together with the I.R.S.'s administrative policy of withholding tax information from local, state, or other federal agencies (see 26 U.S.C. § 6103,) protects applicants from violations of the Fifth Amendment's self-incrimination provision. The NFA requires a \$200 transfer tax on firearms, which must be paid by the transferor. 26 U.S.C. § 5811. The transferee's photograph and fingerprints accompany the transferor's application, but they are protected by the above-mentioned provisions.

Only machine guns lawfully possessed prior to May 19, 1986, may be transferred or possessed unless under the authority of the U.S., a state, or a department or agency thereof. Firearms Owners' Protection Act, Pub. L. No. 99-308, § 102(9), 1986 U.S. Code Cong. & Admin. News (100 Stat.) 451.



COMMONWEALTH of VIRGINIA

COLONEL R.L. SUTHARD
SUPERINTENDENT

DEPARTMENT OF STATE POLICE

LT. COL. W.F. CORVELLO
DEPUTY SUPERINTENDENT

P. O. Box 27472, Richmond, VA 23261-7472

August 26, 1987

Delegate Clifton A. Woodrum, Chairman
Firearms Subcommittee
State Crime Commission
P. O. Box 3-AG
Richmond, VA 23208

Dear Delegate Woodrum:

Mr. Robert Colvin, Commission Staff Director, has inquired as to this department's position on Section 18.2-295 of the Code of Virginia, which deals with the registration of machine guns.

This Code section requires that all machine guns be registered with the Department of State Police within 24 hours of their acquisition. The notarized registration application shows the model and serial number of the weapon; the name, address, and occupation of the person possessing the machine gun; and, from whom the weapon was acquired and for what purpose. This requirement is an integral element of the Uniform Machine Gun Act, Article 5, Chapter 7, of the Code of Virginia.

It is my understanding that this statute had its origin in the gangster wars of the 1930's when machine guns were the principal weapon used for perpetrating crimes of violence. This statute has served the Commonwealth well since that time and citizen compliance with its provisions appears to be excellent. We do not routinely receive complaints from those required to comply with its provisions. I believe the law serves its intended purpose, that being the regulation of this extremely dangerous weapon through the registration process. The registration process not only allows us to identify owners of these type weapons but, also, to trace any such weapons which might be used in a criminal offense.

As you know, federal statutes also require machine gun registration with the Bureau of Alcohol, Tobacco, and Firearms. Such registration is primarily for taxing purposes and, since these are tax records, the ATF Bureau is not permitted, by statute, to share this information with any other law enforcement agency.

Delegate Clifton A. Woodrum
Page 2
August 26, 1987

In summary, it is the position of the Department of State Police that Section 18.2-295 of the Code remain unchanged.

Sincerely,


Superintendent

RLS:RRJ:lr

d/3

I. Waiting Periods

Waiting periods require the purchaser of a handgun to wait for a specified period between application to purchase and acquisition. This time could be used by authorities to check the individual's eligibility to own a firearm. Currently, the purchaser must make a statement of his eligibility on a federal form, but neither the Federal Government nor the Commonwealth of Virginia has adopted a waiting period. Virginia has adopted a preemption statute granting authority over firearm laws to the legislature (Virginia Code § 15.1-29.15). Further, Virginia Code § 15.1-525 requires permits to sell or purchase pistols or revolvers in any county with a population density of more than one thousand a square mile.

In addition, § 15.1-524 of the Code permits any county to require sellers of pistols and revolvers to furnish the Clerk of the Court information about the purchaser and the gun within 10 days of sale.

Pros

On the current federal form, there is no validity check on information supplied by the purchaser.

The 1981 Reagan Administration Task Force on Violent Crime recommended a waiting period.

21% of criminals obtain weapons through legitimate commercial channels.

Waiting periods do screen out some ineligible.

A waiting period would have stopped John Hinkley.

91% of Americans favor a waiting period.

Waiting periods provide for background checks and cooling off periods.

Reduced availability of firearms in cases of homicidal rage or suicidal despair will save lives.

Hundreds of firearms are misused hours after purchase.

Optional background checks protect against undue strain on police resources.

Prompt destruction of all records insures against a system of "de facto" registration.

States without waiting periods are a firearms resource for criminals in states with waiting periods.

Cons

The National Institute of Justice found that controls at the point of retail sale would not be effective in preventing the acquisition of guns by serious adult felons; these felons rarely obtain their guns through legitimate retail sources.

Murderers are violent people with violent histories.

Most crimes of passion occur between 10:00 p.m. and 3:00 a.m. suggesting immediate availability of firearms is not a factor.

50% of murderers are under the influence of drugs or alcohol; sales to these people are already prohibited.

Persons intent on violence could use longarms or other lethal weapons.

Most ineligibles do not purchase weapons from a dealer; handguns are readily available on the street.

Criminals need not subject themselves to a background check.

Bureaucrats can prohibit gun ownership with no check on their discrimination.

Any delay impairs citizens' ability to defend themselves.

The waiting period and background check must be enforced with every purchase no matter how many guns the purchaser already owns.

75%-80% of gun purchasers already own a gun.

Areas with waiting periods have high rates of crime.

Many records necessary for an accurate background check are inaccessible to police.

There is no evidence that waiting periods and police checks reduce violent crime.

Many violent crimes are committed by people who legally own guns.

Those who are affected are those who obey the law.

Background checks direct police resources away from fighting crime.

Background checks would slow the system and inhibit searches for criminals and suspects.

A waiting period would not have stopped John Hinkley.

Involving police officers in guaranteeing a handgun purchaser's legal eligibility subjects law enforcement individuals, agencies, and unions to civil liability.

Localities and legislatures are moving away from waiting periods and toward preemption statutes.

Congress has debated and rejected a waiting period.

Waiting periods erode the presumption of innocence.

The interference of a waiting period will cost the law abiding money and privacy.

Under the Fifth Amendment, criminals do not have to provide information about their illegal possession of a handgun.

There is no correlation between gun ownership and suicide rates.

Records from the check and notification would allow authorities to trace every handgun.

Neighboring localities with lax laws nullify any positive effect.

Only 2.1% of guns traced to crime are less than one month old.

authorized to redress injuries allegedly caused by constitutional torts and of a personal nature inflicted upon its residents. *Board of Supvrs. v. United States*, 408 F. Supp. 556 (E.D. Va. 1976), appeal dismissed, 551 F.2d 305 (4th Cir. 1977).

Henrico county, which fell within the classification of former subsection (1) of this section, was given the same power and authority as councils of cities and towns including the power and authority given under § 46.1-65 to impose license taxes on motor vehicles. *Kilgour v. Board of Supvrs.*, 195 Va. 562, 79 S.E.2d 601

(1954), holding ordinance imposing license tax on motor vehicles valid.

The board of supervisors of Henrico County does not, by virtue of this section, possess either the power to levy taxes and assessments as specified in § 15.1-841, or to enact a retail sales and use tax ordinance. *Board of Supvrs. v. Corbett*, 206 Va. 167, 142 S.E.2d 504 (1965), decided under this section as it stood before the 1966 amendments.

Applied in *Armstrong v. County of Henrico*, 212 Va. 66, 182 S.E.2d 35 (1971).

§ 15.1-523. Pistols and revolvers; license tax on dealers. — The governing body of any county may impose a license tax of not more than twenty-five dollars on persons engaged in the business of selling pistols and revolvers to the public. (Code 1950, § 59-141; 1968, c. 439.)

§ 15.1-524. Same; reports of sales. — The governing body of any county may require sellers of pistols and revolvers to furnish the clerk of the circuit court of the county, within ten days after sale of any such weapon, with the name and address of the purchaser, the date of purchase, and the number, make and calibre of the weapon sold. The clerk shall keep a record of the reports. (Code 1950, § 59-142; 1968, c. 439.)

§ 15.1-525. Same; in certain counties. — Chapter 297 of the Acts of 1944, approved March twenty-nine, nineteen hundred forty-four, requiring permits to sell or purchase pistols or revolvers in any county having a density of population of more than one thousand a square mile, is continued in effect. (Code 1950, § 59-144; 1968, c. 439.)

§ 15.1-526. Counties may operate parks, recreation areas and swimming pools. — The governing body of any county may, for the use and benefit of the public in such county in addition to the other powers and duties granted under other laws:

(1) Construct, maintain and operate parks, recreation areas and swimming pools;

(2) Acquire by gift, condemnation, purchase, lease or otherwise and maintain and operate parks, recreation areas and swimming pools;

(3) Contract with any person, firm, corporation or municipality to construct, establish, maintain and operate the parks, recreation areas and swimming pools;

(4) Fix and prescribe the rates of charge for use of the parks, recreation areas and swimming pools and provide for collection of same;

(5) Levy and collect an annual tax upon all the property in the county subject to local taxation to pay in whole or in part the expenses and charges incident to maintaining and operating such parks, recreation areas and swimming pools; and

(6) Employ and fix compensation of any technical, clerical or other force to help deemed necessary for the construction, operation and maintenance of the parks, recreation areas and swimming pools. (1968, c. 680.)

The number of this section was assigned by the Virginia Code Commission, the number in the 1968 act having been 15.1-523.

APPENDIX A
GOVERNOR'S LETTER OF REQUEST



COMMONWEALTH of VIRGINIA

Office of the Governor
Richmond 23219

Gerald L. Baliles
Governor

March 30, 1987

The Honorable Elmon T. Gray
Chairman
Virginia State Crime Commission
P. O. Box 85
Waverly, Virginia 23890

Dear Elmon:

Over the past several weeks I have given a great deal of thought to the question of state and local control of the sale and use of firearms. On Saturday I signed into law House Bill 830, which confirms the General Assembly's intention that there shall be statewide uniformity with respect to these matters.

There exist, however, a number of complex issues raised by the law enforcement community and many concerned citizens about ammunition and firearms which appear to pose extraordinary threats to the safety of law enforcement officers and to the general public. Two obvious examples are armor piercing ammunition and plastic firearms that cannot be screened by metal detectors.

I believe the time has come for a comprehensive assessment of these issues with a view toward presentation of findings and recommendations to the 1988 General Assembly. In my judgment, no group is in a better position to perform such an assessment than the Commission. Under your able leadership the Commission has the statutory authority, the expertise, and the staff to objectively evaluate how best to balance the rights of our citizens to bear arms with our collective responsibility to protect the public's safety.

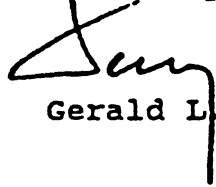
Consequently, I respectfully request that the Commission undertake this study as soon as possible. I would hope that you would be in a position to report by December 31, 1987, to me and to the General Assembly on appropriate actions that should be taken to address these issues.

The Honorable Elmon T. Gray
March 30, 1987
Page Two

If I or any member of my staff can be of assistance to you either before or during the study, please do not hesitate to let me know.

With kindest regards, I am.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Baliles", written over the printed name.

Gerald L. Baliles

GLB/av

HOUSE BILL NO. 830

House Amendments in [] - January 28, 1987

A BILL to amend the Code of Virginia by adding a section numbered 15.1-29.13, relating to control of firearms.

Patrons—Wilkins, Copeland, Finney, Parker, L. W., Jones, R. B., Councill, Crouch, Benedetti, Robinson, J. W., Lacy, Wilson, Giesen, Moncure, Agee, McGlothlin, Gordy, Green, Brown, Slayton, Morgan, Smith, Hanger, Morrison, Quillen, Putney, Beard, Parrish, Stieffen, Stafford, Saunders, Callahan, Bloxom, Miller, C., Jester and Hargrove; Senators: Fears, Houck, Gray, Russell, R. E., and Miller, K. G.

Referred to Committee on Militia and Police

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.1-29.13 as follows:

§ 15.1-29.13. Control of firearms.— [From and after January 1, 1987, no] county, city or town shall adopt any ordinance [; rule or regulation the purpose of which is] to govern the purchase, possession [or use of any firearm other than those expressly authorized by statute , transfer, ownership, carrying or transporting of firearms. ammunition, or components or combination thereof other than those expressly authorized by statute.]

Official Use By Clerks

Passed By
The House of Delegates
without amendment
with amendment
substitute
substitute w/amdt

Passed By The Senate
without amendment
with amendment
substitute
substitute w/amdt

Date: _____

Date: _____

Clerk of the House of Delegates

Clerk of the Senate

APPENDIX B

PROPOSED LEGISLATION

Prohibited Weapons §§ 18.2-308, 18.2-310, 18.2-311

Transfer of Firearm to Felons § 18.2-308.2:1

Stolen Firearms § 18.2-108.1

Registration of Machine Guns § 18.2-295

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend and reenact §§ 18.2-308, 18.2-310 and
4 18.2-311 of the Code of Virginia, relating to illegal
5 weapons; penalties.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That §§ 18.2-308, 18.2-310 and 18.2-311 of the Code of
9 Virginia are amended and amended as follows:

10 § 18.2-308. Carrying concealed weapons; when lawful to
11 carry.--A. If any person carries about his person, hidden
12 from common observation, (i) any pistol, revolver, or other
13 weapon designed or intended to propel a missile of any kind,
14 or (ii) any dirk, bowie knife, switchblade knife, ballistic
15 knife, razor, slingshot, spring stick, metal knucks,
16 blackjack, or (iii) any flailing instrument consisting of
17 two or more rigid parts connected in such a manner as to
18 allow them to swing freely, which may be known as a nun
19 chahka, nun chuck, nunchaku, shuriken, or fighting chain, or
20 (iv) any disc, of whatever configuration, having at least
21 two points or pointed blades which is designed to be thrown
22 or propelled and which may be know as a throwing star or
23 oriental dart, or (v) any weapon of like kind as those
24 enumerated in this subsection, he shall be guilty of a Class
25 1 misdemeanor, and such weapon shall be forfeited to the
26 Commonwealth and may be seized by an officer as ^{*}forfeited,

1 and such as may be needed for police officers, conservators
2 of the peace, and the Division of Consolidated Laboratory
3 Services shall be devoted to that purpose, subject to any
4 registration requirements of federal law, and the remainder
5 shall be disposed of as provided in § 18.2-310. For the
6 purpose of this section, a weapon shall be deemed to be
7 hidden from common observation when it is observable but is
8 of such deceptive appearance as to disguise the weapon's
9 true nature.

10 B. This section shall not apply to:

11 1. Any person while in his own place of abode or the
12 curtilage thereof;

13 2. Any police officers, sergeants, sheriffs, deputy
14 sheriffs or regular game wardens appointed pursuant to
15 Chapter 2 of Title 29.1;

16 3. Any regularly enrolled member of a target shooting
17 organization who is at, or going to or from, an established
18 shooting range, provided that the weapons are unloaded and
19 securely wrapped while being transported;

20 4. Any regularly enrolled member of a weapons
21 collecting organization who is at, or going to or from, a
22 bona fide weapons exhibition, provided that the weapons are
23 unloaded and securely wrapped while being transported;

24 5. Any person carrying such weapons between his place
25 of abode and a place of purchase or repair, provided the
26 weapons are unloaded and securely wrapped while being
27 transported;

28 6. Campus police officers appointed pursuant to

1 Chapter 17 (§ 23-232 et seq.) of Title 23; and

2 7. Any person actually engaged in lawful hunting, as
3 authorized by the Board of Game and Inland Fisheries, under
4 inclement weather conditions necessitating temporary
5 protection of his firearm from those conditions.

6 C. This section shall also not apply to any of the
7 following individuals while in the discharge of their
8 official duties, or while in transit to or from such duties:

9 1. Carriers of the United States mail in rural
10 districts;

11 2. Officers or guards of any state correctional
12 institution;

13 3. [Repealed.]

14 4. Conservators of the peace, except that the
15 following conservators of the peace shall not be permitted
16 to carry a concealed weapon without obtaining a permit as
17 provided in subsection D hereof: (a) notaries public; (b)
18 registrars; (c) drivers, operators or other persons in
19 charge of any motor vehicle carrier of passengers for hire;
20 (d) commissioners in chancery; and

21 5. Noncustodial employees of the Department of
22 Corrections designated to carry weapons by the Director of
23 the Department of Corrections pursuant to § 53.1-29.

24 D. Any person may apply in writing to the circuit
25 court of the county or city in which he resides for a
26 one-year permit to carry a specific type of concealed
27 weapon. The court, after consulting the law-enforcement
28 authorities of the county or city and receiving a report

1 from the Central Criminal Records Exchange, shall issue such
2 permit if it finds that the applicant is of good character,
3 has demonstrated a need to carry such concealed weapon,
4 which need may include but is not limited to lawful defense
5 and security, is physically and mentally competent to carry
6 such weapon and is not prohibited by law from receiving,
7 possessing, or transporting such weapon. If the circuit
8 court denies the permit, the reasons for such denial shall
9 be stated in the order of the court denying the permit.

10 No fee shall be charged for the issuance of such permit
11 to a person who has retired from service as a
12 law-enforcement officer with the Department of State Police,
13 or with a sheriff or police department, bureau or force of
14 any political subdivision of the Commonwealth of Virginia,
15 after completing twenty years' service or after reaching age
16 fifty-five. The order issuing such permit shall be entered
17 in the law order book of such court.

18 Any person denied a permit to carry a concealed weapon
19 under the provisions of this subsection may, within thirty
20 days of the decision, present a petition for review to the
21 Court of Appeals or any judge thereof. The petition shall be
22 accompanied by a copy of the original papers filed in the
23 circuit court, including a copy of the order of the circuit
24 court denying the permit. Subject to the provisions of §
25 17-116.07 B, the decision of the Court of Appeals or judge
26 shall be final.

27 E. As used in this ~~section~~ article :

28 "Spring stick" means a spring-loaded metal stick

1 activated by pushing a button which rapidly and forcefully
2 telescopes the weapon to several times its original length.

3 "Ballistic knife" means any knife with a detachable
4 blade that is propelled by a spring-operated mechanism.

5 § 18.2-310. Forfeiture of certain weapons used in
6 commission of criminal offense.--All pistols, shotguns,
7 rifles, dirks, bowie knives, switchblade knives, ballistic
8 knives, razors, slingshots, brass or metal knucks,
9 blackjacks, stun weapons and tasers, as defined in §
10 ~~18.2-308-1~~ and other weapons used by any person or persons
11 in the commission of a criminal offense, may, upon
12 conviction of such person or persons so using the same, be
13 forfeited to the Commonwealth by order of the court trying
14 the case, which shall make such disposition of such weapons
15 as it deems proper by entry of an order of record, including
16 the destruction of the weapons or, subject to any
17 registration requirements of federal law, sale of the
18 firearms to a licensed dealer in such firearms in accordance
19 with the provisions of Chapter 22 (§ 19.2-369 et seq.) of
20 Title 19.2 regarding sale of property forfeited to the
21 Commonwealth. The proceeds of any such sale shall be paid
22 in accordance with the provisions of Article VIII, § 8 of
23 the Constitution of Virginia.

24 § 18.2-311. Prohibiting the selling or having in
25 possession blackjacks, etc.--If any person sells or barter,
26 or exhibits for sale or for barter, or gives or furnishes,
27 or causes to be sold, bartered, given or furnished, or has
28 in his possession, or under his control, with the intent of

1 selling, bartering, giving or furnishing, any blackjack,
2 brass or metal knucks, any disc of whatever configuration
3 having at least two points or pointed blades which is
4 designed to be thrown or propelled and which may be known as
5 a throwing star or oriental dart, switchblade knife ,
6 ballistic knife, or like weapons, such person shall be
7 guilty of a Class 4 misdemeanor. The having in one's
8 possession of any such weapon shall be prima facie evidence,
9 except in the case of a conservator of the peace, of his
10 intent to sell, barter, give or furnish the same.

11 #

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend the Code of Virginia by adding a section
4 numbered 18.2-308.2:1, prohibiting the selling or
5 giving of firearms to designated felons; penalty.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That the Code of Virginia is amended by adding a section
9 numbered 18.2-308.2:1 as follows:

10 § 18.2-308.2:1. Prohibiting the selling, etc. of
11 firearms to certain felons.--Any person who sells, barter,
12 gives or furnishes, or has in his possession or under his
13 control with the intent of selling, bartering, giving or
14 furnishing, any firearm to any person he knows to have been
15 convicted of a Class 1, 2 or 3 felony, rape, robbery, or a
16 felony involving the use of a firearm shall be guilty of a
17 Class 1 misdemeanor. Any firearm sold, bartered, given or
18 furnished or possessed or controlled with intent to do so in
19 violation of this section shall be forfeited to the
20 Commonwealth and disposed of as provided in § 18.2-310.

21

#

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend the Code of Virginia by adding a section
4 numbered 18.2-108.1, relating to theft or receipt of
5 stolen firearm; penalty.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That the Code of Virginia is amended by adding a section
9 numbered 18.2-108.1 as follows:

10 § 18.2-108.1. Theft or receipt of stolen
11 firearm.--Notwithstanding the provisions of § 18.2-96 or §
12 18.2-108:

13 1. Any person who commits simple larceny of a firearm
14 not from the person shall be deemed guilty of grand larceny.

15 2. Any person who buys or receives a firearm from
16 another person or aids in concealing a firearm, knowing that
17 the firearm was stolen, shall be deemed guilty of grand
18 larceny and may be proceeded against although the principal
19 offender is not convicted.

20 #

2 SENATE BILL NO. HOUSE BILL NO.

3 A BILL to amend and reenact § 18.2-295 of the Code of
4 Virginia, relating to registration of machine guns.

5

6 Be it enacted by the General Assembly of Virginia:

7 1. That § 18.2-295 of the Code of Virginia is amended and
8 reenacted as follows:

9 § 18.2-295. Registration of machine guns.--Every
10 machine gun in this State Commonwealth shall be registered
11 with the Department of State Police within twenty-four hours
12 after its acquisition or, in the case of semi-automatic
13 weapons which are converted, modified or otherwise altered
14 to become machine guns, within twenty-four hours of the
15 conversion, modification or alteration . Blanks for
16 registration shall be prepared by the Superintendent of
17 State Police, and furnished upon application. To comply with
18 this section the application as filed shall be notarized and
19 shall show the model and serial number of the gun, the name,
20 address and occupation of the person in possession, and from
21 whom and the purpose for which, the gun was acquired or
22 altered . The Superintendent of State Police shall upon
23 registration required in this section forthwith furnish the
24 registrant with a certificate of registration, which shall
25 be valid as long as the registrant remains the same.
26 Certificates of registration shall be retained by the

1 registrant and produced by him upon demand by any peace
2 officer. Failure to keep or produce such certificate for
3 inspection shall be a Class 3 misdemeanor, and any peace
4 officer, may without warrant, seize the machine gun and
5 apply for its confiscation as provided in § 18.2-296. Upon
6 transferring a registered machine gun, the transferor shall
7 forthwith notify the Superintendent in writing, setting
8 forth the date of transfer and name and address of the
9 transferee. Failure to give the required notification shall
10 constitute a Class 3 misdemeanor. Registration data shall
11 not be subject to inspection by the public.

12

#

APPENDIX C

VIRGINIA LAW

The Chairman of the subcommittee and staff compiled a list of sections of the Code of Virginia which deal with firearms. The list was double checked with a computerized search of the Code and relevant acts of the 1987 General Assembly were included. This report contains only a listing of the short titles and respective code sections. A rather bulky packet containing copies of the code is available as reference material.

Article 4 - Dangerous Use of Firearms or Other Weapons.

- 18.2-279: Discharging firearms or missiles within or at occupied buildings.
- 18.2-280: Willfully discharging firearms in public places.
- 18.2-281: Setting spring gun or other deadly weapon.
- 18.2-282: Pointing or brandishing firearm or object similar in appearance.
- 18.2-283: Carrying dangerous weapon to place of religious worship.
- 18.2-284: Selling or giving toy firearms.
- 18.2-285: Hunting with firearms while under influence of intoxicant or narcotic drug.
- 18.2-286: Shooting in or along road or in street.
- 18.2-287: Counties may regulate carrying of loaded firearms on public highways.
- 18.2-287.1: Transporting a loaded rifle or shotgun.

Article 5 - Uniform Machine Gun Act.

- 18.2-288: Definitions.
- 18.2-289: Use of machine gun for crime of violence.
- 18.2-290: Use of machine gun for aggressive purpose.
- 18.2-291: What constitutes aggressive purpose.
- 18.2-292: Presence prima facie evidence of use.
- 18.2-293: What article does not apply to.
- 18.2-293.1: What article does not prohibit.
- 18.2-294: Manufactuter's and dealer's register; inspection of stock.
- 18.2-295: Registration of machine guns.
- 18.2-296: Search warrants for machine guns.
- 18.2-297: How article construed.
- 18.2-298: Short title of article.

Article 6 - "Sawed-Off" Shotgun Act.

- 18.2-299: Definitions.
- 18.2-300: Possession or use of "sawed-off" shotgun.
- 18.2-301/302: Repealed by Acts 1978, c. 710.
- 18.2-303: What article does not apply to.
- 18.2-303.1: What article does not prohibit.
- 18.2-304: Manufacturer's and dealer's register; inspection of stock.
- 18.2-305: Repealed by Acts 1976, c. 351.
- 18.2-306: Search warrants for "sawed-off" shotguns; confiscation and destruction.
- 18.2-307: Short title of article.

Article 7 - Other Illegal Weapons.

- 18.2-308: Carrying concealed weapons; when lawful to carry.
- 18.2-308.1: Carrying firearm or stun weapon on school property prohibited.
- 18.2-308.2: Possession or transportation of handguns or concealed weapons by certain convicted felons; penalties; petition for permit; when issued.

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Article 7 con't

- 18.2-308.3: Use or attempted use of restricted ammunition in commission of certain crimes of violence prohibited; penalty.
- 18.2-309: Furnishing certain weapons to minors.
- 18.2-310: Forfeiture of certain weapons used in commission of criminal offense.
- 18.2-311: Prohibiting the selling or having in possession blackjacks, etc.
- 18.2-311.1: Removing, altering, etc., serial number or other identification on firearm.

1987 Session - Virginia Acts of Assembly: Legislation To Become Effective July 1

- 18.2-308.2: Relating to penalties for possession or transportation of handguns or concealed weapons by certain convicted felons; exceptions; permit.
- 18.2-308.4: Relating to possession or transportation of firearms or concealed weapons while in possession of certain controlled substances; penalty.
- 18.2-433.1 through 18.2-433.3: Relating to prohibition of unlawful paramilitary activities; penalty.

- 8.2 18.2-53.1: Use or display of firearm in committing a felony
 18.2-53.1: Supplement
 18.2-58: Robbery, how punished
 18.2-58: Supplement
 18.2-89: Burglary; how punished
 18.2-90: Entering dwelling house, etc., with intent to commit murder, rape, robbery
 18.2-91: Entering dwelling house, etc., with intent to commit larceny or other felony
 18.2-92: Breaking and entering dwelling house with intent to commit assault or other misdemeanor
 18.2-93: Entering bank, armed, with intent to commit larceny
 18.2-90: Supplement
 18.2-91: Supplement
 18.2-136: Right of fox, coon and deer hunters to go on lands of another; carrying firearms or bows and arrows prohibited
 18.2-154: Shooting at or throwing missiles, etc., at train, car, vessel, etc.
- 18.2-204.1: Fraudulent use of birth certificates, drivers' licenses, etc
 18.2-405: What constitutes a riot; punishment
 18.2-406: What constitutes an unlawful assembly; punishment
 18.2-405: Supplement
 18.2-406: Supplement
 18.2-474: Delivery of articles to prisoners
- 9.2 19.2-53: What may be searched and seized
 19.2-53: Supplement
 19.2-59.1: Strip searches prohibited; exceptions; how strip searches conducted
 19.2-83: Authority of police officers to stop, question and search suspicious persons
 19.2-83: Supplement
- 5.1 15.1-518: Prohibiting shooting of firearms, air-operated or gas-operated weapons in certain areas
 15.1-523: Pistols and revolvers; license tax on dealers
 15.1-524: Same; reports of sales
 15.1-525: Same; in certain counties
 15.1-14: Streets, parking facilities, public grounds and buildings; markets; nuisances, powder and combustibles; cemeteries
 15.1-865: Dangerous, etc., business or employments; transportation of offensive substances; explosive or inflammable substances; fireworks; firearms
 15.1-865: Supplement
- OTHERS 4-53: Contraband beverages and other articles subject to forfeiture
 4-83: Violations by armed person
 29-144.6: Counties may prohibit hunting with certain firearms
 29-140: Guns, pistols, revolvers, etc., which may be used

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- 53.1-29: Authority for correctional officers and other employees to carry weapons
- 53.1-29: Supplement
- 54-729.33: Power of guard to effect arrest
- 54-276.10: Physicians and others rendering medical aid to report certain wounds

- 59.1-148.1: Purchase of firearms in contiguous state
- 59.1-148.2: Sale of firearms to resident of contiguous state
- 46.1-10: Reports by persons in charge of garages and repair shops; vehicles struck by bullets
- 46.1-13: Same; forms for reports

*Other Firearms Related Sections of the Code

- 18.2-56.1: Reckless handling of firearms; reckless handling while hunting
- 29-144.3: Forfeiture of vehicles and weapons used for such killing or attempt to kill
- 29-162.2: Confiscation of watercraft and weapons used in violation of 29-162.1
- 29-171.1: Using firearms within certain distance of wildlife sanctuary in any city
- 44-78: How troops called out in time of danger
- 53.1-203: Felonies by prisoners; penalties

APPENDIX D
THE ARMED CRIMINAL IN AMERICA



National Institute
of Justice

Research in Brief

November 1986

The Armed Criminal in America

James D. Wright

Violent crime that threatens or abuses the physical safety of its victims lies at the heart of the crime problem in America today. In turn, the use of firearms to commit these crimes increases the seriousness of the violence problem. Each year, some 30,000 Americans die through the suicidal, homicidal, or accidental abuse of guns; several hundreds of thousands are injured; many hundreds of thousands more are victimized by gun crime. And the contribution of armed crime to the public's fear of crime is incalculable.

To shed light on armed crime, the National Institute of Justice recently sponsored a study that surveyed more than 1,800 convicted adult felons (all men) incarcerated in 10 States throughout the country. The survey asked these felons how and why they obtain, carry, and use firearms, especially in the commission of criminal acts.

This *Research in Brief* summarizes the results and policy implications of the study as they pertain to the nature of the criminal firearms market, criminal

firearms preferences, the motivation to own and carry guns, and how members of the survey sample thought they would respond to various types of gun regulation.

These results and implications apply only to the particular criminal population studied: serious adult male felons. Other groups, such as juvenile offenders, first offenders, female offenders, and less serious (nonfelony) adult male offenders may have very different patterns of firearms acquisition, ownership, and use. Therefore, they

From the Director

The armed predators who use guns in the course of their crimes are the source of much of the violence and fear that plague many urban neighborhoods. The debate over how to keep guns away from criminals has been intense and longstanding. Until recently, legislators and policymakers have had little empirical data to inform the debate.

If we are to achieve the goal of separating predators from guns, then we need to know how and where they obtain their weapons and how they use them in their criminal activities. This *Research in Brief* summarizes the findings of a National Institute-sponsored study that provided valuable new information about these questions. The knowledge produced by this study was cited by those involved in the policy debate over new gun control legislation passed by the Congress in 1986.

Based on interviews with more than 1,800 incarcerated felons, the study found that few of the gun-owning felons had bought their guns from a retail source. Rather, the majority usually obtained them from family members or friends or on the street. Often they stole them.

This research can help in the effort to develop more effective strategies to keep the predator from weapons of terror. The findings suggest that, for career criminals at least, vigorous enforcement and tougher penalties for those who commit crimes with firearms may be more effective than regulation. Our emphasis ought to be on "use a gun, go to jail."

New technology may also aid in the search for solutions. If we could do a better job of detecting concealed weapons, our emphasis would shift from efforts to control weapons at the point of purchase to identifying those

who are carrying and using guns for crime so they can be arrested and prosecuted.

NIJ is pursuing research toward a weapons-detection system that could reliably indicate concealed firearms. While much additional testing will be required before a system becomes operational, initial indications are promising.

All sides of the debate over gun control acknowledge that the use of weapons in crime is a major threat to the public and a pressing issue for policymakers. The National Institute is pleased that this research has contributed to informed discussion of the key issues. Advances in the technology of weapons detection may help shape new and more effective policies to help curb violent crime.

James K. Stewart
Director
National Institute of Justice

may respond to entirely different criminal justice initiatives.

A typology of armed criminals

To facilitate analysis of the survey, the research developed a general typology of criminals based on their weapon use in crime. The largest group (39 percent) within the 7-category typology is the *unarmed criminal*, men who had never committed any crime while armed with a weapon and who function as a comparison group in most of our analysis.

Also defined are two groups of "armed—not-with-a-gun-criminals" (11 percent)—men who had committed armed crimes but never with a firearm. Based on the weapon used most frequently, this group is further divided into *knife criminals* and *improvisors*, the latter typically armed with a variety of ready-to-hand weapons.

The other half of the sample are *gun criminals*, who have been divided into four groups based on their frequency of gun use in crime: one-time firearm users (men who had committed one, but only one, gun crime); sporadics (men who had committed "a few" gun crimes); and two types of predators (men who had committed many gun crimes): handgun and shotgun predators, depending on what kind of gun they said they had used most frequently. Table 1 shows the distribution of the total sample across these seven categories.

Table 1 also shows the average "total criminality" score in each of the seven categories. (This score reflects the sum of all the crimes a felon reported ever having committed, weighted by the seriousness of each offense.) The results confirm that the felons identified as gun predators are overwhelmingly the most active criminals in the sample; the two predator groups (handgun and shotgun), who make up about 20 percent of the sample, account for approximately half the sample's total criminality.

Points of view or opinions expressed in this publication are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Table 1

Total criminality of offenders by typology of weapons used in crime

Criminal type	Number of offenders	Percent of total sample	Average "total criminality" score*
Total sample	1,874	100	139
<i>Unarmed criminals</i>	725	39	61
<i>Armed not-with-a-gun criminals</i>			
Improvisors	79	4	101
Knife criminals	134	7	109
<i>Gun criminals</i>			
One-time gun users	257	14	84
Sporadic gun users	257	14	151
Handgun predators	321	17	332
Shotgun predators	101	5	265

*"Total criminality" is an index measure or score reflecting the sum of all the crimes the felon had ever committed (as reported in the study questionnaire) weighted by the seriousness of each offense. The index numbers have no intrinsic meaning except that lower numbers mean fewer or less serious crimes and higher numbers mean more or more serious ones. The table shows the average score on this index for each group.

The nature of the criminal firearms market

Three-quarters of the sample said they had owned one or more firearms at some time in their lives. Seventy-nine percent of these—more than 1,000—said they had owned at least one handgun. The handgun owners responded to a number of detailed questions about the methods and sources they used to acquire their most recent handguns. Their answers provide previously unavailable details describing the nature of the criminal gun market. The principal results:

(1) Legitimate firearms retailers play only a minor role as direct sources of handguns for adult felony offenders.

Only about one-sixth of the gun-owning felons obtained their most recent handguns through a customary retail transaction involving a licensed firearms dealer. The remainder—five out of six—obtained them via informal, off-the-record transactions involving friends and associates,

family members, and various black market outlets. The means of acquisition from these informal sources included cash purchase, swaps and trades, borrowing and renting, and often theft. The criminal handgun market is overwhelmingly dominated by informal transactions and theft as mechanisms of supply.

The off-the-record nature of the market is further illustrated in the responses to a series of questions concerning the ease with which these men felt they could arm themselves upon release from prison. (As convicted felons, of course, all these men are legally prohibited from acquiring guns upon release, under provisions of the Gun Control Act of 1968 and the Omnibus Crime Control and Safe Streets Act of 1968.) Most of the sample (gun owners and nonowners alike) thought it would be "no trouble at all" to acquire a gun upon release; about 80 percent felt they could obtain a suitable handgun in a few days or less. When asked where they would go for guns, their sources were friends, the street, and various black market sources.

These results suggest certain policy implications. Policies attempting to regulate handgun acquisition at the

point of retail sale may be effective in preventing some types of criminals from acquiring firearms (e.g., juveniles or nonfelony offenders), but they are likely to have little effect on the most serious handgun-owning felons represented in this sample. Hardcore felons of the sort studied in this research rarely use customary retail channels to obtain handguns.

(2) Gun theft plays a critical role in connecting the adult felony offender to his firearms supply.

Half the men in the total sample had stolen at least one gun at some time in their lives (as shown in Figure 1). Many had stolen more than one. A few, particularly the more predatory felons, had stolen guns in extremely large numbers. At least 40 percent and perhaps as many as 70 percent of the most recent handguns owned by this sample were stolen weapons. These percentages include not only the guns that the felons stole themselves (32 percent), but also guns that the felons knew or believed to have been stolen prior to their acquisition of them.

Like other theft, gun theft appears to be an "opportunity" crime: most gun thieves (76 percent) stole guns when they came across them, not because they were looking specifically for a gun to steal. The purpose of most gun thefts (70 percent) was to sell or trade the gun to someone else, rather than to obtain one for personal use. Still, most of those who had ever stolen guns kept at least one of them for personal use, usually because the stolen gun was a better quality weapon than the gun they were carrying at that time.

Most gun thefts (84 percent) occurred in private residences, but thefts from "high-volume" sources (retailers, wholesalers, shippers, and manufacturers) were also widely reported. These high-volume thefts may in fact account for a larger share of the total volume of stolen guns, due to the potentially greater number of guns stolen per theft.

The ideal gun control policy would be one that directly affects the illicit user but leaves the legitimate user pretty much alone. Formulating such a policy, however, presupposes a sharp distinction between the licit and illicit markets, a distinction seriously eroded by the heavy volume of gun theft from legitimate owners. The survey data suggest that a successful policy for controlling criminal access to firearms must necessarily address the problem of gun theft, perhaps including measures for informing legitimate owners about the extent and seriousness of gun theft and about procedures for adequately securing their firearms.

Criminal firearms preferences

Many gun control policy proposals are targeted to particular classes of firearms: to handguns in general or, somewhat more commonly, to certain restricted classes of handguns, particularly the small, cheap, low-quality ones. The rationale for such proposals is two-fold: (1) legitimate gun owners have little or no need for or interest in

such firearms and (2) illegitimate gun owners do.

To assess the nature of the criminal demand for firearms, the survey asked for information on both the qualities the sample preferred in a handgun and the characteristics of the most recent handgun they had actually owned. Contrary to popular belief, neither line of questioning revealed much interest in small, cheap handguns among the adult felons in this sample. Such interest as was observed was concentrated among felons who had never used firearms to commit crimes.

The hardened firearms criminals in the sample both preferred to carry and actually carried relatively large, well-made weapons. The most common among the recent handguns owned was a Smith and Wesson .38 equipped with a 4-inch barrel. No more than a third of the most recent handguns owned by criminals would qualify as "snubbies" (barrel length of 3 inches or less), and only about 15 percent would qualify as "Saturday Night Specials."

Figure 1
Gun theft by criminal type



While the average price felons paid for their most recent handguns was not especially high—falling in the \$100 to \$200 range—the average quality of these guns was relatively high. Presumably, gun prices are heavily discounted in the markets exploited by these men.

Analysis of the relationship between types of firearms carried and extent of criminal activity revealed that the more a felon used his guns in crime, the higher the quality of the weapon he carried. Among the truly predatory criminals in the sample, the small, cheap handgun was definitely not the weapon of choice.

Much the same results were obtained in questions about preferred handgun characteristics. In general, far more interest was shown in features such as accuracy, firepower, traceability, and quality of construction, than price or size.

The study concluded from these findings that the strategy of purging the market of small, cheap handguns may be largely irrelevant to the felons most likely to commit gun crimes. It is, of course, possible that such handguns are much more important to first offenders, juveniles, or other classes of criminals. Gun criminals in this sample, however, did not have much interest in small, cheap handguns.

The motivation to own and carry guns

One reason criminals acquire and carry handguns is because many crimes are easier to commit if armed than if not. Beyond these obvious criminal motivations, however, the survey also shows that gun criminals own and carry guns because they were raised around guns and have owned and used them all their lives.

Most of them associated with other men who owned and carried guns as well. Furthermore, the majority tended to keep their guns loaded at all times and to fire them regularly, often at other people. Half the men in the sample claimed to have fired a gun at someone at some time; half also claimed to have been fired upon

(excluding military service in both cases).

In fact, many respondents stated that a man who is armed with a gun is “prepared for anything that might happen”—an opportunity to commit a crime or the need to defend oneself against the assaults or predations of others. Therefore, while handgun carrying among felons is in part a rational response to the nature of their criminal activities, it is, in equal measure, an element of the lifestyle arising from early socialization and from fear.

Given these results, it is not surprising that the major motive acknowledged for acquiring and carrying guns was self-protection. Concerning their most recently owned handgun, 58 percent of those who had ever owned a handgun cited “self-protection” as a very important reason for the acquisition; “to use in my crimes” was very important to only 28 percent. (“Self-protection,” in this context at least, must be interpreted with some caution. Part of it no doubt implies protection against being preyed upon or continually harassed by other criminals who are better armed. Another part implies protection against armed victims, against the police, and against the prospects of apprehension during a crime.)

In this connection, about two-fifths of the sample had at some time in their careers encountered an armed victim; an equivalent percentage had at some time decided *not* to commit a crime because they had reason to suspect that the intended victim was armed. (These findings, too, must be interpreted with caution. Although the survey did not ask who these “intended victims” were, it is likely that many would be the felons’ own “colleagues,” since men of the sort studied in this research are clearly not above preying upon one another.)

A third of the sample (of gun criminals only) made it a practice to carry a gun more or less all the time, as shown in

Figure 2

Patterns of handgun carrying by gun criminals

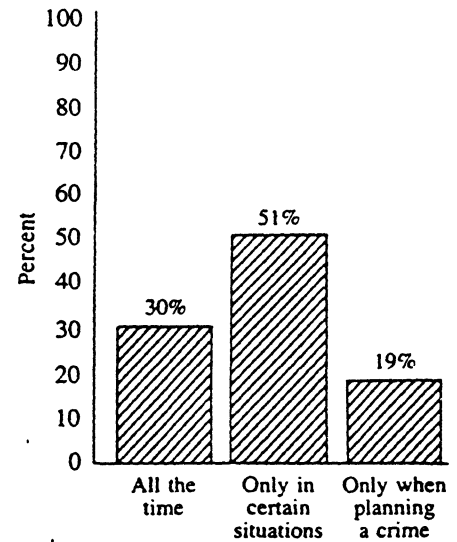


Figure 2. This ranged from about 10 percent for the one-time gun users to more than 50 percent for the handgun predators. Another half carried a gun whenever the circumstances seemed potentially dangerous—when doing a drug deal, when going out at night, when they were with other men carrying guns or, more generally, whenever their ability to defend themselves might be at issue. Only one in five of the gun criminals claimed that they carried a gun *only* when they intended to commit a specific crime. Consequently, the actual *use* of guns in crimes appears to be more a by-product of strongly ingrained gun-carrying habits, rather than the result of intentional planning for armed offenders.

The response of felons to gun policy measures

Proposals for new gun legislation surface with some regularity. The survey asked felons how they thought they would respond to some of these proposed measures. The results are obviously conjectural, but nonetheless of considerable interest as indicators of how felons themselves expect such measures would affect them.

First, the felons were asked what they thought they would do if "the cheapest handgun you could find cost more than you could possibly afford to pay." Among gun criminals, most said they would either borrow or steal the handgun they wanted; others said they would respond by carrying sawed-off shoulder weapons.

Next, they were asked what they would do in the face of a ban on small, cheap handguns. They overwhelmingly responded that they would carry bigger and more expensive handguns instead.

Finally, they were questioned about their possible response to a complete handgun ban. In answer to this question, a majority of the gun criminals—and more than three-quarters of the predators (the truly high-rate felons in the survey)—said that they would respond by carrying sawed-off shoulder weapons.

The general pattern is thus one of lateral or upward substitution: the weapons that gun criminals said they would carry under various hypothetical firearms bans were either just as lethal as, or more lethal than, the weapons they would have otherwise carried. The message these men seem to be sending is that their felonious activities would not suffer for lack of appropriate armament. Their intent, it seems, would be to find substitutes that might be somewhat less convenient, but would be at least as effective as their current weaponry. Given that their response predictions are accurate, the implication of these findings is that many commonly proposed gun control measures could

well prove to have unanticipated and counter-productive consequences—at least among the serious adult felons studied here.

Implications for gun policies

Findings from the survey suggest the following:

- Controls imposed at the point of retail sale would not be effective in preventing the acquisition of guns by serious adult felons because these felons rarely obtain their guns through customary retail outlets.

- Since theft of guns is a predominant means by which felons procure firearms, the 35 to 50 million handguns currently possessed by legitimate private owners represent a potentially rich source for criminal handgun acquisition. An effective criminal gun control policy must therefore, of necessity, confront the issue of firearms theft. At a minimum, there should be programs to educate the gun-owning public about the importance of adequately securing their guns.

- Among the most predatory felons, gun ownership and carrying is seen as essential because they fear what the prospects of an unarmed life on the streets would mean for their physical safety and security. For this group of most serious offenders, enhanced

sanctioning policies would be unlikely to pose much threat; for them, the cost of being caught unarmed in a dangerous situation would be many times greater than the cost of a few years in prison.

- For less predatory felons, however, sentence enhancement policies do seem to have an important deterrent effect, since a sizeable majority of the felons who do not use guns in crime cite "stiffer penalties" as a very important reason for their decision not to carry firearms.

- Finally, the survey findings suggest that, at least for the serious adult felons included in this sample, certain commonly proposed gun-banning measures could have strongly undesirable consequences, resulting in the substitution of more powerful and more lethal firearms. Gun-banning policies may be responded to differently by other types of offenders, however, and could represent a more effective deterrent to firearms use by juveniles, nonfelony offenders, and other types of criminals.

James D. Wright of the University of Massachusetts was the principal investigator on a study of firearms use in crime, sponsored by the National Institute of Justice and published by the Institute in July 1985. A more complete version has recently been published as *Armed and Considered Dangerous: A Survey of Felons and Their Firearms* by James D. Wright and Peter H. Rossi (Hawthorne, New York: Aldine Publishing Co., 1986).

APPENDIX E
FIREARMS THAT CAN ESPACE DETECTION

APPENDIX E

FIREARMS THAT CAN ESCAPE DETECTION

HEARING
BEFORE THE
SUBCOMMITTEE ON CRIME
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
NINETY-NINTH CONGRESS
SECOND SESSION
ON
H.R. 4194 and H.R. 4223
FIREARMS THAT CAN ESCAPE DETECTION

MAY 15, 1986

Digest of Testimony
prepared by
Virginia State Crime Commission

The new generation of weapons made substantially or entirely of undetectable nonmetal synthetics pose serious threats to security. The two bills discussed by the subcommittee would require a minimum standard of detectability, based on currently used x-ray and metal detecting equipment, and would require an F.A.A. search for improved security devices.

Congressman Biaggi identified the threat to both law enforcement and air traffic security. As evidence, he used the Glock 17, an Austrian made plastic handgun of which only the barrel, slide and spring are metal. The pistol is difficult to locate using conventional x-rays, especially considering a security attendant has only 2 1/2-3 seconds to view the image. Additionally, because of its plastic construction, the Glock could be carried and escape metal detection. The mostly plastic Glock 17 is currently produced, but the technology is there to produce an all-plastic firearm. A Florida firm, Byron's, Inc., is 1-2 years from marketing such a weapon.

The Congressman offers two solutions. He urges the F.A.A. to adopt new Z-system x-ray which gives two images: a conventional x-ray view and another view designed to detect plastics. Without such safeguards and until new detection technology can be developed, the Congressman urges limits on plastic firearms. The Department of the Treasury would determine if a weapon is detectable using current systems, and if it is not, its manufacture, importation, and sale would be banned. Congressman Biaggi also warned against the ballistic knife, a spring-loaded steel blade designed to kill "swiftly and silently." Because it looks like a conventional knife, a security or police officer cannot know the threat he is facing.

Congressman Weiss outlined the advantages of setting detection criteria. The requirement would not prohibit manufacture; a weapons designer could include metal fibers or distinct signal plates. The measure would not apply to U.S. military, and it is endorsed by the Fraternal Order of Police, the Federal Law Enforcement Officers Association, the National Organization of Black Law Enforcement Executives, and the National Sheriff's Association. The Committee heard testimony from the Fraternal Order of Police, represented by Donald L. Cahill. The FOP urges Federal oversight of security personnel training and equipment operation. Additionally, upgrading detection devices in airports would loosen detection requirements.

Billie H. Vincent, Director of Civil Aviation Security, F.A.A., proposed joint work with industry, academia, and the Bureau of Alcohol, Tobacco, and Firearms to achieve improved detection systems. He noted, however, there is no currently produced weapon that is not readily detectable. The emphasis, then must be on improved security systems.

Air Safety and Law enforcement officials agree that weapons not easily detected or identified should be prohibited. Victor T. Strom, Director of Public Safety, Port Authority of New York and New Jersey, supported restricted availability of non-metallic weapons. He, too, saw weapon technology outpacing detection systems and cited an example of smuggling a disassembled Glock 17 through airport metal detectors. Richard Lally, Assistant Vice President Transport Association favors banning non-detectable weapons or requiring that signal plates be embedded in the plastic construction. He suggested including the F.A.A. on determinations of detectability. Sterling B. Epps, Legislative Co-Chairman of the Federal Law Enforcement Officers Association urged the subcommittee to include restrictions on weapons not easily recognizable as weapons: i.e. metallic silencers, partially plastic, disassembled or camouflaged weapons.

The Bureau of Alcohol, Tobacco, and Firearms, through its Associate Director, Phillip McGuire, opposes the Congressmen's solution. There is nothing about the Glock 17 or any current weapon which makes it inherently less detectable. Because of partly metallic construction, today's weapons are not difficult to identify. The ATF currently requires all guns to carry an unalterable identification. Because this requirement would preclude all-plastic construction, the BAFT feels there is significant control on non-metallic firearms. The legislation's ambiguous terms "readily detectable" and "standards" could restrict many legal rifles, shotguns, and handguns, which include wooden, plastic, or fiberglass construction.

The subcommittee heard from Peter Johnson, Senior Associate, Office of Technical Assessment. Mr. Johnson reported that the technology exists to produce non metallic firearms using reinforced plastics, polymers and ceramic barrel liners. The Glock 17, however, contains enough metal for detection and could probably be seen in a conventional x-ray, although the weapon could be cleverly disguised. Though new applicable x-ray systems are being developed, there is currently no technology for the detection of plastic as there is for metal.

Karl Walter of Glock, Inc. explained that the Glock 17 pistol is 83% hardened steel, detectable according to FAA detection standards. The Glock 17 uses some of the technology which may one day produce an all plastic weapon. To prohibit the implementation of this technology would stifle firearms development.

Mary Ellen McDonald Burns, representing Byron's, Inc., agreed. Instead of limitations, detection systems should be devised and incorporated in designs. A signal device built into the weapon, and necessary for its operation, would provide inexpensive, passive detection. A new generation of firearms should be met with a new generation of detection devices. It is pointless to outlaw weapons or technology; terrorists will obtain the guns elsewhere.

Those representing gun owners and their associations opposed the legislation. James Jay Baker of the National Rifle Association blamed security problems on lax standards and inferior equipment. By these lax standards, any weapon could go undetected and consequently any weapon could be prohibited by the statute. The NRA believes efforts should concentrate on plastic explosives, a greater threat to airport security. Lawrence D. Pratt of the Gun Owners of America hails the technological advancement of plastic weapons. He sees advantages and calls for concentration on development of detection technology. John M. Snyder from the Citizens Committee for the Right to Keep and Bear Arms agrees that the emphasis should be on detection development and on terrorist punishment. A prohibition on any weapon denies law abiding citizens firearm technology. The government should not control the availability of firearms in the market place; it should not attempt to predict and outlaw firearms which do not exist. Neal Knox of the Firearms Coalition agreed. There is undeveloped technology to detect non metallic materials other than x-rays; those systems should be developed. Within the field of x-rays, European systems are superior to those in the United States. By pursuing these options, no limitation on firearms would be needed. Restrictions would limit designs and production to police and military needs. No weapon designer could have only a military market. The restrictions, then, would halt the development and implementation of technologies and stagnate the U.S. firearms industry.

APPENDIX F
SURVEY OF ALL VIRGINIA COUNTIES
REGARDING
SECTION 15.1-524 OF THE CODE OF VIRGINIA



COMMONWEALTH of VIRGINIA

VIRGINIA STATE CRIME COMMISSION

General Assembly Building

910 Capitol Street

POST OFFICE BOX 3-AG
RICHMOND, VIRGINIA 23208

IN RESPONSE TO
THIS LETTER TELEPHONE
(804) 225-4534

ROBERT E. COLVIN
EXECUTIVE DIRECTOR

MEMBERS:

FROM THE SENATE OF VIRGINIA:
ELMON T. GRAY, CHAIRMAN
HOWARD P. ANDERSON
WILLIAM T. PARKER

FROM THE HOUSE OF DELEGATES:
ROBERT B. BALL, SR., VICE CHAIRMAN
RAYMOND R. GUEST, JR.
THEODORE V. MORRISON, JR.
A. L. PHILPOTT
WARREN G. STAMBAUGH
CLIFTON A. WOODRUM

APPOINTMENTS BY THE GOVERNOR:
L. RAY ASHWORTH
WILLIAM N. PAXTON, JR.
GEORGE F. RICKETTS, SR.

ATTORNEY GENERAL'S OFFICE
H. LANE KNEEDLER

TO: All County Managers

FROM: Robert E. Colvin *R. E. Colvin*

DATE: September 11, 1987

RE: Firearms Sales

The Honorable Gerald L. Baliles, Governor of the Commonwealth of Virginia, in his March 20, 1987 letter to Senator Elmon T. Gray, chairman of the Crime Commission, noted there exists a number of complex issues raised by the law enforcement community and concerned citizens related to firearms and ammunition which appear to pose extraordinary threats to the safety of law enforcement and the general public. Governor Baliles requested that the Commission make a comprehensive assessment of these issues. During the April 13, 1987 meeting of the Crime Commission, Senator Gray appointed Delegate Clifton A. Woodrum of Roanoke to serve as the chairman of the Subcommittee on Firearms and Ammunition.

The subcommittee held a public hearing in Richmond on August 31, 1987 and received public comment. One issue that was discussed is § 15.1-524 of the Code of Virginia which is as follows:

§ 15.1-524. Same; reports of sales. -- The governing body of any county may require sellers of pistols and revolvers to furnish the clerk of the circuit court of the county, within ten days after sale of any such weapon, with the name and address of the purchaser, the date of purchase, and the number, make and caliber of the weapon sold. The clerk shall keep a record of the reports. (Code 1950, § 59-142; 1968, c. 439)

The subcommittee directed staff to determine which counties currently have a local ordinance pursuant to 15.1-524. Therefore, your assistance is respectfully requested.

Please complete the survey on the next page and return in the enclosed envelope to the Virginia State Crime Commission by September 22, 1987.

Virginia State Crime Commission
Firearms Survey

County of _____

Your name _____

Your title _____

_____ Yes; my county HAS adopted a local ordinance pursuant to § 15.1-524 of the Code of Virginia.

_____ No; my county has NOT adopted a local ordinance pursuant to § 15.1-524 of the Code of Virginia.

* * If your county has any other local ordinance pertaining to the sale of firearms, please attach a copy and make any explanatory comments as needed.

On behalf of the Chairman and members of the subcommittee on Firearms and Ammunition, thank you for your kind assistance.

APPENDIX G

BED SPACE IMPACT FOR MANDATORY SENTENCING PROPOSAL



COMMONWEALTH of VIRGINIA

Department of Corrections

EDWARD W. MURRAY
DIRECTOR

P.O. BOX 26963
RICHMOND, VIRGINIA 23261
(804) 257-1900

August 28, 1987

MEMORANDUM

To: P. Michael Leininger, Legislative Liason

From: Marie M. Curtis, Evaluation Lead Analyst
Research and Evaluation Unit

A handwritten signature in black ink, appearing to be 'MMC'.

Subject: Crime Commission Request

Attached is the response to the Crime Commission's request for a bedspace impact on a potential increase in the penalty for the use of a firearm in the commission of a felony. The impact analysis is based on an increase of the current two and four year sentences to both five and 10 year sentences and 10 and 15 year sentences for first and subsequent convictions for violations of Virginia Code Section 18.2-53.1.

If Bob Colvin has any questions or would like me to explain the attached material at the Crime Commission meeting on Monday, August 31, have him call me directly at 257-1938.

cc: Edward F. Powell
R. Steve Smith
Michael Jones

Attachment

August 28, 1987

SENTENCING IMPACT
VA. CODE SECTION 18.2-53.1

1. Proposal Summary/Purpose

Violation of Section 18.2-53.1 of the Code of Virginia makes the use of a firearm in the commission of a felony a separate offense punishable by two years in prison for a first conviction and four years for a second or a subsequent conviction. The sentence is presently made to run consecutively with any punishment received for the commission of the primary felony.

Two options have been proposed to increase the sentence for use of a firearm in the commission of a felony:

- o five year sentence for a first conviction and a ten year sentence for a second or subsequent conviction.
- o 10 year sentence for a first conviction and a 15 year sentence for a second or subsequent conviction.

With both of these options, the sentence would run consecutively with any punishment received for the commission of the primary felony.

2. Current Situation

A total of 451 offenders were received by the Department of Corrections (DOC) in FY 1987 for conviction of section 18.2-53.1 of the Code - use of a firearm in the commission of a felony. Of these 451 felons, 358 were convicted for a first offense, 38 were convicted for a second offense, and 55 were convicted for both a first and second offense, according to data obtained from the automated Pre-Sentence Investigation Reporting System. The average sentence received by these offenders was 26 years, while 33 persons received sentences of either life, multiple life, or death.

The following table presents a frequency of the primary offenses committed by the 451 felons committed to the Department of Corrections in FY 1987 under Code section 18.2-53.1.

<u>Offense</u>	<u>Primary Conviction</u>
Assault	63
Burglary	9
Kidnapping	21
Murder	105
Rape	18
Robbery	221
Other	14
TOTAL	451

3. Program/Policy Implications:

It is estimated that passage of legislation mandating sentences of five and ten years, respectively, for first and subsequent offenders, would have the potential for increasing Department of Corrections bedspace requirements by 212 beds by FY 1998, with actual impact beginning in FY 1993.

The sentence requirements of ten and fifteen years, respectively, for first and subsequent offenders, would have the potential for increasing the DOC bedspace requirements by 516 beds by FY 1998, with actual impact beginning in FY 1994.

Attachment 1 outlines the bedspace impact by fiscal year and the assumptions used in determining the impact.

Attachment 1

VA. CODE SECTION 18.2-53.1
CALCULATION OF BEDSPACE IMPACT

<u>Year</u>	<u>Bedspace Needs*</u>	<u>Cumulative Totals</u>
FY 88	0-0	0-0
FY 89	0-0	0-0
FY 90	0-0	0-0
FY 91	0-0	0-0
FY 92	0-0	0-0
FY 93	194-221	194-221
FY 94	0-277	194-498
FY 95	0-0	194-498
FY 96	0-0	194-498
FY 97	0-0	194-498
FY 98	18-18	212-516

*The first number of the pair denotes bedspace needs under the five-10 year sentencing scheme, and the second number denotes bedspace needs under the 10-15 year sentencing scheme.

Assumptions:

- o A total of 451 offenders will be received each year for violation of this section.
- o The sentence structure for offenders received during FY 1987 is representative of future admissions.
 - average total sentence received for a first offense is 23 years.
 - average total sentence received for a second offense is 37 years.
 - average total sentence received for both a first and second offense is 41 years.
- o 33 of the 451 will receive sentences of life, multiple life, or death and will not be effected by the proposed change; as such, these cases are removed from the analysis.
- o 332 of the 451 will be convicted for a first offense.
 - all will receive an additional sentence of five years under the first scenario, 10 years under the second scenario.

- those receiving the additional five years will have a sentence of 26 years and those receiving the additional 10 years will have a sentence of 31 years.
- offenders' time to discretionary parole eligibility based on prior felony commitments will be proportionate to those offenders committed to the Department of Corrections in FY 1996.
- the increase in serving time will be seven months for those receiving the additional five year sentence, 18 months for those receiving the additional 10 year sentence.
- o 35 of the 451 will be convicted for a second offense.
 - all will receive an additional 10 years under the first scenario, 15 years under the second scenario.
 - those receiving the additional 10 years will have a sentence of 43 years and those receiving the additional 15 years will have a sentence of 48 years.
 - offenders serving time to discretionary parole eligibility based on prior felony commitments will be increased by only six months under either scenario, since legislation mandates maximum serving times to discretionary parole consideration at 13 years.
- o 51 of the 451 will be convicted for both a first and second offense.
 - all will receive an additional 15 years under the first scenario, 25 years under the second scenario.
 - those receiving the additional 15 years will have a sentence of 50 years and those receiving the additional 25 years will have a sentence of 60 years.
 - time to discretionary parole eligibility is not affected by increased sentences for use of a firearm due to legislative caps on time to serve to parole eligibility.
- o Serving times are calculated based on time to parole eligibility earning 20/30 good conduct credits.